

**ACT OF THE REPUBLIC OF INDONESIA
NUMBER 2 OF 2009**

**CONCERNING
LEMBAGA PEMBIAYAAN EKSPOR INDONESIA
(INDONESIA EXIMBANK)**



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**WITH THE BLESSING OF THE ONE GOD ALMIGHTY
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,**

- Considering** : a. whereas the national development purpose is to reach a fair and prosperous community based on Pancasila and the Constitution 1945 of the Republic of Indonesia;
- b. whereas overseas trade supports the national economic development, distribution and stability to enhance the national welfare, advances and independence;
- c. whereas to accelerate the Indonesia overseas trade growth and to increase the competitive value of the business players, it is deemed necessary to establish an independent financing institution that is able to provide financing, guarantee, insurance, and other services;

d. whereas...



d. whereas based on the aforesaid items a, b, and c it is deemed necessary to enact the Lembaga Pembiayaan Ekspor Indonesia (Indonesia Eximbank) Act.

In view of : Article 5 paragraph (1), Article 20, and Article 33 Constitution of the Republic of Indonesia of 1945;

On Joint Approval of
THE PARLIAMENT OF THE REPUBLIC OF INDONESIA

and
PRESIDENT OF THE REPUBLIC OF INDONESIA

HAVE DECIDED:

To enact : ACT CONCERNING LEMBAGA PEMBIAYAAN EKSPOR INDONESIA (INDONESIA EXIMBANK)



CHAPTER I GENERAL PROVISION

Article 1

The terminologies used in this Act shall have the following meanings:

1. National Export Financing is a facility provided for any enterprises as well as any individuals for the purpose to boost the national export.
2. Bank is commercial bank as specified in the Banking Act.
3. Financial Institution is a non-bank financial institution which one of its main activity is to provide financing to Exporter.
4. Export is any activities to bring outside goods from Indonesian customs area and/or services from any territory of the Republic of Indonesia.
5. Exporter is any enterprises, either legal entities or non legal entities, including any individuals that carry out export activities.
6. Government is the Government of the Republic of Indonesia.
7. Minister is the Minister of Finance of the Republic of Indonesia.
8. Financing is any credits and/or financing based on sharia principles that is provided by Lembaga Pembiayaan Ekspor Indonesia (Indonesia EximBank).

9. Credit...



9. Credit is any loan facilities, either cash or non-cash, that requires the borrower to repay all his liabilities within a certain period of time with interest or other fees arising thereof.
10. Financing based on sharia principles is any financing facilities, either cash or non-cash, that requires the customer to repay the financing facilities after a certain period of time with fees or profit sharing.
11. Sharia principles are the principles based on Islamic Law as the basis for entering any agreements between Lembaga Pembiayaan Ekspor Indonesia (Indonesia EximBank) and any other parties for carrying out the National Export Financing activities.
12. Guarantee is the facility to assure the undertaking of financial obligation when the guaranteed party cannot fulfill its obligation to its creditor.
13. Insurance is the facility to indemnify any loss arising from any unpredictable events.

CHAPTER II NATIONAL EXPORT FINANCING

Part One Principles, Purposes, and Basic Policies

Article 2

The implementation of the National Export Financing based on the principles of:

a. national interest;

b. legal...



- b. legal assurance;
- c. transparency;
- d. accountability;
- e. professionalism;
- f. fair efficiency; and
- g. equitable development and national economy unity.

Article 3

The purpose of National Export Financing is to support the Government policy to promote national export program.

Article 4

The Government determine the basic policy of the National Export Financing to:

- a. promote a conducive business climate to increase the national export;
- b. accelerate the national export increment;
- c. support the improvement of national production capacity with a high competitiveness and export comparative advantages; and
- d. enhance micro, small, medium-scale enterprises and cooperatives to develop export oriented products.



Part Two

Form of National Export Financing

Article 5

- (1) The National Export Financing as specified in Article 3 is provided in the form of:
 - a. Financing;
 - b. Guarantee; and/or
 - c. Insurance.
- (2) The National Export Financing as specified in paragraph (1) hereof, may be carried out based on the Sharia Principles.
- (3) The National Export Financing as specified in paragraph (1) hereof, is provided for any enterprises either legal entities or non legal entities, including any individuals.
- (4) The enterprise as specified in paragraph (3) hereof may domicile within or outside of the territory of the Republic of Indonesia.

Article 6

The Financing as specified in Article 5 paragraph (1) letter a shall be given in the form of working capital and/or investment financing.

Article 7

The Guarantee as specified in Article 5 paragraph (1) letter b includes:

a. Guarantee...



- a. Guarantee for Indonesian exporter upon the payment received from the overseas buyers of goods and/or services;
- b. Guarantee for Indonesian goods and services' importer in overseas upon the payment that has been made or will be made to Indonesian exporter for the export contract financing against the sale of goods and/or services or the completion of work or services that is made by any Indonesian companies;
- c. Guarantee for any bank that extends export financing facility to Indonesian exporters; and/or
- d. Guarantee for tender purposes in relation with project that is fully or partially supporting export.

Article 8

Insurance as specified in Article 5 paragraph (1) letter a may be provided in the form of:

- a. Insurance of export performance risk;
- b. Insurance of non-payment risk;
- c. Insurance of overseas investment risk for Indonesian companies; and/or
- d. Insurance for political risk in the export destination country.

Article 9

The National Export Financing as specified in Article 5 is provided by a financial institution that is specially established for such purposes.



CHAPTER III

LEMBAGA PEMBIAYAAN EKSPOR INDONESIA **(Indonesia EximBank)**

Part One

Establishment, Status, and Domicile

Article 10

- (1) In order to perform the National Export Financing, Lembaga Pembiayaan Ekspor Indonesia (Indonesia Eximbank), hereinafter referred to LPEI (EximBank) is established by this Act as a financial institution as specified in Article 9 herein.
- (2) LPEI (EximBank) as specified in paragraph (1) hereof is a legal entity based on this Act.
- (3) LPEI (EximBank) is an institution that shall be transparent, accountable and independent in carrying out its duties and authorities.
- (4) LPEI (EximBank) shall report to the Minister.

