

Issues and Requests Relating to Foreign Trade and Investment - Indonesia

	Category	No	Issue	Issue Details	Requests	References
1	Restrictions on Entry of Foreign Capitals	(1)	Limitation on the Foreign Capital Contribution Ratio	<p>- A member firm of JBCTIF, investing in an engineering company in <u>Indonesia for water treatment equipment in the category of construction sector, is unable to increase readily its capital for business expansion, due to the foreign investment cap of up to 67% specified in the Negative List.</u></p> <p>- By Negative List promulgated on 23 April 2014, GOI reduced to 33% from the previously authorised 100%, the foreign investor's maximum capital contribution ratio upon incorporation of a distribution company, capable of selling direct to the customers in the Indonesian domestic market. It has deprived autonomy in foreign investor's establishment of a distributing company. While a member firm already maintains a representative office in Indonesia (MFS), it is disallowed to assert its own legal personality. Thus, MFS's hands are tied in providing various services to local customers.</p> <p>- Investment into the restricted business fields has been subject to cap on foreign capital ratio (FCR), and presidential regulation No. 39, 2014 has further tightened that cap which has been reduced to 33% from 100% on distributor, while online retailing previously without cap, is open only for the domestic capital. While No.39 does not apply to the existing enterprises thanks to the grandfather clause, it hinders new foreign investments.</p> <p>- The New Negative List promulgated in April 2014 established the cap of 33% on foreign capital investment in the distribution business field without exclusionary provisions on the subject items and the business mode. It precludes FFE's establishing singly of distribution company for selling own products, materially hindering new business developments.</p> <p>- GOI has reduced down to 33% from the previous 100%, the foreign capital contribution rate on establishment of the local distribution company.</p>	<p>- It is requested that Government of Indonesia (GOI):</p> <p>-- takes account of the effect of the member firm's contribution to this date toward environmental improvement by its grant of technology, and</p> <p>-- deregulates or repeals the foreign capital investment in this business sector.</p> <p>- It is requested that GOI takes steps to authorise establishment of 100% foreign owned distribution company, as has been the case to this date.</p> <p>- It is requested that GOI considers deregulating foreign capital restrictions by accepting foreign investment to achieve further development in Indonesian economy.</p> <p>- It is requested that GOI takes step to repeal the unjust tightening of restrictions that goes against the main stream of harmonising the treatment between domestic and foreign investors.</p> <p>- Would not it be possible for GOI to take step to increase the foreign capital ratio to minimum 51%?</p>	<p>- Presidential Regulation No. 36 of 2010 On List of Business Fields closed to Investment and Business Fields Open, with conditions, to Investment promulgated on 25 May 2010</p> <p>- Foreign Investment Law Negative List (2010 Regulation No.36)</p> <p>- Negative List promulgated on 23 April 2014</p> <p>- Presidential Regulation No 39, 2014, On List of Business Fields Closed and Open (with condition) to Investment</p> <p>- Insurance Act No.40, 2014 (Undang-Undang Republik Indonesia Nomor 40 tahun 2014 tentang Perasuransian)</p>

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			<ul style="list-style-type: none"> <li>- <u>On new establishment of a trading company, less than 33% foreign capital ratio applies.</u></li> <li>- <u>The new act promulgated in October 2014 on insurance business (Revision on Undang-Undang Nomor 2 Tahun 1992 Tentang Perasuransian) includes description that suggests restricting share ownership by foreign funded enterprises in insurance companies operating domestically in Indonesia. The details are due for promulgation by Decree within 2-1/2-years from now. Assuming arguendo, the amendment restricts the FFEs' share ownership lower than the currently owned shares or prohibits the majority ownership, it would give a severe impact upon the operation of the insurance business of the locally incorporated FFEs'</u></li> <li>- <u>In construction sector, in addition to setting at 67% the foreign capital contribution, change in the class for the construction work licence compels a huge amount of initial investment upon foreign constructors. In addition, in light of facilitating the construction licence acquisition, the scope of prospective local partner substantively gets narrowed down to fellow traders. Minister of public works regulation 10/PRT/M/2014, guideline for licencing foreign construction service representative office (new regulation) promulgated on 22 September 2014 has been in force since 8 October 2014. However, it was only on 25 November at the explanatory meeting presided by ministry of public works that the detailed ex post facto report was given. Furthermore, as of 29 January 2015, no implementing rules for the regulation have yet been made public.</u></li> <li>- <u>Protectionism is on the rise, such as Negative List Amended this year while the deliberation is now under way on the tariff hike.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI takes step to repeal the restrictions.</u></li> <li>- <u>GOI's propensity toward protection of domestic Industry appears to be unavoidable to a degree, by reflection of the developments concerning ASEAN, birth of new administration, financial agency's positive stance, etc. Nevertheless, impact of such propensity upon vested rights should be avoided. It is requested that GOI gives careful deliberation upon the rich, high level knowledge and expertise that foreign funded insurance enterprises bring into Indonesia and for the sake of enhancing the spirit of free competition, and makes a cool judgement.</u></li> <li>- <u>It is requested that GOI provides in advance opportunities to exchange dialogues between the Government and FFEs on each introduction/ amendment of the new schemes, laws and regulations.</u></li> <li>- <u>It is requested that GOI takes a long-term perspective for shifting its industrialisation policy rather than seeking relief from short term protectionism.</u></li> </ul>	

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				<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Deregulation in foreign investment control has been under way as exemplified by the Presidential Decree of 1994, which permitted the 100% foreign investment in certain business sectors, in the face of the Asian economic crisis and political upheavals. Most recently, by promulgation of Presidential Decree No.96/2000, deregulation in foreign investment has been made in steps in the 4 business sectors, recently, Presidential Decree No.96/2000classified the deregulation into 4 categories, namely, I. Business sectors in which investment by private parties is totally prohibited; II. Business sectors in which investment by foreign-funded enterprises ("FFE's") is prohibited; III. Business sectors in which restrictions in the equity share ratio no longer apply; and IV. Business sectors which are liberated with certain conditions.</li> <li>- According to Coordinating Ministry of Economic Affairs (CMEA) Press Release of 14 September 2004, National Working Group on Investment Improvement ("NWGII" revised in August 2004) submitted a draft Negative List (PEPI, GR No.87/2003, chaired by the President) concerning the new national improvement for investment and export. The draft Negative List is being prepared, due for release as PD in December 2004.</li> <li>- In August 2004, as amendment of PI Tax No.5/2003, GOI submitted to House of Representatives the new investment bill, which will replace both the Foreign Investment Act and the Domestic Investment Act implemented in 1967 and 1968, respectively, specifically intended to attract more FDIs into Indonesia. The Bill will repeal the outdated legislative provisions that are incompatible with the international standards. One of the Bills offers liberalization of FDI and promises a national treatment to FDI. As one of its important features, the bill offers, among others, a 30-year even amortization to foreign investors, executing the project. Investors are authorized to operate its business, as long as the operation is considered to be economically viable. The bill also eliminates any possibility for the project to be deprived by local partners upon lapse of a certain period from the hands of foreign investors. Furthermore, a permanent visa will be issued to aliens having invested a certain amount of money into Indonesia and having resided for a certain period in Indonesia.</li> </ul> <p>The following are the main features of the Bill:</p> <ol style="list-style-type: none"> <li>1. The equal treatment is granted to all domestic and foreign investors (the national treatment),</li> <li>2. Investment is liberalized to all sectors/locations, excepting those included in the Negative List,</li> <li>3. Investors are not deprived of their equity shares by their local partners and/or by the nationalized portion of their equity share,</li> <li>4. A free remittance abroad of a reasonable portion of the foreign investment capital/yields and earned wages/salaries of foreign employees,</li> <li>5. Licenses for foreign investment are issued commensurate with the economically viable period of each project,</li> <li>6. Investment system may be simplified to permit foreign investors' access to the local financing institutions.</li> <li>7. GOI will promote a beneficial partnership between large-scale foreign enterprises, local enterprises and small-to-medium enterprises, and</li> <li>8. Regional governments will set up and maintain the "one-stop-investment service" window to facilitate both foreign and domestic investors.</li> </ol> <ul style="list-style-type: none"> <li>- Presidential Decree No.3 of 27 February 2006 "Policy Package for Improvement of Investment Environment" includes among others submission to Parliament by March 2006 of "Bill to amend Investment Law, revision of Negative List, Conditionally Liberalized Sectors" to ensure clarity, simplicity, and methodical transparency.</li> <li>- In March, GOI submitted to Parliament Bill to amend Investment Law, incorporating deregulation of investment restrictions.</li> </ul>		

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			<ul style="list-style-type: none"> <li>- On 26 April 2007, Investment Law of 2007 was enforced. The New Investment Law stipulates among others:               <ul style="list-style-type: none"> <li>(1) Non-discrimination between domestic and foreign capitals,</li> <li>(2) Shared authority of investment licence between the central and local governments,</li> <li>(3) One roof service that integrates all procedures on investment,</li> <li>(4) Special Economic Zones, newly incorporated, and</li> <li>(5) Extended term for the rights related to land properties.</li> </ul> </li> <li>- On 3 July 2007, GOI issued Negative List of Investment ("DNI") for 2007 by Presidential Decrees Nos. 76 and 77 of 2007. DNI now provides 9-business categories of investment, namely, 25%, 45%, 49%, 55%, 65%, 80%, 85%, and 95%. Presidential Decree No. 111 that followed in December 2007 both tightens and deregulates restrictions in parts.</li> <li>- On 20 July 2007, the Parliament passed the Law No. 40/2007 on New Limited Company Act. The Act includes a provision that raises the minimum capital requirement to IDR50 billion.</li> <li>- On 9 June 2010, Indonesian Investment Coordinating Board (BKPM) promulgated 2010 Negative List of Investment (DNI) pursuant to Presidential Regulation No. 36 promulgated and enforced on 25 May 2010. DNI is intended to simplify the preceding 2007 DNI. 2010 DNI is focused on:               <ul style="list-style-type: none"> <li>(1) Portfolio Investment,</li> <li>(2) Business expansion,</li> <li>(3) Issuance of Allocated Shares for business expansion,</li> <li>(4) Merger and acquisition within the same industrial sector,</li> <li>(5) Grandfather clauses,</li> <li>(6) Deregulation of investment restriction in certain sectors,</li> <li>(7) Tightening of protection for certain domestic industry, and</li> <li>(8) Deregulation of foreign fund contribution as regards ASEAN investors (Fulfilling the undertakings of Indonesia as a Member State of ASEAN Economic Community.)</li> </ul> </li> <li>- 2010 DNI amends the previous form of Appendix to the Presidential Regulation classifying business sectors corresponding to restricted types. It has been turned into a simpler, more comprehensive and easier-to-understand document. 2010 DNI amends Presidential Regulation No.77 and its amendments.</li> <li>- Restrictions imposed upon all business sectors:               <ul style="list-style-type: none"> <li>(1) By way of controlling foreign investment, a 100% Foreign Funded Enterprise must divest a portion of its equity shares to indigenous (pribumi) Indonesian individuals or legal entities within 15-years of opening its business in Indonesia, provided, however, that its practical implementation is nebulous.</li> <li>(2) Minimum rules concerning Capital, amount including without limitation, Minimum Authorised Capital 50-million Rupiah, minimum amount of Subscribed Shares 12.5-million Rupiah (equal to 25% of Authorised Capital), Minimum Paid-Up Capital 12.5-million Rupiah.</li> <li>(3) Land ownership is authorised only to indigenous (pribumi) Indonesians.</li> <li>(4) Employment of foreign workers is restricted on job type, which can be filled by indigenous (pribumi) Indonesians, with the exception of enterprises exporting abroad more than 65% of the products manufactured.</li> </ul> </li> </ul>		

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			<p>- Depending upon business sectors, GOI controls investments such as: Prohibited Sector (vehicle test operation), Sector Compelling Majority Capital Control (vehicle maintenance and repair), and Sector Compelling Local Partner Participation (bolts and nuts, motor parts/components, pumps/compressors, 2-wheel/3-wheel motor vehicle component/equipment, bicycle equipment).</p> <p>- On 26 December 2013, BKPM promulgated Amended Foreign Investment Negative List (Daftar Negatif Investasi "DNI 2013"), which both increases and reduces FFEs' capital ownership in many categories:</p> <p>Key Changes introduced in DNI 2013</p> <table><tr><th>Industry Sector</th><th>DNI 2013 Foreign Investment Level</th><th>DNI 2010 Foreign Investment Level</th></tr><tr><td>Land transportation facilities</td><td>49%</td><td>0%</td></tr><tr><td>Regular vehicle inspection</td><td>49%</td><td>0%</td></tr><tr><td>Pharmaceutical industry</td><td>85%</td><td>75%</td></tr><tr><td>Venture capital financing</td><td>85%</td><td>80%</td></tr><tr><td>Distribution and Storage</td><td>33%</td><td>100%</td></tr><tr><td>Cold Storage (Sumatra, Java, Bali)</td><td>33%</td><td>100%</td></tr><tr><td>Cold Storage (Kalimantan, Sulawesi, East Nusa Tenggara, Maluku and Papua)</td><td>67%</td><td>100%</td></tr><tr><td>Farming</td><td>30%</td><td>95%</td></tr><tr><td>Fixed telecommunications</td><td>65%</td><td rowspan="3">Previously unregulated</td></tr><tr><td>Multimedia-integrated telecommunication network</td><td>65%</td></tr><tr><td>Multimedia service provider</td><td>49%</td></tr><tr><td>Public-Private Partnership (PPP)</td><td colspan="2">49% (49% in private projects)</td></tr><tr><td>Projects: Airports/Seaports</td><td colspan="2">95% (49% in private projects)</td></tr><tr><td>Land transportation terminals</td><td colspan="2">49%</td></tr><tr><td>Water utilities</td><td colspan="2">95%</td></tr><tr><td>Toll road facilities</td><td colspan="2">95% (95% in private projects)</td></tr><tr><td>Power plants (1-10 megawatt capacity)</td><td colspan="2">49% (49% in private projects)</td></tr><tr><td>Power plants (10 and more megawatts capacity)</td><td colspan="2">100% (95% in private projects)</td></tr><tr><td>Electricity transmission</td><td colspan="2">100%</td></tr><tr><td>Electricity distribution</td><td colspan="2">100%</td></tr></table> <p>- In April 2014, Presidential Decree No. 39 on Foreign Investment Negative List was promulgated and enforced.</p> <p>-- Business Sectors where Tightened Restrictions on Foreign Capital (FC) apply:</p> <p>(1) Prohibited to FC without Upper Limit =&gt; Restricted to Domestic Capital only: namely, Supermarket, Mini-Market, Retailers other than Department Stores, dealing in Electric Home Appliances, Cosmetics, Toys, Footwear, Foods/Drinks, Retailing via Mail Order, Internet</p> <p>(2) Changed to "Prohibited Entry": Operation, maintenance service, design, engineering, installation of Oil/Gas Facilities,</p> <p>(3) Reduction in Foreign Capital Cap 95%=&gt; 75% Overland Oil/Gas Mining &amp; Excavation Service</p> <p>(4) Reduction in Foreign Capital Cap 100%=&gt; 33% Distributors, Warehousing, and Refrigeration Storage (in Java, Sumatra, and Bali Islands)</p> <p>(5) Reduction in Foreign Capital Cap 49% Contents Services, Information Service Centre, Data &amp; Telecommunication System Service</p> <p>(6) Reduction in Foreign Capital Cap 95%=&gt; 30% Raising Seedlings for Garden Crop, Cultivation (Compatible with the Gardening Law)</p>			Industry Sector	DNI 2013 Foreign Investment Level	DNI 2010 Foreign Investment Level	Land transportation facilities	49%	0%	Regular vehicle inspection	49%	0%	Pharmaceutical industry	85%	75%	Venture capital financing	85%	80%	Distribution and Storage	33%	100%	Cold Storage (Sumatra, Java, Bali)	33%	100%	Cold Storage (Kalimantan, Sulawesi, East Nusa Tenggara, Maluku and Papua)	67%	100%	Farming	30%	95%	Fixed telecommunications	65%	Previously unregulated	Multimedia-integrated telecommunication network	65%	Multimedia service provider	49%	Public-Private Partnership (PPP)	49% (49% in private projects)		Projects: Airports/Seaports	95% (49% in private projects)		Land transportation terminals	49%		Water utilities	95%		Toll road facilities	95% (95% in private projects)		Power plants (1-10 megawatt capacity)	49% (49% in private projects)		Power plants (10 and more megawatts capacity)	100% (95% in private projects)		Electricity transmission	100%		Electricity distribution	100%	
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			<p>- According to the Netherlands' Embassy in Jakarta, Indonesia has informed the Netherlands that it has decided to terminate the Bilateral Investment Treaty from 1 July 1 2015. From that date onwards the provisions of the Agreement will continue to apply only to investments made prior to that date, for a period of fifteen years (in accordance with the Sunset Provisions) . GOI has mentioned it intends to terminate all of its 67 bilateral investment treaties. It remains nebulous if both governments intend to negotiation on new Treaty, replacing the terminating Agreement.</p> <p><b>(Improvement)</b></p> <p>- By Presidential Decree ("PD") No.20/2004 of 12 April 2004, BKPM (Badan Koordinasi Penanaman Modal) is designated to act as Single Window authority to accept and process all investment applications and to issue related licenses. Since the publication on 20 July 2004 of The Decree of the State Minister of Investment/the General Director of Coordinating Board for Investment (No. 58/SK/99 and No.60/SK/2004), all applications for new investment are due for submission only to BKPM.</p> <p>All existing applications (filed with the Regional Investment Coordinating Committee/Overseas' Indonesian Government (Embassies) pursuant to the previous HCBI Decree 37/SK/99 and No.05/SK/1989) must be finalized within 30 days from 20 July 2004 (the issuing date of Decrees No.58 and No.60 of 2004). The Permits and Approvals already issued by the Regional Governments And Embassies shall remain valid. PD No.29/2004, concentrating the procedures for permits and approvals under the single umbrella of BKPM, was not intended to override the power of the local governments. It is rather intended to promote a close liaison and collaboration by and among BKPM, the related authorities and the local governments. Thus, all requisite documents are issued after examination by each local government and the related governmental authorities, as has been the case before the PD No.20/2004. All investors are required to file all investment project plans with BKPM, and must be ready to receive requests for further production of documents from the local governments and the related authority.</p> <p>- Japan - Indonesia Economic Partnership Agreement ("JIEPA") signed on 20 August 2007 includes in Chapter for Investment, among other things, National Treatment, Most-Favored-Nation Treatment, Prohibition of Performance Requirements, such as export requirement and domestic procurement requirement, and the mutual obligations to maintenance of status quo on liberalization (stand-still).</p> <p>- "2010 Negative List Investment List" (2010 DNI) promulgated on 9 June 2010 has deregulated foreign investment restriction in certain sectors as follows:</p> <ul style="list-style-type: none"> <li>-- Saccharine and cyclamate: 2010 DNI permits, subject to fulfillment of certain conditions, foreign investment into saccharine and cyclamate sectors, which had been closed to foreign capitals.</li> <li>-- Construction: The cap on the foreign capital contribution ratio has been raised from 55% to 67%.</li> <li>-- Movie related service: Motion picture studio, Film development room, Post-recording equipment, Film dubbing operation, and other movie related service previously prohibited to foreign investors are deregulated under 2010 DNI, which allows up to maximum 49% of foreign investment.</li> <li>-- Medication service: The cap on foreign fund contribution ratio has been raised from 65% to 67%, enabling foreign funded enterprises to provide medication service anywhere inside Indonesia. Medication service includes Hospital, General clinic, Specialty clinic, Inspection room, etc.</li> <li>-- Electric generation: Foreign investment into small electric generation plant (1-10MW) is now open to foreign investment taking the form of partnership entity, while it has been open only to small-to-medium enterprises. Foreign investors may continue to make capital contribution up to maximum 95% in electric generation plant (over 10MW).</li> </ul> <p>On the other hand 2010 DNI has tightened restrictions for foreign investment in postal service and communication tower sectors.</p>		

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			<p>-- Postal service: Ordinance No.38 [2009] on Postal service provides cap of 49% maximum on foreign capital contribution, while making acquisition of special licence a requisite requirement to provide postal service.</p> <p>-- Telecommunication tower: Solely domestic enterprises with 100% capital contribution are authorised to engage in Provision of Telecommunication tower, maintenance, operation, rental and construction.</p> <p>- In April 2014, Presidential Decree No. 39 on Foreign Investment Negative List was promulgated and enforced.</p> <p>Business Sectors where the RestrictionS were deregulated:</p> <p>(1) Raise in Foreign Capital (FC) Cap: 95%=&gt; 100%---Power generation by Public-Private-Partnership (PPP) of less than 10 Mega Watt, Power Transmission, Power Distribution</p> <p>(2) Raise in FC Cap: 75% =&gt; 85%---Pharmaceutical Sector</p> <p>(3) Prohibited FC Entry: FC Cap raised to 49%---(Subject to Minister of Transport Recommendation)</p> <p>(4) Prohibited FC Entry: FC Cap raised to 51%---Raising Seedlings for Garden Crop, Cultivation (Compatible with the Gardening Law) Equipment for Movie Advertisement (subject to investment from ASEAN Member States)</p> <p>- On 11 February 2016, Joko administration's 10th economic policy, GOI released Amended Negative List on 64-business sectors, the 10th shot to boost economy, "the conditionally open business sectors", by raising the capital contribution upper cap from 33% to 67% on distributors and warehousing, 33% to 100% on refrigerated storage, 49% to 67%, on vocational training, and tourism, 51% to 100% on restaurants, 55% to 67% on construction business consulting service, 65% to 67% on telecommunication, 85% to 100% on pharmaceutical manufacturing, 95% to 100% on express way, and 95% to 100% on telecommunication equipment test laboratories.</p> <p>[Remarks] Please refer to the following PDF file (in Indonesian Language) for "the Thrust of the Minister of the Coordinating Ministry for Economic Affairs, titled "Investment with Increased Protection for Micro, Small, and Medium Businesses and Cooperatives."</p> <p><a href="http://apindo.or.id/userfiles/publikasi/pdf/Paket_Kebijakan_Ekonomi_10.pdf">http://apindo.or.id/userfiles/publikasi/pdf/Paket_Kebijakan_Ekonomi_10.pdf</a></p>		
	(2)	Nebulous Mandatory Divestment Rules	<p>- Under Article 7 of Decree No.20, 1994 on share ownership in a company incorporated under foreign investment law, a company incorporated in Indonesia by 100% foreign capital must divest part of its shares to Indonesian pribumi/Indonesian legal entity within 15-years maximum from the start of commercial production. BKPM director order No.5 of 12 April 2013 (partially amended by director order No.12 of September 2013), reinstated the obligations. However, substantive details (sales scheme, purchasers, the number of shares to be sold/percentage, etc.) for the sale of shares remain undefined in BKPM director order or in its guidelines. There is no consistency in BKPM's guidance / instructions, either. Furthermore, after promulgation of director order No.12, there have been cases where a foreign funded enterprise repurchased the shares once sold to revert the company to the fully foreign owned enterprise. Should BKPM authorises such transactions as lawful, it makes more and more ambiguous the purpose of the divesting obligations, to begin with.</p>	<p>- It is requested that GOI repeals the Decree, in as much as the thrust of the rule is ambiguous.</p>	<p>- Decree No.20 [1994], Chapter 7 On Share Capital Ownership of Companies established under Foreign Capital Investment Act</p> <p>- Foreign Investment Law 1967, Article 27</p> <p>- Decree No. 20, 1994, Chapter 7, Article 1</p> <p>- The Production Sharing Contract (PSC)</p> <p>- BKPM Directorate General Decree No.5 of 12 April 2013, Article 108</p>

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			<p>- Article 7(1) of Regulation No. 20/1994 of BKPM Directorate General provides: A fully foreign owned enterprise shall divest a portion of its shares within 15-years maximum by selling directly to Indonesian nationals (including an ex-Japanese, who acquired the Indonesian nationality through marriage with an Indonesian) and/or via the domestic capital market (by listing in the stock exchange market) after the commencement of the commercial production under IUT (permanent business licence) or IUI (industrial business licence). On the other hand, "Regulation No.5 /2013 of BKPM Director General promulgated on 8 April 2013 and enforced since 27 May 2013", provides under Article No.108, the obligations of the wholly foreign owned enterprises (so called foreign financial capital, namely, PMA= penanaman modal asing) that had received the licence for establishment and approval for investment, prior to the implementation of the New Investment Law promulgated on 26 April 2007, to discharge their obligations for divestment of the shares to Indonesian shareholders and legal entities, so called "the foreign capital 15-year rule", within 15-years of the commencement of their businesses operation.</p> <p>Furthermore, as a partial amendment of this Regulation, BKPM Directorate General promulgated Regulation No.12/2013 of 11 September 2013 (hereafter, No.12), which was enforced from 18 September 2013. In effect, No.12 deleted the provisions under Article 108(5) of No.5, ("In the case where investment company (IC) that had already discharged the divestment obligations as stipulated in the letter of approval and/or business licence prior to the enforcement date of this regulation, in so far as IC continues its manufacturing/business operation, the share-ownership of the Indonesians or Indonesian legal entities shall remain unchanged"). In a nutshell, No.12 enables repurchase of the shares owned by Indonesians and/or Indonesian legal entities, and approves 100% foreign capital ownership, provided, however, that it requires extremely complex procedures that require purchase and repurchase of the shares.</p> <p>- <u>GOI compels foreign investors to transfer 10% interests to Indonesian participant. The transfer of 10% interests' in a project suggests problems on the project financing, including without limitation, dwindled project financial composition and increased interest cost (due to the participation by Indonesian enterprises with a lower financing capability or credit</u></p>	<p>- It is requested that GOI takes steps to repeal all legislative provisions concerning the Divestment Requirement on Foreign Capitals. (It is meaningless.)</p> <p>- It is requested that GOI:  -- takes steps to give flexibility to the transfer of 10% interests to Indonesia participant or  -- provides financial guarantee on</p>	



