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Recommendation for Increased Trade and Investment between Indonesia and the European Union

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INTRODUCTION

Indonesia and the European Union have a strong relationship. Companies from the European Union have invested over US$ 130 billion in Indonesia and employ more than 1 million Indonesians. Indonesia is one of the European Union's most important suppliers of a large number of essential commodities. In the last ten years, Indonesia's exports to the European Union have doubled to US$ 22 billion.

The economies of Indonesia and the European Union are a perfect fit: the range of goods traded is largely complementary. This makes the relationship between the two economies of strategic importance to both.

At the same time though, the potential of trade and investment between Indonesia and the European Union is far from being fully utilised. European technologies in areas such as energy, transportation and agriculture are available to increase the competitiveness of the Indonesian economy, and European buyers appreciate the quality of a wide range of Indonesian products including food, garments, interior decoration and electronics.

Regulatory and social developments in the European Union and Indonesia however, may create impediments to trade and investment. The Indonesian Chamber of Commerce and Industry (KADIN Indonesia) and the joint European Chambers of Commerce in Indonesia (BritCham, Ekonid, EuroCham, IFCCI and INA) are conducting the EU-Indonesia Business Dialogue (EIBD), in order to identify these impediments and to jointly recommend solutions. These recommendations are summarised in this booklet, and they provide a guide to the actions to be taken in five important sectors and in a number of cross-sector issues.

Governments, but also the business communities in the European Union and in Indonesia, have a shared responsibility to remove impediments to trade and investment, for the benefit of the people in Indonesia and in Europe. The EIBD identifies win-win situations for private businesses, leading to overall sustainable economic growth and creation of employment.

Let us all work together to achieve this.

SECTOR 1: **AUTOMOTIVE**

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1. Background

Asia's emerging economies are recovering rapidly from the Global Financial Crisis and the automotive market is recovering with them. Low cost vehicles are driving the growth of the automotive industry in countries such as Indonesia and Thailand, offering immense opportunities for global players in these markets. Thailand, Philippines, Indonesia, and Malaysia are expected to be some of the highest growing markets for the automotive sector due to various provisions of AFTA (ASEAN Free Trade Area). From a long-term perspective, cheap financing and price discounts, rising income levels, and infrastructure development will drive growth in the majority of the ASEAN automotive market.

With the ASEAN Economic Community (AEC) 2015 approaching, ASEAN will move towards becoming a single market which will be one of the biggest growth markets for the automotive industry in Asia together with China and India.

Within ASEAN, Indonesia has a unique potential for future automotive sales with a strong domestic demand, skilled labour and a growing components industry. The large size of its population, an increasing income per capita - creating a larger middle class population, a stable currency, and a current low level of car ownership are the key elements for a constant expansion of the automotive sector. Some analysts even say that Indonesia, Southeast Asia's largest economy, could overtake Thailand as a regional manufacturing hub by 2014.

During the last five years, the growth of the market reached around 10% a year. The automotive market in Indonesia is mostly composed of commercial vehicles and multi-purpose vehicles (MPVs - approximately 80%), well suited to local usage patterns and resulting from the implementation of progressive taxes discouraging the passenger car ownership. Keen to tap into this potential and to contribute to the development of the Indonesian automotive industry and the Indonesian economy in general, the EU automotive industry invested almost 300 million USD in 2010/2011 in Indonesia and provides over 10% of the overall EU manufacturing employment (3.5 million direct jobs and another 9.1 million jobs indirectly). Moreover, the EU manufacturers are the world's technology leaders and largest investors in R&D, playing a worldwide decisive role in the transition to sustainable growth and mobility.

However, despite the growth of the sector and the clear assets provided by the EU industry, the European automotive producers still have a relatively small market share (2-3%), and the largest assemblers remain Japanese-owned or linked to Japanese companies through joint ventures. As a result, the EU Trade and Investment flows in this sector still tend to prefer neighbouring countries such as Malaysia and Thailand where the environment is regarded as more conducive.

Despite clear incentives' initiatives from the Government of Indonesia towards the automotive industry and its attentiveness towards the EU automotive industry specific issues, the present position paper aims to recommend further solutions to reverse this trend and to allow the EU Industry to unleash its full potential in supporting the development of the Indonesian economy.

2. Key Recommendations

2.1 New IKD Scheme

The Government of Indonesia is targeting an annual production of 1.7 million vehicles by 2015. In order to achieve this target, the issuance of some regulations that could support the development of the national automotive industry needs to be done by the Government – such as the revision of the IKD (Incomplete Knock-Down) Scheme, and the Low Cost Green Car Regulation.

It has been proven that the implementation of the IKD scheme could strengthen the structure of the national automotive industry and could increase the amount of investment. The same trend was seen in the truck and bus industries which are already benefitting of 0% of import duty since the revision of the IKD scheme in 2010. Based on this observation, the European automotive industry, together with GAIKINDO, have proposed to broaden the IKD Scheme to all types of vehicles, to revise the IKD breakdown condition and to harmonize the IKD tariff for non truck and buses to 0 % (from the current 7.5%). This new IKD scheme could have significant and positive impacts on the development of the national automotive industry, therefore, it is strongly recommended to issue this regulation.

2.2 Regulatory issues

2.2.1 Minister of Trade Regulation No. 59/M-DAG/PER/9/2012 impedes on automotives import

On the 21st of September 2012, the Minister of Trade issued the Minister of Trade Regulation No. 59/M-DAG/PER/9/2012 on the revision of the Minister of Trade Regulation No. 27/2012 on Import Identification Numbers ("MOT Regulation No. 59/2012"), effective immediately.

Some significant revisions:

- Definition of Hubungan Istimewa (special relationship)
  A relation between a company with API (was: API-P) with an overseas company whereas one of the parties is controlling the other party, or has significant influence on the other party according to applicable accounting standard (Article 1 point 6).
  This special relationship can be acquired through a contractual agreement, shares ownership, agent/distributor agreement, loan agreement or supplier agreement (Article 4 paragraph 6 and Article 9 paragraph 2)
- Certain goods imported as complementary goods should be in line with industry business licenses or other business licenses obtained by the API-P company, and such goods are originated by the overseas' company having the special relationship with the API-P company (Article 9).
- The appointment as Importer-Producer is granted for the period of time in accordance with the period of time stipulated in the recommendation issued by the supervisory government institution (Article 11 paragraph 3).
- The issuance of API-U and API-P is delegated to BKPM for investment companies (Article 18).
- API-U companies can import goods under more than one section, as long as the API-U company can provide a statement letter with stamp duty issued by the API-U company confirming the special relationship with the overseas company, legalised by the Indonesian Trade Attaché or diplomatic/counsellor official in the country where the overseas company is located (Article 22).

The European automotive industry and GAIKINDO request that the Ministry of Trade provides a sufficient transition period for the industry to adjust and comply with the new requirements listed in the regulation. Indeed, new legal entities might need to be established in order to obtain the API-U licence supporting the import activities and for which the deadline of 31st December 2012 is insufficient. Furthermore, it is strongly advised that the Ministry of Trade, together with BKPM, organize a socialization campaign towards the industry concerning the changes in the regulation and reassure the companies that, until all relevant systems are in place to accommodate the implementation of the new decree, they are still allowed to import goods for trade – as their current practice was permitted under the previous regulations.