Article 11

- (1) LPEI (EximBank) has its domicile and head office in the Capital of the Republic of Indonesia.
- (2) LPEI (EximBank) may have its offices inside and outside of the territory of the Republic of Indonesia.

Part Two

Functions, Tasks and Authorities

Article 12...



Article 12

LPEI (EximBank) shall have functions to support the national export program through the National Export Financing as specified in Article 5 paragraph (1) hereof.

Article 13

- (1) The LPEI (EximBank) functions as specified in Article 12 herein, include the following tasks:
 - a. to provide export assistance required by any parties as specified in Article 5 paragraph (3) hereof, in the form of Financing, Guarantee and Insurance needed to produce goods and services and/or other activities to support Export;
 - b. to provide financing for any transactions or projects that is not viable for commercial banking, but it is considered prospective to boost the national export; and
 - c. to assist Banks or Financial Institutions to overcome their problem in extending export financing that is commercially quite potential and/or essential for the Indonesia economic growth;
- (2) In conducting its tasks as specified in paragraph (1) hereof, LPEI (EximBank) may perform :
 - a. counseling and consultation services to Banks, Financial Institutions, exporters, export goods producers, especially micro, small, medium-scale enterprises and cooperatives; and
 - b. other...



- b. other activities that support LPEI's (EximBank's) tasks and authorities, provided that they are not in conflict with this Act.

Article 14

- (1) To undertake its tasks as specified in Article 13 herein, LPEI (EximBank) is authorized:
 - a. to define the National Export Financing scheme;
 - b. to restructure the National Export Financing;
 - c. to provide reinsurance for any insurances that is carried out by the scheme as specified in Article 8 herein; and
 - d. to conduct equity participation.
- (2) The equity participation as specified in paragraph (1) letter d hereof, may only be made to any legal entities or other entities that is required for undertaking LPEI's (EximBank's) tasks subject to prior approval of the Minister.

Article 15

LPEI (EximBank) may provide insurance facilities to exporters in the event that the existing export insurance agencies cannot provide such insurance facilities for the exporters or for the purpose of fulfilling the requirements of overseas buyers.

Article 16

In undertaking its activities, LPEI (EximBank) shall participate in national and international payment systems.

Article 17...



Article 17

- (1) In conducting its tasks, LPEI (EximBank) shall apply good corporate governance principles, risk management principles, and Know Your Customer's principles.
- (2) The good corporate governance principles as specified in paragraph (1) hereof, shall include transparent, accountability, responsibility, independent and fairness principles.
- (3) The risk management principles as specified in paragraph (1) hereof, shall include the minimum capital requirement, active supervision, and market discipline against the inherent risk.
- (4) The Know Your Customer principles as specified in paragraph (1) hereof, shall at least include the policy and procedures for customer identification, customer's account monitoring, customer's transaction monitoring and risk management.
- (5) The further provisions concerning the procedures and implementation of the principles as specified in paragraph (1) hereof, shall be stipulated by Minister Regulation.

Part Three Special Assignment

Article 18

- (1) LPEI (EximBank) may carry out special assignment of the Government to support the National Export Program upon the expense of the Government.

(2) The further...



- (2) The further provisions on the matters related to the special assignment of the National Export Program as specified in paragraph (1) hereof, is regulated by Minister Regulation.

Part Four **LPEI's (EximBank's) Capital**

Article 19

- (1) The LPEI's (EximBank's) initial capital shall be at least IDR. 4,000,000,000,000.00 (four trillion rupiah).
- (2) The paid up capital as specified in paragraph (1) hereof, shall be the state's treasury that is separated and undivided into shares.
- (3) In the event that the LPEI's (EximBank's) capital becomes less than IDR. 4,000,000,000,000.00 (four trillion rupiah), the Government shall cover such deficiency from the State Budget based on the applicable mechanism.
- (4) The LPEI's (EximBank's) additional capital to cover such capital deficiency as specified in paragraph (3) hereof shall be determined by Government Regulation.

Article 20

- (1) LPEI (EximBank) may form general reserve and special purpose reserve.
- (2) In the event that the accumulation of the general reserve and special purpose reserve exceeding 25% (twenty five percent) of the LPEI's (EximBank's) initial capital, the exceed of 75% (seventy five percent) shall be used

as additional...



- as additional capital (capitalization) and the rest 25% (twenty five percent) as Non Taxes State Revenue.
- (3) The additional capital as specified in paragraph (2) hereof, shall be determined by a Minister Decree.

Article 21

- (1) The surplus gained by LPEI (EximBank) in 1 (one) year operation shall be used for:
- general reserve;
 - special purpose reserve;
 - performance bonus and tantiem; and
 - the Government's profit share.
- (2) The surplus allocation percentage shall be determined as follows:
- general reserve and special purpose reserve shall be 90% (ninety percent) of the surplus; and
 - performance bonus and tantiem and the Government profit share shall be 10% (ten percent) of the surplus.
- (3) The percentage amount for general reserve, special purpose reserve, performance bonus and tantiem, including Government's profit share shall be determined by the Minister.

Part Five Sources and Placement of Fund

Article 22

- (1) The LPEI's (EximBank's) funding sources for its operation are as follows:

a. issuance...



- a. issuance of marketable securities;
 - b. short term loan, medium term loan, and/or long term loan, that the funding sources are as follows:
 1. foreign governments;
 2. multilateral agencies;
 3. banks and financial and financing institutions, both in domestic and overseas; and
 4. the Government; and/or
 - c. grant.
- (2) In addition to the funding sources as specified in paragraph (1) hereof, LPEI (EximBank) may also receive funding in the form of Bank Indonesia's placement of fund.

Article 23

- (1) The Government may provide loan or grant to LPEI (EximBank) in according with the provisions as stipulated or determined by the State Budget Act.
- (2) The further provisions on the procedures for loan or grant as specified in paragraph (1) hereof, shall be regulated by Government Regulation.

Article 24

- (1) LPEI (EximBank) may place any idle fund in the form of marketable securities and/or fund placement in any financial institution in domestic or overseas.
- (2) The fund placement as specified in paragraph (1), can be in the form of:

a. marketable...