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			<p><u>standing).</u>  <u>GOI is responsible for nominating the Indonesian enterprise, the recipient of the 10% Interests. However, GOI fails to make the nomination, past the due date. The delay in nomination can jeopardise formation of the sound financial composition and other plans for the project.</u></p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- While 1994 Government Decree No. 20 authorises establishment of 100% FFEs, it also compels 100% FFE to divest a portion of the capital contribution to local Indonesians or Indonesian legal entities within 15-years from the start of the commercial production (The 15-years rule). These mandatory rules remains valid and intact, provided, however, that, its implementing procedures are ambiguous. For example, what stands for "a portion of shares" is not precisely laid down.</li> <li>- Up to January 2008, a letter requesting deletion of the divestment obligations was all that was necessary. However, since February 2008, GOI has directed enterprises to attach agreement of shareholders, and in March, BKPM despatched to Japanese affiliated FFEs a letter titled "Implementation of Divesting Obligation".</li> <li>- Article No.108 of Decree No.5 (2013) of Director General of BKPM promulgated on 12 April 2013 provides the obligations of the wholly foreign owned enterprises established before implementation of New Investment Law of April 2007 to divest a part of its shares to Indonesian individuals and legal entities within 15-years of the commencement of their businesses. According to the Decree, the minimum amount of 10 million Rupiah shall mean the amount representing "a part of its shares divested", provided, however, that it further provides that it allows filing of application for the 2-year-extension.</li> </ul>	<p><u>account of the Indonesian Participants.</u></p>	
	(3)	<p><u>Establishment of Local Manufacturing Depot as a Condition for Grant of Import Licence</u></p>	<p>- By Regulation 38/M-DAG/PER/8/2013 enforced in August 2013, <u>registered importers of smartphones /PDA/ tablet computer, must "establish within 3 years of import licence acquisition an industry of cellular phone" and customs requires submission of its plan. A member firm's customer, holding a valid import licence, nevertheless, receives enquires from customs about the progress made under the plan, delaying the customs clearance each time. Should the import licence expire, its renewal is difficult by satisfying the requirements under this regulation.</u></p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 23 February 2016, Ministry of Trade (MOT), Indonesia held public hearing on draft amendment of import regulation (MOT import regulation No.82, 2012) on handheld computer / tablet computer. The draft regulation seeks amending the local contents requirement, qualification, documents, enforcement, etc. as conditions for issuing import licence.</li> </ul>	<p>- It is requested that GOI:  -- clarifies the provision: <u>"establish an industry of cellular phone".</u>  -- <u>deregulates or eliminates the requirements.</u></p>	<p>- <u>Regulation 38/M-DAG/PER/8/2013</u></p>
	(4)	<p><u>Delayed Grant of Share Acquisition Permit for by a Locally Incorporated Subsidiary of FFEs</u></p>	<p>- Relative to the share acquisition by a foreign funded enterprise, in addition to submission of the sale and purchase contract, examination is necessary by plural competent authorities. It takes time from application date to final approval in some cases.</p>	<p>- It is requested that GOI takes steps to expedite the procedures for the approval of the competent authorities.</p>	

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	(5)	Compulsory Cap on Coal Production Volume	- GOI directs each coal producer, responsible for supply to the domestic market, to submit production plan to enable GOI to grasp and adjust the production volume in each year. It seems consultation has taken place in the past years between GOI and the coal producers: the theme of such consultation, however, has been limited to the extent of production plan. A Member Firm gathers, this time by its notification, GOI has tightened its pressure for observance of the cap on the production volume for the year 2014. This is a matter of concern as it interferes with free production/ distribution of coal and could develop into the binding governmental order in the end.		
	(6)	<u>Restricted Foreign Capital Ratio Cripples Highly Efficient Management</u>	- <u>Due to the inclusion of distributors in the negative list of the foreign capital in the wholesale business, foreign manufacturer's value-chain gets dissected between manufacturer and distributor, injuriously separating the healthy partnership between the domestic and foreign capitals. It hinders the formation of a healthy domestic and foreign partnership and its efficient business management</u>	- <u>It is requested that GOI takes step to deregulate the foreign capital restrictions in distribution business, to enable the uniform operation, joining manufacture and distribution together.</u>	- <u>Presidential Regulation 2010 No.36 on Foreign Investment with Negative List (2010 Regulation No.36)</u>
	(7)	<u>Ambiguous Possibility of Foreign Funded Distributor's B-to-B Direct Sales</u>	- <u>BKPM directs: "foreign funded enterprises (FFE)s shall not make direct sales to end users, as such sales are authorised only to local funded enterprises." However, the definition of "sales to end users" is ambiguous so that a member firm's subsidiary (MFS) is at its wit's end in determining what responsive action to take. Should domestic distributor get involved in the domestic B-to-B sales of manufacturing equipment, there is no merit. It would end up by debilitating the end user's competitive edge. Foreign funded distributor's direct sales ought to be permitted, for example, on information equipment for use in power generation plant facilities, lifts (elevators) for buildings, manufacturers equipment, information equipment for finance and other commercial business, etc.</u>	- <u>It is requested that GOI expressly stipulates into legislation as follows:</u> -- <u>Domestic funded distributors shall sell to unspecified large number of individuals, while</u> -- <u>FFE)s holding distributor licence may make direct sales of machineries and equipment, etc. destined to enterprises.</u>	- <u>Presidential Regulation 2014 No.39 Minister of Trade Decree 2013 No.35.</u>
	(8)	<u>Tightened Control of Expatriates' Office of Construction Business</u>	- <u>Suddenly, since October 2014, GOI tightened its control on "foreign representative office of construction service (FROCS)". It appears confusion has spread to include Japanese affiliated representative office (JARO), which has been in operation since some length of time (as follows):</u> -- <u>Previous Regulation (PMK-05):FROCS is only allowed to perform complex construction project, high risk and/or high technology.</u> -- <u>New regulation (PMK-10):foreign representative office of construction service is only allowed to perform high risk construction project. High</u>	- <u>In the long run, Japanese enterprises will need to sound out local construction enterprises for joint operation (M&amp;A, JV, JO, etc.), but for the time being, it is ideal if GOI deregulates restrictions by practical employment or interpretation, or by further deregulating the terms for joint</u>	- <u>[Ministry of Public Works]</u> -- <u>Previous Regulation: PMK-05</u> -- <u>New Regulation: PMK-10</u>

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			<p><u>technology and high cost.</u></p> <p><u>-- PMK-10 also regulates the definition of each criterion:</u></p> <p><u>--- High risk: construction work which endangers public safety. Property, human life and the environment.</u></p> <p><u>--- High technology: construction work that needs a specific and sophisticated technology, including many experts.</u></p> <p><u>--- High cost: construction work with contract value of more than IDR 100 billion (equivalent to USD 8,333,333 – assumption 1 USD = IDR 12,000).</u></p> <p><u>Based on the corporate policy to kickoff for the growth of B2B/G business, it would necessitate strengthening the value-chain (a shift from box-sales to solution sales, from the perspective, especially, of the business kick-off as early as possible.)</u></p>	<p><u>operation with local enterprises, by way of annexure.</u></p>	
			<p><b>(Actions)</b></p> <p><u>- "Minister of Public Works (MPW) regulation 10/PRT/M/2014" of 22 September 2014 amended the terms and conditions as well as guideline for the grant of licence on establishing in Indonesia, construction local representative office (CLRP) of foreign construction service enterprise engaged in planning, construction and administration in Indonesia.</u></p> <p><u>(1) Pledge (de facto prohibition from holding the concurrent office) was added to the application documents for the licence of CLRP that the directors and auditors of the foreign construction service company about to open CLRP do not hold concurrent office as director and/or commissaris (auditor).</u></p> <p><u>(2) On JO, allocation ratio of works and interests was set forth to Indonesian construction service enterprise, an Indonesian partner to joint operation.</u></p> <p><u>(3) As one of the conditions whereby CLRP can carry out by JO intervention can be cited the installation service project with construction cost of minimum 100 billion INR (about one billion JPY) and planning/supervision service fee of about 10billion INR(100 million JPY). (BTMU Global Business Insight of 17 April, 2015).</u></p>		
	(9)	<p><u>Intensified Demand Upon Joint Operation In EPC Business</u></p>	<p><u>- Under the construction business licence issued by ministry of public works, subject to formation of joint operation with Indonesian enterprises, it is possible for a foreign funded enterprise to contract engineering, procurement and construction (EPC) business, subject, however, to the following problematic conditions:</u></p> <p><u>(1) The requisite condition for establishment of joint operation to contract EPC business has been changed since 2011, so that only 100% domestically owned enterprise can be a partner to the joint operation.</u></p> <p><u>(2) Since 2014, one billion JPY per project has become the minimum to qualify for EPC. Unless the applicant satisfies this requirement, the licence renewal in every 3-years, it is expected, will presumably become impossible.</u></p>	<p><u>- It is requested that MPW will change the policy stated in the left column.</u></p>	<p><u>- Ministry of Public Works Regulation 10/PRT/M/2014</u></p>

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	(10)	<u>Regional Restriction of Business Activities</u>	<p>- Customers of member firm's subsidiary (MFS) are scattered all across the country (substantive customers presumably reside outside Jakarta). However, activities under work visa are generally restricted to the area within Jakarta.</p> <p><u>GOI prohibits having a business talk or providing after service, etc. in the areas other than Jakarta. It is said some company was severely fined with monetary penalty for having provided after service in violation of this rule for the customer in the local area.</u></p>	<p><u>it is requested that GOI lifts the regional restrictions.</u></p>	
2 Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	Local Contents Requirement becoming more Stringent	<p>- <u>Implementing regulation concerning procurement of goods and services on upstream oil and gas businesses was amended. The amendment includes tightening of local content requirement (minimum 25% on goods and 30% on services) and of procurement procedures, etc., forcing increased cost to enterprises related to government procurement.</u></p> <p>- <u>Preparation of new regulation (draft) is under way on the local content requirement, TKDN (Tingkat Komponen Dalam Negeri, meaning local procurement rate) on products that satisfy the LTE (long term evolution) standard. The draft regulation is without grace period so that 20% TKDN applies on the enforcement date, and will be raised to 30% on 1 January 2017.</u></p> <p><b>(Actions)</b></p> <p>- On 14 April 2010, Ministry of Industry promulgated (for enforcement from 19 April 2010) Decree No. 48/MIND/PER/4/2010, mandating the electric power infrastructure (EPI) enterprises engaged in public infrastructure business under national or state governmental budget or subsidy or financing from abroad to use domestically manufactured goods and services. The term EPI herein used implies power generator and power transmission/distribution. TKDN varies by business sector, .to be more precise, it comprise of 6 infrastructure businesses, namely, (1) steam power generation plant using coal as fuel, (2) hydro power generation plant, (3) geothermal generation plant, (4) steam power generation plant using gas as fuel, (5) solar power generation plant, and (6) power generator and power transmission/distribution.</p> <p>TKDN (Tingkat Komponen Dalam Negeri or the portion of cost carried out in Indonesia) is specified for each business category under Chapter 2 of this Decree.</p> <p>- On 24 August 2012, MOT promulgated Minister of Trade Regulation No. 53/M-DAG/PER/8/2012, compelling the use of minimum 80% of the product lines, services, equipment, etc. that originate from Indonesia.</p> <p>- On 13 January, Ministry of Industry promulgated New Minister's Regulation No.2 (2014) (enforced on 13 January 2014) concerning expanded preferential measures on use of the domestic products in Indonesian Government's procurement for goods and services.</p> <p>-- (in Indonesian) ( <a href="http://regulasi.kemenperin.go.id/site/baca_peraturan/1658">http://regulasi.kemenperin.go.id/site/baca_peraturan/1658</a>)</p>	<p>- <u>It is requested that SKKMigas (supervisory institution) will flexibly deal with goods and services, which are difficult to procure locally.</u></p> <p>- <u>It is requested that GOI:</u></p> <p>-- <u>clarifies the calculation basis of the TKDN percentage, and</u></p> <p>-- <u>provides grace period, and sets forth the basis for TKDN exemption.</u></p>	<p>- BPMIGAS (The Upstream Oil and Gas Executive Agency) Procurement Guideline (Amendment To PTK-007 Rev. 2)</p> <p>- Regulation No. 54/M-IND/PER/3/2012 on Guidelines to Utilize Domestic Products in Erecting Electricity Infrastructures, and many other Related Laws and Regulations.</p>

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			<p>- In March 2014, Ministry of Industry added to the list of goods subject to preferential measures certain electric machinery and equipment. It seems the amended list will add TV set top box (Full HD DVD-T2 Compliant), low voltage electrical panel, electric cables, fuse cut out polymer-link, polymer isolator, lighting arrester, distribution transformer, transformator, single phase kwh meter, etc. included in HS Chapters 84 and 85.</p> <p>- On 6 May 2015. Regulation No.18 of 2015 on amendment of tax allowance, adding the conditions for grant of tax allowance, namely, (1) <u>High investment amount, or destined to export,</u> (2) <u>Employment of many workers,</u> and (3) <u>Local procurement.</u> Industrial minister Decree No. 18, 2015 sets forth the local procurement rate of 20% or more on materials, spare parts, machineries, etc., adding introduction of advanced technology on certain sectors (textiles, organic chemicals, steel products, etc.), environment friendly technology (copiers, refrigerators, dry cell batteries, cement, etc.), setting forth the minimum requirements for each business sector: the investment amount, and the minimum number of workers employed (e.g. car parts IDR 1,000 billion, 100-workers; refrigerators/washing machines: 300 billion, 100-workers (50-workers in case of investment for expansion of the existing business).</p>		
	(2)	<u>Nebulous Definition of Local Procurement Requirement and its Basic Policy</u>	<p>- GOI requires local procurement to make the vehicle compatible with low cost green car (LCGC). While this is a regulatory requirement, clear definition is available neither on the substantive numerical target nor on the localisation.</p> <p><b>(Actions)</b></p> <p>- On 27 July 2015, ministry of information and communication technology promulgated rules that compels satisfaction of local procurement requirement and observance of technological rules on "long term evolution (LTE) machines and equipment" (due for enforcement from 1 January 2017, but 2-years later from 1 January 2019 on some items).</p> <p>- On 31 August 2015, ministry of industry promulgated ministerial regulation No.68/M-IND/PER/8/2015 (enforced from 24 August 2015) "The terms and procedures for calculating the local contents on electronic and telematics (computer science, including telecommunication) products in the originating country." [Reference: URL for ministerial regulation No.68: <a href="http://regulasi.kemenperin.go.id/site/baca_peraturan/2102">http://regulasi.kemenperin.go.id/site/baca_peraturan/2102</a> [in Indonesian]</p>	<p>- It is requested that GOI publishes in writing the subject parts, numerical target, and the definition of localisation.</p>	
	(3)	<b>Mandatory Domestic Supply Obligations of the Produce/Products Locally Grown, Procured or Manufactured</b>	<p>- GOI has tightened its compulsion of domestic supply (for more than 25% of the total production) of products (particularly gas). GOI's measures can affect the volume of products available for export.</p>	<p>- It is requested that GOI:</p> <p>-- ensures sufficient consultation on the domestic supply of the products with the business concerns to avoid interference with the long-term purchase agreement with overseas purchasers, and</p> <p>-- pays a careful attention to the competitive pricing of the domestic products to assure economy and in such form and manner as would not interfere with propulsion of the project.</p>	<p>- Constitutional Court Decision</p> <p>- Ministerial Decree No.55 [2009]</p> <p>- Ministry of Energy and Mineral Resources Order No.3 [2010] (Bill for New Oil and Gas)(unpromulgated)</p>

	Category	No	Issue	Issue Details	Requests	References
				<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 13 January 2010, Ministry of Energy and Natural Resources (MENR) published its intention to impose obligations to domestic coal mining enterprises to supply certain amount (likely to be about 25%) of their coal output to the domestic market (Domestic Market Obligations, "DMO").</li> <li>- The New Mining Act compels enterprises procuring copper, nickel, coals, etc. from Indonesia to start the domestic Indonesian refinery and process operation by 2014.</li> <li>- GOI decided to terminate Indonesia-The Netherlands Investment Agreement with effect from 1 July 2015. According to the Netherlands Embassy in Jakarta, the matter is now under consultation between the governments of the two countries.</li> <li>- On 23 June 2015, Indonesian president promulgated and enforced on the same day government regulation No.41 year 2015. This regulation, for the sake of protecting domestic industries tolerates GOI's export restriction, or export embargo under certain, constant circumstances, such as sustenance of stable supply, domestic price maintenance, contribution to the added value activity, etc. It provides for export embargo, restrictions, etc. on natural resources. It also empowers GOI to levy export tax, allocate export quota, and spell out the supply duty to the domestic industry, etc.[Reference]: Government regulation No.41 year 2015 [in Indonesian] is available for download at: <a href="http://sipuu.setkab.go.id/PUUdoc/174554/PP0412015.pdf">http://sipuu.setkab.go.id/PUUdoc/174554/PP0412015.pdf</a>.</li> </ul>		
		(4)	<u>Restricted Offshore Ceding Reinsurance</u>	<ul style="list-style-type: none"> <li>- Movements such as OJK circular letter suggest the intent to maximising the allowable volume of the onshore acceptance of reinsurance, while restricting offshore exodus of reinsurance on objects located domestically in Indonesia. While this OJK's intent is understandable to secure own profit as a nation, it is a matter of concern, if the loss resulting from the accumulated claim paid or payable, the risk of collecting reinsurance, certain risks, such as great natural disaster risks, corporate failure of one or more of the reinsurers, etc. could make it impossible to recover part or all of the amount reinsured.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that The financial services authority (Otoritas Jasa Keuangan)("OJK") takes step to ensure that reinsurers in Indonesia, among other things: <ul style="list-style-type: none"> <li>-- secure re-re-insurance with high security measuring up to the risks, and</li> <li>-- disclose its contents.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- OJK Circular Letter No.S-77-D.05.2014</li> </ul>
6	Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Nebulous Nature of the Import Duty Exemption Scheme as Preferential Measures for Investment	<ul style="list-style-type: none"> <li>- Implementation basis is absent and nebulous regarding the scheme of "The Exemption of Import Duty on Imported Machines, as well as Goods and Materials for The Building or Development of Industries in The Framework of Investment". It disables reflection of the expected profit from the import duty exemption (12.5%) in the pricing of the relevant products to the purchaser entitled to import duty exemption.</li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Since 16 August 2015, ministry of finance deregulated the tax holiday scheme, expanding the scope of eligible "pioneer industry" to include manufacture of industrial machinery &amp; equipment, infrastructure project under PPP, etc. in total of 9-industrial sectors, with extended the period of the tax holiday.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI secures transparency in processing the new application for the import duty exemption to purchasers of member firm's subsidiary (MFS) that serves as domestic supplier, by ascertaining its supply policy in regard to the applicable quantity for the eligible products in the allocated quantity, which can be monitored without fail.</li> </ul>	<ul style="list-style-type: none"> <li>- 176/PK011/2009-Financial Ministry (BKPM)</li> <li>- 19/M-IND/PER/2/2010-Industrial Ministry</li> <li>- 69/M-IND/PER/7/2011-Industrial Ministry</li> </ul>

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8Investment Recipient Organization	(1)	<u>Inadequacy in Articles 25-29 of Law on Investment No.25, 2007 and Flaw in Operation of Presidential Regulation No.27, 2009 on One-Door Integrated Service</u>	<p>- <u>Vexatiously complex and delayed procedures (i.g: acquisition of permissions from Ministry of Energy and Mineral Resources, Ministry of Industry, trade etc. on land, environment, business licence discharge etc. individually ) for acquiring variety of licences and approvals.</u></p> <p>- <u>In past years, it took a few years for a member firm to obtain the governmental approval from the filing date of application. The new administration has declared promotion of private sector investment by the administrative one-stop service, with BKPM serving as the single window. Ministry of energy and mineral resources, ministry of environment and forestry, and other ministries and agencies are grappling with reaching the goal toward labour saving.</u></p> <p>- <u>Change of office address is no easy matter, as all licences and permits already obtained at old addresses, require renewal, which costs dearly in both time and cost. Pending completion of all such renewals, applicants must suspend conducting practical business.</u></p> <p><u>Example: No import is possible without first obtaining import rax payment No.</u></p> <p><b>(Actions)</b></p> <p>- <u>On 9 September 2015, President Joko Widodo unveiled the 1st economic policy package toward economic recovery, including curtailment of overlapping regulations, of which 89-regulations have been repealed out of the 154-regulations. In addition, 17-Decrees, 11-Presential Orders, and 63-Ministerial Orders will be promulgated.</u></p> <p><b>(Improvement)</b></p> <p>- <u>On 26 January 2015, BKPM (investment coordinating board) officially initiated "one-stop investment licensing service (PTSP-Pelayanan Terpadu Satu Pintu)" aimed at expediting issuance of licenses and permits by and among 22-ministries and agencies in concern. PTSP has been placed nationwide, including the local governments.</u></p> <p>- <u>On 29 September 2015, GOI announced measures to boost economy, "substantial reduction in the days required for grant of investment licence" and "expedited approval procedures on approval of large scale business investment". Compared to the neighbouring countries such as Singapore and Malaysia, it used to take by far more days for grant of approvals in Indonesia. Streamlining the procedure has been an outstanding problem.</u></p> <p><u>Franky Sibarani, BKPM Head, said the license could be issued in three hours, on a project in which the new investment amount exceeds 1,000 billion rupiah (8 hundred million yen) of an enterprise entering the bonded industrial zone, with more than 1,000 employees.</u></p> <p>- <u>On 1 December 2015, the investment coordinating board (BKPM) expanded the scope of the licence types applicable to "within 3-hours licencing" concerning the foreign investment into industrial/bonded zones.</u></p>	<p>- <u>It is requested that BKPM (Investment Coordinating Board) takes initiative in materialising One Stop Service all across Ministries and Agencies, and rigorously controls the time schedules.</u></p> <p>- <u>It is requested that GOI and GOJ watch the progress made toward the goal of setting up one stop service at G-to-G consultation table, as well.</u></p> <p>- <u>In the event of move of office address, it is requested that GOI continues to accept the licences and approvals already obtained at the old address except for the address change procedure.</u></p>	<p>- <u>Undang Republik Indonesia Nomor 25 (25-29) Tahun 2007 Tentang Penanaman modal</u></p> <p>- <u>Inadequacy on "Playanan Terpadu Satu Pintu" 27/2009</u></p> <p><u>President regulation</u></p>

	Category	No	Issue	Issue Details	Requests	References
				<p>- On 2 March 2010, ministry of trade promulgated regulation (enforced on 2 March 2016) that simplifies the application procedures for both commercial license (SIUP) and company registration certificate (TDP), issuance of which is made available online by the local integrated one stop service (PTSP)</p> <p>[Reference] ministry of trade regulation No.14, 2016 (in Indonesian) is available for download at: <a href="http://www.kemendag.go.id/files/regulasi/2016/03/02/14m-dagper32016-id-1458209864.pdf">http://www.kemendag.go.id/files/regulasi/2016/03/02/14m-dagper32016-id-1458209864.pdf</a></p>		
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	<p>- High import duty of 24% is levied upon Chinese metal fittings and Japanese decorated sheets.</p> <p>- While zero import duty applies to single function projector (for being an ITA Product), high import duty applies to multi-function projectors.</p>	<p>- It is requested that GOI takes step to reduce the tariff rate.</p> <p>- it is requested that GOI takes step to:</p> <p>-- work for solution of the problems.</p> <p>-- confirm and provide the latest information on ITA expansion, and</p> <p>-- continues to furnish information on further movements on this issue.</p>	
		(2)	Abrupt Raise of Import Duty	<p>- Import duty on printers abruptly announced in December 2010, was implemented from January 2011. Currently, 5% import duty is levied on printers.</p> <p>- In January 2011, GOI abruptly raised the import duty rate (from zero to 5%) on certain import products (parts for refrigerators, etc.) without observance of the official publication period, which was abruptly given at its website only after enforcement of the higher import duty levy. It has materially damaged the business operation of the factory.</p> <p><b>(Actions)</b></p> <p>- In July 2005, ASEAN/PRC FTA (ACFTA) entered into force.</p> <p>- In June 2007, ASEAN/South Korea FTA (AKFTA) entered into force.</p> <p>- In January 2010, ASEAN/India FTA (AIFTA) entered into force.</p> <p>- In January 2010, ASEAN Trade in Goods Agreement (ATIGA) entered into force, replacing The Common Effective Preferential Tariff (CEPT) Scheme.</p> <p>- On 2 June 2011, Ministry of Finance promulgated Regulation No. 80/PMK.011/2011, raising the import tariff rate on 8-items of processed foods from 5% to 10%.</p> <p>- On 11 February 2014, the Indonesian legislature passed the new Trade Law that expressly vests GOI with the right to restrict export/import for the purpose of protecting the domestic market and industries. It is a matter of concern to all that the new Trade Law will work to strengthen the administrative power toward tightening the going import licence, quantitative restrictions, application of compulsory standards, and may trigger the legislative intervention into the FTA issues.</p>	<p>- It is requested that GOI provides sufficient and adequate explanation.</p>	<p>- Financial Minister Decree No.241 [2010] of 22 December 2010: Peraturan Menteri Keuangan Nomor 241/PMK.011/2010</p>



Category	No	Issue	Issue Details	Requests	References
			<p>- On 28 February 2015, ministry of finance promulgated regulation on MNF (most favoured nation) tariff rate for imported steel products destined to the downstream industry. The regulation has been enforced since 30 May 2015.  [Reference]: ministry of finance regulation No. 97, 2015 available in the Indonesian language at:  <a href="http://www.jdih.kemenkeu.go.id/fullText/2015/97~PMK.010~2015Per.pdf">http://www.jdih.kemenkeu.go.id/fullText/2015/97~PMK.010~2015Per.pdf</a></p> <p>- On 23 July 2015, ministry of finance promulgated ministerial regulation No. 132/PMK.010/2015 that raised MFN tariff rates, which have been enforced since 23 July, 2015. Products subject to tariff rate increase cover a wide range, including among others, cars, foods, apparel, etc., from the previous 10%-40% to flat 50% on cars, from 5% to 20% on coffee/tea, from 5% to 30% on meat, quite a substantial raise in all cases.  On alcoholic drinks, the previous per liter tariff levy has been changed to the maximum 150%, proportionate to the alcoholic level. In addition, consumable property, such as air conditioners and apparels are subject to tariff rate increase.  [Reference]: Ministry of Finance Regulation No. 132, 2015 available in the Indonesian Language at:  <a href="http://www.jdih.kemenkeu.go.id/fullText/2015/132~PMK.010~2015Per.pdf">http://www.jdih.kemenkeu.go.id/fullText/2015/132~PMK.010~2015Per.pdf</a></p> <p><b>(Improvement)</b></p> <p>- In July 2008, Japan-Indonesia Economic Partnership Agreement (JIEPA) entered into force. Under JIEPA, the tariff-exempted items are expanded from 34% as of April 2005 to 96%, inclusive of exemption of import tariff for steels used for specified purposes. Import tariff on electric/electronic products is repealed with immediate effect or will be reduced in stages by 2010.  Import tariff for built up automotive vehicles over 3000 cc will be repealed by 2012, while on other vehicles (inclusive of bus and trucks) it will be reduced to less than 5% or be repealed. The import tariff on the majority of parts for automotive vehicles will be repealed by 2012, while 5-20% tariff will not be imposed on high class steel materials used for automotive vehicles and parts thereof, electric/electronic products, construction machinery &amp; equipment and energy sectors (Under the User Specific Duty Free Scheme [USDFS]).</p> <p>- On 14 April 2008, Japan and the ASEAN member states concluded ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEP).</p> <p>- On 30 June 2008, Minister of Finance Regulations Nos. 94, 95 and 96 were promulgated, setting forth the method for tariff rate reduction under JIEPA, Harmonised Tariff Schedule up to 2012, and 328 items for tax exemption under USDFS.</p> <p>- In 2010, the ASEAN+6 such as Indonesia repealed 99% of the CEPT import tariffs.</p> <p>- On 2 June 2011, Ministry of Finance (MOF) promulgated Regulation No. 80/PMK.011/2011 dated 13 April 2011, amending import tariffs on 190-items (of raw materials, capital goods, and consumables in chemical goods, foods, machineries, electronic appliances, and marine transport industries) in support of the domestic industries (particularly, industries in agriculture, printing, textiles, leather, footwear, lighting equipment, rubber, plastic, shipping, etc.) entered into force on 18 April 2011. This Regulation repealed 5% import tariff on 182-items of raw materials and capital goods, in order to support industries in raw materials, capital goods and related industries. The breakdown of these items are: (1) basic chemicals - 59-items, (2) soybeans - 1-item, (3) machineries - 91-items, (4) equipment - 16-items, (5) photographic equipment - 2-items, and (6) shipping - 13-items, out of which under Chapter 84 are included: certain steam turbine, air/vacuum pump, centrifugal separator, chicken egg incubator, machineries (for printing, textile, leather, footwear, lighting equipment, rubber and plastic), under Chapter 85 are included: certain electromagnet, sound and video recording parts, electrolytic capacitor for power generation, electric switch/circuit, picture tube, and insulated wire, while under Chapter 90 are included: certain lens, camera and x-ray equipment.</p>		