2.2.2 The implementation of certain mandatory SNI (Indonesia National Standard) affects the development of the Indonesian automotive industry

The Government of Indonesia is planning to develop several mandatory SNIs for car components, e.g. an SNI for braking system, rear-view mirrors, etc. Furthermore, the Government announced the implementation of mandatory SNI certification for CBU (Completely Built-Up) cars, which will require SNI certification for tires, mirrors, windscreens and other components. Other SNIs to be introduced are for safety glass, rims, battery, safety belts, plastic seats, brakes, noise and emissions.

This development is seen as highly problematic since the SNI certification and testing system have proved to be lengthy and costly, adding an unnecessary burden on manufacturers and importers:

- SNIs do not always deviate from international (UN/ECE) standards for automotive products;
- The testing should be done in Indonesia and no longer in the laboratory of the foreign factory, which undoubtedly used to significantly increase the time for approval. In addition, requesting audits and annual surveillance in all the foreign factories by Indonesian certification bodies, creates bottlenecks.

In general, the application of domestic automotive standards, different from international standards, can potentially contribute to setting Technical Barriers to Trade (TBT) and non-tariff barriers (NTB) to both EU and Indonesian exports, affecting bilateral trade. Therefore, whenever possible, the Government of Indonesia should avoid using standards that deviate from international standards or create unnecessary burdens for producers and manufacturers.

Furthermore, Indonesia should sign the UN/ECE 1958 Agreement in 2012 if possible, and adopt some of the relevant UN/ECE standards instead of SNIs. The benefits of signing the agreement are numerous, both for Indonesian consumers, manufacturers and authorities:

- The participation in the international regulatory process will ensure that the Government of Indonesia and the national manufacturers have influence.
- While implementing international and harmonised standards, the Indonesian producers will raise the quality of their productions and it will automatically grant them access to all foreign markets recognising those standards (mutual recognition).
- The Indonesian consumers will highly benefit from increased vehicle safety and environmental performance.

2.2.3 The Minister of Industry Regulation No. 59/2012 on Mandatory SNI for rim under M, N, O, L category ("MoI Regulation No. 59/2012")

On the 28th of May 2012, the Minister of Industry ratified Regulation No. 59/2012, effective immediately, and revoking the previous Minister of Industry regulation No. 120/2010 and No. 53/2011 on the same subject.

Within the framework of the new regulation, the companies will have to comply with the SNIs starting either on December 31st 2012 or July 1st 2013, depending on the product scope and with conditions further stipulated in the regulation.

No	Product	SNI Nr	HS Nr	Validity
a1	Wheel rim for vehicle category M1	1896 : 2008	8708.70.32.90	applied on Dec 31, 2012 onward
a2	Wheel rim for vehicle category N1	1896 : 2008	8708.70.39.00	
a3	Wheel rim for vehicle category L	4656 : 2008	8714.10.90.30	
a4	Assy wheel rim and tire for vehicle category M1	1896 : 2008	8708.70.22.00	
a5	Assy wheel rim and tire for vehicle category N1	1896 : 2008	8708.70.29.00	
b1	Wheel rim for vehicle category M2, M3, N2 and N3	1896 : 2008	8708.70.39.90	applied on Jul 1, 2013 onward
b2	Wheel rim for vehicle category O	1896 : 2008	8708.70.31.00 8716.90.19.00	
b3	Assy wheel rim and tire for vehicle category M2, M3, N2 and N3	1896 : 2008	8708.70.29.00	
b4	Assy wheel rim and tire for vehicle category O	1896 : 2008	8708.70.21.00 8716.90.19.90	

To be mentioned: the new SNI will not be applied for a wheel rim with a diameter of 20 inches or more (Article 2 paragraph 3).

The compliance to the MoI Regulation No. 59/2012 implies consequences in terms of:

- Samples for testing (Article 5): for the local production, the samples will be taken from the overall production lot within 6 months. For the imported products, the samples will be taken out of every shipment (overall amount).
- Importer (Article 6): To be allowed to import the wheel rim, the importer should either be listed as an official importer at the Ministry of Trade, or should be included in a list submitted by the wheel rim manufacturer for after sales purposes (with a maximum quantity allowance of 20 units for each importation).

The European automotive industry and GAIKINDO recommend that this SNI should not be applied to the wheel rims used in production. EuroCham has sent a letter to the Minister of Industry requesting that the SNI listed in MoI Regulation No. 59/2012 will be applied only to the wheel rims with trading purposes, therefore separating it from the wheel rims for production purposes.

It is also highly recommended to issue the technical guidelines regulation on the application of the SNI before December 2012, as it is mandatory and applicable from December 31st 2012. The Ministry of Industry is still discussing internally with its legal department whether the proposal can be accommodated in the upcoming revision of the Ministry of Industry regulation.

2.2.4 ASEAN Mutual Recognition Agreement on harmonisation of technical regulations

The ASEAN member states have agreed that the UN/ECE 1958 Agreement's regulations should be the basis for the harmonisation of the automotive technical regulations in the region. To date, there is a total of 140 UN/ECE regulations and the ASEAN member states have agreed to include 19 of them in the draft of the ASEAN Mutual Recognition Agreement (giving the fact that some of the UN/ECE regulations are only suitable for cold climates and that consequently, the immediate adoption of all regulations would be inefficient).

Indonesia is also participating in the ASEAN MRA and is planning in its first phase of the harmonization to include the standardization of 14 automotive components (braking systems, braking systems for passenger cars, seat belt anchorages, seat belts, seats, head restraints, pneumatic tyres - passenger & commercial, safety glass, rear-view mirrors, diesel emission, noise emissions, steering equipment, exhaust emissions).

However, there is currently a slight difference of interpretation between the Government of Indonesia and the automotive industry. Two options to implement the ASEAN MRA are as proposed: 1) Marketed products: ASEAN countries must accept the test report from the country of origin for the products manufactured by non-ASEAN countries which are marketed in the ASEAN countries. 2) Manufactured and marketed products: Either Non-ASEAN products marketed in ASEAN should be tested by ASEAN test facilities.

The European automotive industry and GAIKINDO propose to apply the marketed option. The ASEAN MRA needs to be established based on the type of approval system covering parts, system and components.

2.2.5 Revision of Government Regulation No. 52 Year 2011 on Income Tax Facilities for Investment in Certain Business Lines and/or in Specific Areas ("GR No. 52/2011")

Previously, under the Government Regulation No. 62 Year 2008, all cars assemblers were eligible to apply for a Tax Allowance Facility. However, the implementation of the Government Regulation No. 52/2011, exclude the cars assemblers of the sectors eligible for the Tax Allowance Facility (whereas car component companies can still apply for the Tax Allowance Facility).

The European automotive industry and GAIKINDO propose to include the automotive industry as a business sector eligible to get an income tax facility in the frame of investment.

2.2.6 Proposal for Inland FTA (free zone) Schemes

Thailand has already installed the 'Customs free trade zones' aiming at attracting foreign investment and promoting exports. To obtain the licence to enter those free trade zones, the companies have to comply with certain legal and financial criteria and prove that they are using at least 40% of local content in their assembling chains. In return, all the companies installed in the free trade zone can import material necessary to the production with 0% import duty, and be eligible for a duty exemption or reduction if they are manufacturing goods to be exported overseas or sold domestically.

The application of such a scheme in Indonesia could have significant impacts: development of the national industry and the infrastructure, attraction of new investments. Despite those obvious benefits, the Government of Indonesia has shown some concern concerning the cost of implementing the necessary controlling measures.