- a. marketable securities that are issued by the Government;
 - b. Certificate of Bank Indonesia;
 - c. marketable securities issued by any benefactor governments;
 - d. marketable securities issued by any multilateral financial agencies;
 - e. deposit in rupiah or foreign exchanges in Bank Indonesia; and/or
 - f. deposit in any local and/or foreign banks.
- (3) The fund placement as specified in paragraph (1) hereof shall be made after due consideration of the liquidity and risk factors.

CHAPTER IV ORGANIZATION

Part One LPEI (EximBank) Organ

Article 25

- (1) The Board of Directors is the sole organ of LPEI (EximBank).
- (2) The membership of the Board of Directors shall be maximum of 10 (ten) persons, comprising of:
 - a. 3 (three) government officials from the institution or department in charge in fiscal, 1 (one) government official from the institution or department in charge in trade, 1 (one) government official from the institution or

department...



- department in charge in industry, 1 (one) government official from the institution or department in charge in agriculture.
- b. maximum of 3 (three) persons from external LPEI (EximBank) and 1 (one) person from internal LPEI (EximBank).
- (3) The member of the Board of Directors as specified in paragraph (2) letter a hereof, shall be appointed and discharged by the Minister based on the recommendation from the respective institutions or departments.
 - (4) The member of the Board of Directors as specified in paragraph (2) letter b hereof, shall be appointed and discharged by the Minister.
 - (5) A member of the Board of Directors as specified in paragraph (2) letter b hereof, shall be appointed as the Chairman of the Board of Directors and serve concurrently as the Executive Director by the Minister.
 - (6) The Chairman of the Board of Directors as specified in paragraph (5) hereof, has no voting right in the meetings of the Board of Directors.
 - (7) The Executive Director as specified in paragraph (5) hereof, shall carry out his/her duties full time and shall not have any other executive positions elsewhere.
 - (8) The term of office of the member of the Board of Directors shall be 5 (five) years and may only be reappointed for 1 (one) subsequent term of office.

Article 26...



Article 26

- (1) The Board of Directors shall formulate and determine the policies and shall supervise the LPEI (EximBank) operations.
- (2) The Board of Directors shall determine the job allocation and standard operating procedures of the member of the Board of Directors.
- (3) The Minister shall determine the salary, income and other allowances of the Board of Directors and the Managing Directors.

Article 27

The minimum requirement to be appointed as member of the Board of Directors are the followings:

- a. an Indonesian citizen;
- b. capability to act before the law;
- c. physically and mentally healthy;
- d. having a good integrity, leadership, attitude and behavior, and high dedication;
- e. must not be included in the fail list prepared by the banking authority as well as capital market and financial institutions authority;
- f. never commit any banking and economy crimes;
- g. having competency and experience in one of the fields of LPEI's (EximBank's) scopes of operations; and
- h. never been declared as insolvent.

Article 28...



Article 28

- (1) The Minister shall be entitled to discharge a member of the Board of Directors in the event as follows:
 - a. permanent absence;
 - b. expiry of term of office;
 - c. resignation;
 - d. failure to fulfill performance indicator determined by the Minister;
 - e. having family connection up to second degree or in laws with another member of the Board of Directors and none of them resign;
 - f. committing corporate crimes, corruption, and other crimes or moral violation; and/or
 - g. failure to fulfill the requirement as specified in Article 27 letter a, b, c, d, f and h herein.
- (2) The member of the Board of Directors as specified in Article 25 paragraph (2) letter a herein, is discharged from his/her office for any reasons as specified in paragraph (1) hereof, or no longer in the position in the institution or agency as specified in Article 25 paragraph (2) letter a herein.
- (3) The member of the Board of Directors as specified in Article 25 paragraph (2) herein, before his/her discharge for any reasons as specified in paragraph (1) letter d hereof, shall have the right to defend himself/herself in 14 (fourteen) days before the Minister.
- (4) The discharges as specified in paragraphs (1) and (2) shall be determined by Minister Decree.

(5) The discharge...



- (5) The discharge of a member of the Board of Directors and the appointment of a new member shall be made so as to maintain the membership to at least 4 (four) persons.
- (6) In the event of discharge of a member of the Board of Directors, the successor shall be determined at no later than 3 (three) months as of such discharge.
- (7) The term of office of the successor for any substitution due to non expiry of term of office as specified in paragraph (1) letter b hereof, shall be the remaining term of office of the former member.

Article 29

- (1) The LPEI (EximBank) operation shall be presided by the Executive Director.
- (2) In order to perform its duty, the Executive Director shall be supported by maximum of 5 (five) Managing Directors.
- (3) The Managing Directors as specified in paragraph (2) hereof, shall be at maximum of 4 (four) members are appointed from internal LPEI (EximBank).
- (4) The Managing Directors as specified in paragraph (2) hereof, shall be appointed and discharged by the Board of Directors upon recommendation of the Executive Director.

Article 30

- (1) The Executive Director shall represent LPEI (EximBank), both before and outside of the court;
- (2) The Executive Director's authorities as specified in paragraph (1) hereof, may be delegated to 2 (two) Managing Directors.

Part Two...



Part Two Employment

Article 31

- (1) The Executive Director shall determine the human resources system, remuneration, reward, pension plan, post-employment benefit, and other income for the LPEI's (EximBank's) employees.
- (2) The Executive Director shall hire and terminate LPEI's (EximBank's) employees.
- (3) The implementation of the above mentioned in paragraphs (1) and (2) hereof, shall be stipulated by the Executive Director Regulation.

Part Three Bad debt Write Off, Claim Write Off and Fixed Assets Write Off

Article 32

- (1) The authority to execute LPEI's (EximBank's) bad debt write off is held by the Executive Director, the Board of Directors, or the Minister, provided that:
 - a. bad debt up to IDR. 10,000,000,000.00 (ten billion rupiah) by the Executive Director upon the approval of the Board of Directors;
 - b. bad debt more than IDR. 10,000,000,000.00 (ten billion rupiah) up to IDR. 50,000,000,000.00 (fifty billion rupiah) by the Board of Directors upon the approval of the Minister; and
 - c. bad...



- c. bad debt more than IDR. 50,000,000,000.00 (fifty billion rupiah) by the Minister.
- (2) Write off shall only be made for any bad debt which upon restructuring program still uncollectible and not caused by an improper credit extension.
 - (3) LPEI (EximBank) shall make its best efforts to collect such write off before being claimed written off.