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	(3)	<u>Tariff levied on Solar Module in violation of ITA</u>	<p>- Solar module being a product subject to ITA (Information Technology Agreement), the ITA signatories are under obligation to repeal the concessionary tariff rate on solar module (HTS No. [the first 6-digits]: 8541.40).</p> <p>Indonesia, being a signatory to ITA, also, the ceiling of the Indonesian WTO concessionary rate (each WTO signatory committed on import product) is "0%".</p> <p>Nevertheless, GOI levies 5% tariff upon import of the actual solar module.</p> <p>(Remarks:) Indonesian tariff on "solar module":</p> <p>-- tariff schedule No: 8541.40.22.00</p> <p>-- WTO Schedule of Tariff Concessions: 0%</p> <p>-- Most favoured nation tariff rate: 5% (The tax rate actually levied in Indonesia)</p> <p>(Reference)</p> <p>- The URL's of the covering laws:</p> <p>-- WTO Schedule of tariff concessions: <a href="http://www.wto.org/english/tratop_e/schedules_e/goods_schedules_table_e.htm">http://www.wto.org/english/tratop_e/schedules_e/goods_schedules_table_e.htm</a></p> <p>-- Ministerial declaration on trade in information technology products - situation of schedules of concessions in goods: <a href="http://www.wto.org/english/docs_e/legal_e/itadec_e.htm">http://www.wto.org/english/docs_e/legal_e/itadec_e.htm</a></p>	<p>- It is requested that GOI applies zero per cent tariff in pursuance of the WTO concessionary list and under the ITA's most favoured nation tariff rate (of "0%"). (The Indonesian operation described on the left column is in violation of WTO agreement (GATT Article 2), and ITA, which is aimed at removing tariffs on information technology related products).</p>	<p>- WTO Schedule of Concessions</p> <p>- List of Goods subject to ITA</p> <p>- Indonesian Ministry of Finance Tariff Schedule</p>
	(4)	<u>Lopsided Import Duty Rates between Parts and Finished Products</u>	<p>- Import duty is zero on construction equipment. However, import duty is levied on certain parts for manufacturing construction equipment.</p> <p>Despite the MFS contribution by investment into equipment, promotion of employment, acquisition of foreign currency from export, payment of business tax, etc, the higher import duty levied on Parts debilitates competitive edge for domestically manufactured construction equipment of member firm's subsidiary (MFS).</p> <p>- Due to the absence in the Negative List of the Industrial Parts (IDP's) not available for procurement domestically in Indonesia, GOI levies high import duty on them. Furthermore, registration of the IDP's on the master list does not remove IDP's from the goods subject to import duty. This is the problem. The IDP's (car parts) in concern are ERW (Electric Resistance Welded) pipes, while such ERW pipes usable by hydraulic equipment for construction machines cannot be locally procured in Indonesia.</p>	<p>- It is requested that GOJ and GOI reopen negotiation for Japan/ Indonesia Economic Partnership Agreement (incorporating tariff reduction in stages). No development has taken place despite the proposal made by HINABI, Association of Heavy Equipment Manufacturers of Indonesia.</p> <p>- It is requested that GOI properly applies the tax exemption measures on products, which cannot be locally procured in Indonesia.</p>	<p>- Japan/Indonesia Economic Partnership Agreement</p> <p>- Change in HS Code by GOI</p> <p>- Negative List (Minister of Industry Regulation No.106 of 29 October 2012)</p> <p>- Trade Regulation</p>

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- <u>Import duty is zero on finished products under AFTA, while 5-10% import duty is levied on import of raw materials. This tariff heavily burdens the domestic sales in Indonesia of the products that MFS locally manufacture in Indonesia.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOJ takes step to persuade GOI to levy zero import duty on the raw materials.</u></li> </ul>	
	(5)	<u>Difficulty in Activating Import Licence Scheme</u>	<ul style="list-style-type: none"> <li>- <u>The import licence scheme (ILS) comprises of two types, API-P (import of materials for manufacturers) and API-U (import of goods in general), provided, however, that a single firm is disallowed to obtain both licenses. Consequently, ILS bars manufacturers from making "pass-through sales of finished products" from group companies operating in overseas' countries, hence depriving them of the freedom of mutually complementing production.</u></li> <li>- <u>Import licence issued to manufacturers is limited to raw materials and work-in-process, excluding finished products. As an exception, by acquisition of importer producer licence (importir produsen:IP), manufacturers may import finished products. However, its acquisition takes a long time, necessitating, moreover, a trip to Jakarta.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- <u>On 1 May 2012, the Minister of Trade ("MOT") issued MOT Regulation No. 27/M-DAG/PER/5/2012, revoking previous Regulations. Registration No. 27/M-DAG/PER/5/2012 restricts the scope of sectors to distributors and trade firms holding General Import Licence (or Angka Pengenal Importir-Umum, namely,) General API (API-U) to only 1-sector per enterprise out of the 21-sectors classified by HS Code numbers.</u></li> <li>- <u>Minister of Trade Regulation No. 27/M-DAG/PER/5/2012 promulgated on 1 May 2012 amends previous Regulation as regards the provisions for import licence on finished products, restricting import under Producer API (API-P) that allows the holder of API-P import of products only for the purpose of conducting a "market test" or for a complementary purpose (products which are not produced in Indonesia by the importer itself) and only for a limited quantity and limited period, while the holder of General API (API-U) is licenced to import only products in 1-sector per enterprise out of the 21-sectors identified by the Regulation. While under this Regulation, application must be continued until 31 December 2012, further adjustment is under deliberation, as it has met with strong protests from the industries in Japan, the U.S., etc.</u></li> <li>- <u>In September 2015, minister of trade promulgated regulation No. 70/M-DAG/PER/9/2015 eliminating the provisions that granted import of finished products by the enterprises issued with manufacturer/importer number (API-P). As a result, such firm with API-P in hand can only import raw materials and semi-finished products.</u></li> <li>- <u>On 28 September 2015, subject to acquisition of minister of trade import licence, the existing importer's number (API) requires renewal by 30 June 2016 on both general API (API-U) and manufacturer API (API-P). (trade minister regulation No. 70/M-DAG/PER/9/2015 of 28 September 2015)).</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>it is requested that GOI takes step to enable acquisition of both licences by a single firm so that manufacturers may import finished products.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>Customs Act (November 2006)</u></li> <li>- <u>Industrial and Trade Regulation</u></li> <li>- <u>Minister of Trade Regulation of 28 September 2015 (70/M-DAG/PER/9/2015)</u></li> </ul>

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			<p>- On 22 March 2016, ministry of industry promulgated regulation, concerning issuance of import licence for finished products (complementary goods and goods for test market purposes and after-sales service) for manufacturers holding manufacturing importer licence number (API-P)(enforced on 22 March 2016). Resulting from the API-P holder's recovery of import qualification, acquisition of ministry of industry recommendation letter has become necessary, triggering the imposition of additional Import quantitative restriction on specific industries.</p> <p>- Ministry of trade regulation on restricting import of finished products, due for enforcement from 1 January 2016, has been postponed by opposition of the Industries. New regulation is under deliberation with the exclusionary provision that recovers API-P holders' import right of finished products.</p> <p><b>(Improvement)</b></p> <p>- On 21 September 2012, MOT promulgated Regulation No. No.59/M-DAG/PER/9/2012, deregulating Regulation No. 27/M-DAG/PER/5/2012 that allows the holder of API-U licence to import plural items of products per importer, in the case where an importer has a special relationship with the party abroad from whom the imported items are purchased (agreement showing control over the economic activities, ownership in equity share, distribution agreement, loan agreement, supplier contract, etc.)</p> <p>- On 21 October 2015, Ministry of Trade (MOT) promulgated and enforced from 1 January 2016, regulation on registration and issuance of importer's licence number (API). API-U holders may import beyond the single product, without needing to apply new number, repealing the (complementary goods or samples) restrictions on API-U holders. Furthermore, MOT introduced "post audit" scheme that monitors importers observance of API-U or API-P regulation.</p> <p>- On 23 December, 2015, MOT promulgated minister of trade regulation No.118, authorising enterprises holding manufacturer/importer registration No. (API-P) to import and sell to other enterprises industrial products as complementary goods, industrial product samples for test marketing, and for after-service. (enforced on 1 January 2016).</p>		
	(6)	<u>Nebulous and Delayed Import Licence Acquisition Procedures</u>	<p>- On import of mineral oil (including lubricant), machines, etc., the following issues get in the way of smooth economic activities:(1) The flow is nebulous on the licence acquisition process,(2) It is nebulous how long it takes for its acquisition.</p> <p>- On ink-jet colour printers, it requires filing of import licence application in every 6-months per category: 1) SFP, 2) MFP 3in1, and 3) MFP 4in1. It materially impacts MFS sales activities, as it takes substantial time from the application date to the approval date. Moreover, there have been cases where quantitative restrictions have been imposed between the application and approval, impacting upon MFS sales activities.</p>	<p>- It is requested that GOI determines: -- the process, and -- the period.</p> <p>- It is requested that GOI takes step to: -- expedite the approval and licencing process, and -- repeal import quantitative restrictions.</p>	
	(7)	<u>Nebulous Abrupt Forced Suspension of Import Customs Clearance</u>	<p>- Relative to import of alloy metals that compels import licence acquisition and pre-shipment inspection, in the absence of a clear-cut guideline, customs suddenly suspended its clearance. As a result, it led to an advent of abnormal state of affairs, as the cargoes loaded on the steamer before completion of the pre-shipment inspection, had to tarry for about two months at the Port. There were frequent occurrences of hiatus.</p>	<p>- As it stands, it takes about 2-months for acquisition/renewal of import license. It is requested that MOI and MOT expedite the issuance/renewal procedures.</p>	<p>- Ministry of Trade Decree No.28</p>

Category	No	Issue	Issue Details	Requests	References
			<p><u>of the production lines at the customers. Moreover, importers refused to pay huge amounts of the warehousing costs.</u></p> <p><u>It takes substantial time for acquisition and renewal of licences. Pending acquisition, MFS faces inability to get cargoes cleared through the customs. It hinders stable maintenance of foreign trade transactions.</u></p>		
	(8)	<u>Rigorous/Nebulous/Delayed Food Import Procedures</u>	<p><u>Import of 3-fresh foods (meat, vegetable, and fruit) requires applications for import quota per item. It takes much time and cost for preparing multiple requisite documents until the completion of customs clearance.</u></p> <p><u>In addition, when importing from Japan, non-tariff barriers exist: for example, imported products must pass the radioactive contamination inspection on the total lot, the pre-shipment standards inspection, hygienic quality, compositional and microbiological testing. General processed foods are lumped together in the flow of intensified regulatory control on imports.</u></p>		
	(9)	<u>Provisions Restricting the Import of Lubricants</u>	<p><u>- A member firm owns water treatment plant engineering company (WTPE) that imports and supplies to its domestic customers centrifugal dehydrators imported from abroad as one of the constituents of the system delivered to customers. After delivery and during the product maintenance, for purpose of maintenance, WTPE receives request for purchase of lubricants. No licence is necessary when WTPE imports lubricants as one of the constituents of the system, however, NPT (Nomor Pelumas Terdaftar=Registration No. for Lubricants) is necessary for import of lubricants alone, which can be imported only by IP (Importer &amp; Producer). Therefore, WTPE faces difficulty in providing proper product maintenance service to its customers.</u></p>	<p><u>- It is requested that GOI takes steps to repeal the restrictions for import of lubricants used for express purposes of product maintenance for the products procured abroad.</u></p>	<p>Decision of Minister of Industries &amp; Trade No. 233/2001 (233/MPP/KEP/7/2001)</p>
	(10)	<u>Delayed Application of AJCEP</u>	<p><u>- Although the material procurement and manufacture of products have grown by leaps and bounds, GOI's delayed ratification of AJCEP disturbs strengthening more the manufacturing network through an effective exploitation of the Indonesian assets.</u></p>	<p><u>- It is requested that Indonesia to become a signatory to AJCEP for activating raw materials procurement and producing fabrication.</u></p>	
	(11)	<u>Disunity and Opacity in COO Description Requirement</u>	<p><u>- There is no established uniform and transparent interpretation rules over the trivial entry errors, etc. on HS code, customs valuation, C/O, etc. so that cases of unjustifiable duty collection occur frequently, due to the improper judgement of the customs personnel.</u></p>	<p><u>- It is requested GOI takes step to upgrade the appreciation of the customs personnel (in regard to provision of guideline, etc. on fine detailed C/O description, stipulated in Japan).</u></p>	

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	(12)	Difficult Use of Third Country Invoice under FTA	<p>- Since January 2010, ASEAN-PRC FTA(ACFTA) has removed substantial import duty, provided, however, Indonesia does not apply "Form E" on blockage transactions via a third country so that the original duty applies in such case, whereas, Thailand, Vietnam, etc. do apply "Form E" on blockage transactions via a third country.</p> <p>Since October 2011, pursuant to Indonesian Customs Authority Notification, customs clearance under the FTA duty rate has been made possible. A member firm of JBCTIF has begun applying the FTA duty rate starting from the November 2011 shipment ex-PRC factory. However, the Form E issuance status remains unstable as to PRC CIQ, where 80% of Form E issuance is rejected by CIQ. As regards the documents on import customs clearance, GOI requires description of the import invoice amount on Form D/E that differs from the ex-factory amount so that documental issuance can be made only after shipment of goods from the factory. In case shipment is made from countries closer to Indonesia, goods arrive at the destination earlier than the documents from time to time. As a result, much time is wasted for customs clearance.</p> <p><b>(Actions)</b></p> <p>- On 27 August 2012, AEM approved the recommendation for repeal of the F.O.B. price description requirement on Form D at the ASEAN Economic Ministers (AEM) Conference and at the 26th AFTA Council, targeting approval in February 2013 and enforcement by Mid 2013. As of 17 January 2014, it remains rejected.</p>	<p>- It is requested that GOJ negotiate with GOI for it to:</p> <p>-- deregulate the confirmation requirement to level with other ASEAN Member States, as MFS has assigned a staff solely devoted to checking the documents related to customs clearance with the Customs Authority before issuing Form D in order to minimise the customs clearance delay, and</p> <p>-- obviate the need for the amount description at least as regards Form D/E. "The IV No. for Importer" described on the documents for importer, separately submitted would dissolve the problems.</p>	Form E
	(13)	Complex/Nebulous USDFS under Japan/Indonesia EPA	<p>"Industrial minister regulation No.43/M-IND/PER/7/2008" sets forth the industrial group entitled to the beneficiary treatment (B/T) under the user specific duty free scheme (USDFS) set forth under the framework of republic of "Indonesia/Japan Economic Partnership Agreement". The enterprises in concern are classified as "parts and accessories for vehicles with 4-wheels or more with engine", with a possibility of being considered eligible for SKVI-USDF. However, it takes a complex procedure, needing a vast amount of documents, a long time with nebulous response, if any. In practice, obtaining the B/T (USDFS) approval is difficult.</p>	<p>- It is requested that in enforcing USDFS, GOI takes step to:</p> <p>-- improve the practical methods of filing application, examination protocol, and its requisite period.</p> <p>-- clarify if the application meets the requirements.</p>	Industrial Minister Regulation No.43/M-IND/PER/7/2008
	(14)	Non-Acceptance of CO under Japan/Indonesia EPA	<p>- When discrepancies occur in the first 6-digits between EPA HS (2002) and HS (2012) at the point of import/export, upon import declaration at the Indonesian customs, special certificate of origin (CO) gets rejected at Indonesia customs upon filing import declaration. As a result, the beneficial treatment under EPA gets denied, even if the origin qualification is amply satisfied.</p>	<p>- It is requested that GOI:</p> <p>-- accepts the CO requirements by submission of comparative list of HS code, old and new, and</p> <p>-- incorporates the comparative list into the wordings of EPA between GOI and GOJ.</p>	

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	(15)	<u>Denied Retroactive Application of EPA Certificate of Origin (CO)</u>	- <u>After completion in Indonesia of customs clearance, retroactive application of EPA CO is denied. Also Indonesian customs requires the original of the specific CO. Because of this requirement, if the cargoes get airfreighted in emergency, importers are denied of the EPA benefits in certain cases.</u>	- <u>It is requested that GOI accepts the retroactive application or accepts CO in (PDF) copy.</u>	
	(16)	<b>Abuse of Antidumping Measures</b>	<p>- On 24 June 2011, GOI initiated antidumping investigation on cold rolled steel from 5-Countries/Areas, including Japan, ROK, ROC, PRC and Vietnam.</p> <p>- On 19 March 2013, Ministry of Finance made final determination of dumping finding levying, for 3-years, dumping duties in the range of 5.9% to 55.6% against all 5-subject countries. Although no distinction can be made on HS code commodity classification, most of cold rolled steel plates imported from Japan are destined for use in automotive, electric/electronic products manufacturing industries, therefore they are distinctively different in both quality and supply volume from products manufactured in Indonesia.</p> <p>However, GOI disregards the Japanese respondents' contentions of "No Injury" to the Indonesian domestic industry.</p> <p>- On 19 March 2013 Anti-Dumping Committee of Indonesia, Ministry of Commerce (KADI) released antidumping duty levy on cold rolled steel coils and sheets (CRC/S) imported from Japan, PRC, ROK, Vietnam and ROC. As to Japanese steel manufacturers, 18.6% and 55.6% antidumping duties apply in total disregard of the Japanese respondents' contentions of "No Injury" to the Indonesian domestic industry, namely, most cold rolled steel plates imported from Japan are destined for use in automotive, electric/electronic products manufacturing industries, distinctively different in both quality and supply volume from the cold rolled steel plates domestically manufactured in Indonesia.</p> <p>- <u>Import restrictions upon steel products by antidumping measures:</u></p> <p>-- <u>Antidumping measures on cold-rolled steel: antidumping duty levied on cold-rolled steel from Japan, ROK, Taiwan and Vietnam.</u></p> <p>-- <u>Antidumping duty levied on carbon steel (aluminium zinc plated) from Vietnam/Taiwan/ROK/etc.</u></p> <p>-- <u>Safeguard measures upon wire rod:</u></p> <p><u>It is likely import embargo could result, if the law is invoked.</u></p>	<p>- It is requested that GOI:</p> <p>-- revokes the Antidumping Measures, or</p> <p>-- sets in place Exclusionary Measures.</p> <p>- It is requested that GOI repeals the antidumping determination (and applies the antidumping measures by reflecting the reality.)</p> <p>- It is requested that GOI avoids getting trapped into useless protectionism of the domestic Industries (including whether the local production is feasible) and investigate the ongoing state of affairs carefully, before making decisions.</p>	<p>- Regulation No. 34 Antidumping Law</p> <p>- <u>Ministry of Finance Regulation No. 65/PMK.011/2013 dated March 19, 2013 (as amended by Ministry of Finance Regulation No. 224/PMK.011/2014 dated December 22, 2014)</u></p>

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			<p>- <u>Antidumping duty levied on cold-rolled steel from Japan:</u> GOI levies antidumping duty on cold-rolled steel from Japan, despite the fact that the Japanese products, mostly supplied to cars and home electric appliances demanding high quality, do not substantially compete against the Indonesian products. Therefore, it can give no material injury to the domestic industry. Thus, exclusion from the Japanese products from the antidumping duty levy is being requested.</p> <p>On 22 December 2014, Ministry of Finance (MOF) announced exclusion of the Japanese products in concern from antidumping duty levy on the ground of their chemical contents, without however, giving precise conditions for the exclusion.</p>	<p>- <u>Indonesia imports cold-rolled steel from Japan, 70% to car industries, and 5% to electric/electronic products industries. The MOF Announcement on the left column is ambiguous if the products are really excluded from the antidumping duty levy by the MOF announcement.</u></p>	
			<p><b>(Actions)</b></p> <p>- On 19 March 2013, Indonesian Anti-Dumping Committee (KADI), Ministry of Trade published imposition of anti-dumping duty on cold rolled coil, steel sheet (CRC/S), imported from Japan, South Korea, Vietnam and Taiwan. GOJ has sought GOI's special consideration, while Japanese industrial association has requested application of exclusionary measures as to Japanese products.</p> <p>- In April 2014, GOI initiated interim review on cold-rolled steel from Japan.</p> <p>- On 30 March 2015, Ministry of Finance (MOF) promulgated ministerial regulation No. 55/PMK.04/2015, clarifying the procedures for collection and refund of antidumping duty (AD) countervailing duty (CV) and safeguard duty (SG) (enforced from 16 April 2015). [Reference] URL (in Indonesian) at: <a href="http://www.sjdih.depkeu.go.id/fullText/2015/55~PMK.04~2015Per.PDF">http://www.sjdih.depkeu.go.id/fullText/2015/55~PMK.04~2015Per.PDF</a></p> <p>- On 8 September 2015, Indonesia antidumping committee initiated antidumping sunset review on cold rolled coils and sheets from China, Japan, ROK, Taiwan and Vietnam.</p> <p>- In February 2016, Indonesian car manufacturers requested GOI to exclude imported steel products (used in the car manufacturing process) from the antidumping measures that now impose antidumping duty, as such measures are likely to wane the price competitiveness of the finished products. Conversely, Indonesia iron &amp; steel industry association (IISIA) seeks GOI the maximum use of the locally manufactured cold-rolled steel sheets that fully meet the car manufacturers requirements.</p>		
	(17)	Abuse of Safeguard Measures	<p>- Since 2011, GOI has invoked safeguard measures on multiple steel products. Precisely, on wires (beginning the levy of additional duty ("the Levy") from 23 March 2011), on steel wires (beginning the Levy from 20 November 2012), and on seamless steel wires for excavation of Oil/Gas (beginning Investigation/ Levy from 6 August 2013), and on unalloyed aluminium, and zinc plated steel plate (beginning investigation from 19 December 2012).</p> <p>While it seems these measures are intended to curb import surge from countries other than Japan, it does involve Japan. It interferes with the Japan's effort to maintain a stable international trade environment.</p>	<p>- It is requested that GOI discontinues abuse of safeguard measures.</p>	<p>- Government Regulation, No. 34 of 2011 Concerning Antidumping Measure, Countervailing Measure and Safeguard Measure</p>



Category	No	Issue	Issue Details	Requests	References
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 6 August 2013, GOI launched imposition of safeguard measures on seamless steel pipe for oil-gas drilling.</li> <li>- On 5 July 2014, GOI launched imposition of safeguard measures on unalloyed aluminium zinc plated steel sheet.</li> <li>- On 21 January 2015, GOI launched imposition of safeguard measures.</li> <li>- On 6 August 2015, GOI launched imposition of safeguard measures.</li> <li>- MOF launched for 3-years from 18 August 2015 safeguard measures on imported steel rod wires, provided, however, excluding 121-countries, inclusive of the ASEAN 7-countries.</li> <li>- On 28 October 2015, WTO set up a panel upon Vietnam government's complaint on the GOI's initiation of safeguard measures against import of unalloyed flat coiled steel products.</li> </ul>		
	(18)	<u>Nebulous Launching of Safeguard Measures</u>	<ul style="list-style-type: none"> <li>- In regard to the safeguard measures on galvanised steel plate, while ministry of finance gave prior notice to the customs on the commencement date of the safeguard measures, no such notice whatsoever was given to importers. It was only after the launching date of the safeguard measures that importers came to learn the fact. Importers were compelled to continue to import materials without prior measures to the safeguard.. After that, importers, all of a sudden, received order for payment of huge amount of tax on safeguard measures. Such GOI' action hinders maintenance of the stable international transactions.</li> </ul>	<ul style="list-style-type: none"> <li>- In regard to the restrictions on alloy steel, and the safeguard measures on galvanised steel plate that share the common issues, it is requested that GOI, before making decisions:               <ul style="list-style-type: none"> <li>-- invites public comments to hear the views of the industries in concern,</li> <li>-- ascertains the impact upon the industries from implementation of the measures,</li> <li>-- gives extra care to ensure legislative changes gets transmitted timely to the concerned parties, and</li> <li>-- secures ample transitional period to enable importers to make the requisite preparation.</li> </ul> </li> </ul>	<p>Ministry of Trade Regulation No.34/M-DAG/PER/6/2014 on Safeguard Measures</p>
	(19)	<u>Delayed and Nebulous Customs Clearance Procedures</u>	<ul style="list-style-type: none"> <li>- In regard to import of instruments, equipment, etc. (Equipment), the requisite documents, requirements, etc. vary by the customs official in charge in contents and in kinds on equipment, which is identical to the one previously imported.</li> <li>- As it stands, it takes 1 to 2-months for completing customs clearance on cargoes shipped by sea, causing problems in business operation.</li> <li>- A lot of time is necessary for import customs clearance, impacting production schedule at factories. Uncertainty in customs clearance procedures defies calculation of the exact schedules all around.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI takes steps to prepare guidelines, clarifying the requisite documents and other requirements.</li> <li>- It is requested that GOI cuts down the time required for completing the customs clearance.</li> <li>- It is requested that GOI streamlines the customs clearance procedures.</li> </ul>	

