

UNOFFICIAL TRANSLATION

LAW NO. 30/2000
CONCERNING ON TRADE SECRET

BY THE GRACE OF ALMIGHTY GOD,
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering :

- a. that in order to promote industries which are capable of competing in the scope of national and international trade, it is necessary to create a climate which encourages creations and innovations of society by providing legal protection against the Trade Secret as part of the system of Intellectual Property Rights;
- b. that Indonesia has ratified the agreement Establishing the world Trade Organization, which covers the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs Agreement) by Law No. 7/1994, so that it is necessary to govern it in a provision on the secret Trade;
- c. that based on the considerations as referred to in letters a and b, it is necessary to draw up a law on the Trade Secret;

In view of:

1. Article 5 paragraph 1, Article 20, and Article 33 of the 1945 Constitutions;
2. Law No. 7/1994 on the ratification of the Agreement Establishing the world Trade Organization (Statute Book No. 57/1994, Supplement to Statute Book No. 3564);
3. Law No. 5/1999 on the Ban on Practices of Monopoly and Unsound Business Competition (Statute Book No. 33/1999, Supplement to Statute Book No.3817).

With the Approval of

THE HOUSE OF PEOPLE'S REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

DECIDES :

To Stipulate:

LAW ON TRADE SECRET

CHAPTER 1
GENERAL PROVISIONS
Article 1

In this Law referred to as :

1. Trade Secret shall be the information which is not identified by the public on technology and/or business which has economic value, because it is useful for business activities and whose secrecy is safeguarded by the owner of the Trade Secret.
2. Right to the Trade Secret shall be the right to the trade secret which arises based on this Law.
3. Minister shall be the Minister who heads the Ministry one of whose its scopes of duty and responsibility covers the Intellectual Property Rights, including the Trade Secret.
4. Directorate General shall be the Directorate General of Intellectual Property Rights, which is under the ministry led by a Minister.
5. License shall be the permit which is granted by the holder of the Trade Secret to another party through an agreement based on the granting of rights (rather than a transfer of right) to enjoy economic benefit of a certain Trade Secret which is protection for a certain period and under certain requirements.

CHAPTER II
SCOPE OF TRADE SECRET
Article 2

The scope of the Trade Secret covers methods of production, processing, sale or other information in the area of technology and/or business which have economic value and are not identified by the general public.

Article 3

1. The Trade Secret obtains protection, if the information is secret in nature, has economic value, and its secrecy is strictly safeguarded through proper efforts.
2. The information is considered secret, if it is identified by certain parties only or it is not identified by the general public.
3. The information is considered having economic value, if the nature of secrecy of the information can be used to carry out activities or business which are commercial or can economically increase profits.
4. The secrecy of the information is considered having been safeguarded, if the owner or the parties who control it have taken proper and reasonable steps.

CHAPTER III
RIGHT OF OWNER OF TRADE SECRET
Article 4

The owner of the Trade Secret has the following rights:

- a. to use his own Trade Secret;
- b. to grant licenses to for to prohibit other parties from using the Trade Secret or revealing the Trade Secret to any third party for commercial interests.

CHAPTER IV
TRANSFER OF RIGHT AND LICENSE
First Part
Transfer of Right

Article 5

1. The Trade Secret Right can change in ownership or be transferred by:
 - a. inheritance;
 - b. grant;
 - c. testament;
 - d. written agreement; or
 - e. other causes which are justified by laws.
2. The Transfer of the Trade Secret Right as referred to in paragraph 1 is accompanied with documents on the transfer of right.
3. All forms of transfer of the Trade Secret Right as referred to in paragraph 1 shall be registered with the Directorate General by paying the cost as stipulated in this Law.
4. The Transfer of the Trade Secret Right which is not registered with the Directorate General does not result in legal consequences on the third party.
5. The Transfer of the Trade Secret Right as referred to in paragraph 3 is announced in the official Report on the Trade Secret.

Second Part

License

Article 6

The Owner of the Trade Secret Right has the right to grant a license to another party based on the license agreement to execute the acts as referred to in Article 4, except otherwise stated.

Article 7

Without reducing the validity of the provision in Article 6, the Owner of the Trade Secret Right himself can still carry out activities or grant a license to the third party to carry out the activities as referred to in Article 4, except otherwise stated in the agreement.

Article 8

1. The license agreement shall be registered with the Directorate General, which is subjected to the cost as stipulated by this Law.
2. The Agreement on Trade Secret License which is not registered with the Directorate General does not have legal consequences on the third party.
3. The License Agreement as referred to in paragraph 1 is announced in the official Report on the Trade Secret.