Article 33

- (1) In the event of the collection of any bad debt as specified in Article 32 paragraph (3) herein has been made for more than 10 (ten) years, yet such bad debt remains unpaid and the estimation of the collection costs is higher than the recovering amount, such bad debt may be claimed written off.
- (2) The authority to execute LPEI's (EximBank's) claim write off shall be made by the Executive Director upon the approval of the Board of Directors.

Article 34

- (1) Fixed assets write off shall be made to any assets with expiration of its economic value or becomes obsolete in its technology.
- (2) The authority to execute fixed asset write off shall be made by the Executive Director upon the approval of the Board of Directors.

Article 35...



Article 35

The procedures for bad debt write off and claim write off as specified in Article 32 paragraph (2) and Article 33 paragraph (1) as well as fixed asset write off as specified in Article 34 paragraph (1) herein, shall be determined by the Minister Regulation.

Part Four Annual Business Plan and Budget

Article 36

The LPEI's (EximBank's) Fiscal Year and Budget Year shall be commenced as of 1st January to 31st December.

Article 37

- (1) The Executive Director shall prepare the Corporate Plan as a strategic plan that contains the objectives to be accomplished by LPEI (EximBank) in the 5 (five) year term.
- (2) The Executive Director shall prepare the Annual Business Plan and Budget derived from the Corporate Plan.
- (3) The procedures of the formulation, submission and amendment to the Corporate Plan as well as the Annual Business Plan and Budget shall be stipulated by the Minister Regulation.

Part Five...



Part Five

Reporting and Accountability

Article 38

- (1) LPEI (EximBank) shall submit annual audited financial report to the Minister no later than the 30th April of the following year.
- (2) The financial report as specified in paragraph (1) hereof, shall be audited by a public accountant that is appointed by the Executive Director upon the approval of the Board of Directors.
- (3) LPEI (EximBank) shall publish its audited financial report by electronic mass media and at least in 2 (two) printed mass media with a national circulation, no later the 30th April of the following year.

Part Six

Dissolution

Article 39

LPEI's (EximBank's) dissolution shall only be made by an Act.

CHAPTER V

GUIDANCE AND SUPERVISION

Article 40

- (1) The guidance and supervision of LPEI (EximBank) shall be conducted by the Minister.
- (2) The guidance and supervision of LPEI (EximBank) shall be stipulated by the Minister Regulation.

CHAPTER VI...



CHAPTER VI LEGAL ASSISTANCE

Article 41

LPEI (EximBank) provides legal assistance to the members of the Board of Directors, the Executive Director, the Managing Directors, employees, former members of the Board of Directors, former Executive Director, former Managing Director, and former employee from any criminal prosecutions and/or lawsuits that may result in any liabilities and/or legal effects, provided that such decisions and/policies were taken with good faith and in compliance with their duties and authorities.

CHAPTER VII ADMINISTRATIVE SANCTION

Article 42

- (1) Any member of the Board of Directors, Executive Director, Managing Director, and employee that violate Article 17 paragraph (1), Article 37 paragraphs (1) and (2), Article 38 paragraph (3) and Article 40 herein, shall subject to an administrative sanctions such as verbal warning, written warning or discharges.
- (2) The implementation of administrative sanctions as specified in paragraphs (1) shall be in accordance with the level of violation.
- (3) Administrative sanctions as specified in paragraphs (1) and (2) hereof, shall be stipulated further by the Minister Regulation.

CHAPTER VIII...



CHAPTER VIII CRIMINAL PROVISIONS

Article 43

- (1) Any LPEI's (EximBank's) employee who intentionally conducts any activity that violates Article 13 paragraph (1), Article 14, Article 15, Article 17, Article 18 paragraph (1), Article 22, Article 24 paragraph (1), and/or Article 32 herein, that result in any damages to LPEI (EximBank) shall subject to imprisonment minimum of 1 (one) year and maximum of 5 (five) years and penalty minimum of IDR. 500,000,000.00 (five hundred million rupiah) and maximum of IDR. 2,500,000,000.00 (two billion and five hundred million rupiah).
- (2) The member of the Board of Directors, Executive Director, Managing Director, and employee that intentionally conducts any activity that violates Article 13 paragraph (1), Article 14, Article 15, Article 17, Article 18 paragraph (1), Article 22, Article 24 paragraph (1), and/or Article 32 herein, that result in any damages to LPEI (EximBank) shall subject to imprisonment minimum of 2 (two) years and maximum of 14 (fourteen) years and penalty minimum of IDR. 2.000,000,000.00 (two billion rupiah) and maximum of IDR. 5,000,000,000.00 (five billion rupiah).



CHAPTER IX TRANSITIONAL PROVISIONS

Article 44

By the enactment of this Act:

- a. Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia shall remain carrying out its operation until the operation of LPEI (EximBank) is in place.
- b. The Board of Directors and the Board of Commissioners of Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia shall make necessary preparation of LPEI's (EximBank's) operation and conduct familiarization program.
- c. The Board of Directors and the Board of Commissioners of Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia shall appoint a public accountant to carry out auditing of the closing financial statement of Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia.

CHAPTER X CONCLUDING PROVISIONS

Article 45

Initially, the term of office of the member of the Board of Directors is as follows:

- a. the term of office of a member of the Board of Director who is appointed as the Chairman of the Board of Directors and concurrently as the Executive Director shall be 5 (five) years;

b. the term...



- b. the term of office of 3 (three) members of the Board of Directors as specified in Article 25 paragraph (2) item a herein, shall be 4 (four) years;
- c. the term of office of 3 (three) members of the Board of Directors as specified in Article 25 paragraph (2) item a herein, shall be 3 (three) years;
- d. the term of office of maximum 3 (three) members of the Board of Directors as specified in Article 25 paragraph (2) item b herein, from external LPEI (EximBank) and not the Chairman of the Board of Directors, shall be 4 (four) years;
- e. the term of office of maximum 1 (one) member of the Board of Directors as specified in Article 25 paragraph (2) item b herein, from internal LPEI (EximBank) and not the Chairman of the Board of Directors, shall be 3 (three) years.

Article 46

The LPEI's (EximBank's) operation, either Financing, Guarantee, and Insurance, shall adhere to this Act and its implementation regulation.