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			<p>- <u>Some customs clearance delays are caused by the absence of customs personnel, etc.</u></p> <p>- <u>Import customs clearance takes much time, while the cause of delays remains unidentified.</u></p>	<p>- <u>It is requested that GOI streamlines the customs clearance procedures.</u></p> <p>- <u>It is requested that GOI clearly identifies the customs clearance process, and the basis of its judgement.</u></p>	
			<p><b>(Actions)</b></p> <p>- In March 2006, GOI published "Policy Package for Improving the Investment Environment" based on PD No.3 of 27 February 2006. The major programs related to customs clearance include the following items; Amendment of Regulation to streamline customs inspection process during 2006, preparation of import/export application system toward introduction of the single window in 2008, gradual reduction in the use of the red zone and gradual expansion of designated enterprises under the priority lane during 2006, reduction in time and cost for cargo process during 2006, Review of bonded zones, and tightening efforts to annihilate smuggling. The policy cites the following items. There include among others:</p> <p>(a) Streamlining legislation on customs inspection procedure by June 2006,</p> <p>(b) Setting the target for the customs inspection time (30 minutes on green line, 3 days on red line) through expansion of General Customs Bureau' EDI System,</p> <p>(c) Preparing by December 2006 the import/export application system to support the National Single Window 2008 Project,</p> <p>(d) Revising the implementing regulation with a clear and transparent valuation standards applied on a consistent basis for determining green line, red line and gold line through adequate equipment and technology,</p> <p>(e) Editing by June 2006 Guideline setting forth the procedure to follow in customs classification of certain major items,</p> <p>(f) Preparing by March 2006 applications toward the National Single Window 2008 that brings together trade net and port net, reduces the cargo handling time and dispenses with the cost elements incompatible with legislation at Tanjung Priok Port and Skarno Hatta and Soekarno-Hatta Airport, and</p> <p>(g) Obviating the need to go through the local General Customs Bureau offices for registration and application with the view to streamline the customs operation.</p> <p>- On 11 May 2006 PD No.17 was issued to establish The Advisory Team that gives advice to the President consigned to execute tax and tariff reform under PI No.13/2006.</p> <p>- In July 2007, Main Customs Office (KPU) at Tanjung Priok Port started the one-stop-service.</p> <p>- On 1 July 2008, Agreement Between Japan and The Republic of Indonesia for an Economic Partnership came into effect. The Agreement embodies a consultation mechanism in the form of "a Sub-Committee" comprising of government and private sector members, "on Improvement of Business Environment and Promotion of Business Confidence".</p> <p>In respect of customs procedure, the Agreement provides for both parties to make or enhance:</p> <p>1) Customs procedures that are predictable, consistent and transparent;</p> <p>2) Customs procedures that are harmonized and simplified; and</p> <p>3) Cooperation and exchange of information between the customs of Japan and Indonesia.</p> <p>- On 15 July 2009, Ministry of Transport promulgated Circular KN. 42/1/8/DTPL-09 that mandates payment of tally service charges prior to cargo delivery at all ports.</p>		

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			<ul style="list-style-type: none"> <li>- On 23 March 2010, Directorate General of Customs and Excise (DGCE) promulgated Circular No. SE-05/BC/2010) setting forth its policy on examination of Import Declaration Document of Goods under the FTA Scheme with certain Asian Countries/regions. The Circular refers to Indonesian FTA's with The Agreement on The Common Effective Preferential Tariff Scheme for The ASEAN Free Trade Area (CEPT-AFTA), ASEAN-PRC FTA (ACFTA), ASEAN-South Korea FTA (AKFTA) and Japan-Indonesia Economic Partnership Agreement (JIEPA).</li> <li>- On 9 December 2010, MOF promulgated Regulation No. 219/PMK.04/2010 concerning Customs Clearance Procedures for Authorised Economic Operator (AEO), enforced on the same date. AEO is entitled to Preferential Measures in Customs Clearance under the Basic SAFE Framework document concerning Security and Facilitation of the Global Supply Chain (Basic SAFE Framework) of The World Customs Organisation (WCO).</li> <li>- On 15 September 2005, GOI signed the Basic Agreement concerning implementation of "the Basic SAFE Framework". While Regulation No.219 sets forth the framework for implementation of AEO, no Detailed Rules have been promulgated for implementing AEO under Mutual Recognition Arrangements (MRA) with other countries. MOF Directorate General of Customs and Excise Duty is responsible for promulgation of Detailed Rules of Implementation for AEO Application, Details on Preferential Measures for Customs Clearance Procedures and MRA related procedures.</li> <li>- On 8 July 2014, GOI promulgated Presidential Regulation No. 71 to ratify "Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (Amended Kyoto Protocol)". <ul style="list-style-type: none"> <li>-- Presidential Regulation No. 71/2014 [In Bahasa Indonesia].  <a href="http://sipuu.setkab.go.id/PUUdoc/174158/Perprse%20Nomor%2071%20Tahun%202014.pdf">http://sipuu.setkab.go.id/PUUdoc/174158/Perprse%20Nomor%2071%20Tahun%202014.pdf</a></li> </ul> </li> <li>- On 21 July 2014, GOI promulgated New Presidential Regulation No. 76 "For Integration of Indonesia National Single Window (INSW)" <ul style="list-style-type: none"> <li>-- Presidential Regulation No. 76/2014 [In Bahasa Indonesia].  <a href="http://sipuu.setkab.go.id/PUUdoc/174173/Perpres%20Nomor%2076%20Tahun%202014.pdf">http://sipuu.setkab.go.id/PUUdoc/174173/Perpres%20Nomor%2076%20Tahun%202014.pdf</a> [In Bahasa Indonesia].</li> </ul> </li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- In December 2004, Japan-Indonesia Joint Economic Forum was inaugurated. It created Japan-Indonesia Strategic Investment Action Plan (SIAP) that addresses to 118 items in 4-sectors, tax/customs duty, labour, infrastructure, and buildup of industrial competitiveness/development of SME's. It is recognised that some advancement has been made over 70% of the targeted items.</li> <li>- Directorate General of Customs &amp; Excise (DGCE) Notice. No.INS-02/BC/2005 sets forth allocation of work time for qualified personnel, appointment of a deputy in the absence of the person with signing authority, discontinuation of morning exercise on Fridays, and improved performance in the Friday afternoon after lunch.</li> <li>- DGCE No. SE-28/BC/2005 "Notice on Customs svc on Saturdays, Sundays and or Other Holidays" extends office hours of Customs Service on Saturdays.</li> <li>- DGCE Notice No.1019/BC.2/2005 replacing Notice No. S-152/BC.04/2001 enables Technical Director to authorize movement of goods from one bonded warehouse to another.</li> <li>- DGCE Note No.S-753/BC/2005 seeks Directors of the local customs IV to exchange dialogs with the related agencies with the view to expedite delivery of imported cargoes in mixed loading at airports. DGCE Note S-754/BC/2005 2005 also seeks Director of Soekarno-Hatta International Airport to exchange dialogs with the related agencies with the view to expedite import/export operations at airports.</li> <li>- Since August 2005, the FAQ Section has been continually updated and expanded at (<a href="http://www.beacukai.go.id/">http://www.beacukai.go.id/</a>) maintained by Directorate General Of Customs &amp; Excise (DGDC).</li> </ul>		

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			<ul style="list-style-type: none"> <li>- At the Official Web Site of DGCE updated on 22 August 2005, online pre-instruction system of HS code is established.</li> <li>- GOI now implements National Single Window ("NSW") at Batam port in response to the Agreement to Establish and Implement the ASEAN Single Window ("ASW") signed at the 11th ASEAN Summit in December 2005. Tanjung Priok and Belawan Ports are on schedule for NSW.</li> <li>- MOT Decree No.09/M-DAG/PER/3/2006 provides that Trading License ("SIUP"=Surat Izin Usaha Perdagangan) is issued within 5 days (rather than 7-10 days) and implementation of the administrative penalty is simplified.</li> <li>- The following developments are reported during April 2006 under PI No. 13/2006: <ul style="list-style-type: none"> <li>--Cargo handling time is shortened by cutting down the cargo delivery time from 5 days to 3 days at ports.</li> <li>--The number of Qualified Importers is increased from 71 to 77.</li> <li>--Automatic cargo handling at the bonded warehouse (TPB) is made compulsory at Batam Customs and a trial test is made at Purwakarta Customs for bonded warehouse process application system ("SAP").</li> </ul> </li> <li>- 24-hour Telephone Consultation Service (24-hour Call Center) has started at customs offices of major seaports and airports, including Tanjung Priok Port and Jakarta International Soekarno-Hatta Airport. (SIAP Report of November 2006).</li> <li>- The Red Line Customs Inspection dropped from 40% to 27% by September 2006.</li> <li>- Three days (five days in case of Priority Channel) are normally granted for block (refusal of filing application), and if adequate explanation is given in advance to customs, it is possible to extend for two more days. (S-1520/BC/2005).</li> <li>- Notice (S-1520/BC2/2005) of 12 July 2006 makes it publicly known widely that the submission of the identical documents can be dispensed with.</li> <li>- Notice (S-1520/BC2/2005) of 12 July 2006 and obligatory instructions (INS-02/BC/2005) of 13 July 2006 were issued, providing explanation for supplemental documents and documents used in the event of "block". Obligatory instructions stipulate strict observance of the Friday prayer time, etc. that relates to obligatory hours.</li> <li>- Customs declaration on Green Line with slight documentary errors (on hard copies only) can be accepted, provided, however, that, filing the corrected set of documents to Customs within three days of cargo delivery is a mandatory obligation.</li> <li>- Notice has been issued already to the effect that copy of Bills of Lading will suffice on Green Line. (S-1520/BC2/2005, S2213/BC2/2005)</li> <li>- According to the questionnaire survey involving 587 enterprises in the major cities by Social-Economic Research Institute of Universitas Indonesia during June through August 2006, the number of days required for import customs clearance is reduced from 6.1 days in 2005 to 3.1 days in 2007.</li> <li>- Since 17 December 2007, GOI started its test run on the National Single Windows at Tanjung Priok Port.</li> </ul>		
	(20)	Duplicated Export/Import Customs Clearance Procedures	<ul style="list-style-type: none"> <li>- MFS has completed setting in place electronic data interchange (EDI) system for customs clearance. Nevertheless, GOI requires filing of application by paper documents as before in parallel, including the double charge of the application fees.</li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- <u>On 9 September 2015, President Joko Widodo announced the 1st economic policy package toward the economic recovery, including the repeal of duplications in rules and regulations as its first phase. After repeal of 89-rules and regulations out of 154, the administration will promulgate 17-Decrees, 11-presidential orders, 63 ministerial orders, etc.</u></li> </ul>		

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	(21)	<u>Disunity of Numbers among Import Declaration, Application, and Acceptance</u>	- On PIB (Import Declaration Form) 2-sets of numbers exist, namely, 20 (=6+8+6) digits used by importer/forwarder, and the customs approved unique number (6-Digits), complicating the clerical work in actual operation. <u>Nomor pengajuan (application number)</u> <u>Nomor pendaftaran (acceptance number)</u>	- It is requested that GOI accepts application number as acceptance number as is, or else adopts the system that uses single number from application to acceptance.	
	(22)	Increased burdens due to Introduction of Pre-Shipment Inspection	<p>Indonesian Customs, after the manner similar to other countries, has adopted Red/Yellow/Green Lanes in its customs clearance process, depending upon the past import performance and reliability of importers. Goods in Red Lane are subject to full examinations including the physical inspection by opening the ocean containers, while those in the Green Lane require only documental examination.</p> <p>In addition, the majority of the goods must clear pre-shipment inspection at each shipment location as part of the vexatiously complex, time-consuming import process.</p> <p>It does not stand to reason, why the pre-shipment inspection is additionally compelled when the physical inspection by opening the ocean containers is effected on importers with low reliability or no shipment record.</p> <p>Moreover, compulsion of pre-shipment inspection to importers with good reputation or past import record that enjoy customs clearance at Green Lane does not stand to reason, either, because from time to time at an irregular interval, the physical inspection is made by opening the ocean containers.</p> <p>Indonesia is the only country among ASEAN Member States that requires pre-shipment export inspection.</p> <p>Trade Minister Decree No. 8 of 18 February 2009 compels Exporter Registration and Pre-Shipment Inspection (ERPSI) on the products covered by the Decree until end of December 2010.</p> <p>On 11 June 2009, Trade Minister Decree No.21, amending regulation, came into effect, (excluding cars, electric/electronic products, heavy equipment, energy, importers entitled to the priority lane, etc.), requiring exporter's assumption of inspection fees for each shipment, and on-site inspection at steel manufacturers' mill port.</p> <p>Trade Minister Decree No.54 promulgated on 28 December 2010, entered into force on 1 January 2011, which is based on Trade Minister Decree No.21 is a Measure with limited validity for 2-years up to 31 December</p>	<p>It is requested that GOI repeals unnecessary pre-shipment inspection pursuant to the existing Indonesian Customs Regulation.</p> <p>It is requested that GOI repeals pre-shipment export inspection.</p> <p>It is requested that GOI:</p> <ul style="list-style-type: none"> <li>-- repeals the Decree No.8 that compels ERPSI until end of December 2010, and</li> <li>-- makes more stringent the prior publication requirement under the WTO rules.</li> </ul>	<p>Trade Minister Decree No. 8 and 21</p> <p>Trade Ministry Decree No. 54 and 8</p> <p>Decree of Minister Of Trade Republic of Indonesia No. 48/M-DAG/PER/12/2011, No. 34/M-DAG/KEP/1/2012, Compulsory Pre-Shipment Inspection by the Designated Inspection Institutions on Used Machinery Machine Parts, and Special Vehicles.</p>

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			<p>2012. Decree No.54 gave rise to an unstable period where yes or no of the inspection requirement was kept in the dark, since the new rules had not been disclosed up to the last minute of promulgation of Trade Minister Decree No.54.</p> <ul style="list-style-type: none"> <li>- On January 2012, change in HS Code System was implemented, provided, however, that. "Commerce Minister's Decree" compelling pre-shipment inspection was not adequately amended. As a result, goods, which were outside the scope of pre-shipment inspection (illustrative example, wire rods), can no longer be shipped without pre-shipment inspection.</li> <li>- On 1 March 2012, Trade Minister's Amended Decree No.8 was promulgated and enforced. The Amended Decree changed the target items under AHTN2013 (by increasing the target items from 166 to 212-items) and extended the enforcement period by 3-years to 31 December 2015. GOI continues the long-term import restrictive measures, introduced with a limited effective date, without giving them a sufficient re-verification.</li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Beginning 1 February 2009, Ministry of Trade (MOT) has promulgated measures (the Measures) to control import of certain products for two-years during 15 December 2008 through 31 December 2010 against importers registered with MOT and certain ports. "Pre-shipment inspection" (PSI) mandates double inspection on the subject import cargoes, namely, PSI and the regular customs clearance procedure. A number of government representatives expressed their concern that the double inspection requirement is inconsistent with the WTO Agreement and defeats the purpose of Post Clearance Audit (PCA) mechanism that benefits import goods subject to the PCA.</li> <li>- In mid-December 2008, MOT postponed until 1 February 2009 implementation of import restrictions for clothing, footwear, electronic appliances, toys and nonessential grocery items. The purpose of this postponement, it is reported, is to avoid backlog of the subject import goods at the designated sea/air ports during the Christmas and the new year periods. Moreover, the customs inspectors are not made ready for implementing the import restrictions. It is incumbent upon MOT to further clarify the HS Code numbers of the goods subject to these restrictions.</li> <li>- On 20 February 2009, MOT made it a mandatory requirement for importers to obtain inspection certificate at the port of export on import of steel and steel products, provided, however, that, the inspection certificate requirement is exempted on the three-industries (cars and car parts, electronics and electronic parts, and shipbuilding). (Decree No. 8/M-DAG/PER/2/2009)</li> <li>- On 11 June 2009, MOT promulgated Regulation No. 21/M-DAG/PER/6/2009 (Regulation 21) that mandates PSI at port of export on imported steel. Regulation 21 amends and clarifies the inspection requirements laid down in Regulation No. 8/M-DAG/PER/2/2009 (Regulation 21) promulgated on 20 February 2009. Report of the Surveyor (designated as PSI inspection agency), which serves as PSI Certificate, must accompany the Customs Declaration submitted to the Indonesian Customs. Regulation 21 reduces the number of tariff items subject to PSI from 202 items to 169 items, while maintaining the exemptions from the PSI requirement under Regulation No. 8 and authorising additional exemptions, namely, the following:</li> </ul> <p>1) Imported cars, electronics and shipbuilding industries from Free Trade Zones and Bonded Warehouse into the Indonesian Customs</p>		

Category	No	Issue	Issue Details	Requests	References
			<p>Territories,</p> <p>2) Priority Lane designated importers, and</p> <p>3) Industries that hold the Industrial Verification Status under the User Specific Duty Free Scheme (USDFFS) of Japan-Indonesia EPA, or other customs measures designated by MOT pursuant to international agreements.</p> <p>- In February 2009, Ministry of Trade, Indonesia (MOT) expanded the List of the Designated Ports by adding Pelindo Port in Dumai for the restricted import items, which include clothing, footwear, electronic appliances, and non-essential luxury items. Government of Indonesia (GOI) released this import restriction in late October 2008, restricting the import of the subject goods into Indonesia only to the seaports or airports designated by MOT. To import goods listed in the restricted import items, importers must be registered with MOT as "Registered Importer of the Specified Items". These items are also subject to pre-shipment inspection. MOT compels Import Goods Inspector Report only on import of clothing. This import restriction was enforced on 1 February 2009. Many foreign governments expressed their concern about this import restriction, as revealed in the Joint Questionnaire (G/LIC/Q/IDN/11) to GOI submitted to the WTO Import Licence Committee in the names of EU and USA. (Thailand and Canada also submitted Questionnaire).</p> <p>- On 29 December 2010, Ministry of Trade promulgated Regulation No.57, setting forth import restrictions valid for the specified products for two-years from 1 January 2011 to 31 December 2012. This Regulation stipulates the requisite terms for import of "the Specified Products", (namely, foods and beverages, clothing, footwear, electronic products, children's toys, the traditional herb medication drugs, and cosmetics), including registration of importers, pre-shipment inspection, and designation of import port.</p> <p>- In March 2014, the Federation of Japanese Chambers of Commerce and Industry in ASEAN (FJCCIA) submitted its request to the ASEAN Secretariat, urging the need to review selection of the subject items of the products to ensure if such inspection is really necessary and to eliminate any chance of double inspection. (JETRO Overseas Business News of 3 September 2014)</p> <p>- On 30 December 2015, the period for pre-shipment inspection measures has been extended by one year to 31 December 2016 (<u>amended minister of trade regulation No.113</u>)</p> <p><b>(Improvement)</b></p> <p>- The Ministry of Trade (MOT) has issued Regulation No. 73/M-DAG/PER/10/2014 ("The 3rd Amendment") to amend the existing regulation on designated import ports for certain electronic products, etc. by exempting Priority Line Importers (Importir Jalur Prioritas) from Mandatory Verification by an appointed surveyor in regard to pre-shipment compatibility inspection and technical inspection (enforced from 1 December 2014).</p> <p>-- URL for MOT Amended Regulation No.73 (In Bahasa Indonesia) ( <a href="http://jdih.kemendag.go.id/files/regulasi/2014/10/14/perubahan-ketiga-atas-permendag-no-83m-dagper122012-tentang-ketentuan-imp-or-produk-tertentu-id-1413807056.pdf">http://jdih.kemendag.go.id/files/regulasi/2014/10/14/perubahan-ketiga-atas-permendag-no-83m-dagper122012-tentang-ketentuan-imp-or-produk-tertentu-id-1413807056.pdf</a>)</p> <p>-- List of Applicable Products: HS64, HS73, HS84, HS85, HS95 (<a href="http://www.jmcti.org/trade/bull/trade/alert/arti/2014_10/Annex_211014.pdf">http://www.jmcti.org/trade/bull/trade/alert/arti/2014_10/Annex_211014.pdf</a>)</p>		
	(23)	<u>Nebulous Period of Cargo Inspection for Customs Clearance</u>	<p><u>MFS registered at customs as a "firm without problem" gets its cargo selected at random for customs inspection. In such event, customs would not disclose when the inspection is over, so that it disrupts MFS's production and distribution schedules.</u></p>	<p><u>It is requested that GOI:</u></p> <p>-- <u>obviates the need for Customs Inspection, for a firm found without problems.</u></p> <p>-- <u>discloses the completion date of the required inspection.</u></p>	

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	(24)	Vexatiously Complex and Delayed Customs Clearance on Expatriates' Duty-Free Import	<p>- GOI requires submissions of the Originals of KITAS (stay permit) and IMTA (work permit) for custom clearance, it takes more than 1-month after arrival of the expatriate in Indonesia to receive the personal effects. Duty free shipment by sea has become allowable only once per family, and the full duty becomes payable for failure to begin the customs clearance within 3-months of the first arrival in Indonesia. Without acquisition of KITAS and MITAS, duty free customs clearance is not possible. Otherwise, full duty payment is necessary for customs clearance.</p> <p>- The customs levy high duty amounts on personal effects such as foods of an expatriate shipped from Japan upon the expatriate's new appointment as a resident representative. The duty amount is unpredictable, as it is left to discretion of the individual customs personnel. Furthermore, it is unpredictable how long it takes for the customs clearance. Frequently, pilferage of goods occurs inside the package.</p>	<p>- It is requested that GOI deregulates the requirements set forth in the left column.</p> <p>- It is requested that that GOI takes step to have customs personnel observes the prescribed duty amount without arbitrary judgement and expedites the customs clearance.</p>	<p>- <u>Customs Act 2006, Law No.17</u></p>
	(25)	Hike in Export Duty	<p>- Abruptly, GOI has raised the export duty on wooden chips from USD2.00 to USD3.50 per GMT so that MFS stands in less competitive position than the competitors in Thai and Vietnam where no export duty is payable.</p> <p>(Actions)</p> <p>- Since 8 August 2015, export tax of flat 1.5% is levied upon IUP (licenced mining and mineral business operators). (finance minister order No.107).</p>	<p>- It is requested that GOI either repeals or reduces the Export Duty.</p>	
	(26)	Introduction of Export Restrictions on Unprocessed Minerals	<p>- On 12 January 2009, new Mining Act was promulgated, due for enforcement in five years. Should GOI restricts Nickel Ores export, it would materially affect continuity of business for the domestic ferro nickel manufacturers using nickel ores. As a result, it would give the grave impact upon the domestic stainless steel manufacturers using ferro nickel in Japan.</p> <p>Since May 2012, GOI has begun export duty levy. By Decree of Ministry of Industry, export of nickel ores was actually suspended (for about a month) temporarily from May. Since June, subject to payment of export tax of 20%, export has been resumed on enterprises satisfying certain conditions. (Thus, the enterprises in concern could manage to get by without serious confusions by relying upon the residual stock.)</p> <p>On 12 January 2014, the export embargo measures on nickel ores came into effect, banning export of unprocessed nickel ores. Domestic manufacturers in Japan have taken temporary measures of piling up</p>	<p>- It is requested that GOI avoids application of restrictions.</p>	<p>- New Mineral Act (Mineral &amp; Coal Mining Industries Act)</p> <p>- <u>New Mining Law No.4, 2009</u></p> <p>- <u>Minister of Energy/Mineral Resources Decree No.1, 2014</u></p>



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			<p>stock of raw materials. However, should export ban continues without any relaxing measures, it is a matter of concern that it would impact upon production of ferro nickels and stainless steel products using ferro nickels.</p> <p><u>Minister of trade enforced new mining act No.4 of 2009, and since 12 January 2014, has compelled the domestic smelting/processing of minerals, implementing the total embargo of nickel ore export. Furthermore, huge export tariff levied on copper concentrates and iron ore, proportionate to purity, etc. gives heavy impact upon mining and mineral enterprises.</u></p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 12 January 2009, New Law on Mineral and Coal Mining was enacted, due for enforcement 5-years later (in January 2014). (Substantive details due for publication within 1-year remained unpublished as of 15 January 2010). GOI announced that in the beginning of 2014, export of unprocessed Minerals would be totally banned in order to turn the domestic smelting a mandatory requirement.</li> <li>- In May 2012, GOI banned export of certain mineral ores. However, GOI has since authorised export of ores to enterprises constructing smeltery by levying 20% export tax.</li> <li>- In September 2012, Ministry of Energy and Mineral Resources announced that it would take a relief measure from the total export ban on unprocessed mineral resources upon enterprises with a plan under way for constructing their smelters domestically in Indonesia.</li> <li>- On 8 October 2012, at the Fourth Japan-Indonesia Joint Economic Forum, METI Minister Edano expressed his concern about the GOI's export ban of nickel ore from Indonesia from the beginning of 2014. Nevertheless, the discussions ended without any progress.</li> <li>- New Mining Law passed The Consultative Assembly due for enforcement beginning January 2014 totally bans export of unprocessed minerals.</li> <li>- Law No.3 of 2014 on Industries came into force on 15 January 2014, which is the new industrial law to strengthen international competitiveness of the domestic industries. (Law No.3 of 2014 on Industries). Article 31 stipulates, "GOI will advance development of domestic processing industries to increase the added values of the natural resources".</li> <li>- In January, GOI introduced export restrictions on palm oil, tin, nickel, bauxite, etc., provided, however, that GOI approves export continuation on concentrate of copper, iron ore, lead, tin, etc.</li> <li>- In February 2014, GOI managed to let the new Trade Law pass the legislature that empowers the Administration to restrict export/import trade to protect the domestic market/industries.</li> <li>- On 12 January 2014, GOI enforced export embargo on raw ore. Regulation No. 1 relative to the terms for the domestic processing on the ores mining companies can export during the determined period (12 January 2014 through 31 December 2016). Regulation No.1 that provides the domestic processing requirement is accessible at the following URL (in Bahasa Indonesia): ( <a href="http://prokum.esdm.go.id/permen/2014/Permen%20ESDM%2001%202014.pdf">http://prokum.esdm.go.id/permen/2014/Permen%20ESDM%2001%202014.pdf</a>)</li> <li>- Regulation No.6 concerning Progressive Export Tax applicable to the Ores satisfying the abovementioned Requirements: ( <a href="http://www.sjdih.kemenkeu.go.id/fullText/2014/6-PMK.011-2014Per.HTM">http://www.sjdih.kemenkeu.go.id/fullText/2014/6-PMK.011-2014Per.HTM</a>)</li> <li>- On 24 June 2014, Ministry of Industry promulgated Regulation No.59/2014 to expand the designated conformity assessment bodies on the Indonesian National Standard.</li> </ul> <p>Ministry of Industry Regulation No.59/2014 ( <a href="http://regulasi.kemenperin.go.id/site/baca_peraturan/1788">http://regulasi.kemenperin.go.id/site/baca_peraturan/1788</a>)</p>		

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				<p>- On 14 July 2014, Ministry of Finance promulgated Amended Regulation on Administration and Collection of Export Tariffs (Regulation No. 146/PMK.04/2014 ("Regulation No. 146"))</p> <p>- GOI, under trade minister decree "04/M-DAG/PER/1/2015" of 5 January 2015, announced the compulsion of opening letters of credit (L/C) upon export of 4-items, "mineral ores, cals, petroleum/natural gas, and palm oil". The Decree aims mainly at grasping the export amounts and stabilizing the prices:</p> <p>-- The export price of the goods in concern shall be no less than the prices prevailing in the international market. (Article 2.2)</p> <p>-- Mandating export enterprises attachment of letters of credit to export declaration (PEB) (Article 4)--GOI authorised inspection institute will confirm the use of letters of credit, and will issue inspection report (Article 5)(BTMU "Global Business Insight" of 16 February 2015)</p> <p>- On 23 June 2015, President promulgated GOI Regulation No.41 year 2015 (enforced on 23 June 2015). This regulation permits government to control export and affect export embargo under certain circumstances such as ensuring stable supply to domestic industries, keeping appropriate price in domestic market and contributing to the added value activity, etc. It provides for export embargo/restrictions of natural resources. GOI's export control permits GOI's imposition of export tax, allocation of export quota, and supply responsibility to the domestic industries.</p> <p>[Reference:] Government Regulation No.41 Year 2015 (in Indonesian) at: <a href="http://sipuu.setkab.go.id/PUUdoc/174554/PP0412015.pdf">http://sipuu.setkab.go.id/PUUdoc/174554/PP0412015.pdf</a></p>		
		(27)	Application of Minimum Export Prices	- On 23 September 2010, GOI compelled Indonesian mining enterprise to establish export prices with reference to the basic coal price determined by the international market prices obtained under the specified calculation formula.	- It is requested that GOI repeals its directive concerning establishment of export prices.	- Minister's Decree No.17 on Energy and Mineral Resources
10	Restrictive Measures for Operations in Free Trade Zones ("FTZs") and Special Economic Zones ("SEZs")	(1)	<u>Restricted Amount of Sales from Bonded Zone to the Domestic Taxed Regions</u>	<p>- In Indonesia, designated bonded zones, called Kawasan Berikat (bonded zone, KB) exists. The sales from bonded zone to the domestic taxed zone are restricted up to 25% maximum of the realised amount of export in the preceding year plus the value of shipment made to other bonded zones. In the future, in the event of MFS making domestic sales in Indonesia, these restrictions remain as the pending task to deal with.</p> <p>[Reference]: <a href="http://www.nacglobal.net/2012/06/indonesia-changes-of-bond-system/">http://www.nacglobal.net/2012/06/indonesia-changes-of-bond-system/</a></p> <p>(Actions)</p> <p>- Since 31 January 2016, ministry of finance has enforced new regulation (amended regulation No.85 of 2015 on storage place in bond) concerning central in bond logistic facilities (CIBLF) exempting commodity tax, import duty, luxury tax, export quota allocation, supply responsibility to the domestic industry.</p>		- Custom Regulation
11	Restriction on Profits Remittance Abroad	(1)	<b>Refusal / Difficult Remittance of Royalty</b>	- GOI totally disallows remittance of royalty for reasons that there is no economic rationality in royalty.		