The European automotive industry and GAIKINDO strongly recommend the installation of such a scheme and strongly support the idea that the cost for the controls should be deemed by the companies entering the free trade zone. In parallel, the Government of Indonesia has to ensure a strict control over the grant of the licences to the companies. Each company applying for the entry in the free trade zone should comply with very specific, pre-determined criteria.

2.3 Environmental issues

2.3.1 Improvement of fuel quality standards and emission regulations

A high fuel quality with low sulphur content, for both petrol and diesel fuel, is essential for the introduction of modern low emission injection technologies. The low fuel quality in Indonesia is still the biggest hurdle for the introduction of such modern low emission technologies. Therefore, we are proposing the introduction of higher fuel quality standards (EURO 4) on par with more stringent emission regulations. This would lead to lowering emissions and the overall fuel consumption in Indonesia. This lower fuel consumption would result in lower dependency on crude oil imports and exposure to fluctuating prices and have the benefit of a smaller part of the state budget being spent on fuel subsidies.

The European automotive industry and GAIKINDO recommend the introduction of higher fuel quality standards (EURO 4) as a pre-requisite for stricter emission regulations. The fuel quality has to be improved in order to allow the introduction of environmental-friendly low emission technologies. In preparation for 2015 an ASEAN wide alignment is necessary in order to guarantee free movement of goods without creating technical barriers. A detailed master plan of development of Euro 4 gas stations should be developed by the Government of Indonesia.

2.3.2 Bio Fuels need high fuel quality to ensure avoiding technical problems

Indonesia, as the biggest palm-oil producer in the world, today has a major opportunity to introduce a biodiesel mixture (B5, B7). From a technical point view, engines are able to cope with biodiesel mixtures of B7 as a maximum. Higher blending would lead to technical problems and higher additional costs for both the consumer and the car producer. Additionally, in order to avoid technical problems and additional costs, a high fuel quality has to be ensured. It is therefore essential to increase the fuel quality before adding higher proportions of bio fuel.

The European automotive industry and GAIKINDO perceives it necessary to improve the fuel quality before increasing the bio fuel mixings. Fuel quality should be improved to Euro 4 standards with a B7 biodiesel mixture.

2.3.3 Technology neutral and emission based vehicle incentive programme

Environmental issues are a major concern in the automotive industry worldwide. It is crucial for Indonesia to consider a long term plan for its automotive industry to achieve sustainable development including CO2 reduction and the promotion of the use of clean and efficient vehicles. Therefore, the excise tax for vehicles should be based on CO2 emission. This would encourage the use of low CO2 emission vehicles, thus, creating a premium price for clean and efficient vehicles.

It is also important to promote the availability of cleaner fuel (Euro 3 or 4) in Indonesia which can be used by more advanced and environmentally friendly engines used in greener vehicles now available in the international market. Currently such cleaner fuel is not available in the Indonesian market, making the entry on the market and the use of “greener” vehicles using higher standard fuel not possible.

The Government of Indonesia should introduce schemes and incentives to promote the use of clean and efficient vehicles. The European automotive industry and GAIKINDO recommends a technologically-neutral and emission based taxation based on CO2 emission for all types of power-train including petrol, diesel, natural gas (CNG), hybrid, and electric vehicles. An environmental policy should be created that will promote the manufacturing of cleaner fuel for the local market to encourage the use of greener vehicles.

2.3.4 Low Cost and Green Cars

The Government of Indonesia is currently drafting the Low Cost and Green Car Regulation ("LCGC Regulation"). The LCGC Regulation sets up incentives for upcoming investment or the expansion of ongoing investments for vehicle manufacturers producing low cost vehicles using green technology. The requirement, among others, is to raise the production by 30%. The LCGC Regulation will be issued in 2012.

The European automotive industry recommends that the Government of Indonesia also acknowledges green (low emission and low fuel consumption) cars and issue a regulation promoting tax incentives for the local production/assembling of green cars.

SECTOR 2:
FOOD AND BEVERAGES

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FOOD AND BEVERAGES

1. Business Prospects and Potential

1.1 Indonesia

Indonesia, as the fourth most populous country in the world with a population of 235 million people, is a very large market for food and beverage products. The food and beverages industry is one of the industrial development priorities set by the Indonesian government and it is still promising for both domestic manufacturers and importers or suppliers of processing equipment and (semi-)finished products. The sector has proven to be very resilient during economic downturns, and for many multinational food companies, Indonesia is among their most important markets.

The turnover of the food and beverage industry has been growing at an average pace of close to 20% per year, to a total of around US$ 60 billion in 2011. Indonesia's import value for food and beverages has increased by an average of 19% per year, from US$ 1,3 billion in 2005 to US$ 2,5 billion in 2011. The share of the European Union in the food imports into Indonesia has remained very modest, with just US$ 180 million in 2011. It has also grown at a very low rate of 2.8% on average annually since 2005, whereas imports from the USA, Canada, and Australia grew by 27% annually and imports from Asia by 18% annually during the same period.

Both domestic investment and foreign investment in the food and beverage industry fluctuated from 2005 to 2011. Domestic investment in the food and beverage industry grew at an average rate of 13.66%, from US$ 456 million in 2005 to US$ 580 million in 2011. Foreign investment remained fairly stable.

The figures indicate a robust growth of trade and investment in Indonesia's food and beverages sector, creating many opportunities for European exporters of branded and specialty food products, and of food processing machinery as well as for suppliers of food ingredients and packaging.

1.2 European Union

Processed foods are increasing their participation of overall consumer expenditures in the European Union as people look for more convenient ways to store and prepare food. Key product groups include processed dairy products, frozen fruit and vegetables, confectionery industry products, various prepared foods and sauces, including pasta, ice-creams and soups, and processed starch products. Despite high tariffs and relatively strict requirements on imports, EU imports have expanded by an average of 10 percent annually over the last ten years.

Fruit and vegetable juices are the largest processed agri-food imported into the European Union. The imports of processed agri-foods is expected to grow by an average of 2% per year during the period 2011 - 2015, of which imports of fruit and vegetable juices are expected to grow by 4% per year.

In fishery products, the European Union is increasingly dependent on imports to meet its domestic consumption needs. In 2009 the European Union imported US$17 billion worth of fishery products, which represented 2.5 times the volume of domestic production. Net imports in that year supplied one-half of domestic consumption. The most important fishery products imported into the European Union are shrimp and salmon, followed by cuttle fish, octopus, sturgeon, cod and scallops. Imports of fisheries products into the European Union are expected to grow by an average of 10% per year in the period 2011 – 2015. Indonesia is the tenth largest supplier of frozen shrimp and has a 4 percent market share of the EU market.

Indonesian exports of food and beverages are developing well, but exports to Europe are still hindered by food safety issues (fish), environmental and social issues (palm oil), quality control and logistical problems (in horticultural products).

Growing environmental awareness as well as packaging standards in export markets is creating a growing demand for more environmentally friendly packaging systems, such as biodegradable sachets.

In summary, both Indonesia and the European Union market offer great potential for new trade and investment in the food sector, provided companies respond to the market trends.

1.3 What to do in Indonesia – EU Trade and Investment

There is much potential for increased Indonesian - EU Trade and Investment in the Food and Beverages sector. This potential can be optimally used by:

- Expanding investment in Indonesia's natural resources, using advanced technologies to produce higher value added products;
- Improving access to markets and expanding mutual recognition agreements;
- Expanded use of quality standards;
- Establish economic partnerships with SME's around the country to help minimise social status differences
- Capacity Building for Indonesia's food and beverages sector, especially SME's, in the field of EU Food Regulations, hygienic standards and market access procedures such as REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals), DMF (Dimethyl fumarate), SPS (Sanitary and Phytosanitary Standards), MRA (Mutual Recognition Agreements), RED (Renewable Energy Directive) and the most important voluntary codes applied by importers, processers and retailers in Europe.