Article 47

The LPEI (EximBank) as specified in this Act may use the name of Indonesia Eximbank.

Article 48...



Article 48

- (1) At no later than 9 (nine) months as of the enactment of this Act:
 - a. LPEI (EximBank) shall commence its operation;
 - b. the members of the Board of Directors shall have been appointed; and
 - c. the implementation regulations of this Act shall have been determined.
- (2) The LPEI's (EximBank's) operation as specified in paragraph (1) hereof:
 - a. Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia declares its dissolution, and all of its assets and liabilities and legal right and obligations shall become the assets and liabilities and legal right and obligations of LPEI (EximBank); and
 - b. all employees of Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia shall become the employees of LPEI (EximBank).

Article 49

This Act shall come into force on the date of its enactment.

For the purpose of public knowledge, to order to the enactment of this Act in the State Gazette of the Republic of Indonesia.

Executed...



Executed in Jakarta
on 12th January, 2009

PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed

DR. H. SUSILO BAMBANG YUDHOYONO

Enacted in Jakarta
on 12th January 2009

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

signed

ANDI MATTALATTA

THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF
THE YEAR 2009 NO. 2



ELUCIDATION
ACT OF THE REPUBLIC OF INDONESIA
NUMBER 2 OF 2009
CONCERNING
LEMBAGA PEMBIAYAAN EKSPOR INDONESIA
(Indonesia Eximbank)

I. GENERAL

The preamble of the Constitution of the Republic of Indonesia of 1945 mandates that one of the objective of the state's establishment is to improve the public welfare for the social fairness of all Indonesians. The mandate of the Indonesia constitution, based on the principles of Pancasila, shall be performed in the national economy development based on economic democracy under the principles of togetherness, fair efficiency, continuity, environmental awareness, autonomous, and maintain a balance, improvement, and national economy unity.

The Indonesia economy is becoming more integrated into the global economy that requires competitive value, product quality, and efficiency that insist the necessity of applying economic democracy principles in the establishment of laws and regulations in the economy subject. Hence, as a nation with a vast economy resources, a sustainable national economy development must be able to increase the value added on each chain of the national economy so that the Indonesian will be able to achieve economy independence with the improvement capability to produce competitive goods and services

in the...



in the global market, as a benchmark. This achievement becoming more relevant, since the role of foreign trade to the national economy is more pivotal. It is proven that the increment of national export not only have an affect on macro economy stabilization through the increasing of foreign exchange reserve, but also to the increment of the national production capacity. Therefore, foreign trade policy with the national export orientation development eventually is an integration among investment policy to promote export, fiscal policies relating to national export financing facility, policies to increase the national economy competitiveness, and policies on the real sector development.

From the point of view of the policy on the national export development, the Act on Lembaga Pembiayaan Ekspor Indonesia (LPEI) (EximBank) will be a basis for the national export development through national export financing in the form of financing, guarantee and insurance. To enable LPEI (EximBank) to perform its function and role effectively, LPEI (EximBank) shall operate independently, based on its own Act (*lex specialist*) and having sovereignty status. The status is required so as the institution have access to the funding sources, both official sources and global financial market with relatively low cost, but it is operating based on prudential norms that is applied in banking industry so that it is hoped that it will not be a burden for the State Budget of the Government (APBN).



LPEI (EximBank) is an independent institution with sovereignty status, as the consequence, the Government has the obligation to cover any capital deficit through the APBN mechanism, whenever LPEI's (EximBank's) capital decreasing to less than IDR. 4,000,000,000,000.00 (four trillion rupiah). The status also gives trust to the stakeholders and will ease LPEI (EximBank) in accessing funding sources through marketable securities issuance, short term borrowing, medium term borrowing, and/or long term borrowing from foreign government, multilateral agencies, domestic and overseas banks, domestic and overseas financing and financial institution, and from the Government and from Bank Indonesia's fund placement. Consequently, the availability of low cost funding and government assurance to cover the capital deficit will in turn satisfy the need of medium and long term export financing. In addition, LPEI (EximBank) may also support and be a solution for the bank's drawback in providing financing, especially medium/long term financing.

LPEI (EximBank) as a Government agent may facilitate financing to the areas where commercial banks or financial institutions do not operate (fill the market gap) which is raising from both lack of competitive financing capability and the capability to manage the risk with competitive interest rate to develop business that produce export goods and services and/or other businesses that support export. LPEI (EximBank) also provides financing for any transactions or projects that is not commercially viable

to perform...



to perform, either by a commercial financial institution or by LPEI (EximBank) itself, but it is deemed necessary by the Government to support the national policy or the national export program (National Interest Account).

LPEI (EximBank) provides financing in the form of working capital and/or investment. Working capital financing is aimed to finance among other procurement of raw material and/or auxiliaries, buying raw material from abroad, replacement and/or maintenance of components and production facilities. Investment financing is aimed to finance among other machinery modernization, business expansion including development and new factory expansion, project financing, e.g. construction project development, infrastructure, exploration and exploitation activity, and supporting industries in both inside and outside the country. In addition to financing for exporters, LPEI (EximBank) may also provide financing to overseas buyer in order to import goods and services from Indonesia.

Export guarantee that is extended by LPEI (EximBank) essentially is an indirect financing, but it is not limited to the issuance of stand by letter of credit, confirmation of letter of credit that is issued by any overseas bank, guarantee for repayment of financing that are extending to exporter and any export supporting industries.

Another LPEI's (EximBank's) task is providing insurance. As there are some risks arisen from export-import activities it is necessary for exporters and importers to be covered by insurance so that it will not disrupt its business

continuity...



continuity. On the other hand, the need of insurance in the export-import activities may also become a problem for exporter and related businessman as the insurance premium is considered high. This condition occurs as export-import activities is high risk so that the number of insurance company that is providing such insurance mentioned above is limited. Therefore, to meet the demands of export-import insurance and to enhance the price competitiveness of Indonesia export commodity in the international market, it is necessary to have insurance with competitive premium that is expected to be provided by LPEI (EximBank).

In addition to the conventional businesses, LPEI (EximBank) is also designed to provide national export financing that is performed based on sharia principles. The financing based on sharia principles is carrying out since the sharia principles based economic activities grows well in Indonesia, such as sharia bank, sharia insurance and reinsurance, sharia pawning, sharia mutual fund, and other sharia marketable securities that have been accepted by the people and considered to have both comparatively and competitively advantages.