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		(2)	<u>Collection Deadline and the Rate of Running Royalty</u>	- <u>Concerning the period of running royalty, while the term is indefinite for trademark/brand royalty, that of technical know-how is 15-years maximum, while the rate is 5% maximum. Even at 4%, it takes a haggling with the authority.</u>	- <u>There is no clear-cut guideline on "15-years maximum" and running royalty</u>	
		(3)	Collection on ROI is restricted	- <u>Minister's Decrees, Cabinet Orders, etc. have been promulgated to restrict investor's collection of return on investment (ROI) under the production sharing contract (PSC). These Decrees and Orders in part retroactively apply to the existing PSCs, and may impact the future business profitability.</u>	- <u>In light of securing the investment environment and operational profitability, it is requested that GOI hereafter makes it a point to secure opportunities to exchange dialogues with FFEs and operators of oil and gas businesses, before introducing the legislative measures.</u>	- Minister of Energy and Mineral Resources Order No.22 (2008) - National Budget Act 10 November 2008, Act No.41 25 August 2009, as amended by Act No.26 (2009) - Regulation on Collection of Cost and Income Tax (No.79, 2010)
		(4)	Shortage of the Contract Period under Production Sharing Contract (PSC)	- <u>Extension is necessary on the contract period under the profit sharing contract (PSC) for contract continuation, maintenance of production volume, securing economy, and consummation of finance. Contractor's continuation of long-term investment and assurance of future return on investment (ROI) are necessary for starting new production, and maintenance and expansion of the existing production volume. Performance under existing and new sales contract as well as repayment of bank borrowing becomes possible only upon fulfillment of all these requirements and necessities.</u>	- <u>It is requested that GOI:</u> -- <u>propels consultation on the extension of the Contract Period under PSC, and</u> -- <u>get it extended as soon as possible.</u>	- Regulation of Minister of Energy and Mineral Resources No. 35/2008), Article 28
12	Exchange Controls	(1)	Application of the Real Demand Principle on Foreign Exchange Transactions in Rupiah	- <u>Member firm's subsidiary incorporated in Indonesia is unable to deal in foreign exchange in Rupiah with another member firm incorporated in Singapore operating financing business in the same group, because GOI applies the principle of real demand as regards Rupiah related foreign exchange transactions.</u>  (Actions) - On 12 January 2001, GOI introduced regulation to restrict fund transfer between Rupiah bank accounts, prohibiting, in principle, the transfer of Rupiah between the non-residents, and restricting such transfer between residents and non-residents only relative to transactions contributory to the Indonesian economy. - Since July 2005, GOI has required submission of the underlying declarations, contracts, etc. for remittance in Rupiah to non-resident bank accounts	- <u>It is requested that GOI liberalises foreign exchange transactions.</u>	- BI Foreign Exchange System

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			<ul style="list-style-type: none"> <li>BI promulgated on 12 November 2008 Regulation No.10/28/PBI/2008 on "The Purchase Of Foreign Currency Against Rupiah Through Banks", that requires to the domestic non-bank legal entity and Foreign Funded Enterprises (FFE) submission of evidence that shows underlying transactions, in the case where purchase of foreign currency is involved in the amount exceeding US\$100,000. Valid underlying transaction documents include payment for the cost of import, accounts payable and other business activities. Commercial banks are required to collect and maintain adequately the record of the underlying transactions backed by evidence. Any banks not observing the requirements under this Regulation is subject to administrative penalty or fine in the amount not more than 10 million Rupiah (US\$899).</li> <li>On 28 June 2011, "Law No. 7/2011 on Currencies" was promulgated and enforced. Article 21 of the Law provides that the Rupiah must be used for all transactions in Indonesia, including without limitation, special transactions related to the national coffer for revenue/expenditure, external and internal free assistance, international commercial transactions, foreign fund deposit in banks, all settlement of accounts, excluding international settlement transactions, monetary debt settlement and all other financial transactions.</li> <li>"A.P. (DIR Series) Circular No.124 of 10 May 2012" compels conversion into Rupiah of 50% of the amount of foreign currency revenue received by exporters, etc. at Exchange Earner's Foreign Currency (EEFC) Account.</li> <li>When a foreign funded enterprise (FFE) purchases Rupiah in the amount corresponding to more than USD100,000 per month through a domestic Indonesian bank, the Central Bank compels FFE's submission to the Indonesian Bank of documents that certify the needs for purchase of foreign currency. (Indonesia Regulation No.10/28/PBI/2008 on "Purchase of Foreign Currency vs. Indonesian Rupiah through Banks")</li> <li>On 31 March 2015, bank Indonesia promulgated Regulation No. 17/3/PBI/2015 on the mandatory use of the rupiah (IDR) on all transactions in the territory of the republic of Indonesia. Enforcement date is from 1 March on transactions in cash, and for all transactions other than in cash, from 1 July 2015. However, as exceptions, this regulation does not apply to "receipt or payment between the states of free assistance fund, foreign currency transactions, foreign currency deposit, foreign currency transactions at banks, infra-projects (transportation, road, irrigation, water, public hygiene, information/ communication, electric power, petroleum, oil/gas, etc." at banks.</li> </ul>		
	(2)	<b>Restricted Offshore Borrowing</b>	<ul style="list-style-type: none"> <li>On 3 October 2011, BI promulgated "New Regulation on Export Proceeds and Offshore Borrowing Fund". While the new Regulation enables "exporter's net settlement of account with importers during 2012, from 2013 only gross settlement is permitted". A member firm now only exercises net settlement of account with its financial enterprise of the same group in Singapore for cost of trade, expenses and foreign exchange settlement. However, if in gross settlement, operational complications will result, as gross settlement must be made on transaction-by-transaction basis.</li> </ul>	It is requested that BI liberalises the foreign exchange transactions (by repealing the new Regulation).	BI Foreign Exchange System
	(3)	<b>Instability of Foreign Exchange Rate</b>	<ul style="list-style-type: none"> <li>The loss or profit from foreign exchange fluctuations heavily impacts especially the foreign investment report.</li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>In August 2013, the Central Bank of Indonesia released its emergency economic measures, including improvement in balance of trade, promotion of investment and expansion of export industries, raise in key interest rate, improvement in financial liquidity moreover, exchange intervention, as well.</li> </ul>	It is requested that GOI holds down radical fluctuations in foreign exchange transactions.	Reference: Malaysian Regulation on their Foreign Exchange

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				<p><b>(Improvement)</b></p> <p>- On 12 December 2013, the 3rd Bilateral Swap Arrangement (BSA) was ratified. It has almost doubled the cap from 12 billion to 22.76 billion. In addition, financial institutions operating in Indonesia signed fund supply agreement that enables Rupiah procurement on security of Japanese Government Bond.</p>		
		(4)	<u>Rapid Exchange Fluctuations</u>	- A member firm in direct trade with its local subsidiary (MFS) gains some exchange profit from the lower yen that enables MFS's resale at a special price level. Nevertheless, the bulk of MFS sales are made with thin profit so that should the transactions continue at higher yen, MFS will easily turn into deficits.	- It is requested that GOI endeavours to keep the exchange fluctuations within a few percents in 6-months.	
		(5)	<u>Exchange Fluctuations suppress Rupiah, push up Bank Interest</u>	<p>- Weaker rupiah, and rising consumer price index resemble closely the high-growth era of Japan, approaching the pre-bubble circumstances. High rupiah interest rates bring about a heavier burden of interest on the bank borrowing. MFS seeks exchange risk hedge (avoidance of risk) upon the external borrowings.</p> <p><b>(Actions)</b></p> <p>- On 17 March 20015, Bank of Indonesia promulgated new Regulation No. 17/3/PBI/2015 on the Mandatory Use of the Rupiah in the Territory of the Unitary State of the Republic of Indonesia. It is aimed at combating Rupiah depreciation by a partial exemption. Enforcement is due from 31 March 2015 on Cash Transactions and from 1 July 2015 on Non-Cash Transactions.</p>	- It is requested that GOI takes a quid pro quo approach, adjusting to the changing circumstances.	
13	Finance	(1)	Negative Impact upon the Trustee Borrowing Scheme by the Compulsory Receipt of Foreign Currency through Domestic Banks	<p>- BI Regulation compulsion of receipt at BI of export proceeds and external borrowing is a matter of concern, lest it gives negative impact on the existing and future financial schemes (trustee borrowing scheme, employing foreign banks).</p> <p><b>(Actions)</b></p> <p>- GOI has taken measures compelling enterprises, effective from 2 January 2012, to receive all foreign currency received from export or external borrowing via foreign exchange banks located in Indonesia.</p>	<b>Observance of BI Regulation necessitates agreement on understandings for avoidance of problems on repayment of borrowings from the overseas lenders.</b>	- BI Regulation No. 14/5/PBI/2012 of June 8, 2012 (Amendment to BI Regulation No. 13 /2011
		(2)	<u>Indefinite Application of Offshore Loan Control</u>	- On 28 October 2014, BI promulgated "new regulation on foreign currency-offshore loan". While this regulation mandates the exchange hedge based on the established calculation formula, it is uncertain if it applies to a company with its financial statement in US dollars. (USD F/S company). Where USD F/S company makes external borrowing in USD, no exchange hedge requirement should be applied to such companies, since no exchange risk can arise.	- It is requested that GOI excludes application of this regulation to companies with financial statement in US dollars.	- BI Regulation No. 16/21/PBI/ 2014 of 29 December 2014 Concerning the Implementation of Prudential Principles in Managing External Debt of the Non-Bank Corporation

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	(3)	<u>Abrupt Application of Foreign Currency Borrowing Control</u>	<p>- Bank Indonesia notification of 29 December 2014 on the non-bank corporation's external debt requires foreign exchange hedge in conducting purchase and sales business denominated in foreign currencies. Since 2016, external credit rating is required in executing debt denominated in foreign currencies.</p> <p>- While BI has restricted external debt denominated in foreign currencies since this year, a sudden change arisen has made it difficult for each corporation to respond. Moreover, BI's compulsion of risk hedge by the domestic banks in Indonesia, and acquisition of external credit rating are considered quite burdensome to certain corporations.</p>	<p>- It is requested that BI repeals or deregulates the BI requirements set forth in the left column.</p> <p>- It is requested that BI reconsiders the restrictions.</p>	<p>- Reg.16/20/Pbi/2014 (Old) =&gt; 16/21/Pbi/2014 (New)</p> <p>- BI Notification</p>
	(4)	<u>Restricted Cross Border Financing Among Group Companies</u>	- BI does not allow cross border financing, in local currency, among group companies, disabling effective lending and borrowing of funds among group companies. While such transactions are possible if in USD, it requires advance consultation with and reporting to BI.	- It is requested that BI deregulates restrictions and liberalises funding transactions.	- BI
14 Taxation Systems	(1)	<b>Nebulous Denial/ Additional Tax/ Arbitrary Nature of Tax Investigation</b>	<p>- Due to the high rates of the pre-paid income tax upon import, frequently a member firm files request for tax refund. Tax payers, who request tax refund, always should subject to tax investigation from tax authorities. It may be probably unwilling to make full-refund, at their sole discretion, with an extraordinary interpretation of tax laws and regulations. Consequently, the possibility for additional tax and penalty collection is higher than that of tax refunds. Request for reinvestigation, tax court proceedings, etc. are all time consuming and costly, and can easily interfere with business performance.</p> <p>- Payment made under "the Advance Payment Scheme of Corporate Income Tax (APSCIT)" based on the income of the preceding year, without exception, meets with tax investigation by tax investigators. However their knowledge and skill vary from one to the other. Probably due to the state target on tax revenue, more often than not, the results of tax investigation are irrational. In short, investigators tend to deny the income tax refund.</p>	<p>- It is requested that GOI:</p> <p>-- harmonizes interpretation of Laws</p> <p>-- brings up the ethics of tax auditors,</p> <p>-- streamlines the taxation system, and</p> <p>-- implements adequate tax auditing.</p> <p>- In the light of helping the business development, It is requested that GOI takes step to:</p> <p>-- review APSCIT,</p> <p>-- enhance professional quality of tax investigators,</p> <p>-- put a stop to investigators' unreasonable questions,</p> <p>-- enhances transparency, and foreseeability of tax investigation, and</p> <p>-- makes fair decision after exhausting reasonable questions and answers.</p>	<p>- Various Acts and Regulations</p> <p>- Minister of Finance Decree No73/ PMK03/2010 (on VAT)</p> <p>- Regulation of the Directorate General of Tax No. PER-45/PJ/2013 (Amending Minister of Finance Regulation No. 163/PMK.03/2012, etc.)</p> <p>- Indonesian Income Tax Law, Article 18.3</p> <p>- SPT Articles 25/29, Income Tax Act</p>

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			<p>- <u>A huge amount of capital fund would be freezed due to exorbitant tax levy by the denial of royalty, trademark fees and so on, transfer pricing tax system, unrealistic denials or else When a member firm request for reinvestigation, tax court proceedings, etc. its capital fund would be freezed for a long time. Tax auditors deny deduction from taxable income of royalty and trademark fees without exchange of due explanation and discussions with taxpayers.</u></p> <p>- <u>There exist tax rules physically impossible to follow. In addition, the business faces obstacles because tax authority's officials collect tax or impose a penalty, with ambiguous interpretation of tax law and under no fulfillment codes.</u></p> <p>- <u>In the context of Transfer Price Taxation System (TPTS) investigation, the GOI tax authority denied deductible expense and collected back tax on the expense of the instructions and debt guarantee provided by the parent company to its subsidiary, because the authority considered them as dividends from subsidiary to its parent company. Member firm and MFS both observe to the letter carefully the documentation requirements at high cost. It would seem the tax investigator just levied the back tax, without delving fully into the documents prepared and submitted/shown to the GOI investigators.</u></p> <p>- <u>Nebulous taxation administration. At the sole discretion of the tax investigators, deductible expenses are denied. Application for tax refund triggers tax investigation, which sometimes extend to several years.</u></p>	<p>- <u>It is requested that TA makes a fair judgement after making available ample opportunity for explanation and exchange of dialogue with taxpayers. The Head Office Accounting Department of the member firm has provided full explanation about the existing status to Japan's National Tax Agency, etc. to bring the issue up on the agenda for dialog between GOI and GOJ.</u></p> <p>- <u>It is requested that taxation authority:</u>  <u>-- overhauls taxation system including implementing detailed registrations, and</u>  <u>-- provides a forum to exchange dialogues with business operators, industrial associations, etc., affording training programmes to taxation officials, and giving an opportunity for enterprises' case study.</u></p> <p>- <u>It is requested that GOI gives explanation in the manner taxpayers can understand, after completing sufficient verification of the TPTS documents.</u></p> <p>- <u>It is requested that GOI takes step to:</u>  <u>-- overhaul the legislative provisions, and</u></p>	

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				-- <u>implements tax investigation in all fairness.</u>	
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In November 2000, it was announced by the government that a severe legal measures would be taken to collect tax from those found to have been evading tax.</li> <li>- At the 6th General Conference to Exchange Dialogues on Policy Matters held in July 2003 between the Jakarta Japan Club ("JJC") and the Indonesian government it was confirmed that the new regulation (KEP-220/PJ/2002) had resolved the ambiguous interpretation by the tax officials concerning the treatment of the cost of office cars and cellular phones as deductible expenses. It is now clearly defined in the new registration.</li> <li>- The bill to amend Income Tax Act that passed the Parliament on 2nd September 2008 introduces the measure to levy extra withholding tax on non-holders of NPWP (tax-file number= Nomor Pokok Wajib Pajak) to tighten tax collection.</li> <li>- The bill to amend income tax due for enforcement from 1 January 2009 passed the Parliament on 2 September 2008. The progressive tax rate has been unified to 28% in 2009, and 25% in 2010. Income tax on dividend received is subject to final tax of 10% maximum as separate withholding tax.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- At the 6th General Conference to Exchange Dialogues on Policy Matters held in July 2003 between the Jakarta Japan Club ("JJC") and the Indonesian government, it was confirmed that a special team was established within the General Taxation Bureau to deal with the administrative protest by taxpayers.</li> <li>- President Yudoyono assuming the administration in 2004 has taken steps aimed at fair tax collection, for example, by directing investigation of the enterprises that are the top 200 highest taxpayers.</li> <li>- In Jan. 2004, the Press Release of the CMEA reported the progress of the implementation of PI No.5/2003 on the "Measures to Reform Tax and Customs Administration," that: "The Director General for Tax (DGT) has issued a Directive on Charter of Taxpayers' Rights as part of the Government's effort to improve tax administration and quality of service to taxpayers".</li> <li>- The Report of the "Taxation Sub-Committee" lists the following results obtained on the request to GOI (as of March 2004):             <ol style="list-style-type: none"> <li>1) Shortening of the serviceable life of the computer related assets;</li> <li>2) Simplifying the application procedure for the other assets classified under the Group III (with serviceable life of 16 years);</li> <li>3) Clarification on the deductible expenses concerning company cars and cell phones;</li> <li>4) Establishment of the special-service window for consultation at the General Taxation Office;</li> <li>5) Clarification on the rules for inclusion in expenses the costs for cell phones and sedans used for the company.</li> <li>6) Provision of an orientation period for the new laws and regulations, and GOI's commitment to exert its effort to thoroughly educate officials on the implementing regulations.</li> <li>7) Clarification has been secured on the effective date for the laws and regulations, and GOI will exert its efforts to abolish irrational interpretation and to provide a thorough training and education to officials.</li> <li>8) Reduction of the tax rate on the withholding tax for Maklon (indented processing) service was made possible; and</li> <li>9) It was clarified that the offshore transactions are not subject to VAT.</li> </ol> </li> </ul>		



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			<ul style="list-style-type: none"> <li>- As of August 2004, the CMEA's Press Release reported the following progresses of the implementation of PI No.5/2003 which address the transparency issue:               <ol style="list-style-type: none"> <li>1. Establishment of tax website: (<a href="http://www.pajak.go.id">http://www.pajak.go.id</a>); the establishment of National Ombudsmen Committee to address complaints.</li> <li>2. Internal workshops designed to clarify and to socialize the interpretations of tax regulation: 40 times, while 200 external workshops designed for the same purposes had been conducted.</li> </ol> </li> <li>- New Regulation and new standard are issued for Tax Investigation Method on Tax Investigation. (SIAP Report 2006).</li> <li>- Administration of taxation in Indonesia has shown improvement in each year, with the refund period reduced to half-year or so. Points put forth by Officials' are within reason. Since 2007, no demand for bribery has been made.</li> <li>- The New Customs Tariff General Rules, enforced from the beginning of 2008, provide that tax levy is not compelled during the period of protest.</li> </ul>		
	(2)	Irrational Personal Income Tax Calculation on Expatriates	<ul style="list-style-type: none"> <li>- <u>GOI applies progressive tax levy calculation method of calculating personal income tax in Indonesia. The engineering company (for water treatment equipment that our member firm owns in Indonesia, namely, MFS) completed the procedures for tax payment by calculating the personal income tax rate during January through March 2013 (*a) for its expatriate, who returned to Japan in March 2013. In return, GOI instructed MFS to pay the tax amount (*b), which is obtained by quadrupling the personal income of January through March 2013 to obtain the annual personal income amount (APIA) and apply one-fourth of the applicable tax rate on APIA to obtain the amount of the personal income tax (*b), which is payable. Under this calculation method (*b), the amount of personal income tax payable becomes higher than (*a). MFS requested the Tax Authority to show the legislative provisions, directing this calculation method. However, it remains in the dark. Repeating the same question to the competent authority seems to have only added fuel to the fire in past investigations involving other firms. MFS is at a loss what to do next.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI identifies the calculation basis for the personal income tax payable by expatriates returning to Japan in Mid-term of the Fiscal Year.</u></li> </ul>	Income Tax Law, Article 17.1(a)
	(3)	The risk of PE Tax Levy Due to Deficiency in Tax Treaty	<ul style="list-style-type: none"> <li>- <u>Under tax treaties after methods for elimination of double taxation of the OECD Model Tax Convention (such as the Tax Treaty between Japan-Singapore) normally exclude "storage", "display" and "delivery", regarding them as business activities not corresponding to PE. However, the Tax Treaty of neither Japan/Indonesia nor Singapore/ Indonesia includes "delivery" in the "business activities not corresponding to PE" so that while the mere domestic storage of goods in the premise within Indonesia owned by an enterprise would not amount to PE (permanent establishment), should an enterprise deliver the goods, as if to run a warehouse, or to handle VMI (vendor managed inventory), such enterprise can be considered as PE.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOJ and GOI take steps to add "delivery" in the business activity not corresponding to PE in the Tax Treaty.</u></li> </ul>	

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	(4)	Default, Opaqueness, and Delays Inextricably tied to VAT Refund	<p>- VAT 10% is premised on the conditions that the total VAT amount paid gets refunded in satisfaction of the requisite requirements. However, it takes a long time before the refund materialises from the filing date of application. The refund amount can be reduced on the ground of deficiency, etc. in the submitted documents.</p> <p>- In business with GOI, member firm's subsidiary (MFS) is responsible as contractor for payment of VAT 10% which is refunded later. However, it takes a long time to get the refund, for maximum one year, materially affecting MFS's cash flow.</p> <p>In constructing industries, income tax payable is 4% for our member firm in Japan, and 3% for MFS locally incorporated.</p> <p>The prevailing circumstances make it difficult for MFS to yield profit required for payment of income tax.</p> <p>- GOI implements the scheme for advance payment of income tax. If the amount of advance payment is larger than the amount of tax return, filing of refund application follows. In such cases, tax investigation takes place. Due to the administration's arm-twisting levy of additional tax, no refund becomes receivable. (Recently, in many cases, no refund is available, due to the transfer price taxation system.)</p> <p>- While VAT refund is usually executed upon filing application in the event of importing equipment under investment application, in the event the regional tax revenue is behind the taxation bureau's schedule, such application gets denied or extended for an indefinite period without approval.</p> <p><b>(Actions)</b></p> <p>- Directorate of General Customs (DGC) Regulation No.PER-122/PJ/2006 was promulgated on 15 August 2006, followed by DGC Regulation No. PER-176/PJ./2006 promulgated on 19 December 2006. Presidential Directive No. 6/2007 on "New Investment Policy Package" of 7 June 2007, GOI committed to expedite the VAT refund procedure.</p> <p>- On 16 September 2009, the Bill for the 3rd Amendment (Act No. 42 [2009]) of Act No.8 [1983] on Value Added Tax for goods and service and luxury tax passed the House of Representative.</p> <p>On 15 October 2009, President Yudoyono promulgated the same Act. Act No. 42 expands the definition of taxable and non-taxable items, while mainlining the VAT rate at 10%. The same Act also raises the maximum rate of luxury tax from 75% to 200%. The classification of luxury tax and the respective tax rate per item will be clarified in the implementing regulations that MOF publishes later. A few implementing regulations will be promulgated before the effective date of the Act (1 April 2010), according to some experts.</p>	<p>- It is requested that upon change in taxation system and/or tax rates, in order to ensure transparency, GOI:-- provides FFEs with opportunities for exchange of dialogue, and-- gives sufficient and adequate explanation.</p> <p>- It is requested that GOB takes steps to:</p> <p>-- overhaul its legislation, and</p> <p>-- conduct tax investigation in all fairness and correctness.</p> <p>- It is requested that the taxation authority executes VAT Refund as written into the legislative provisions.</p>	Income Tax Law No.51/2008, etc.