More specific recommendations are set out for a number of the main issues in the chapters below. This list is not exhaustive and more details on each issue and the recommended solutions are available separately.

2. Issues and Possible Solutions

2.1 Indonesia

Like other sectors, the food and beverages sector in Indonesia has seen high growth with regulations and institutions struggling to keep pace. This has contributed to problems in food safety and quality standards, illegal imports but also overregulation and customs clearance delays.

Some of the factors effecting the growth of the food and beverages industry are of general nature, such as bottlenecks in general infrastructure. Some problems are however specific to the food and beverages industry.

Indonesia's agriculture sector, being an important supplier of food products, faces a number of challenges which at the same time offer opportunities to foreign and domestic companies. Agriculture, along with fisheries and forestry, accounts for 41% of total employment in Indonesia.

However, productivity in the sector is low, with underemployment of workers and negligible levels of capital investment. As a result, the sector accounts for just 14% of GDP. Although Indonesia has been successful at developing export-oriented crops such as tea, coffee, cocoa, coconuts, palm oil and pepper, domestic supplies of staple food products have not been secured. The county still needs to import large amounts of staple food products, particularly maize, wheat, sugar, peanuts and soybeans. Initiatives are being taken to develop the production of these commodities domestically.

2.1.1 Decree of Chairman of BPOM No. HK.00.05.52.4040 regarding Food Categories.

This Decree has been used as standard reference for the registration of food and beverages (MD & ML), but it is still incomplete and does not yet cover all food categories in Indonesia. This situation has created difficulties for the food and beverage industry in registering products with Indonesia's Food and Drug Administration (BPOM), due to the implementation of the standard reference of food categories. BPOM should be requested to review the regulation that implements the standard reference for food categories, since acording to the regulation, product standards are set by the Indonesian National Standard (SNI).

Issue : The standard reference for the registration of food and beverages (MD & ML) is still incomplete and does not yet cover all food categories in Indonesia.

Impact : This creates difficulties for the food and beverage industry in registering products with BPOM

Proposed Solution : BPOM is requested to apply a wider list of food categories, to allow all newly developed food products to be registered.

Who should take action : BPOM

2.1.2 Regulation No. 22/M-DAG/PER/5/2010 of 21 May 2010 of the Minister of Trade to amend the existing regulation on Labelling Obligation ("MoT Regulation No. 62/2009).

The MoT Regulation No. 22/2010 was effective from 1 September 2010. Companies that produce or import goods for the domestic market in Indonesia are obliged to attach labels written in Bahasa Indonesia. This regulation applies to all local and foreign businesses. The labelling regulation requires imported products to have the labels before such products enter the Indonesian Customs Area. Before an importer can import products, he has to submit an example of the label written in Bahasa Indonesia to the Ministry of Trade for prior approval. The labels cannot be in the form of stickers attached to a package, as is the case in EU food legislation. This causes entire production chains to have to be redesigned solely for the Indonesian market, especially if entire packages need to be redesigned. This will increase costs for Indonesian consumers and cause some producers to withdraw from the Indonesian market.

Indonesia is encouraged to apply a similar system to the EU, where the labelling must be attached in the form of a sticker prior to placing the product on the market and not prior to import. This to ensure that trade continues to be facilitated whilst protecting consumer health and safety.

Issue : The obligation to attach labels in Bahasa Indonesia prior to import.

Impact : This causes entire production chains to have to be redesigned solely for the Indonesian market, which will increase cost for Indonesian consumers

Proposed Solution : Companies should be allowed to put stickers prior to placing the product on the market and not prior to import.

Who should take action : Ministry of Trade, LPPOM, BPOM.

2.1.3 Decree of Chairman of BPOM No. HK. 00.05.52.6291 regarding References on Nutrients Labels for Food Products.

In the food product registration process, BPOM requires that the nutrient value attached in the product label should be precisely the same as the value from the analysis result. This is impossible, because analysis results may vary, influenced by raw material variations, production processes, storage and analysis procedures. As a consequence of this requirement, the registration process is problematic. It is impossible for the nutrient value information attached on the label to be the same as the value in the COA (Certificate of Analysis). The follow-up action to solve this problem is that BPOM should apply a tolerance value in the determination of nutrient values in line with the provisions that are internationally applicable.

Issue : The requirement for nutrient values attached in the product label to be precisely the same as the value from analysis result.

Impact : The registration process becomes problematic, because the analysis results may vary.

Proposed Solution : BPOM should apply a tolerance value in the determination of nutrient values in line with the provisions that are internationally applicable

Who should take action : BPOM

2.1.4 GMO regulations are unclear.

There is still no clear regulation regarding products containing genetically modified organisms (GMO), whereas in accordance with PP 69/1999 part 12 article 35; on the label for food resulting from genetic engineering it is obliged to attach the wording "PANGAN REKAYASA GENETIKA", allowing the food products containing GMO to be distributed. However, in reality all product registrations containing GMO raw material will not be approved by BPOM and are not allowed to be distributed. Raw materials containing GMO will not obtain an entry license from BPOM. This causes i) obstacles for new investment in products containing GMO, ii) obstacles to ML/MD extensions containing GMO substance. It is suggested that BPOM issues a regulation regarding a minimum/maximum threshold of GMO in products allowed in Indonesia.

Issue: All product registrations containing GMO raw material will not be approved by BPOM and are not allowed to be distributed.

Impact : Obstacles for new investment in products containing GMO, and obstacles to new ML/MD extensions containing GMO substance.

Proposed Solution : A regulation regarding a minimum/maximum threshold of GMO in products allowed in Indonesia

Who should take action : BPOM, Ministry of Agriculture (Litbang)

2.1.5 Halal Regulation

Regulations on halal have been included in the Consumer Protection Act no.8 of 1999, PP No., 66/1999 on labeling and advertising, and the Law. 7/1996 on food. In Indonesia halal certification is issued by the Research Institute for Food Drugs and Cosmetics Indonesian Ulema Council (MUI LPPOM.) All products that use animal ingredients and derivatives circulating in Indonesia, whether local or imported, shall have the halal certification of its products. The attachment of the halal label is voluntary.

Issue : The food industry sees a growing tendency for mandatory halal certification of food and beverages in Indonesia.

Impact : High cost and reduced variety of available food products

Proposed Solution : Halal certification and labelling should be voluntary so that consumers can choose to buy halal products. Mandatory halal ceritification creates additional trade barriers for domestic and foreign food products.

Who should take action : Ministry of Trade and Ministry of Agriculture

2.1.6 Decree of Minister of Health No. 772/Menkes/Per/IX/88 regarding Food Additives

Food manufacturing technology has developed, so the number of different types of food additives is continuously increasing. Therefore, a new list of food additives is needed that accommodates this development as long as it is in line with the International Food Security Standard (CODEX). The implication of the Minister of Health No. 772/Menkes/Per/IX/88 regarding Food Additives is that the industry will find it difficult to carry out innovation. Another implication is a deterioration of national industry competitiveness in the global market. The proposed action is to suggest BPOM to soon legalise a new food additives list, accommodating technology development. In the transition phase, before a new food additives list applies, an SOP to use food additives is needed. Currently, this regulation is under revision, however, the revision process has not yet accommodated industrial needs, especially the need to innovate and increase competitiveness.