Through the above mentioned businesses, it is expected that LPEI (EximBank) may contribute optimally to support the development of national economy via supporting government policy to promote national export program. For this reason, LPEI (EximBank) implementing prudential norms that include good corporate governance, risk management application, and

Know Your...



Know Your Customer principles. The implementation of good corporate governance principles in LPEI (EximBank) shall be reflected through the application of transparent and accountable principles by publishing its financial report to both the Government and the public. The implementation of risk management principle shall be reflected in extending export financing by having sound analysis principle in placed which is appropriate with the common practices, meanwhile related to the funding sources and fund placement, LPEI (EximBank) can only be undertaken in the definite form that is accountable in compliance with this Act and its operational regulations. In implementing know your customer principle, LPEI (EximBank) shall identify the customer's identity and the funding sources as well as its transactions. In addition to the prudential norms, LPEI (EximBank) does not compete with any banks or other financial institutions, and it may grant financing through co-financing with other banks and/or other financial institution.

The aforesaid LPEI's (EximBank's) strategic roles, requires basic policy on the national export financing to: promote a conducive business climate to increase the national export; accelerate the national export increment; support the improvement of national production capacity with a high competitiveness and export comparative advantages; and enhance micro, small, medium-scale enterprises and cooperatives to develop export oriented products.

LPEI...



LPEI (EximBank) as a special institution (*sui generis*) is not adhere to the Acts on banking, State Owned Enterprises, financial institutions, and insurance business. However, in conducting its business, LPEI (EximBank) shall adhere to the material provisions on the financing, guarantee and insurance as stipulated in Chapter Thirteen of the Third Book of the Indonesian Civil Codes on lending-borrowing, Chapter Seventeen of the Third Book of the Indonesian Civil Codes on debt responsibility, and Chapter Nine of the First Book of the Indonesian Commerce Code on insurance or liens.

Even though profit is not LPEI's (EximBank's) main objectives, yet it may obtain profits from any profit sharing or surplus in conducting its business. The allocation of such surplus shall be the general reserve, special purpose reserve, performance bonus, *tantiem*, and the Government profit share portion.

To carry out such tasks, LPEI (EximBank) shall be supported by an agile organization that is responsive in the company management. Therefore, it applies One Board System that is considered the most appropriate form for LPEI (EximBank). However, to avoid a centralized dominancy of one member of the Board of Directors that is appointed by the Minister as the Chairman of the Board of Directors that concurrently the Executive Director, the Chairman of the Board of Directors has no voting right in the Board of Directors meeting.

Having...



Having this Act in placed, it is expected that LPEI (EximBank) will be able to provide export financing facilities and advisory services to improve the Indonesia goods and services export value, to build up the international trust to Indonesia, and to improve the competitiveness of the Indonesian businessman. Therefore, LPEI (EximBank) is expected to be able to carry out the Government special assignment to support the National Export Program.

Considering the high expectation to LPEI (EximBank), the transformation from Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia to become LPEI (EximBank) shall be carried out in the best manner to ensure that the transfer of ownership of assets and liabilities through closing audit on the financial report of Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia shall include the qualified audit opinion so that it can be a basis for preparing the opening of LPEI's (EximBank's) financial statement. Besides, the transfer of the lawful rights and obligations of Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia to LPEI (EximBank) shall include an opinion on the related legal aspect to such transfer.

This Act shall take into effect as of the enactment date, thus LPEI (EximBank) is established officially as of the enactment of this Act. However, to start the operation of LPEI (EximBank) it shall require a transition period of at latest 9 (nine) months since the enactment of this Act. By commencement of LPEI (EximBank) operation, Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia

is declared...



is declared to be dissolved and all employees of Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia shall be LPEI's (EximBank's) employees. Moreover, having its business operations in the international trade, LPEI (EximBank) shall use the name of Indonesia Eximbank.

II. Article by Article

Article 1

Self Explanatory

Article 2

Item a

The term of "national interest" is the principle that put the nation and state interest as the first priority above the other interests.

Item b

The term of "legal assurance" is the principle that put the law and the Act provisions as the basis for any policies and actions in the National Export Financing.

Item c

The term of "transparency" is the principle that facilitates the people to access correct information and non discriminative.

Item d...



Item d

The term of “accountability” is the principle that guarantees any activities and final results of the National Export Financing are accountable.

Item e

The term of “professionalism” is the principle that guarantees the National Export Financing is carried out based on expertise, experience, and integrity.

Item f

The term of “fair efficiency” is the principle that guarantees the National Export Financing is carried out efficiently in order to build fair, conducive, and competitive business climate.

Item g

The term of “equitable development and national economy unity” is the principle that emphasize the necessity of the National Export Financing policy to consider equitable regional development in the national economy unity.

Article 3

Self Explanatory

Article 4

Self Explanatory

Article 5...



Article 5

Self Explanatory

Article 6

Working capital financing, for examples, financing for the procurement of raw material and/or auxiliaries, purchasing raw material from overseas, replacement and/or maintenance of components and production facilities.

Investment financing, for example, financing for machine modernization, business expansion including the development and expansion of new factory, project financing, e.g., construction project development, infrastructure, exploration and exploitation activities, and supporting industry both inside and outside the country.

Working capital and/or investment financing facility may be provided for overseas buyers to purchase goods and services produced in Indonesia (buyer's credit).

Article 7

Item a

Self Explanatory

Item b...



Item b

Self Explanatory

Item c

Self Explanatory

Item d

Tender guarantee, for example: bid bond and performance guarantee.

Article 8

Item a

The term of “Insurance of Export Performance Risk” is the insurance to protect banks or other parties from any losses because of export failure by exporters.

Item b

The term of “Insurance of non-payment risk” is the insurance to protect exporters from any losses whenever the buyers of goods/services fail to meet their obligation to pay in compliance with the agreement.

Item c

The term of “Insurance of overseas investment risk for Indonesian companies” is the insurance to protect Indonesian investors from any investment losses in overseas.

Item d...



Item d

The term of “Insurance for political risk in the export destination country” is the insurance to protect exporters from any losses caused by political risk in a country, such as nationalization, currency inconvertibility, exchange transfer restricted, and contract repudiation.