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			<p>- On 31 March 2010, MOF promulgated MOF Decree No. 75/PMK.03/2010 (enforced from 1 April 2010) stipulating 11 items of goods/services subject to new value added tax (VAT) and the respective taxable base for each item.</p> <p>New goods and service subject to VAT are: (1) goods and services for own consumption, (2) goods and services obtained as gift or for free, (3) Audio-video recording equipment, (4) movie films, (5) tobacco products, (6) inventory assets due to enterprise liquidation, (7) intra-company transfer of goods between head and branch offices, (8) goods obtained from intermediary dealers/brokers, (9) goods obtained by auction, (10) parcel delivery service, and (11) travel and tourism agencies.</p> <p>The tax bases of the 11 categories of goods and services are as follows:</p> <p>Taxable Goods and Services under Decree 75 ---- Tax Base</p> <p>(1) Goods and services for own consumption ---- Cost of the sales of the goods for own-use</p> <p>(2) Donated or free goods and services ---- Cost of sales of the free gifts or donated goods and services</p> <p>(3) Audio and video recording equipment ---- Estimated average selling price for the audio and video recording equipment</p> <p>(4) Movie films ---- Average yield per film title</p> <p>(5) Tobacco products ---- Retail selling price</p> <p>(6) Inventory and assets, originally intended for sale, during a company's liquidation ---- Market value of the remaining inventory of taxable goods and sale of non-inventory assets that were originally not intended for sale at a company's liquidation</p> <p>(7) Intra-company transfer of goods between headquarters to branch offices or vice-versa ---- Cost of sales or acquisition cost of the transferred goods</p> <p>(8) Goods delivered through an intermediary trader or broker ---- Agreed price for the deliveries of taxable goods through an intermediary trader or broker</p> <p>(9) Goods delivered through auction ---- Auction price for the deliveries of taxable goods through an auction officer</p> <p>(10) Parcel shipment and delivery services ---- 10 percent of the actual billing for parcel shipment and delivery services</p> <p>(11) Travel and tourism agency services ---- 10 percent of the actual billing for tour and tourism agency services</p> <p>- The 2012 Budget fails to identify the timing on GST introduction that consolidates the indirect taxes. However, the pilot test for the GST Network System is due for implementation by August 2012 in plural Provinces.</p> <p>- On 9 May 2014, Ministry of Finance promulgated Finance Minister Regulation (PMK) Number 151/PMK.011/2013 that begins "The e-invoice imposition of Value Added Tax (VAT_PPN) on 1 July 2014 in stages.</p> <p><a href="http://www.kemenkeu.go.id/Berita/kemenkeu-berlakukan-faktur-pajak-elektronik">http://www.kemenkeu.go.id/Berita/kemenkeu-berlakukan-faktur-pajak-elektronik</a> (Bahasa Indonesia)</p> <p><a href="http://www.kemenkeu.go.id/en/Berita/mof-enforces-electronic-tax-invoice">http://www.kemenkeu.go.id/en/Berita/mof-enforces-electronic-tax-invoice</a> (English)</p> <p><b>(Improvement)</b></p> <p>- As a result of the talk between JJC (Jakarta Japan Club) and General Taxation Bureau in Jakarta, it has been made possible, upon presentation of the documents evidencing the transactions, to seek refund of value added tax resulting from mistakes such as purchasers' omission of filing tax returns or from delays in tax payment.</p> <p>- Pursuant to the revised Value Added Tax Act, from 1 January 2001, it has become possible:</p> <p>(1) to file every month request for refund, if the VAT paid exceeded the VAT invoiced, whereas such refund request was previously only possible at the year end;</p> <p>(2) to substitute the VAT invoices with commercial invoices; and</p> <p>(3) to receive the VAT refund within one month for corporate tax payers satisfying certain conditions and for lawful tax payers.</p>		

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				<ul style="list-style-type: none"> <li>- At the 6th General Conference to Exchange Dialogues on Policy Matters held in July 2003 between the Jakarta Japan Club ("JJC") and the Indonesian government, it was confirmed that the refund procedure for the value added tax would be expedited as a concrete example of improvements. It was confirmed that the corrected tax invoice could be replaced, before the tax examination begins, with the ones containing minor errors, such as typographical errors, incorrect address, which, Japan requested, should not be a cause for penalty or refusal of refund. Return of refund for the value added tax is a matter of great concern for the JJC members, involving enforcement issues, and it was reconfirmed that this matter would be closely monitored by JJC.</li> <li>- According to the "Taxation Sub-Committee" Report, GOI introduced a new computer system (PMPK System) for the VAT procedure to improve the service efficiency. However, the authority continues to demand severely correction of entry errors on bills and vouchers.</li> <li>- According to the questionnaire survey involving 587 enterprises in the major cities by Social-Economic Research Institute of Universitas Indonesia during June through August 2006, the number of days required for receipt of VAT refund is reduced from 6.3 months in 2005 to 5.1 months in 2007, while the bribery payment rate was only slightly reduced from 57% to 53%.</li> <li>- The period from filing request to actual receipt of VAT refund has been shortened according to a good number of answers received by JJC to its questionnaire sent out in September 2007.</li> </ul>		
		(5)	Application of Deemed Corporate Income Tax Rates to Construction Enterprises	<b>-The tax rate of 3% (25% corporate tax against deemed profit of 12%) is extremely high, and does not reflect the real state of affairs.</b>	<b>- It is requested that GOI reduces the tax rate in line with the actual profit rate.</b>	Corporate Income Tax (2008) No.51, Article 3.1
		(6)	Difficulty in Obtaining the VAT Code Number	<ul style="list-style-type: none"> <li>- GOI refuses to issue PKP (Pengusaha Kena Pajak or taxable companies/ entrepreneur code number) in the absence of genuine transactions, resulting in anomaly that our member firm is unable to execute its tax deduction right (SPPKP) from the prospective business profit in the future. This implementation is extremely harsh on new entrants that have just established their enterprises in Indonesia.</li> <li>- These entrants must incur unnecessary expense and labour for establishment of temporary offices in order to obtain the permanent legal addresses, etc.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that that GOI either synchronises acquisition of VAT code number with NPNW (Nomor Pokok Wajib Pajak=taxpayer code number) or synchronises issuance of PKP/SPPKP simultaneously with issuance of WPNW.</li> </ul>	<ul style="list-style-type: none"> <li>- It appears that issuance of PKP is not stipulated into law but is governed by Tax Directorate General Brochure: "Sudah Punya NPWP - Segara Sampaikan SPT Tahunan PPh Anda (Do you have a tax number - File your Tax Return Now)"</li> </ul>
		(7)	Nebulous Basis of implementing and administering Regulations of Tax Law	<ul style="list-style-type: none"> <li>- <u>Certain parts of provisions and expressions are nebulous on the New Decree promulgated on Income Tax including tax on transfer of Upstream Rights and Interests for petro-gas. The Firm is at a loss how to deal with the New Decree in regard to its transfer projects, etc.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI:</u></li> <li>- <u>-- provides opportunity to exchange dialogues with enterprises and business associations, etc., including FFEs in its effort to overhaul the taxation system, and</u></li> <li>- <u>-- provides and sufficient and clear explanation on the grey areas.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Regulation on Collection of Cost and Income Tax (No.79, 2010)</li> <li>- Act No.36 (2008)(The 4th Amendment of Income Tax Act, Article 31D)</li> </ul>

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			<p>- <u>Stringent operation of the taxation scheme.</u></p> <p>- <u>In December 2014, new regulation was promulgated concerning the VAT refund. While the research is now under way, its economic impact may be a matter of concern upon the going project.</u></p>	<p>- <u>It is requested that GOI enhances transparency in the taxation scheme operation.</u></p> <p>- <u>In introduction of new taxation scheme or before effecting tax rate change, it is requested that GOI ensures to maintain transparency by providing opportunities for exchange of dialogues with FFEs, gives sufficient and justifiable explanation, etc.</u></p>	<p>- <u>Finance Minister Decree No.218/PMK02/2014 (VAT Refund)</u></p> <p>- <u>Tax Treaty Regulation</u></p>
	(8)	Nebulous Transfer Pricing Taxation System and Its Arbitrary Implementations	<p>- Compared to other ASEAN Member States, the legislative overhaul remains insufficient concerning Transfer Price Taxation System (TPTS), while the government employees' grasp of TPTS is not deep enough. Nevertheless, due to the severe tax levy order from the top, tax investigators, on site, keep issuing recklessly correction notices. In the latter half of 2010, some progress took place, such as publication of Guidelines on Transfer Price Taxation System and Bilateral Consultation. However, there remain ample rooms for further improvement. Although, Guideline on Transfer Price Taxation System was published on 6 September 2010, it fails to follow the OECD Guidelines on Transfer Price Taxation System, while leaving nebulous areas. There have been cases, where GOI issued invoices for additional tax levy upon Japanese Affiliated Enterprises.</p> <p>- Our member firm in Japan gave managerial instructions and debt guarantee to its subsidiary located in Indonesia (MFS). GOI has rejected regarding as 'deductible expenses' the consideration that MFS paid to our member firm for the managerial instructions and the debt guarantee that MFS received from our member firm. By insisting its position that such payment amounts to dividends, GOI has levied additional tax upon MFS. MFS has incurred huge cost to satisfy and perfect the documentation requirements under TPTS in every detail. However, it seems, in reality, GOI levies additional tax without giving deep analysis in the course of its tax investigation.</p>	<p>- It is requested that GOI upgrades the level of TPTS investigators in knowledge, expertise and judgement power to level with that of leading countries.</p> <p>- It is requested that GOI:</p> <ul style="list-style-type: none"> <li>-- spares no effort in giving sufficient verification on the TPTS documentation the taxpayer has prepared, and</li> <li>-- be sure to provide unambiguous, clear-cut explanation for tax levy in the language and manner understandable to taxpayers.</li> </ul>	<p>- <u>Directorate General Taxation Decree (2010) No.43 on Application of Arm's Length Pricing Principle</u></p> <p>- <u>Directorate General Taxation Circular (PER-22/PJ/2013)</u></p> <p>- <u>Directorate General Taxation Circular (PER-11/PJ/2013)</u></p> <p>- <u>PSAK Revision 2013</u></p>

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			<p>- <u>Operation of TPTS is arbitrary in Indonesia.</u></p> <p>-- <u>In 2013, ITO (Indonesian Tax Office) changed the auditing standard (from all taxes to single tax). Under the single taxation system, completion of single tax investigation does not mean completion of investigation for all taxes.</u></p> <p>-- <u>Due to the change in the definition of "consolidated companies", companies without any shareholding can be subject to consolidation.</u></p>		
	(9)	<u>Double Taxation Risk of TPTS</u>	<p>- <u>Especially as regards TPTS a member firm, as a group of companies, faces the risk of double taxation.</u></p>	<p>It is requested that GOI:</p> <p>-- <u>overhauls its legislative provisions in line with the world standard TPTS (such as guidelines), and</u></p> <p>-- <u>enriches advance price agreement system (APA).</u></p>	
			<p><b>(Actions)</b></p> <p>- <u>Ministry of Finance, Indonesia, promulgated Regulations on Implementation of Mutual Agreement Procedure (MAP) and Advance Price Agreement (APA). (MAP enforced on 22 December 2014, APA on 12 January 2015).</u></p> <p>[Reference:] MOF Regulation on Application of MAP No. 240/PMK.03/2014, Web Page in Indonesian at: <a href="http://www.sjdih.kemenkeu.go.id/fullText/2014/240~PMK.03~2014Per.HTM">http://www.sjdih.kemenkeu.go.id/fullText/2014/240~PMK.03~2014Per.HTM</a></p> <p>[Reference:] MOF Regulation on Application of Advance Price Agreement (APA) No. 7/PMK.03/2015, Web Page in Indonesian at: <a href="http://www.sjdih.kemenkeu.go.id/fullText/2015/7~PMK.03~2015Per.HTM">http://www.sjdih.kemenkeu.go.id/fullText/2015/7~PMK.03~2015Per.HTM</a></p>		
15	Price Controls	(1) <u>Inadequacy in the Introduction Procedures for the Price Control Scheme on Non-Life Insurance</u>	<p>- <u>When GOI introduced compulsory price control (tariff) on fire insurance and car insurance, insurance companies could not cordon enough time to explain it to their customers previously because the regulation was promulgated at short notice.</u></p> <p><u>In addition, the discount scheme triggered upon satisfaction of certain conditions was notified prematurely in advance of the schedule of its application. Thus, abrupt change by the authority has impacted upon the scheduled budget.</u></p>	<p>- <u>In introduction of new regulation, it is requested that GOI ensures securing enforceability and transparency by making available opportunity to exchange dialogues with the concerned parties, such as foreign fund insurance carriers, accounting auditors, etc., gives sufficient information, and endeavours to assure effectiveness and maintenance of transparency.</u></p>	
16	Employment	(1) <u>Labour Act is excessively in favour of Workers</u>	<p>- <b><u>Under the labour act, an employer is empowered to dismiss workers not desiring to maintain continuation of the industrial relationship with the employer upon occurrence of consolidation, merger, or change of ownership. In such event, it is provided that employees are entitled to receive the prescribed retirement allowances (inclusive of premium).</u></b></p>	<p>- <u>The significance of employees' protection is lost, in a case where the employment relations between employers and employees remain unchanged, for example, in a share</u></p>	<p>- Labour Act, etc. of Indonesia</p> <p>- Labour Act, Article 163</p>

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			<p><b>In other words, employees are entitled to leave employment under the terms favourable to employees where the shares of an enterprise are transferred. In a merger and acquisition case with the intent of succeeding the employees across the board, this entitlement afforded to employees gives rise to an element of uncertainty. This provision also applies to the transfer of shares between enterprises in the same group. It could obstruct a smooth corporate reorganisation.</b></p> <p>- New Amended Labour Law includes provisions on severe criminal and administrative penalties upon employers, while deregulating penal provisions on workers' misconducts and misdemeanours. As to dismissals, numerous provisions heavily burdens employers.</p> <p>- <u>In the event of an employer's dismissal of an employee for poor attitude at work, under the labour act, it is the employer's obligation to pay higher retirement allowance than the case, where the employee leaves employment at his/her own initiative.</u></p> <p><u>The outcome of this practice is the advent of an environment, which is unjustifiably favourable to labour.</u></p>	<p>transfer transaction. It is requested that GOI gets the Labour Act amended.</p> <p>- It is requested that GOI reviews the labour act based on the more equal relationship between employers and employees.</p>	
			<p><b>(Actions)</b></p> <p>- The New Labor Act, while providing for heavier criminal and administrative penalties against employers, there is no provision whatsoever penalizing illegal conducts of employees.</p> <p>- On 25 February 2003, the new Labor Act was enacted. The new Act emphasizes the protection of employees:</p> <ol style="list-style-type: none"> <li>1) Upper limit of the retirement allowance is set at 9 months (Number of years worked plus one month);</li> <li>2) No retirement allowance is payable for voluntary termination or termination on account of illegal conducts;</li> <li>3) Payment of wages during walkout is specified;</li> <li>4) Legal work hours of Region is determined as 40 hours;</li> <li>5) The Minor's work hours is set at 3 hours a day; and</li> <li>6) The term for the temporary employment is set at 3 years at maximum. (Act No.13 of 25 March 2003)</li> </ol> <p><b>(Improvement)</b></p> <p>- At the 6th General Conference to Exchange Dialogues on Policy Matters held in July 2003 between the Jakarta Japan Club ("JJC") and the Indonesian government, it was confirmed as improvement, that the dismissal procedure was simplified for those employees who committed a grave negligence.</p> <p>- (Law No.13/2003, art. 158 (a.1) stipulates that employees who steal from the company can be discharged. Art 158 (2) stipulates that the illegal conduct is proven through:</p> <ol style="list-style-type: none"> <li>(a) during the commitment of the conduct,</li> <li>(b) self-confession, and</li> <li>(c) report made by an authority set up within the company with at least two witnesses.</li> </ol> <p>- Law No.13/2003, art. 168 stipulate that a labor with 5 or more days absent without notice can be dismissed without outside approval.</p>		

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			<ul style="list-style-type: none"> <li>- Law No.13/2003, art. 158 (1) identifies types of wrongdoing by labors upon which dismissal can be executed without permissions by the competent authority.</li> <li>- Law No. 21/2003 (25 July 2003) ratifies ILO Convention No. 81 Concerning Labor Inspection In Industry And Commerce.</li> <li>- Art. 2 of Law No.2/2004 (14 Jan. 2004) on Settlement of Industrial Relation Disputes, classifies disputes in 4 separate issues:               <ol style="list-style-type: none"> <li>1. Dispute on rights</li> <li>2. Dispute on interests</li> <li>3. Dispute on work severance</li> <li>4. Dispute between labor unions within a company</li> </ol> </li> <li>- Art. 3 stipulates that disputes are to be settled primarily through a bi-parties (labors and employer) talk. If no agreement is reached within 30 days, the talk is defined as failed.</li> <li>- Art. 4: The talk is to be brought to the authority which shall request both parties to choose either conciliation or arbitration approach. If no response is given within 7 days, the authority refers the case to a mediator.</li> <li>- Art. 5: Should no settlement is reached either through conciliation of arbitration , either party can submit the case to the Industrial Relation Court.</li> <li>- Art. 59 provide the establishment of Industrial Relation Court in every local government (Kabupaten/Kota) to be located at the capital of the province.</li> </ul>		
	(2)	Radical Trade Union Movement and Demand for Wage Increase	<ul style="list-style-type: none"> <li>- <u>The minimum wage in recent years in Indonesia has shown a continued radical upward trend, even ahead of the upward curve of the consumer price indices. It has given a substantial negative impact upon the profitability of each Indonesian enterprise. Furthermore, the labour movement has gotten radical. The rush of mass labour demonstration, parading in the industrial zones has frequently paralysed the factory operation throughout the industrial zones.</u></li> <li>- <u>Labour union, being in a position to walk out legally at any time regardless of the contents (logicality) of the collective bargaining, tends to push through unjustified demands by resort to force.</u></li> <li>- <u>In each year, the legal minimum wage goes up, to become a factor for the chronic decline in profit. In each year in Jakarta, a large scale demonstrations led by the plural labour unions take place, so that some enterprises are forced to suspend operations.</u></li> <li>- <u>There have been frequent outbreaks of demonstrations and strikes in Industrial zones, in the capital vicinity, etc. causing traffic restrictions and industrial park closures, etc. and interrupting smooth business operation.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>In stead of focusing attention only upon the labour side contention, it is requested that Indonesian governmental authority will cultivate the atmosphere that allows realistic employers/employees exchange of dialogues on even, equal footing between employers and employees.</u></li> <li>- <u>It is requested that GOI takes step to amend the lopsided law in favour of the labour.</u></li> <li>- <u>It is requested that GOI take steps to suppress the legal minimum wage within the level that enables enterprises to maintain competitive edge by business endeavours.</u></li> <li>- <u>It is requested that GOI takes step to clamp down upon illegal demonstrations and strikes.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Labour Law (Undang Undang Ketenagakerjaan) No. 13/2003</li> <li>- No. 13/2003, etc.</li> </ul>



Category	No	Issue	Issue Details	Requests	References
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Art. 2 of Law No.2/2004 (14 Jan. 2004) on Settlement of Industrial Relation Disputes, classifies disputes in 4 separate issues:               <ol style="list-style-type: none"> <li>1. Dispute on rights</li> <li>2. Dispute on interests</li> <li>3. Dispute on work severance</li> <li>4. Dispute between labor unions within a company</li> </ol> </li> <li>-- Art. 3 stipulates that disputes are to be settled primarily through a bi-parties (labors and employer) talk. If no agreement is reached within 30 days, the talk is defined as failed.</li> <li>-- Art. 4: The talk is to be brought to the authority which shall request both parties to choose either conciliation or arbitration approach. If no response is given within 7 days, the authority refers the case to a mediator.</li> <li>-- Art. 5: Should no settlement is reached either through conciliation or arbitration, either party can submit the case to the Industrial Relation Court.</li> <li>-- Art. 59 provide the establishment of Industrial Relation Court in every local government (Kabupaten/Kota) to be located at the capital of the province.</li> <li>- Decree of MOMP&amp;T No. 232/Men/2003 (31 Oct.2003) defines consequences of illegal strikes.</li> <li>- Since enforcement in January 2006 of No.3/2004 Industrial Relationship Dispute Settlement Law, GOI has made a fair progress for smooth implementation of the law, such as provision of training to dispute settlement organizational staff, mediators and intercessors. Moreover, GOI has been compiling judicial precedents on the past labor disputes in Indonesia. (Japan-Indonesia Strategic Investment Action Plan ("SIAP") Report of November 2006).</li> <li>- On 17 January 2012, prompted by the Constitutional Court's unconstitutional judgement over the outsourcing issue under Law No.13/2003, about 6,000 workers, all members of Federation of Indonesian Metal Workers' Union (FSPMI) in 3-industrial zones, Kota Bekasi, West Java Province, on 19 June 2012 marched, seeking improvement in the employment terms for non-regular employees working under the term-contract, or as contract workers, so that they are turned into regular employees.</li> </ul>		
	(3)	Raise in Minimum Wage by a Large Margin	<ul style="list-style-type: none"> <li>- <u>Since 1 January 2013, the minimum wage rate has gone up by 30%.</u></li> <li>- <u>In Bekasi Regency where our member firm's subsidiary (MFS) is located, the 2014 Official Minimum Wage has gone up by about 22% which is less radical than 40% up in 2013. Nevertheless, the up rate remains at high level.</u></li> <li>- <u>In addition, Trade Union has become more and more active, while administration's role as intermediary cannot be relied upon. For the sake of avoiding strikes and hiatus of production, employers have no alternative but swallow irrational demands of the Trade Union.</u></li> <li>- Recently, a radical minimum wage increase of dozens of percent is a common occurrence in many areas and regencies.</li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that Kota Bekasi to hold down the minimum wage raise rate, (which debilitates the international competitive edge.)</u></li> <li>- <u>It is requested that Administration will shoulder its responsibility as intermediary in a fairer and more equitable position.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Labour Act, etc.</li> <li>- No. 13/2003, etc.</li> <li>- <u>Inadequate implementation of Law No.13, 2003 on Workforce, Article No.89, and Labour Minister Regulation 2013, Article 7</u></li> </ul>

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			<p>- <u>Minimum wage increase rate (e.g. up by 15-20% against 2014 in West Java, 2015) has come to apply to all wage rate levels, while the level of labour productivity does not match that of wage rate. It has weakened, as a result, the international competitive power of this country as manufacture/production depot.</u></p> <p>- <u>The operational cost increases aggravates business environment in Indonesia in each year, by the wage hike, etc.</u>  <u>General strikes demanding wage hike take place several times in a year, forcing the factory closure each time, negatively impacting upon the productivity. Furthermore, Japanese employees, by company order, had to stay at home for the clearance of the general strike scheduled during 10-11 December last years.</u>  <u>If such situations continue, additional investment in Indonesia would be cautious. In the worst case, it may be inevitable to close from the factory with poor profitability in order.</u></p>	<p>- <u>It is requested that that GOI takes step to:</u>  <u>-- construct the process for structuring the wage level that intermingles the managerial view point of business operators.</u>  <u>-- make translucent the minimum wage decision process, etc.</u></p> <p>- <u>It is requested that GOI provides guidance to the labour union.</u></p>	
			<p><b>(Actions)</b></p> <p>- <u>On 15 October 2015, GOI released the economic stimulus package that included a new fixed calculation formula for minimum wage raise applied uniformly across the state. On 23 October 2015, GOI promulgated Decree No.78, 2015 concerning the minimum wage, which is determined by addition of the inflation rate and the substantive GDP growth rate.</u></p> <p>- <u>Legal Minimum Wage (LMW) In Million Rupiah (MIR) in 3-major provinces were as follows:</u>  <u>The special capital region of Jakarta determined LMW at 2.7 MIR for 2015 up by 10.06% over 2014, and 3.1 MIR for 2016 up by 14.8% over 2015,</u>  <u>Bekasi province determined LMW at 2.925 MIR for 2015 up by 19.5% over 2014, and 3.261 MIR for 2016 up by 11.50 % over 2015, and</u>  <u>Surabaya progice determined LMW at 2.71 MIR for 2015 up by 23.2% over 2014, and 3.045 MIR for 2016 up by 12.4% over 2015.</u></p>		
	(4)	<u>Tightened Terms for Foreigner's Work Visa Acquisition</u>	<p>- <u>The previous terms for foreigner's work visa requirement (minister regulation of 28 March 2008) was took over from Article No.26.1 of labour minister regulation 2013, law No.12. That was the change from "university degree inclusive of technical college (under immigration authority's internal rules), and/or work experience (of more than 5-years) "to"academic background and work experience".</u>  <u>It has narrowed down the requirements, thwarting the desptach of junior employees, moreover, disrupting the staff despatch scheduling in the personnel management.</u></p>	<p>- <u>In promulgating the new scheme, it is requested that GOI takes care and pays attention to avoid expulsion of foreign workers in effect.</u></p>	<p>- <u>Labour Minister Decree on Employment of Foreign Workers (No.12, 2013)</u>  <u>- OJK Regulation No.4/POJK.05/2013</u>  <u>- KEP.16383/PPTK/PTA/2014</u></p>

Category	No	Issue	Issue Details	Requests	References
			<p>- <u>Work visa acquisition must clear restrictions of the age limit and the academic background of the applicant.</u></p> <p>- <u>According to certain reports(*), amendment of labour minister's decree is under progress that includes compulsion of the Indonesian language proficiency test as one of the conditions for the visa issuance.</u> (Reference) (<a href="http://news.nna.jp/free/news/20150105idr006A.html">http://news.nna.jp/free/news/20150105idr006A.html</a>) (<a href="http://news.nna.jp/free/news/20141126idr006A.html">http://news.nna.jp/free/news/20141126idr006A.html</a>)</p> <p>- <u>Draft amendment bill is now under deliberation for acquisition of a long-term work visa in Indonesia (KITAS). Academic background of 2-year technical college or more, plus clearance of the Indonesian language test seem to be the requirements (although the Indonesian language requirement remains unconfirmed, while its confirmation is being requested).</u></p> <p>- <u>It appears that GOI has tightened the visa acquisition thresholds upon Japanese expatriates. To wit, (1) acquisition of proficiency in Indonesia language, (2) academic background requirement, and (3) halving the visa validity period (first time of filling ; 1 year, from the next time; half year). (It is said Indonesian language proficiency is actually on schedule, and is under confirmation.)</u></p> <p>- <u>Finance minister regulation, enforced at the 2013 year-end, compels fit &amp; proper test to all foreigners working in non-bank businesses other than the native Indonesians. No work-visa will be issued to the applicants who fail this test. Should the new expatriate (sent to Indonesia by the regular staff transfer schedule) fail this test, such expatriate has nowhere to go.</u></p> <p>- <u>Technical supporters are required to open new business in Indonesia however the severe restriction on VISA (KITAS, Kartu Izin Tinggal Terbatas/Tetap) might be an obstacle.</u></p>	<p>- <u>In construction Industries, well-experienced staff with rich working experience is indispensable for the projects. Therefore, deregulation is requested lest it results in expulsion of foreigners.</u></p> <p>- <u>It is requested that GOI considers exempting the language proficiency Test upon the Japanese visa applicants, by submission of the public test results such as TOEIC, TOEFL, Indonesian proficiency test, etc.</u></p> <p>- <u>It is requested that GOI deregulates the terms for the visa acquisition requirements.</u></p> <p>- <u>It is requested that GOI deregulates the terms and conditions for the visa acquisition.</u></p> <p>- <u>As written in the Regulation, it is requested that GOI:</u> -- <u>issues the judgement basis of the test results of yes or no, and</u> -- <u>expedites the procedures from filing test application to yes or no decision.</u></p> <p>- <u>It is requested that GOI reviews the terms for issuing visa commensurate with the applicant's requirements.</u></p>	