Issue : A new list of food additives is needed in line with the technological developments.

Impact : The industry will find it difficult to carry out innovation, which will hamper national industry competitiveness in the global market

Proposed Solution : A new list of food additives is needed that accommodates this development as long as it is in line with the International Food Security Standard (CODEX)

Who should take action : Ministry of Health

2.1.7 Horticulture

Horticulture is a subsector of agriculture that has particular potential in Indonesia to contribute to a nutritious food supply and to exports of high value products. It can however only thrive with innovation and well-functioning distribution systems.

The Horticulture Law of 13/2010 limits foreign ownership of companies in the horticulture sector to 30% and requires foreign investment companies to reduce their shareholding to 30% within 4 years. Not only does this send a signal to foreign investors that ownership regulations can be changed at any time, it will also deter foreign investment and the technological expertise that comes with it. The result will be counterproductive in increasing Indonesia's competitiveness in growing fruits and vegetables.

Imports of horticultural products are severely limited by a limitation of the ports through which horticultural products are allowed to enter Indonesia and by extensive and often unwarranted testing of horticultural products. Moreover, the testing requirements are not applied equally to all supplying countries. Facilities at major airports are often insufficient to support Indonesian exports of horticultural products.

Issue: Limits foreign ownership of companies in the horticulture sector to 30%, limited ports for horticulture products, extensive product testing.

Impact: It will deter foreign investment in general and in the horticulture sector in particular, as well as the technological expertise that comes with it. It will also limit the supply of horticultural products on the Indonesian market, which are essential to a nutritious diet

Proposed Solution : Article 100 of the Horticulture Law on Foreign Ownership must be amended. There should be no restrictions on foreign ownership in hortocultural companies and changes in ownership regulations should not be applied to companies established before 1 October 2010. All ports and airports should have sufficient facilities for the imports and exports of horticultural products and there should be no limitations on the ports through which horticultural products can be imported. Testing of horticultural products should be applied equally to imports from different countries, based on warranted sanitary and phyto-sanitary standards.

Who should take action : DPR Commission IV and the Ministry of Agriculture

2.1.8 Alcoholic Beverages

There is a legitimate demand for alcoholic beverages in many parts of the society and among tourists and expatriates. In the market for alcoholic beverages, there is a big difference between the companies complying with all regulations and taxes, and a large share of the market that is being supplied by illegal imports and production. The widespread smuggling and illegal production cause very large losses in revenue from taxes and excise duties to the Indonesian government, as well as severe health risks to the consumer. The very high import and excise duties as well as the severe local restrictions on distribution make alcohol very expensive and contribute to illegal supply. Compliant established companies in Indonesia should be allowed to expand local production to meet demand from the growing population and number of tourists, without the need to review the current Negative List on Investment.

Issue: High taxation and severe restrictions on distribution contribute to widespread smuggling and illegal production.

Impact: Major financial losses to the government, related crime and health risks for consumers.

Proposed Solutions : Streamlined taxes and excise duties on alcoholic beverages, crackdown on smuggling and illegal production and bring them under the regular tax and excise system, revocation of local restrictions on distribution that are not compliant with national legislation, and allowing established and compliant companies to increase production to meet demand.

Who should take action: The Ministry of Finance and Directorate General for Customs, Ministry of Trade

2.2 European Union

For Indonesian exporters shipping fresh and processed agri-food products to the EU markets, the following are the general and specific market access issues in agri-food products:

2.2.1 Tariffs

Import duties are applied to specified goods imported into the European Union in order to raise the world market price to the EU target price. Duty rates vary between 0 and 16.9% across individual products. Import quotas restrict the amount of food imported into the European Union.

Issue: high import tariff for Indonesian cocoa of 7.7% - 9% compared to African cocoa bean 0 %) without any justifications.

Impact: Indonesia is struggling to export cocoa products to the EU and cocoa farmers change into more profitable crops such as palm oil.

Proposed Solution: EU need to release strict rules of Tariffs and non Tariff barriers

Who should take action: EU DG Trade.

2.2.2 General Sanitary and Phytosanitary Measures in Spices

General Sanitary and Phytosanitary Measures, setting control standards over food and food product hygiene, animal health and welfare, plant health. It also provides rules on appropriate labeling for these foodstuffs and food products. This policy follows a so-called 'From the Farm to the Fork' approach that ensures a high level of safety for foodstuffs and food products at all stages of the production and distribution chains. Indonesian exporters however face difficulties in complying with these requirements. Problems exist for example in the spices sector, due to low quality and unsafe products as a result of aflatoxin content above the EU maximum limit standard.

Issue: Indonesia spices (nutmeg) need sampling and testing upon import to the EU.

Impact: Nutmeg producers receive a lower income from nutmeg, cost burden for Indonesian spices exporters, Indonesian spices exporters losing market share in the EU.

Proposed Solutions: The Ministry of Agriculture should take into account the findings of the FVO mission and establish effective Official Controls for nutmeg that include correct sampling procedures and analysis of those samples.

At the same time the farmers, traders and exporters should implement improved practices to minimise the risks of mould contamination and subsequent formation of aflatoxin.

Who should take action: The Ministry of Agriculture; Company, TSP II EU, EU DG Trade.

2.2.3 Environmental Regulations:

The principal components of the environmental legislation relating to the processed foods industry are (a) Integrated Pollution Prevention and Control Directive; (b) Directive on Packaging and Packaging Waste; (c) Framework Directive on Waste; and (d) Climate Change known as the Emission Trading Scheme (ETS). The current ETS is compulsory for large food and drink companies, and is intended to reduce greenhouse gas (GHG) emissions caused by large installations at the least cost. Indonesian exporters however face difficulties in complying with these requirements.

Residue standards, applied by the EU for tropical fruits and wooden packaging, are in some cases very strict and prohibitively difficult to comply with for Indonesian companies.

Issue: Strict environmental regulations hamper market access for Indonesian exporters.

Impact: Indonesian Farmers have less opportunity to get good prices for tropical products.

Consumers in the EU have less tropical fruits available.

Proposed solutions: Technical assistance to farmers to comply with environmental regulations on the EU market.

Who should take action: Government of Indonesia and EU

2.3.4 NGO activities on Palm Oil

NGO activities in Europe against environmental issues in some products are counterproductive in that they lead to disruptions in trade without offering realistic solutions. Examples include palm oil, cocoa and the traceability of eggs used in biscuits. The legal basis of applying labels such as "Free of Palm Oil", as has occurred in France, should be questioned. Voluntary standards for food products applied by importers, processors or retailers, should not be in violation of trade regulations and should be based on generally accepted scientific evidence.

Issue: Aggressive negative campaigns by NGO's

Impact : Producers of palm oil receive low prices; palm oil companies lose export market share. EU importers use long chains to buy Indonesian palm oil at more expensive prices.

Proposed Solutions : Observance by NGO's of a Code of Conduct to disseminate only truthful information. Government sanctions against distribution of untrue information. Reduction of import duties on products that comply with sustainability standards.

Who should take action : Government of Indonesia; EU and NGO's.

2.3.5 Fish

There are also a number of specific issues brought forward by the Indonesian fisheries and aqua-culture industry as affecting the Indonesian exports of fishery products to the European Union:

Tariffs: The GSP rates range from a low of zero for some products to a high of 14,5 for canned tuna and 24 percent for loin tuna such as chilled or frozen sardines, some tunas like long-finned and yellow-fin tuna, and skipjack or stripe-bellied bonito.