Article 9

1. The License Agreement shall not contain provisions which can create consequences harmful to Indonesia's economy or provisions which can create unsound business competition as stipulated in the existing regulations.

2. The Directorate General shall reject the registration of the License Agreement which contains the provisions as referred to in paragraph 1.
3. The provisions on the registration of the License Agreement are stipulated by a presidential Decree.

CHAPTER V
COST
Article 10

1. The registration of transfer of right and the registration of the Trade Secret License agreement are subjected to costs, the amounts of which are stipulated by a Government Regulation.
2. Further provisions on the requirements, durations and procedures for paying costs as referred to in paragraph 1 are stipulated by a Presidential Decree.
3. The Directorate General with the approvals of the Minister and the Minister of Finance can process the costs itself as referred to in paragraph 1 and 2 based on the existing regulations.

CHAPTER VI
SETTLEMENT OF DISPUTE
Article 11

1. The Owner of the Trade Secret or the License recipient can sue anyone who purposely and without rights execute the acts as referred to in Article 4, in the following forms:
 - a. lawsuit on compensation; and/or
 - b. stopping all acts as referred to in Article 4
 - c. the lawsuit as referred to in paragraph 1 is filed to a Public Court

Article 12

In addition to the settlement by lawsuit as referred to in Article 11, the parties can settle the dispute through arbitration or alternatives of dispute settlement.

CHAPTER VII
VIOLATION OF TRADE SECRET
Article 13

A violation of the Trade Secret also takes place, if anyone purposely reveals the Trade Secret, disavows the agreement or disavows written or unwritten obligations to safeguard the relevant Trade Secret.

Article 14

Anyone is considered having violated the Trade Secret of another party, if the person obtains or controls the Trade Secret by the method which is against the existing regulations.

Article 15

The act as referred to in Article 13 is not considered a violation of the Trade Secret, if:

- a. the act to reveal the Trade Secret or to use the Trade Secret is based on the defense, security, health or safety of the public;
- b. the reverse-engineering of the product produced by the use of the Trade Secret of another person which is done only for the interest of further developing the relevant product.

CHAPTER VIII

INQUIRY

Article 16

1. In addition to the Inquirer from the Personnel of the National Police, the Inquirer from Civil Servant Personnel within the ministry with the scope of duties and responsibilities covering the Intellectual Property Right is provided with special authority as an inquirer as referred to in Law No.4/1981 on Criminal Procedural Law to carry out criminal inquiry in the area of the Trade Secret.
2. The inquirer as referred to in paragraph 1 has the following authority:
 - a. carrying out investigations of the truth of complaints or the information on criminal acts in the area of the Trade Secret;
 - b. carrying out investigations of the parties which commit criminal acts in the area of the Trade Secret;
 - c. requesting information and evidence from the parties in connection with the criminal acts in the area of the Trade Secret;
 - d. carrying out audits on the accounting, recording and other document relating to the criminal acts in the area of the Trade Secret;
 - e. carrying out investigation at certain places which are alleged to have evidence of the accounting, recording and other documents;
 - f. confiscating the materials and/or goods produced by the violation which can be used as evidence of the criminal acts in the area of the Trade Secret; and/or
 - g. requesting aid from experts to perform the duties of inquiring criminal acts in the area of the Trade Secret.
3. The inquirer from Civil Servant Personnel as referred to in paragraph 1 in performing his duties notifies about the commencement of the inquiry and reports the outcome of the inquiry to the Inquirer from the National Police Personnel.
4. In the case that the inquiry has been completed . the Inquirer from the Civil Servant Personnel as referred to in paragraph 1 submits his outcome of inquiry to the Public Prosecutor through the Inquirer from the National Police Personnel by taking into account the provisions in Article 107 in Criminal Procedural Law.

CHAPTER IX

CRIMINAL PROVISION

Article 17

1. Anyone purposely and without right using the Trade Secret of another party or committing the act as referred to in Article 13 or Article 14 is sentenced maximally to 2 (two) years and/or fined maximally Rp.300,000,000,- (three hundred million Rupiahs).
2. The criminal acts as referred to in paragraph 1 constitute an offense which warrants complaint.

CHAPTER X
OTHER PROVISION
Article 18

At the request of the parties in criminal and civil cases, the judge can order that the session should be held behind closed doors.

CHAPTER XI
CLOSING PROVISION
Article 19

This Law shall come into force as from the date of promulgation.

For public cognizance, this Law shall be announced by publishing it in the Statute Book of the Republic of Indonesia.

Ratified in Jakarta
On December 20, 2000
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,
sgd.
ABDURRAHMAN WAHID
Promulgated in Jakarta on December 20, 2000
THE STATE SECRETARY
Sgd
DJOHAN EFFENDI