Category	No	Issue	Issue Details	Requests	References
	(5)	Procedure to obtain Work Visa is complex and delayed	<ul style="list-style-type: none"> <li>- <u>Expatriates visa acquisition procedures just take too long, or unpredictable.</u></li> <li>- <u>It takes too long for issuance of visa and various permits/licences, delaying the timely entry of the requisite workforce into the project site, disrupting the project progress.</u></li> <li>- <u>Regulations of visa issuance are subjected to frequent changes without advance notice. It interferes with the smooth filing of applications.</u></li> <li>- <u>Due to the time consuming examination at SKK Migas and MIGAS (supervisory ministries and agencies), frequently, staff rotation programme would not advance in line with the schedule. Especially, the visa renewal from 2014 to 2015 met with difficulty so that the expatriate was unable to assume his job responsibility for several weeks to a month.</u></li> <li>- <u>Upon starting up business in Indonesia, it takes a month or more for the KITAS acquisition for the supporting engineer so that it is difficult to give the emergency support.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI expedites the visa issuance procedures and its examination.</u></li> <li>- <u>It is requested that GOI expedites the visa issuance procedures and make them transparent.</u></li> <li>- <u>It is requested that GOI expedites the visa issuance procedures and make them transparent.</u></li> <li>- <u>It is requested that GOI expedites the procedures on visa issuance and examination.</u></li> </ul>	
<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 29 March 2006, The Ministry of Manpower and Transmigration (DOMT) issued Notice to shorten the process time for issuing the alien work visa (IMATA) from 7 days to 4 days.</li> <li>- Immigration Bureau has issued GR.18/2005 that extends the period of stay from one year to two years in succession and makes transient entry permit (KITAS) renewable twice.</li> <li>- By enforcement in April 2006 of "Ministerial Decree No.7/III/2006", it has become possible for aliens planning to work in Indonesia to obtain work permit before entering Indonesia.</li> <li>- On 28 March 2008, "Minister's Workers Immigration Regulations No. 2 on The procedure concerning the use of foreign workers" expressly stipulates, among others:               <ol style="list-style-type: none"> <li>(1) Shortening time consuming procedure of work permit for foreigners,</li> <li>(2) Regulating the steps for enterprise workers' emergency entry, and</li> <li>(3) Transfer of powers to the local governments.</li> </ol> </li> <li>- For each foreign employee working in Indonesia, the Manpower Ministry (Departemen Tenaga Kerja) collects USD100/month of the Skill &amp; Development Fund Fee (DPKK, Dana Pengembangan Keahlian dan Keterampilan) and additional USD1,200 per annum must be paid to the bank account designated by the Manpower Ministry upon preparation of employment visa or its renewal.</li> <li>- On 20 December 2013 Ministry of Manpower and Transmigration promulgated Regulation No.12/2013, incorporating an additional prerequisite condition (sine qua non) in regard to foreign worker's acquisition of Work Visa, namely, "an applicant with the academic degree equal to the managerial position he/she is to assume."</li> </ul>					

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			<ul style="list-style-type: none"> <li>- On 29 June 2015, GOI promulgated Minister of Manpower Regulation No. 16 of 2015, regarding "the procedure for the utilization of expatriate worker" with new provision, "acquisition requirement of work permit (IMTA) for part-time foreign directors", which was deleted 4-months later, as of 23 October 2015.</li> <li>- On 28 December 2015, the New Government Regulation No. 96/2015 "incentive measures on facilities and accommodations at special economic zones (KEK)" came into force. Regulation No. 96 includes incentive measures that facilitate issuance of temporary stay visa, in addition to tax holidays and tax allowances for foreigners' temporary stay (in KEK for investment purposes or assumption of work as specialist).</li> </ul>		
	(6)	<b>Prohibited Entry into Construction Site by Employees on Business Trip without Work Visa</b>	<ul style="list-style-type: none"> <li>- Unless with work visa in hand, a short-term entry into construction site, etc. is prohibited, so that visa application is necessary upon each entry.</li> <li>- In regard to entry into construction site, work visa acquisition is necessary for persons on business trip. Within a few days of entry, the applicant must visit immigration office for an interview on acquisition of work permit, which is issued after 4-business days. Even when the construction is completed with a few days, the applicant must extend the stay for no purpose other than to get the visa.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI permits a short-term entry into construction site with short-term visa (VOA)</li> <li>- It is requested that GOI expedites issuance of work permit in short term.</li> </ul>	Minister of Manpower Regulation No. 2/2008
	(7)	<b>Compulsory Conversion of Despatched Workers to Regular Workers</b>	<ul style="list-style-type: none"> <li>- Regardless of the employment period, renewal of a contract worker is possible for twice only. The third renewal automatically converts the contract worker into a Regular Employee.</li> <li>- MFS normally changes contract workers at 3-year's interval of contract workers. It is because, unless turning them into regular employees, the legal employment period of contract workers is 3-years maximum in aggregate. However, this requirement means great loss to MFS, because sufficient period of the contract worker training is necessary to ensure stable quality of goods and to enhance productivity.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI increases the number of renewals for a contract worker without conversion into a regular worker.</li> </ul>	
	(8)	<b>Restricted Use of Despatched in the Core Work</b>	<ul style="list-style-type: none"> <li>- In the manufacturing enterprise, the law prohibits deployment of temporary dispatched employees (from manpower supply) in the core work. In the MFS case, the entire process represents the core business, from receipt of materials and parts to shipment of finished products. Therefore, all factory employees are regular workers. It increases the labour cost.</li> <li>- Minister of manpower &amp; transmigration regulation 2012/No. 19 requires organising sectoral business associations that prepare a flowchart for each business sector (flowchart), while in the case of an outsourcing agreement (between the user company and the service</li> </ul>	<ul style="list-style-type: none"> <li>- The Trade Union, having gone through the squeeze of the Suharto's power administration, swung back like a pendulum by its regained</li> </ul>	<ul style="list-style-type: none"> <li>- Minister of Manpower &amp; Transmigration Regulation 2012/No. 19</li> <li>- Minister of Manpower &amp; Transmigration Circular 2013/No.4</li> </ul>

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			<p>provider), based on the distinction of core-non-core, the consigned party (the service provider) shall secure employment of competent workers in the relevant field. The regulation came into force on 19 November 2013. For example, outsourcing, admitted previously, has been denied, necessitating employment of lorry/truck drivers (LTDs) as regular workers, because LTDs check the contents of the goods and hand them over to the recipient, besides driving the vehicle.</p> <p>Nevertheless, the LTDs work is a simple work, even if it includes checking the contents of the goods and carrying the goods to the doorstep of the addressee, besides driving the truck.</p> <p>Into this kind of job, employers must put up with:</p> <ol style="list-style-type: none"> <li>(1) yearly inflating substantial minimum wages,</li> <li>(2) severance indemnity that substantially rises each year,</li> <li>(3) assurance of the same employment terms (medical assurance, fringe benefits, etc.) as employees with high academic ground,</li> <li>(4) inability to adjust the number of employees commensurate with the volume of order received, and</li> <li>(5) high amount of overtime payment from the business characteristics.</li> </ol> <p>As a result, it weakens the FFEs' willingness to invest into Indonesia. Moreover, it is unfair for GOI to continue to allow outsourcing drivers only to PMDN (Penanaman Modal Dalam Negeri, Domestic Capital Investment Company), letting them garnering profits.</p> <p>Extremely reckless traffic operation continues in Indonesia devoid of improvements in software and hardware, which are the pre-requisites for the safety in traffic.</p>	<p>power, has inflated the demands, and caused this kind of phenomenon. It is requested that Ministry of Manpower and Transmigration (MOIT) takes an unbiased reasonable response with the mind of the participant, not leaning toward the Trade Union.</p> <p>Narrowing to the 5-business sectors of outsourcing business interferes with the rationalised business operation and extremely debilitates foreign investors' willingness to invest into Indonesia.</p> <p>Furthermore, along with the continued intensified wage increase, prospectively, candidate workers on the way to the regular worker status would face the screening by a finest toothcomb so that conversely, job opportunities would be lost for the majority of the candidates.</p> <p>Consequently, it is requested that GOI either repeals the restrictions by business sectors, or else, deregulates the requisite terms for outsourcing contracts.</p>	
	(9)	Compulsory Employment of Indigenous Indonesians	<p>- Foreign funded enterprises (FFE) entering Indonesia are under obligation to employ indigenous Indonesian at the rate of 3-Indonesian to 1-foreign workers.</p> <p>- <u>Pasuruan in East Java operates its own regulation for employment of pribumi workers, duplicating the state regulation. There is no implementing regulation for the own pasuruan regulation.</u></p>	<p>- It is requested that GOB takes steps to eliminate the provisions in the legislation relative to the compulsory employment of indigenous Indonesians.</p> <p>- <u>Japan being an important investor in Eastern Java (Pasuruan), and Japan consulate in Eastern Java prompts review of the regulation PERDA 22/2012.</u></p>	<p>- <u>PERDA 22/2012, UU No 13 Tahun 2003</u></p>

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			<p><b>(Actions)</b></p> <p>- "Minister of Manpower &amp; Transmigration Regulation (MMTR) 2015/No. 16 of 29 June 2015" reviews MMTR 2013, providing the steps for enterprises to employ foreign nationals: "employers must employ at least 10-Indonesian workers per a foreign worker". However, GOI, on 23 October 2015, removed this provision.</p>		
	(10)	Enhanced Control of Foreign Workers' Employment	<p>- Minister of Energy and Mineral Resources Decree (dated 24 October 2013) was promulgated and enforced. It has tightened the control on employment of foreign workers in the upstream / downstream oil and gas business activities, and their supporting businesses.</p> <p><u>Among other things, the Decree includes:</u></p> <p>(1) Reduced maximum successive employment (from 6 to 4-years),</p> <p>(2) Reduced allowable workers' ages (from 30-60-years to 30-55-years), and</p> <p>(3) Prohibited positions: (a. All personnel in personnel, legal, QHSE, procurement fields, b. superintendent or a level lower than its equivalent.).</p> <p><u>The tightened control under the new Decree is a matter of serious concern, lest it may interfere with the timely deployment of the sufficient number of the most suitable human resources, and may delay the project completion.</u></p>	<p>- It is requested that GOI applies exclusionary measures on its control for deployment of foreign workers, in so far as it concerns project operator companies.</p>	<p>- Decree of Minister of Energy and Mineral Resources No.31/2013</p>
	(11)	Difficulty in Alien's Participation In Personnel Matters	<p>- Aliens are only entitled to name a person in charge of personnel matters.</p> <p><u>Aliens are precluded from concerning themselves with actual personnel matters. Work permit for violating aliens will be revoked under the Regulation.</u></p> <p><b>(Actions)</b></p> <p>- Minister of Manpower and Transmigration Decision No.40/2012 prohibits foreigners from assuming managerial position in charge of personnel and employment issues in Indonesia.</p>	<p>- It is requested that GOI repeals the provisions.</p>	<p>- New Labour Act, Article 46</p> <p>- Act No.75/1995 Articles 5 and 12.</p>
	(12)	Doubled Burden of Health Insurance upon Foreigner Workers and FFEs	<p>- Since 1 January 2015, (universal coverage) Health Insurance System (HIS) by BPJS (Badan Penyelenggara Jaminan Sosial=Social Security Organising Body) has been enforced, including Japanese affiliated enterprises in Indonesia. Participation in HIS is compulsory upon aliens staying in Indonesia for more than 6-months. It means double coverage of employees' health insurance, i.e., with national health insurance covered in Japan and personal medical insurance covered in Indonesia for the expatriate(s) (expatriates insurance). For universal coverage, BPJS has a long way to go to complete the requisite preparation, including how to complement the shortage of medical hospitals, clinics and institutions, capable of shouldering the enormous responsibility. Regrettably, GOI's delayed response is noticeable.</p>	<p>- It is requested that GOI takes step to:</p> <p>-- reinforce the capacity of corresponding medical institutions, and</p> <p>-- avoid multiple-burdens of medical insurance coverage upon aliens residing in Indonesia.</p>	<p>- Presidential Regulation on Health Insurance, No.111, Year 2013, Amending Presidential Regulation on Health Insurance, No.12, Year 2013</p>

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				<p>- While BPJS insurance (universal coverage) is due for enforcement from January 2014, no adjustment has taken place between BPJS insurance and already subscribed private insurances, such as expatriates insurance, etc. Therefor MFSs have not been able to join the new insurance even if they desired.</p> <p>- BPJS System (Health Insurance) enforced from 1 January 2015 is so restrictive, as it is usable only a few medical institutions that the parallel use is inevitable of the existing private medical insurance.</p> <p>(Actions)</p> <p>- In June 2015, New Regulation was promulgated on Social Security for Workplace Injury Benefits (Jaminan Kecelakaan Kerja/JKK), Death Benefits (Jaminan Kematian/JKM), Old-Age Benefits (Jaminan Hari Tua/JHT), and Pension Scheme (Jaminan Pensiun/JKM).</p>	<p>- It is requested that GOI takes step as soon as possible to:</p> <p>-- implement adjustments between BPJS and private health insurance carriers, and</p> <p>-- establishes a fair application standard.</p> <p>- It is requested that BPJS expedites preparation of BPJS System universally all across the medical institutions in Indonesia.</p>	
		(13)	Constraint of MFS Employees during Renewal of Passports, Licences, and Approvals	<p>- An MFS's expatriate got constrained for the only reason of inability to show the original passport, etc., apparently in the renewal process.</p>	<p>- It is requested that immigration issues certificate, showing the original passport, etc. are under the renewal process, and avoids personal constraints.</p>	
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Unauthorised Applicant's Voluntary Submission of Corresponding Foreign Patents	<p>- It takes 6 to 7-years in average in Indonesia for the examination to begin from the filing date of patent application. To expedite issuance of patent right, it is preferable to allow the applicant's voluntary submission of the corresponding patents application overseas.</p> <p>However, no such provision is incorporated into the Law. Article 28 of Indonesia Patent Law enables the Directorate General to request a copy of the documents pertaining to the substantive examination of the first patent application overseas. However, it does not provide for the applicant's voluntary submission of materials concerning the corresponding patent application overseas.</p>	<p>- Malaysia and Singapore have adopted modified substantive examination (MSE) system that expedites examination by submission of the registered claim in the corresponding patents application overseas. Vietnam and Thailand employ in substance modified substantive examination (MSE) system, without, however, legislative provisions. It is requested that Indonesian Patent Office considers adoption of the MSE system.</p>	<p>- Indonesia Patent Law, Article 28</p>



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	(2)	Unauthorised Filing of Divisional Applications upon Examiner's Decision of Refusal	<p>- <u>Applicants are not authorised to file divisional applications upon examiner's decision of refusal.</u></p> <p><b>(Actions)</b></p> <p>- Patent Act (No.14 Year 2001) under Article 36 provides: "An applicant may request that an application be divided if the said application contains a number of inventions that do not constitute a unity of invention as referred to in Article 21." "The request for the division of an application as referred to in paragraph (1) may be filed at the latest before the original application is granted a decision as referred to in Article 55 paragraph (1) or Article 56 paragraph (1)."</p>	- <u>It is requested that Directorate General of IPRs (DJHKI) takes steps to enable filing divisional applications upon examiner's decision of refusal.</u>	- Indonesia Patent Law, Article 36
	(3)	High Cost of Filing Patent Application	- <u>The costs are too expensive at Indonesian Sub-Directorate of Patent. Especially expensive is the annual maintenance fee (ANF) corresponding to the pending applications in aggregate ANF payable upon filing the application.</u>	- <u>It is requested that DJHKI takes steps to repeal or reduce the amount of ANF.</u>	
	(4)	The System that voids the Patent Right from failure to pay the Annual Patent Fee	<p>- Patent right will be maintained for 3-years after patent holder's ceasing to pay the annual fee, and patent holder shall be liable to pay the annual fee and the additional collection during the period of no payment of the annual fee.</p> <p><u>In major countries such as the U.S. and EU, generally, certain additional payment/ recovery period is provided so that there can be no continuation of the patent right without the patent holder's intent.</u></p> <p><u>A member firm adopts the patent rights management, whereby non-payment of annual fee equals waiver of patent right, so that making the system change for waiver of patent right on the Indonesian cases alone, means its assumption of additional cost and work-time.</u></p>	- <u>It is requested that GOI aligns the waiver provisions in line with the world major states and introduces the system whereby additional payment or non-payment of annual fee shall be regarded as lapsed, with retroactive effect to its filing date.</u>	- Patent Act Article Nos. 88, 89, 90, 115, & 116
	(5)	Insufficient Disclosure of IPRs Information	<p>- In the developing countries, including Indonesia, where needs for patent issuance are rising, due to the inadequate database for statistical data and information such as the number of pending patent application, it is difficult for the patent applicant to ascertain the risks from the patents of other firms.</p> <p><b>(Improvement)</b></p> <p>- Statistical Information in Indonesia such as the application numbers may be ascertained at "Intellectual Property Application Status Search": Directorate General of Intellectual Property (<a href="http://www.dgip.go.id/">http://www.dgip.go.id/</a>).</p>	<p>- It is requested that DJHKI takes steps to:</p> <p>-- <u>advance collaboration with Patent Offices of the leading countries and</u></p> <p>-- <u>perfect its own database IPRs.</u></p>	

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		(6)	Rampant Counterfeits/ Pirate Editions / Inadequate Clampdown	- Products bearing similar trademarks (mainly manufactured in PRC) are rampant in the Indonesian market. Although legislative schemes are well organised, there is absence of mechanism to clamp down on the counterfeits.		
18	Demands for Technology Transfer	(1)	<u>Technology Transfer Requirement</u>	<p>- <u>In technology transfer agreement, GOI requires nebulous demand for technology transfer requirement.</u></p> <p><b>(Actions)</b></p> <p>- On 23 June 2015, President of Indonesia promulgated Government Regulation No.41 year 2015 (enforced on 23 June): providing for <u>compulsion of technology transfer in procurement of industrial technology, embargo / restrictions on export of natural resources, etc.</u> [Reference:] Government Regulation No.41 year 2015 (in Indonesian) is available for download at: <a href="http://sipuu.setkab.go.id/PUUdoc/174554/PP0412015.pdf">http://sipuu.setkab.go.id/PUUdoc/174554/PP0412015.pdf</a>.</p>	- <u>It is requested that GOI effects further supervision of the scrutiny by each individual institution of competent jurisdiction on the contents and implementation of technology transfer agreements.</u>	
19	Industrial Standards, Approval of Safety Standards	(1)	Compulsory Standard enforced on Steel Products	<p>- On 1 January 2009, compulsory standard was implemented on zinc plated steel plate for the construction market.</p> <p>- On 6 May 2009, compulsory standard was implemented on hot-rolled steel including thick plate, provided, however, that, MOI's approval suffices on certain hot-rolled steel such as those used for car, electric or electronic products, those less than 1.8 mm in thickness or more than 25 mm in thickness.</p> <p>- On 6 July 2009, GOI implemented compulsory standard for zinc / aluminum alloy coated steel sheet.</p> <p>- On 11 October 2010, GOI notified WTO TBT (Technical Barrier to Trade) of its introduction of compulsory standard on tin plate, section steel, twisted wire, and prestressed concrete (PC) steel wire.</p> <p>- On 1 June 2011, GOI implemented compulsory standard for cold rolled steel plates. The standard expressly provides exclusion from application of this standard, namely, steel materials having specifications different from SNI Standard, and steel materials for use as raw materials in car and its parts industries, Home electric appliances, electric/electronic and their parts industries, subject to acquisition of "technical diagnosis statement" issued by Ministry of Industry (listing in annex: "Items Exempted from Application" Japan Iron and Steel Federation Standard (JISF Standard), and certain user / manufacturer standards).</p>	<p>It is requested that GOI:</p> <p>-- repeals the compulsive standard system and,</p> <p>-- clarifies and streamlines the procedures (including the exclusionary system).</p>	<p>MOI regulations</p> <p>- Technical Guidance</p>

	Category	No	Issue	Issue Details	Requests	References
				<p>- On 21 February 2012, GOI tuned the section steel standard into a compulsory standard.</p> <p><b>(Actions)</b></p> <p>- On 3 December 2014, "compulsory standard on steel bars" was enforced for implementation.</p> <p>- On 20 January 2015, new technical guidance was implemented on hot rolled steel sheets, such as heavy plate.</p>		
		(2)	Vexatiously Complex Procedures and Delays in Acquisition of Safety Approval [Standard National Indonesia (SNI)]	<p>- The National Standardization Agency of Indonesia (NSAI) frequently requires trip to PRC, etc. for on-site safety standard inspection at the factory of exporting country in connection with SNI (Standar Nasional Indonesia) approvals. Acquisition of SNI alone takes a long lead-time (for 2-months or more), including the on-site inspection trip. The scope of the subject goods is expanding. From 2012, large products such as air-conditioners, refrigerators, washing machines, etc. are included. Sometimes, in the case of new products, inclusive of these large products, it can be difficult to receive factory inspection a few months ahead of the sales launch. However, without SNI approvals, goods subject to SNI cannot be imported and cleared through the Customs, halting other procedures such as acquisition of various other licences and approvals, import of sales samples, etc., endangering the new product launch at the desired deadline.</p> <p>- SNI standard approval is a mandatory requirement for electric wires destined to private sectors. It costs more than 10 million yen and the period of more than 1-year for SNI standard acquisition.</p> <p><b>(Actions)</b></p> <p>- On 8 June 2010, Ms Mohamad S. Hidayat, Minister of Industry announced her intention to promulgate compulsory SNI (Standar Nasional Indonesia, Indonesian National Standard) covering 25 items of industrial products during 2010, in preparation for import of low quality products into Indonesia under Indonesian FTA (particularly, ACFTA). The new SNI sets forth standard for cars, bicycles, ceramic tiles, chemical goods, electronic equipment, electric parts, steel materials, etc. All subject goods must satisfy the SNI requirements, without which sales of the subject goods in Indonesia is prohibited. According to the mass-media report, Mr. Dedi Mulyadi, Head of Industrial Research and Development Agency at the Industry Ministry stated: "The new SNI will protect the domestic consumers from low quality products and will defend the domestic manufacturers from the foreign products' competition."</p>	<p>- It is requested that NSAI reviews the entire standards / procedures for grant of SNI approvals, including the factory inspection on a pragmatic basis, to minimise the extra long lead-time now envisaged especially as regards introduction of new products.</p> <p>- It is requested that GOI approves import of electric wires without approval labels, in so far as the products satisfy the SNI standard.</p>	<p>- Water Pump: SNI 04-6292.2.41:2003</p> <p>- Electric Iron: SNI 04-6292.2.3:2003</p> <p>- CRT TV: SNI 04-6253:2003</p> <p>- Minister of Industry Regulation No.50/M-IND/PER/5/2011, Compulsion of the SNI Observance on the Specified 6-Cable Items</p>
21	Restrictions on Land Ownership	(1)	Delayed Land Expropriation Process	<p>- In the context of a large-scale infrastructure project promotion, the delay in the land expropriation has been obstructing the advancement of the development project. Due to escalated land prices, and expanded project scale, foreign businesses rush to secure land property, even before the competitive bidding begins. This is a factor that curbs the project development.</p>	<p>- It is requested that GOI takes step toward problem solving, for example, by its support on the land expropriation, etc.</p>	<p>- Presidential Regulation No. 2 of 2012 on Land Procurement</p> <p>- Presidential Regulation No. 71 of 2012 on Land</p>

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						<u>Procurement Process for Public Interest</u>
				<b>(Actions)</b> - On 9 September 2015, President Joko Widodo announced as the 1st economic policy package, industrial policy package that includes acceleration of the state strategic businesses. Accelerated strategic business sectors include deregulation of the licencing and approval procedures for land acquisition, etc.		
23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Plural Supervisory Institutions on the Same Business	In the course of performing petro-gas upstream development project, in many cases, Two Approvals are required, one by SKKMIGAS (Special Task Force for Upstream Oil and Gas Business Activities) and the other by MIGAS (Upstream Oil and Gas Implementing Agency). It takes much time for acquisition of permits and approvals.	<b>Improvement is not easy, the problem being related to institutional issues. However, it is requested that both parties strengthen the mutual exchange of communication to expedite the decision making process.</b>	- Law No. 22/2001 on Petroleum and Natural Gas - Presidential Decree No. 9/2013
				<b>(Actions)</b> - On 9 September 2015, President Joko Widodo announced economic policy packages toward economic recovery. The 1st economic policy package includes deregulation: "from the 154-regulations, 89-duplications will be eliminated. After that 17-decrees, 11-presidential regulations, and 63-ministerial regulations will be promulgated."		
		(2)	Restricted Registration Procedures	- Change in articles of association, or transfer of the shares in Indonesia requires Indonesia Investment Coordinating Board (BKPM) approval followed by registration at Ministry of Law and Human Rights (MoLHR). While it takes minimum 2-weeks for MoLHR registration, it is not technically possible (due to the constrictions of the system administration) to accept another application for registration while one registration is pending of the same applicant. In some case, it takes a few months to complete the procedures for closure of part of the operation and transfer of the shares in parallel.	- It is requested that MoLHR improves its system administration so that it can cope with the disposal of plural registration procedures in parallel.	
		(3)	Thorough Understanding of the Guidance of the Regulations by Individuals In Charge	- Despite the change in regulations, the person in charge (at the window) is unaware of the guidance, causing confusions all the time relative to licences and approvals.	- It is requested that GOI takes step to ensure the thorough understanding of the regulations by all its personnel in concern.	- Refer to Minister of Labor and from each Country
		(4)	Nebulous and Delayed Issuance of Medical Device Distribution Licence	- Issuance procedures are nebulous for medical device distribution licence (required for each item). Depending upon items, it takes a long time for acquisition of the issued licence. It gravely interferes with the business plan of a member firm.	- It is requested that GOI takes step to dissolve contradictory legislative provisions.	- Health Minister Regulation

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24	Indigested Legislation, Abrupt Changes	(1)	Promulgation of Conflicting Legislations	<p>- <u>There are cases where an earlier promulgated legislation is contradicted by the later promulgated legislation while both retain their validity. (For example, there are conflicting provisions concerning the participation of Indonesian enterprises between the provisions on oil and gas related business for the production sharing contract (PSC) and new legislation related to oil and gas business, etc.)</u></p> <p><b>(Actions)</b></p> <p>- <u>On 9 September 2015, President Joko Widodo announced economic policy packages toward economic recovery. The 1st economic package includes deregulation: "from the 154-regulations, 89-duplications will be eliminated. After that 17-decrees, 11-presidential regulations, and 63-ministerial regulations will be promulgated."</u></p>	<p>- <u>It is requested that GOI resolves the contradictions between legislations.</u></p>	<p>- The Production Sharing Contract (PSC)</p> <p>- Decree (2009) No.35</p>
		(2)	Nebulous Implementing Legislative Provisions and their Implementation	<p>- <u>What has been most striking at this time under the new legislation to tighten tax collection by means of simple invoice rules is the ambiguity that has emerged over the issue if GOI really follows up the newly promulgated legislation by actual implementation. This ambiguity has caused much confusion at the job site.</u></p> <p>- <u>Laws and Regulations are ambiguous, defying comprehension. In various circumstances, big gaps in their interpretation arise.</u></p> <p>- <u>While the code of good corporate governance Indonesia, insurance company act, etc., which materially impact the insurance company operations, are being enforced in great numbers. In the absence of GOI's prior in-depth explanation as to the true intent of the law, it takes much time and cost for their interpretation. Moreover, GOI expects full observance of the law in a short time, while in some cases, GOI determines without grasping the actual state of affairs.</u></p>	<p>- <u>It is requested that GOI:</u></p> <p>-- <u>strictly implements the legislation once it is promulgated and enforced, and conversely</u></p> <p>-- <u>ensures to conduct sufficient prior research, and to give prior notification of the intended legislation when promulgating new rules and regulations.</u></p> <p>- <u>It is requested that in introduction of new legislation, GOI takes step to:</u></p> <p>-- <u>spare ample time to seek and evaluate the public comments</u></p> <p>-- <u>arrange opportunities to exchange dialogues with foreign funded insurance carriers, accountants, and the interested parties,</u></p> <p>-- <u>ensure transparency by prior provision of ample explanation to attain the maximum transparency, and</u></p> <p>-- <u>enhance practical effectiveness of the rules and regulations, by provision of ample transitional</u></p>	<p>- <u>The Code of Good Corporate Governance Indonesia</u></p> <p>- <u>2014 Insurance Company Act</u></p> <p>- <u>OJK Letter No.S-77/D.05/ 2014 on Optimization of Local Capacity dated 8 December 2014, etc.</u></p>