Issue : High taxes for fisheries products to EU, such as 24 percent for canned tuna from Indonesia as opposed to 0 percent from many other countries.

Impact : Competitive disadvantage for Indonesia on the EU market and higher prices for EU consumers.

Proposed Solution : renegotiate the tarrifs and non tarrif barrier to EU.

Who should take action: EU and Government Indonesia.

Control over Illegal Fishing: Imports of fishery products must be accompanied by a catch certificate to demonstrate that the products concerned do not originate from Illegal, unreported and unregulated (IUU) fishing.

Issue : RFMO questioning the supply chain process to prevent illegal fishing.

Impact : Problems for small fishermen to comply with administrative procedures.

Proposed Solution : Strict buying standards by fish processing companies, training of fishermen, monitoring of compliance by senior officials from the Ministry of Marine Affairs and Fisheries.

Who should take action : Fish processing companies, Ministry of Marine Affairs and Fisheries, EU.

SECTOR 3:
INFRASTRUCTURE

SECTOR 3: **INFRASTRUCTURE**

Indonesia has long recognised the need for investment in its infrastructure and the wish list extends to hundreds of worthy projects and many billions of dollars to finance them. The challenge of legal certainty for foreign investors and the priority issue of land acquisition, particularly for the use of public purposes on land transport infrastructure, still hinders development, and without land connectivity the upgrades to airports and seaports becomes somewhat academic if there is no functional network back to the hinterland.

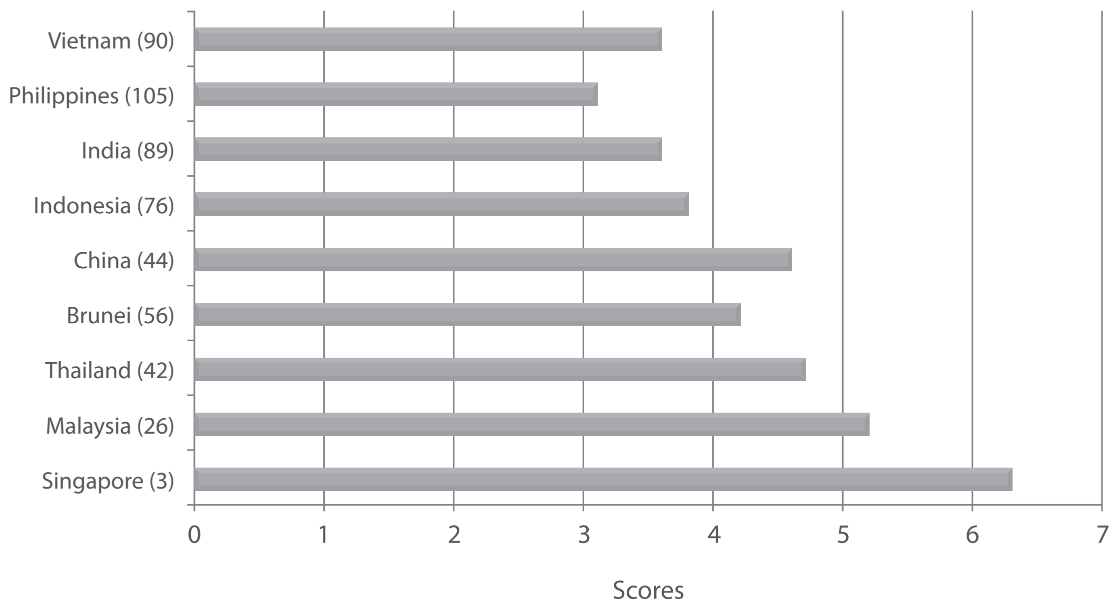
President Yudhoyono signed the Government's draft Bill on Land Acquisition in December 2010 and this was submitted to Parliament in early 2011. Having missed several deadlines, the necessary following Presidential decree to activate implementation was passed in January (Law 2/2012) with the Government Regulation to facilitate implementation approved in August 2012. It is expected that by 2013 the law and implementing regulation will receive their first tests. The importance of the law is that it sets out a clear procedure and time limits for objection against a given land purchase for a proposed infrastructure project. The unlimited timetable for objection that has previously held back the construction of land infrastructure, especially in the case of toll roads, should then be a matter of the past.

The current challenge in the water sector is how improvements can be realised against the agreed achievement dates for the Millennium Development Goals (MDG's) of 2015. Across the country, in terms of clean water supply there are large differences with some services at a satisfactory level but, the majority of the 400 district water supply companies still performing well below an acceptable level, whether measured technically or financially. In terms of wastewater, most areas are still inadequately catered for and MDG's will not be achieved. There is also much to be done in terms of water storage and bulk supply to meet future demands of a fast-growing economy.

The national electricity supply is also below an internationally minimum accepted level and too many areas of the Java-Bali grid remain under-provisioned. A healthy, recent development is a greater focus on renewable energy with support being offered for the early high risk phase of geothermal exploration and the establishment of better and more workable tariff structures in this and other forms of renewable power, e.g. hydro and solar.

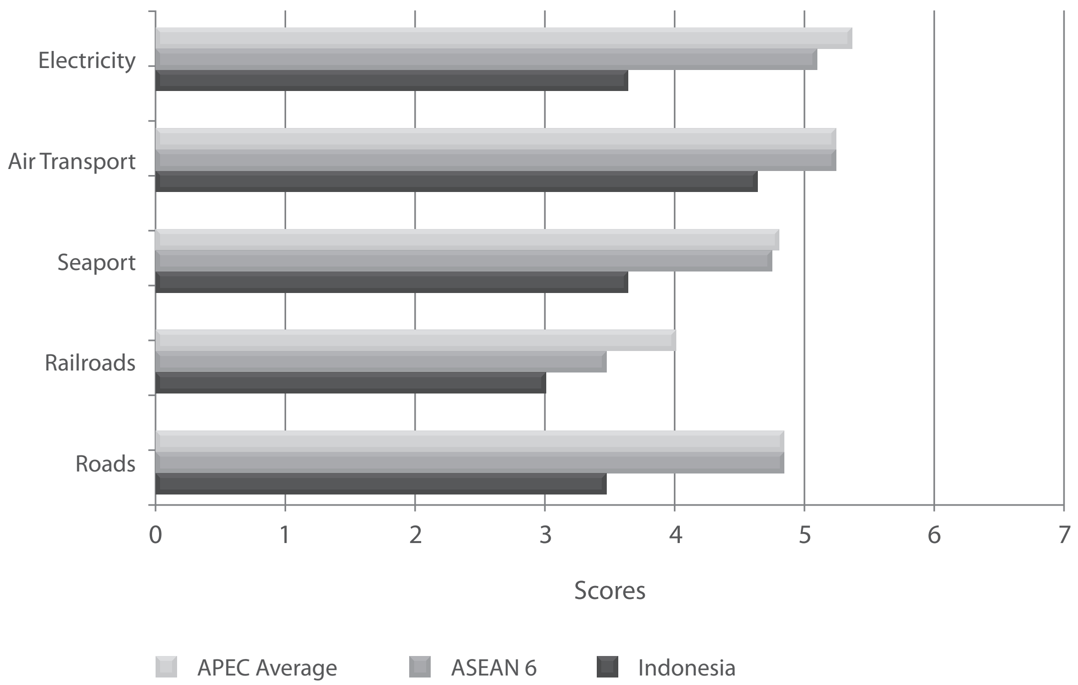
With the conditions for infrastructure investment gradually improving, and an investment grade rating awarded to Indonesia earlier in the year, it is anticipated that foreign direct investment, with that from Europe being particularly pertinent, will increase allowing Indonesia to improve its attractiveness compared with other developing countries needing large infrastructure investments, especially in neighbouring Asia. As elsewhere, there is a lack of funding available from the Central Government sources and the private sector is required to play its part in the development of the country's infrastructure.