Article 9

Self Explanatory

Article 10

Paragraph (1)

Self Explanatory

Paragraph (2)

The term of “legal entity” is any entity of organization which is a subject before the law, namely the holder of any rights and obligations that having the same status individually as a subject before the law.

Paragraph (3)

The term of “independent” means no interference from any other parties including the Government to LPEI’s (EximBank’s) in carried out its duties and authorities, unless expressly stated otherwise in this Act.

Paragraph (4)...



Paragraph (4)
Self Explanatory

Article 11
Self Explanatory

Article 12
Self Explanatory

Article 13
Paragraph (1)
Item a
Self Explanatory
Item b
Self Explanatory
Item c

The obstacles faced by Banks or other Financial Institutions, for example: lack of capability to extend financing needed by the exporters, limited access to overseas banking, or limited funding sources that is appropriate with the export financing scheme.

Paragraph (2)
Item a
Self Explanatory

Item b...



Item b

The term of “other activities” are any activities that are typically conducted by an export financing institution (EximBank) in other countries, for example: counter guarantee, joint guarantee, import substitution financing, and financing for importing of raw material to fulfill national demands.

Article 14

Paragraph (1)

Item a

Self Explanatory

Item b

The term of “to restructure the National Export Financing” means the LPEI’s (EximBank’s) remedial efforts to facilitate its customers to settle their obligation, among other through:

- a. rescheduling, i.e. reschedule the customers’ payments and/or the settlement period.
- b. reconditioning, i.e. partially or entirely amendment to the terms and conditions of financing; and
- c. restructuring, i.e. amendment to terms and conditions of financing not limited to rescheduling or reconditioning.

Item c

Self Explanatory

Item d...



Item d
Self Explanatory
Paragraph (2)
Self Explanatory

Article 15
Self Explanatory

Article 16

To smooth the implementation of the National Export Financing, LPEI (EximBank) may participate in the national payment system. For such purpose, LPEI (EximBank) shall adhere to the terms and conditions as stipulated by Bank Indonesia.

The term of “the national payment system” means the payment system as specified in the Act Number 23 of 1999 concerning Bank Indonesia as amended by Act Number 3 of 2004 concerning the Amendment to Act Number 23 of 1999 concerning the Bank Indonesia.

The term of “the international payment system” means the payment system that is generally applied to settle inter-bank or inter-states financial institution payment obligation.

Article 17
Self Explanatory

Article 18...

Article 18

Paragraph (1)

The term of “special assignment” is the Government’s assignment to LPEI (EximBank) to provide financing, guarantee and insurance for any transactions or projects that commercially not viable, yet it is deemed necessary by the Government to support its policy or the National Export Program.

Paragraph (1)

The Minister Regulation shall include among others the following main points i.e. the procedures for proposing the national Export program from the ministry and government agency, funding sources, fines, guarantee provisions, insurance premium, coverage, and payment.

Article 19

Paragraph (1)

The LPEI’s (EximBank’s) initial capital is all shares of the state’s treasury in Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia.

Paragraph (2)

Self Explanatory

Paragraph (3)

The capital deficit replenishment, firstly will be covered by utilizing internal LPEI’s (EximBank’s) sources, that is, Provision for Asset Losses, general reserve, and other capitals. In the event such coverage makes the LPEI’s (EximBank’s) initial

capital...



capital becomes less than IDR. 4,000,000,000,000.00 (four trillion rupiah), such deficiency will be covered from the State Budget.

The term of “the applicable mechanism” means the process of proposing the State Budget by the Government upon the approval of the House of Representative.

Paragraph (4)

Additional capital to cover the LPEI’s (EximBank’s) capital deficiency shall be calculated as a separate state’s treasury.

Article 20

Paragraph (1)

The term of “general reserve” means the fund taken from a portion of the LPEI’s (EximBank’s) surplus that is used to cover any losses arising from its business operations.

The term of “special purpose reserve” means the fund taken from a portion of LPEI’s (EximBank’s) surplus that can be used, among others, for indemnities and/or renewal of fixed assets, procurement of required equipment, as well as organization and human resources development that are needed by the LPEI (EximBank) to perform its duties.

Paragraph (2)...



Paragraph (2)

The purpose of equity capitalization of 75% (seventy five percent) is to strengthen the LPEI's (EximBank's) capital.

Paragraph (3)

Self Explanatory

Article 21

Paragraph (1)

The term of "surplus" means the profits from LPEI's (EximBank's) business operation in 1 (one) fiscal year.

The surplus is calculated by netting incomes and recognized liabilities based on the accrued method which comply with financial accounting standards applied in Indonesia.

Item a

Self explanatory

Item b

Self explanatory

Item c

The term of "performance bonus and tantiem" means a portion of the surplus that is given to the employees and the members of the Board of Directors based on their performance.

Paragraph (2)...

Paragraph (2)

The percentage of surplus allocation shall be made by due observance of the reserve accumulation to strengthen LPEI's (EximBank's) capital structure and to anticipate any LPEI's (EximBank's) losses from its business operation in the future.

Paragraph (3)

Self Explanatory

Article 22

Paragraph 1

Item a

Marketable securities or promissory notes issued by LPEI (EximBank's), both inside and outside the country, among other in the form of bonds or medium terms notes, either based on conventional or sharia principles.

Item b

The borrowing can be in the form of, among others direct borrowing and two step loan.

Item c

Self Explanatory

Paragraph 2

Self Explanatory

Article 23

Self Explanatory

Article 24

Paragraph (1)

Self Explanatory

Paragraph (2)

Placement of Fund at both local and overseas banks is required to support the LPEI's (EximBank's) transaction operations, e.g. the placement of fund in demand deposit, nostro account and its participation in Inter-Bank Money Market (PUAB).

Paragraph (3)

To anticipate liquidity requirement for its business operations, any marketable securities purchased or placement of fund must be liquid.

To secure the above mentioned purposes, the risk of any marketable securities purchased or placement of fund shall be manageable.

Article 25

Paragraph (1)

The Board of Directors is comprising of Non Executive Directors and Executive Director. Non Executive Directors shall be part timers.

Paragraph (2)

Item a

The candidates of the Board of Directors from government institutions or department shall be recommended by the relevant ministers to the Minister.