Category	No	Issue	Issue Details	Requests	References
				<u>time necessary to make a thorough preparation.</u>	
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Regarding the Tax Policy Reform as mandated by the PI No.5/2003, the CMEA's Press Release of August 2004 reported that through its letter No. S-243/KMK.03/2004 (23 July 2004) MOF submitted to DPR the bill to amend the current taxation and customs laws. The bill is aimed to increase tax receipt, to enhance Indonesia's taxation regulation competitiveness vis-a-vis other countries, and to simplify tax coverage and structure. The bill covers tariff, tax subject/object and procedure/implementation of taxation, customs and excises). Unfortunately, the bill has not been passed until formal closure of the House's 1999-2004 periods (and the inauguration of new members for the period of 2004-2009) on 1 Oct. 2004.</li> <li>- On 19 May 2006, GOI released "Implementing Policy on Risk Management" that sets forth the procedure for governmental assistance, reporting, supervision, etc., and payment mode for Political Risk, Business Risk and Demand Risk, related to the PPP Promotion.</li> <li>- On 5 June 2006, "Presidential Regulation No.36/2005 On Expropriation of Land Property for Development of Public Infrastructure" was amended to stipulate, inter alia, the definition for expropriation of land property, consultation mechanism for price decisions, compensation and transfer of ownership.</li> <li>- On 13 March 2008, Decree No.43/PMK.03/2008 was promulgated. It sets forth the guideline concerning assessment of enterprise's values upon formation of a joint venture enterprise.</li> <li>- On 4 April 2008, GOI enforced a New Regulation on prevention of double taxation by levying tax only on profits from short-term government bonds (Surat Perbendaharaan Negara or SPN). However, GOI has not yet issued its implementing regulations and guidelines.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- On 30 July 2012, Supreme Court ruled on temporary suspension of imported or exported goods, which are suspected for infringement of trademark right, etc. and for interlocutory injunction for infringement of Intellectual Property Rights, such as patent right.</li> <li>- On 7 August 2012, President Yudhoyono clarified the procedural rules for Expropriation Law No.2/2012 (enforced in January 2012) by signing upon "Presidential Order 2012 No.71" that serves as the implementing rules for Expropriation Law.</li> <li>- On 11 February 2014, for the first time in Indonesia, the Comprehensive Trade Law was enacted. (<a href="http://jdih.kemendag.go.id/id/news/2014/04/29/undang-undang-no-7-tahun-2014-tentang-perdagangan">http://jdih.kemendag.go.id/id/news/2014/04/29/undang-undang-no-7-tahun-2014-tentang-perdagangan</a>)</li> </ul>		
	(3)	Frequent Changes in Tax Act and Regulations	<p><b>It has become a common sense among expatriates to Indonesia "not to jump up immediately to changes in legislative provisions", because these get implemented in a haphazard manner by whims and fancies, without much thought given into the details, such as API import licences in 2012, API-P (Producer Importer) and API-U (General Importer Identification Number), 15-year rule for foreign funded enterprises (FFEs) in 2013, and export restrictions on mineral resources in 2014.</b></p> <p><u>While frequent changes take place on import/export rules and regulations, their contents are difficult to comprehend. Some rules seem not to be given thought to intermediary measures, and issues that can be caused on actual implementation.</u></p>	<p>- In introduction of new tax system or changes in the tax system, tax rates, etc., it is requested that these are enforced only after the precise details are cleared defined and decided upon.</p> <p>- It is requested that GOI, in drafting rules and regulations, gives thought to transitional period and practical problems in their implementation.</p>	<p>- Bank Central letter No 13/373/DSM 20 May 2011</p> <p>- On Example: MOT Regulation No.67/M-DAG/ PER/11/2013, related Label in Bahasa Indonesia on the Product</p>

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			<p><b>(Actions)</b></p> <p>- The rules and regulations concerning implementation of the Tax Act are disclosed on the official web site of General Directorate of Taxation (Direktorat Jenderal Pajak) with a search function online.</p>		
	(4)	Obligations to use Indonesian in Contracts and Memoranda	<p>- Law No.24 of 9 July 2009 compels the use of Bahasa Indonesia in the contracts with Indonesian enterprises, without however, promulgating its implementing regulation that purportedly defines the details of its implementation (due within 2-years of promulgation of the Law). It is unclear if the Law is in fact validly enforced now, and if so, in what kind of contracts the use of Bahasa Indonesia is required. Assuming <i>arguendo</i> that the Law is valid, the language of the contract is the matter for the parties to the contract to decide. It must be said that compulsion of the use of Bahasa Indonesia unduly burdens the foreign enterprises and individuals.</p> <p>- Law No. 24, July 2009 has stipulated the use of Indonesian language in all contracts. While in December of the same year, law and human rights minister issued minister's decree that authorises the use of English on contracts between private parties. However, in May 2014, Jakarta high court gave decision it was invalid to use foreign language in the contract between a private foreign enterprise and a private Indonesian enterprise. This decision appealed to the supreme court is now being contested and is pending.</p>	<p>- It is requested that GOI:</p> <p>-- repeals the Law that compels the use of Bahasa Indonesia in contracts,</p> <p>-- clarifies at least the validity of the Law, and</p> <p>-- defines the scope of the contracts in which Bahasa Indonesia must be used, provided, however, that the scope so defined should give clear-cut reasons that justify the use of Bahasa Indonesia, and that the burden therefrom must be reasonably acceptable to foreign enterprises and individuals.</p> <p>- In order to avoid materially binding the private enterprises activities, it is requested that GOI takes step to promulgate and implement laws that faithfully reflect the actual state of affairs.</p>	<p>- Law No. 24, dated 9 July 2009, regarding Flag, Language, National Emblem, and National Anthem</p> <p>- Law No. 24, 9 July 2009, on Flag, Language, National Emblem, and National Anthem</p> <p>--(UU Nomor 24 Tahun 2009 tentang Bendera, Bahasa, dan Lambang Negara, serta Lagu Kebangsaan)</p>
	(5)	Promulgation of Import Regulation and Retroactive Application without Grace Period	<p>- In January, Minister of Trade hastily implemented regulations on treatment of special goods, compelling pre-shipment inspection on electric products upon import customs clearance. Despite the announcement made on 7 January 2013, its retroactive application from 1 January 2013 halted customs clearance on the ground of absence of pre-shipment inspection. It resulted in a great bedlam.</p>	<p>- It is requested that GOI:</p> <p>-- conducts in-depth research on the impact upon importers before implementing law amendments, and</p> <p>-- provides the grace period to ensure a thorough dissemination of the law amendment.</p>	<p>- Minister of Trade Regulation No. 83/M-DAG/PER/12/2012</p>

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		(6)	<u>Abrupt Implementation of Laws and Regulations</u>	<p>- Bank Indonesia abruptly promulgated "The implementation of prudential principles in managing external debt of the non-bank corporation (MED-NC)", the contents of which are ambiguous. This regulation released at the end of October got amended again in two months later, necessitating renewal of the requisite action, which had been taken based on the former regulation, merely stating: "The company with external debt". It was not clear if the company only with accounts payable in trade (external debt in foreign currency) were subject to the control.</p> <p>- Rumors about bank Indonesia regulation (enforcement in February 2014) on foreign capital control on import wholesale business that requires "acquisition of credit rating upon borrowing from head office, and hedging", etc. spread across, without BI's formal announcement. One day, BI promulgated the regulation suddenly.</p>	<p>- Upon introduction of New Regulation, it is requested that GOI takes step:</p> <p>-- to seek public comment, to give sufficient deliberation on the impact upon the concerned parties.</p> <p>-- to provide detailed prior explanation, and</p> <p>-- to grant sufficient transitional period for preparation of the requisite measures.</p> <p>- It is requested that BI gives its advance information from the official source of information.</p>	<p>- Bank Indonesia Regulation No. 16/20/PBI/2014, 16/21/2014</p>
25	Government Procurement	(1)	<u>The Local Content Procurement Requirement</u>	<p>- PLN (Perusahaan Listrik Negara, 'State Electricity Company') only accepts products manufactured locally in Indonesia in purchase of products (electric wires).</p>	<p>- It is requested that GOI establishes a scheme that allows import of products that satisfy the Indonesian standards.</p>	<p>- Industrial Minister Regulation No.50(No.50/M-IND/PER/5/2011), compelling SNI Observance on 6-items of Specified Electric Cables</p>
26	Others	(1)	<u>Inadequacy of Infrastructure on Road and Transport</u>	<p>- Due to the non-availability of public mass transportation, great congestions prevail within the Jakarta metropolitan area and its vicinity all the time. It takes time for movement of people and goods.</p> <p>- Due to the heavy traffic congestions, transportation has been delayed.</p> <p>- With special capital region of Jakarta at the hub, chronic traffic congestion prevails. It takes much time for moving from one place to other, severely interfering with running business.</p> <p>- Great economic loss results from the idling, due to the chronic traffic congestion at every nook and corner of the special capital region of Jakarta.</p>	<p>- While GOJ led ODA, etc. overhaul of infrastructure is in progress, there is a far cry from perfection. There is no direct request for the moment.</p> <p>- It is requested that GOI overhauls the public transportation, and makes effective traffic control toward elimination of the traffic jam.</p> <p>- Construction of MRT has begun since 2014, due for completion by 2017. However, its coverage is insufficient and its continued development is mandatory.</p>	<p>- Ministry of Public Works (PU)</p>



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			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- For lack of proper harbor facilities, about 80% of ports in Indonesia are not efficiently operating. Some imported goods must therefore be routed via Malaysia and Singapore at extra cost and handling.</li> <li>- In March 2003, at Jakarta Japan Club, the RI government made a request to the Ambassador of Japan for Japan to assist Indonesia for improving or upgrading of public facilities, such as highways, ports, stable supply of electricity, upgrading of transport by sea, communication, railway, airport, airlines etc.</li> <li>- GOI has taken the measure to establish the exclusive seaport for automotive vehicles. (Japan-Indonesia Strategic Investment Action Plan ("SIAP") Report of November 2006).</li> <li>- On 15 November 2007, Department of Transportation (Departemen Perhubungan) promulgated Decree No.KM59/2007 on expansion plan of Tanjung Priok Port. Upon completion of the construction for expansion, two-way passage is made available at Tanjung Priok Port, while the parking space for large vessels is secured. The expansion plan is envisaged in three steps, a short-term (2008-2012), mid-term (2014-2017) and long-term (2018-2027). At the 2nd/3rd steps, infrastructure for the logistics will be expanded, more precisely, (1) Cargo terminal along the coastal area of the north side of Tanjung Priok Port, and (2) multi-purpose terminal along the coast of the south side of Tanjung Priok Port will be expanded. By this expansion, Tanjung Priok Port will be connected to the External Ring and the Jakarta Railroad.</li> <li>- On 5 November 2009 President Yudoyono released "The 1st 100 days State Economic Plan (100SEP)", which is the de facto 5-year Socio-Economic Development Plan that comprises of 45 programmes (including 15 priority programmes) beginning in the first 100 days of the 2nd Yudoyono Administration. The top three priority programmes are: Judicial reform, Revitalisation of defense industry and measures against terrorism. Other priority programmes include overhaul of infrastructure, resolution of electric power supply problems, and measures against the climatic changes. To accelerate these reform plans, a new institution directly reporting to the President was established. The domestic private concerns in general terms welcome the plan, while showing some anxieties on the undisclosed details of 100SEP. They also appreciate the manner in which this plan has been prepared, namely, through the policy formation process in the National Summit in late October 2009, declaring that this is the first correct step of the long way heading for reform. Indonesian Chamber of Commerce and Industry (KADIN) and Indonesian National Economic Recovery Committee (KPEN, Komite Pemulihan Ekonomi Nasional, influential economic lobbyist group, are proceeding with the knitting operation for the oversight team (comprising of representatives of domestic industries, foreign chambers of commerce and industries, and economists) to monitor the Plan. (Ref. Indonesian Chamber of Commerce and Industry (KADIN) (<a href="http://www.kadin-indonesia.or.id/">http://www.kadin-indonesia.or.id/</a>))</li> <li>- Based on the Agreement between GOJ and GOI of October 2013, JICA initiated, in December 2013, the project study on construction of the Java rapid transit railway toward introducing the Japanese Shinkansen System by consignment of a Japanese consultant, etc.</li> <li>- In February 2014, JICA signed Agreement on the ODA Loan Project for the Jakarta Mass Rapid Transit (MRT) North-South Line Project (Phase I) and the Java South Line "Doubling" Project (Phase IV) with GOI.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- GR No.81/2001 provided the establishment of Committee for the Policy of the Acceleration of Infrastructure Development ("KKPI"). <ol style="list-style-type: none"> <li>1. The tasks of the Committee are as follows: <ul style="list-style-type: none"> <li>-- Formulate policies and strategies for the acceleration of infrastructure development;</li> <li>-- Coordinate the integration of planning and programs and monitor the implementation of policies; and</li> <li>-- Determine efforts required to solve various issues relating to infrastructure development.</li> </ul> </li> </ol> </li> </ul>		

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				<p>2. The scope of work for the Committee is as follows:</p> <ul style="list-style-type: none"> <li>-- Transportation infrastructure and facilities: roads, bridges, railways, piers, seaports, airports, and river and lake crossing facilities;</li> <li>-- Water infrastructure and facilities: dams, dikes, irrigation networks, flood control structures, coastal retaining walls, and hydro power plants;</li> <li>-- Infrastructure and facilities for settlements, industry and trade: buildings, industrial and trade estates, large-scale housing areas, land reclamation, water supply installations and networks, wastewater networks and treatment, solid waste treatment and drainage systems; and</li> <li>-- Public utility structures and networks: gas, electricity and telecommunication.</li> </ul> <p>- The outgoing members of DPR also passed a bill on Toll Road/Highways on 29 September 2004. The bill is seen as pro-investment, forcing landowners to surrender land needed for roads at government-determined prices. It was designed to open the toll road sector to private investors, while eliminating barriers that often surfaced during the construction phase of toll roads.</p> <p>Articles 59, 60 and 61 of the bill reduce the power of landowners whose property stands in the way of a road project. Landowners have blocked many toll roads, including the Jakarta Outer Ring Road, hanging out for unreasonable prices and, in many cases, speculators have exacerbated the problem. The articles will allow land disputes to be resolved in court while a construction project continues, while article 62 allows for landowners to file complaints with the courts demanding reasonable compensation.</p> <p>The bill also separates the functions of the current regulator and operator, PT Jasa Marga. It requires the establishment of an agency called the Toll Road Regulator Agency (BPJT) tasked with regulating and supervising the toll road sector.</p> <p>- MOT's Public Notice No. PM.2/2004 (30 March 2004):</p> <ul style="list-style-type: none"> <li>-- Early termination of exclusivity right of PT Telkom and PT Indosat through a compensation scheme determined by a mutually agreed independent appraiser ;</li> <li>-- The Decree of MOT No.KM.28/2004 replaced MOT's Decree No. KM. 20/2001 as a legal basis of the national technical basis in the development of national telecommunication system: <ul style="list-style-type: none"> <li>(1) Universal usage of 3 (prefix) digits for all local-long-distance and international calls,</li> <li>(2) Operators of all local-long-distance and international calls are normally opened and freely selected by callers;</li> </ul> </li> <li>-- The Decree of MOT No.KM. 29/2004 replaced MOT's Decree No. KM.20/2001, and the Decree of MOT No. KM. 30/2004 replaced MOT's Decree No. KM. 21/2001 regarding the implementation of telecommunication services: <ul style="list-style-type: none"> <li>(1) Provider of fixed local-long-distance and international calls may also provide basic services,</li> <li>(2) These providers has the right to set retail charges to their customers and to provide related services;</li> </ul> </li> <li>-- The Decree of MOT No. KM.31/2004 replaced MOT's Decree No. 23/2001 on the provision of Internet for public.</li> <li>-- The Decree of MOT No. KM.32/2004 regulates the interconnection issues;</li> <li>-- The Decree of MOT No. KM.33/2004 establishes monitoring aspect of competitiveness practices;</li> <li>-- The Decree of MOT No. KM.31/2003 (11 July 2003) established the National Telecommunication Regulating Agency, headed by the Director General of Post and Telecommunication.</li> <li>-- The Decree of MOT No.KM.34/2004 addressed the universal service provision to areas, which have no telephone access. This provision is the responsibility of the GOI; and</li> <li>-- The Decree of MOT No.KM.35/2004 addressed the Fixed Wireless Access issue.</li> </ul>		

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			- On 27 March 2007, New Railway Bill (to amend No.13/1992) pass the Parliament. The monopoly by the National Railway Kereta Api was repealed, opening business opportunities for private sectors including foreign capital and local government to enter the market.		
	(2)	Capacity shortage and Inadequate Port Facilities	<p>- Shortage of bonded warehouse. High port charges relative to other countries.</p> <p>- <u>Import/export cargoes suffer negative impact from the shortage of the container stowage capacity and the poor traffic conditions.</u></p> <p>- The volume of cargo handling has increased at major ports, side by side with the Indonesian economic growth. Especially before and after Hari Raya, it takes many days for customs clearance of raw materials.</p> <p><b>(Actions)</b></p> <p>- <u>On 29 March 2016, President Joko Widodo announced 11th economic policy package aimed at reduction of cargo dwell time at port (from the current 4.7-days to 3.7-days by August 2016, and 3-days by 2017).</u></p> <p>- <u>GOI aims at playing the role of the major distribution centre in the South-East Asia. On 10 March 2016, President Joko Widodo stated: "11-bonded distribution centres will open simultaneously in the 11-major islands and provinces in Indonesia".</u></p>	<p>- It is requested that GOI redoubles its effort in the infrastructure overhaul.</p> <p>- <u>It is requested that GOI takes steps to expand the port area and resolves the traffic congestion.</u></p> <p>- It is requested that GOI expedites overhauls of the infrastructure at the Port Facilities.</p>	MP3EI (Economic Master Plan)
	(3)	Extremely High Domestic Logistics Freight Cost	- The ocean freight cost is prohibitively high for moving resin products produced in the Eastern Java. It undermines the idea of concentrating and expanding the capacity of all manufacturing operations into the Eastern Java as the MFS's production depot.	- It is requested that GOI overhauls the Distribution Infrastructure.	
	(4)	Raise in Electric Power Charge by Large Margin	<p>- <u>Blackout and momentary power off are frequent, while electric power bill has gone up.</u></p> <p>- <u>Electricity Bill has gone up by 10%.</u></p> <p>- <u>Due to the abrupt hike in electricity charge by PT PLN (Listrik Negara, (National Electricity Power Company)) MFS sustained loss in P/L, being unable to pass on timely the cost increase to its selling price to the customers. Price increase decision was made with only one month lead-time, moreover, up by radical 40%.</u></p> <p><b>(Actions)</b></p> <p>- On 3 July 2002, it was announced to resume the 14 large-scale development projects including electric power supply, which had been suspended for economic crisis.</p> <p>- In April 2002, PLN, National Power Corporation, announced that an electric power shortage is occurring in 21 Provinces, excepting the 6 Provinces in Jawa and 1 Province in Bali.</p>	<p>- While price increase cannot be negated, it should have been made with ample lead-time. Moreover, it is incumbent upon PT PLN to improve the frequent blackouts (to justify the price increase).</p>	Electric Power Act

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			<ul style="list-style-type: none"> <li>- Blackouts frequently occurred without prior notice from P.T. Perusahaan Listrik Negara (PLN), national electric power company after the hike in the oil fuel price by 28.7% in average on 24 May 2008. The blackouts are said to have been caused by the reduced capacity usage ratio triggered by the PLN's shortage of ability to supply, increase in the power generation cost due the surge in oil prices, and the problem of financing the operation. Jakarta Japan Club as a result made the following requests to PLN:               <ol style="list-style-type: none"> <li>1) Appropriate disclosure of information to users;</li> <li>2) Proper discharge of its responsibility to supply electric power to users; and</li> <li>3) Convening of explanatory meeting to users.</li> </ol> </li> <li>- On 5 November 2009 President Yudoyono released "The 1st 100 days State Economic Plan (100SEP)", which is the de facto 5-year Socio-Economic Development Plan that comprises of 45 programmes (including 15 priority programmes). One of the priority programmes include resolution of electric power supply problems.</li> <li>- On 17 September 2012, the Working Group of the 7th Committee (Energy and Mineral Resources) of the Parliament agreed on the staged price increase, finally to 15% for "The 2013 Electric Power Supply Tariff" as proposed by GOI.</li> <li>- The 2013 Budget incorporates increase of 35.7% as energy subsidy, 24.5% up for electricity, and 10% up for electric bills.</li> <li>- In April 2014, Minister of Energy and Mineral Resources Regulation, raising the power charge to the listed enterprises by 64.7% maximum, was promulgated. After May, the raise continues in every two-month.</li> <li>- In June 2014, the bill to reduce power subsidy was approved in the Parliament. From July onward, power charge increase applies universally, including the unlisted enterprises and the household, as well.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- The items classified under "the resolved items" are "the resolved items as they concern Power Producers (IPP)" discussed during the 8th (final) General Conference between the JJC and the GOI, in Jakarta, 25 Feb. 2004 under the "Sub-committee for Electric Power."</li> <li>- According to the "Electric Power Sub-Committee" Report, agreement was reached on the renewed negotiation for the IPP27 Business under the existing agreement, which had been suspended during the economic crisis. A series of thermal plant by PLN has been started off.</li> <li>- Ministerial Decree No.70/2006 was promulgated concerning tariff exemption on import of machinery required for electric power generation related business. Thus tariff exemption was authorized.</li> </ul>		
	(5)	Inadequate Infrastructure for Communication	- <u>High-speed telecommunication via internet is available only in a limited area. High volume communication is not possible. Connection is poor, also.</u>		
	(6)	Inadequate Lifeline Infrastructure	<ul style="list-style-type: none"> <li>- <u>Due to the poor flood control, floods are frequent during the rainy season.</u></li> <li>- <u>Despite the fact the floods occur at the same place in each year, effective preventive measures lag behind.</u></li> </ul>	- <u>It is requested that GOI takes step to boost up the sewage facilities.</u>	
	(7)	Moral of Public Servants	- <u>Government employees' corruption continues to prevail, spreading the malady also to private sectors, here and there.</u>		
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- The research conducted by Political And Economic Risk Consultancy (PERC) concluded Indonesia is the country in which corruption is the most widespread in the whole Asian countries. Compared to the preceding year, it was somewhat improved in 2003 (9.92--&gt;9.33).</li> </ul>		

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- Effective from 1 January 2003, Department of Finance Decision Nos. 453, 454 and 455 of 31 October 2002, seeks to improve efficiency and to prevent corruption by implanting the following measures:               <ol style="list-style-type: none"> <li>1) Filing of various applications to Customs by electronic media has been made possible;</li> <li>2) Payment of import duty etc to General Customs Bureau has been made possible by designating public financial institutions equipped for an online connection;</li> <li>3) Obligating all importers to register with Department of Finance;</li> <li>4) Obligating to file import declaration 24 hours prior to arrival of import cargoes (via sea or air);</li> <li>5) Auditing all import declarations (in the second year of the import declaration).</li> </ol> </li> <li>- Indonesia is at the 130th position among 163 countries in the TI Corruption Perceptions Index 2006 by International Transparency.</li> <li>- Indonesia is at the 126th position among 180 countries in the TI Corruption Perceptions Index 2008 by International Transparency, marking 2.6 points out of the full marks of 10 points.</li> <li>- On 5 November 2009 President Yudoyono released "The 1st 100 days State Economic Plan (100SEP)", which is the de facto 5-year Socio-Economic Development Plan that comprises of 45 programmes (including 15 priority programmes) beginning in the first 100 days of the 2nd Yudoyono Administration. The top three priority programmes are: Judicial reform, revitalisation of defense industry and measures against terrorism. Other priority programmes include overhaul of infrastructure, resolution of electric power supply problems, and measures against the climatic changes. To accelerate these reform plans, a new institution directly reporting to the President was established.</li> <li>- <u>Indonesia occupies the 88th position out of the 168 countries in the transparency international's corruption perceptions index 2015 (Improvement)</u></li> <li>- Law No. 20/2002 established the Corruption Eradication Commission (KPK =Komisi Pemberantasan Korupsi). The KPK has already made its first mark with an investigation of Aceh Governor Abdullah Puteh, accused of involvement in the mark-up of a Russian helicopter bought by the Province.</li> <li>- According to the questionnaire survey released on 25 September 2007 involving 587 enterprises in the major cities by Social-Economic Research Institute of Universitas Indonesia during June through August 2007, the rate of illicit payment to government officials is reduced from 1.7% to 1.3%.</li> <li>- As amendment to Law No. 20/2002, President Megawati Sukarnoputri has signed Decree No. 59/2004 establishing the country's ad hoc corruption court and appointed judges to the court, including three non-career ad hoc judges, The ad hoc court will be established at the Central Jakarta District Court with jurisdiction over corruption cases across the country and acts of corruption committed by Indonesian nationals overseas. Nine ad hoc judges have been appointed to the Supreme Court, High Court and District Court (7 October 2004), with KPK serving as the prosecutor.</li> </ul>		
	(8)	<u>Nonpayment/ Delayed Payment</u>	<ul style="list-style-type: none"> <li>- <u>MFS, having experienced nonpayment/delayed payment of accounts receivables, due in part to differences in traditions in commerce, business ethics, balance of power, etc., has switched to advance payment in its terms of sale. However, on products with short life expectancy cycles (such as manufacturing equipment for smartphone parts), the delivery terms and the prices claim the top priority, so that even if collection is completed successfully, the delay in payment severely affects the profitability of the MFS operation.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI extends its helping hands to the less powerful SMEs by provision of information and facilitates collection of accounts receivables.</u></li> </ul>	