Figure 1: Indonesia's Ranking on Infrastructure



Source: GCI 2010 – 2012

Figure 2: Indonesia's Score in Related-Transport Infrastructure Compared to ASEAN 6 and APEC Countries



Source: GCI 2010 – 2012

Issues:

1. Some continuing legal uncertainty for foreign investors.
2. Endemic corruption in the Government, with the continuing need for "fees" to get projects started or the necessary permits issued.
3. Until implementation under the new law is exercised, land acquisition will remain an issue.
4. Over-lapping regulations between central and regional governments.
5. Limited opportunities given in several sectors (Power Plants) to foreign investors. and
6. The lack of advertisement, through the media for attractive SOE's that would generally create private sector interest.

Impact:

The ratio of infrastructure spending to GDP continues to fall. The funds that do exist are often poorly allocated to peripheral services rather than physical infrastructure. Disbursement of funds through the many related departments is slow in any budgetary year, and the regulations that control the build quality of any development of infrastructure are quite often not enforced. In parallel, the lack of progress in implementing infrastructure projects is continuous, especially mega projects such as the development of Airports, Seaports, Railways and some Toll Roads.

Proposed Solutions:

1. Take stronger steps to address the distortions in the economy, such as those arising through corruption by;
   - Ensuring proposed projects/tenders given by the government are clear from the very beginning. (Timetable, cost, feasibility study, regulations, etc...) And that they are guaranteed by the Government.
   - The Issuance of effective Laws to support and accelerate the building/development of infrastructure.
2. Allocate at least 5% of GDP per annum as soon as possible and, for the ensuing 10 years. In addition, ensure that the funds are spent optimally and in a timely manner on physical infrastructure.
3. Proceed with the implementation of the land acquisition bill.
4. Push all government departments to complete and implement all outstanding regulations across all sectors;
   - Develop and integrate a blueprint that connects central and provincial projects within the same territory. Thus, eradicating overlaps within projects and removing a big hurdle.
   - The Government of Indonesia should be clear in their directions and commit to better coordination between the central and regional Governments. This must be reiterated by strong political will.
5. Commence towards the full implementation of the MP3EI, including the strengthening of regional bureaucracies that are involved in the development and delivery of projects.

Who should take actions?

- The Government of the Republic of Indonesia as the project owner.
- The Business community (Investors and Entrepreneurs) as the target groups.
- The people of Republic Indonesia as the final beneficiaries.

SECTOR 4:
PHARMACEUTICALS

SECTOR 4:
PHARMACEUTICALS

1. Economic Relations

1.1 Introduction

The relationship between the European Union (EU) and Indonesia is at an all-time high with strong and positive trade relations, taking advantage of the complementing structures of the two economies. In terms of foreign direct investment to Indonesia in 2011, the EU was the second largest contributor with USD 2.7 billion according to BKPM. However, on a regional basis, direct EU investment to Indonesia is still relatively small, accounting for 1.6% of the EU's direct investment in Asia.

Indonesia has continuously reported a strong surplus in its trade with the EU, and it reached more than USD 8 billion in 2011. The total value of EU-Indonesia trade for the same period was USD 33 billion. The main categories of EU imports from Indonesia are in agricultural products, mainly palm oil, fuels and mining products, textiles and furniture. EU exports to Indonesia consist primarily of machinery and transport equipment, chemicals and various manufactured goods.

Indonesia is a very attractive market for the EU pharmaceutical industry while EU companies would be able to help transform Indonesian industry to become a major supplier and exporter of drugs as well as new herbal medicine (jamu) products. Combining vast natural and human resources of Indonesia with the know-how and technology of European investors would result in an increase in the competitiveness of Indonesian pharmaceutical companies as well as the supply of medical services in Indonesia. The EU pharmaceutical market is the world's second largest after the USA. The EU market (extra EU imports) has twice, grown substantially, during the last 10 years. Around 80% of pharmaceutical imports to the EU come from Switzerland and the USA. Indonesia only provided 0.02% of EU imports in 2010.

The EU, on the other hand, constitutes a large and important market for Indonesia with its 500 million citizens. It is also the source of investment and trade giving rise to fair employment conditions, sustainable development and innovative technological solutions. The total stock of EU foreign direct investment in Indonesia amounts to approximately EURO 50 billion. Over 700 EU companies are established in Indonesia.

1.2 The Indonesian Pharmaceutical Market

The market size of pharmaceutical products in Indonesia is estimated to be around IDR 37.5 trillion (USD 3.9 billion, 2010), with an impressive average annual growth in the last five years of 10%.

The market consists of 170 local companies including four state owned companies and 32 foreign owned companies. The foreign companies have a 40% market share. Out of the estimated 32 multinational pharmaceutical companies operating in Indonesia, there are an estimated 20 European companies with an active presence. The Indonesian pharmaceutical industry consists of chemical-pharmaceutical and nonchemical, traditional (herbal), medicine manufacturers. There are around 232 chemical and pharmaceutical companies.

The distribution of pharmaceuticals is through 11,000 pharmacies, 7,000 registered outlets and 1,900,000 retail outlets. The Indonesian market does not have any price controls on pharmaceuticals, something that makes it potentially very profitable.

Over the Counter (OTC)

Indonesian OTC market has a double-digit growth rate according to some estimates. This can also be linked to a long history of self-medication in the country. Another factor that will help the OTC market grow is the fast-growing pharmacy sector. The success of pharmacy companies such as Apotek K-24 with franchising has forced the state-owned company, Kimia Farma, to follow suit. This is likely to increase sales of OTC products throughout Indonesia, making it an attractive market.

Generics

Indonesia is a major generic market with the generics market estimated to make up 75% of the total pharmaceutical market in Indonesia. But, despite the country possessing huge manufacturing capabilities, the lack of R&D in domestic companies could cause the market to stagnate, especially if IPR regulations are not tightened.

For generics, Indonesia cannot yet compete with India or China. Those two countries have sufficient raw materials for manufacturing available on the local market. For Indonesian producers to produce, they have to import and the main challenge is the high import duties for the raw materials, which makes production in Indonesia relatively uncompetitive.

The competitiveness of Indonesian generic pharmaceuticals manufacturing is also limited by the weak infrastructure in the country and expensive financing, making products more expensive. Additional issues hampering the development of the pharmaceutical sector in Indonesia is the lack of skilled labour.

Furthermore, there is a perception that Indonesian products do not have the sufficient level of quality and the country is not yet export driven enough. Government support towards exporting pharmaceutical companies is still very weak. The future growth of the generics industry in Indonesia is uncertain, and is dependent on a number of factors. The first of these is the value of the Rupiah against the US Dollar as the market is heavily reliant on imported raw materials. Another factor is government price cuts on branded generics, which are intended to give poor citizens access to branded drugs. However, the cuts could also be viewed as being biased towards the government, which owns most of the non-branded drugs (*worldpharmaoutlook.com*).