Paragrah (3)...

- Paragraph (3)
Self Explanatory
- Paragraph (4)
Self Explanatory
- Paragraph (5)
Self Explanatory
- Paragraph (6)
Self Explanatory
- Paragraph (7)
Self Explanatory
- Paragraph (8)
Self Explanatory

Article 26

Paragraph (1)

The Board of Directors shall formulate and determine the policy related to:

- a. export financing as an operating scheme of the National Export Financing policy;
- b. financing, guarantee, insurance, advisory services and other activities as specified by this Act;
- c. source of fund and placement of fund as specified by this Act;
- d. supervisions as specified in item b and c hereof;
- e. the procedures for the proposal, selection, appointment, and dismissal of the Managing Directors;

f. the formation...

- f. the formation of the Corporate Plan and the Annual Business Plan and Budget;
- g. evaluation of business operations;
- h. reporting of business operations;
- i. organization structure;
- j. procurement of current assets, fixed assets, and services; and/or
- k. legal assistance.

Paragraph (2)

Job allocation and procedures for the performance of The Board of Directors, shall include as follows:

- a. job allocation among the members of the Board of Directors;
- b. meetings of the Board of Directors, meeting quorums, and the procedures for convening a meeting of the Board of Directors;
- c. the procedures for adoption of resolution of the Board of Directors;
- d. provisions on conflict of interest.

Paragraph (3)

Self Explanatory

Article 27

Item a

Self Explanatory

Item b

Self Explanatory

Item c...

Item c

Self Explanatory

Item d

Self Explanatory

Item e

Self Explanatory

Item f

Self Explanatory

Item g

The expertise and experiences include the expertise and experiences on economic, financial, banking, international trade, and/or legal.

Item h

Self Explanatory

Article 28

Paragraph (1)

Item a

The term of “permanent absence” includes death, losing the Indonesian citizenship, or suffered from physical disable and/or mental disorder that prevent the said person to perform his/her job well.

Item b

Self Explanatory

Item c

Self Explanatory

Item d...

Item d

The performance criteria of the member of the Board of Directors is determined in the employment contract between the relevant member and the Minister.

Item e

Self Explanatory

Item f

The term of “other crimes” means any crimes that disrupt the organization integrity, e.g. money laundering or smuggling.

Item g

Self Explanatory

Paragraph (2)

Self Explanatory

Paragraph (3)

Self Explanatory

Paragraph (4)

Self Explanatory

Paragraph (5)

Self Explanatory

Paragraph (6)

Self Explanatory

Paragraph (7)

Self Explanatory

Article 29

Paragraph (1)

Self Explanatory

Paragraph (2)...

Paragraph (2)

The Executive Director and the Managing Directors shall at least perform the functions of business operations, risk management, legal, financial, and administration.

Paragraph (3)

Self Explanatory

Paragraph (4)

Self Explanatory

Article 30

Self Explanatory

Article 31

Self Explanatory

Article 32

Paragraph (1)

Self Explanatory

Paragraph (2)

Any bad debts arising from improper credit extension may be written off in compliance with the available mechanism, when sufficient sanctions have been imposed to the liable party for the said credit extension.

Paragraph (3)

Self Explanatory



Article 33

Self Explanatory

Article 34

Self Explanatory

Article 35

Self Explanatory

Article 36

Self Explanatory

Article 37

Paragraph (1)

The Corporate Plan includes, among others:

- a. evaluation of the previous Corporate Plan;
- b. current position of the LPEI (EximBank);
- c. assumptions opted in formatting of the Corporate Plan;
- d. mission, objectives, strategy, policy, and working program of the Corporate Plan.

Paragraph (2)

The Annual Business Plan and Budget includes, among others:

- a. mission, objective, strategy, policy, and working program/activity;

b. details...



- b. details of budget for each working program/ activity budget;
- c. financial projection; and
- d. other agendas required the Minister's Decree.

Paragraph (3)

Self Explanatory

Article 38

Paragraph (1)

Self Explanatory

Paragraph (2)

Self Explanatory

Paragraph (3)

The publication of the LPEI's (EximBank's) financial report is done to fulfill the principles of transparency and public accountability.

Article 39

LPEI (EximBank) as it is established based on Act, the dissolution shall be also based on Act. LPEI (EximBank) is not subject to the provisions of the Act on Insolvency.

Article 40

Paragraph (1)

Self Explanatory

Paragraph (2)...



Paragraph (2)

The Minister Regulations will include among others business operations, quality of earning assets, legal lending limit, capital adequacy, net open position, reporting, and examination.

Article 41

Legal assistance includes, among others, attorney assistance, legal assistance, and access to LPEI's (EximBank's) documents.

Article 42

Self Explanatory

Article 43

Self Explanatory

Article 44

Item a

Self Explanatory

Item b

Self Explanatory

Item c

Public accountant office appointment shall be made under the provisions on goods and services procurement based on good corporate governance principles.

The term...



The term of “the audit of the closing financial statement” means the process of closing of all accounts to indicate the last position of such accounts on the closing date, with fair opinion. Furthermore, LPEI (EximBank) shall make the opening financial statement based on the closing financial statement.

The legal consultant shall give its opinion on the legal aspects related to transition of the Perusahaan Perseroan (Persero) PT Bank Ekspor Indonesia to become LPEI (EximBank).

Article 45

Self Explanatory

Article 46

This Act is *lex specialis* against Act on banking, insurance businesses, non bank financial institution, state-owned enterprises, limited liability companies, and insolvency. However, in performing its business operations, LPEI (EximBank) shall adhere to the material provisions on Financing, Guarantee and Insurance as specified in Chapter Thirteen of the Third Book of the Indonesian Civil Codes on lending-borrowing, Chapter Seventeen of the Third Book of the Indonesian Commerce Civil Codes on debt responsibility, and Chapter Nine of the First Book KUHD on insurance or general liens.

Article 47...



Article 47

The name of Indonesia Eximbank is intended to make it easier for LPEI (EximBank) to perform its business operations and make it at the same level with other EximBank in overseas.

Article 48

Self Explanatory

Article 49

Self Explanatory

SUPPLEMENT OF THE STATE GAZETTE OF THE REPUBLIC
OF INDONESIA NO. 4957