Raw Materials

Indonesia still imports over 90% of the pharmaceutical raw materials it needs, showing that its dependence on overseas industries is very high - with about 70% of the imported raw materials coming from China. Dependency on imported raw materials may potentially lead to national drug supplys becoming unstable which can hinder the health services performance as almost all health facilities require drugs. Inconsistency of Government policies in the protection of the raw materials industry is one of the factors why the local raw materials industry is still under-developed. Raw material manufacturing is an industry of high technological research and development. This should present opportunities for investment in the raw material manufacturing industry, providing technology transfer, capital and human resources.

Herbal medicine

Following an increased interest in 'alternative medicines' within the EU (and growing imports of related products), along with a well-developed industry in Indonesia, availability of resources and that the Ministry of Health ensures jamu (a type of herbal medicine) is safe, which is backed by research ensuring efficacy, Indonesia could find themselves with a unique product to introduce to the EU market. Typical ingredients for common recipes include varieties of ginger; spices such as nutmeg, cardamom, cumin and cloves; certain chilies; and fruits like papaya and banana. Jamu treats especially health-complaints like fatigue, muscle and joint pain, infertility, high cholesterol, skin problems, and indigestion.

The availability of raw materials to make traditional herbal medicine is relatively abundant in Indonesia. The results of studies conducted by the Indonesian Institute of Science showed that 30,000 of the 40,000 available species of world medicinal plants were found in Indonesia.

The herbal medicine sales revenue in Indonesia has significantly increased by 140% from USD 520 million in 2006 to USD 1,250 million in 2011. In 2012, the sales revenues are expected to reach USD 1,350 million. Sales revenue of herbal medicine in 2015 is expected to reach USD 2 billion locally, and USD 1,660 million through exports. (GP Jamu Indonesia)

The distribution of herbal medicine to EU countries face many challenges. Among these is the registration process, uncompetitive price compared to products coming from China or India, Indonesian technology and production capabilities are not yet up to EU standards, as are the quality control standards - which fall short of the EU's minimum requirements. Further to this, the delivery cost of herbal medicine products from Indonesia to the EU is high due to the necessity in maintaining the quality of the product meaning air delivery is the only option, thus, pushing costs up even higher. It should also to be underlined that the EU has a different standard of raw materials than those originating from Indonesia which may lead to obstacles in the provision of raw materials.

2. Potentials for enhanced cooperation

The advantages of Indonesia for investors are; Indonesia being the largest and considered to be the most stable democracy in Southeast Asia, one of the largest economies in a dynamic ASEAN and Asian region, strong growth within the Indonesian consumer market (especially within the middle income market segments) and the current internal market production networks and FTAs. Further to this, Indonesia has an abundance of natural resources and large labour force of which a large proportion are still at an especially young age. All these points should be taken into consideration when discussing Indonesia's potential with regards to the pharmaceutical industry.

General Opportunities

- How can we enlarge trade and investment opportunities in these sectors benefiting both - Indonesia as well as the EU?
- Based on statistics, Indonesia spends very little on drugs. This is an opportunity for EU businesses. EU pharmaceutical exports to Indonesia have been increasing over the past 5 years and can be improved on by solving technical issues.
- Indonesia's level of exports to the EU is low, how can we increase Indonesian exports to the EU in a way which will benefit both parties?
- Out of 40 thousand of types of jamu (herbal medicine), 30 thousand types are found in Indonesia. It is an area of interest to the EU that will also be beneficial to Indonesia.
- Indonesia has great potential in the exportation of locally produced pharmaceuticals to the EU. However, mobilisation from both business groups and Governments is required.

Health Care in Indonesia

Indonesia has made improvements in the health sector during the last ten years, health delivery capacity has expanded and important indicators such as child mortalities are declining. However, more than half the population lacks health insurance coverage. In 2009 the National Board of Social Security (DJSN) was established in accordance with Law No. 40 of 2004 on the National Social Security System. Following the legislation, Law No. 24 of 2011 was issued and mandated the establishment of the Social Security Implementation Agency (BPJS). Starting in 2014, ASKES and JAMSOSTEK will no longer be private limited companies under the Limited Liability Companies Law No. 40 of 2007 and the State-Owned Enterprise Law No. 19 of 2003. ASKES and JAMSOSTEK will be in the form of entirely government owned agencies and are no longer under the control of the Ministry of State-Owned Enterprises. Social security services must be non-profit orientated, portable, have compulsory contributions, and prioritise the benefits for their clients. The private sector is paying an increasingly important role in the provision of health care in Indonesia, especially in big cities, with wide variations in quality of care. Furthermore, as there is no regulation on pricing or quality of service in place, users are vulnerable to excessive treatment and expenses. The National Social Security System foresees support for the poor via JAMKESMAS (Public Health Insurance Scheme). Therefore, opportunities in Indonesia to enlarge the market (quantity and quality) are abundant, especially considering the scope of increased income levels and insurance coverage.

3. Regulatory Issues

1. Drugs Registration

The Minister of Health Regulation No. 1010/2008 on Drugs Registration ("MOH Regulation No. 1010") and BPOM Regulation No. HK.03.1.23.10.11.08481 of 2011 on the Criteria and Procedures for Drug Registration ("Brown Book")

MOH Regulation No. 1010 stipulates the technology transfer requirements, which requires local manufacturing facilities for off-patent products. In 2011, Head of BPOM issued the Brown Book, for public protection against drugs that do not meet drug safety, quality and user guidelines. The Brown Book acts as the implementing regulation of MOH Regulation No. 1010, and has been effective since 12 October 2011.

It has been concluded from the Brown Book that the regulation allows the industry more room to negotiate with the government (BPOM and the Ministry of Health) despite the issuance of requirements to localise several simple products in Indonesia. It is also concluded that the industry does not have to follow the whole manufacturing stages for every product that is marketed in Indonesia.

Recommendation

We applaud the issuance of the Brown Book. However, there is always a risk of different interpretations of the MOH Regulation No. 1010 by government agencies officials, which still needs to be managed accordingly. This requires dialogues and consultations between pharmaceutical companies, associations, the National Agency of Drug and Food Control (BPOM) and the Ministry of Health in order to understand the full implications of the regulations, local manufacturing requirements and how companies should manage their businesses in compliance with the regulations.

2. Draft Law on Monitoring of Pharmaceutical Supply, Medical Devices and Household Health Products ("Draft Law on Pharmaceutical Supply")

The Draft Law on Pharmaceutical Supply was originally titled Draft Law on Pharmaceutical Supply, Medical Devices, Household Health Products and Processed Food. The Parliament has already circulated the latest Draft Law on Pharmaceutical Supply internally, in which the provisions regulating the roles of the Minister of State-Owned Enterprise and processed food have been removed.

According to the Draft Law, all standards, requirements and responsibilities do not refer to and/or are contradicting existing regulations. The Draft Law does not provide a transition period for companies to adjust to the requirements in the Draft Law. It also stipulates direct obligations of companies to compensate consumers for product complaints with no requirement for the consumers to provide evidence. The Draft Law also stipulates the obligation for companies to allow Government inspectors to take pictures at company facilities posing a risk to a companies' ability to protect its confidential information.

Recommendation

- To harmonise the Draft Law with existing regulations to avoid overlappings and inconsistencies.
- To provide a transition period for companies to comply with the new regulations.
- Remove the consumer compensation scheme to avoid potential moral hazards.
- Revise the article on the obligation of companies to allow inspectors to take pictures of company facilities with a provision of "only when there is an indication of a violation".

3. Draft Law on Halal Product Guarantee ("Halal Law")

Halal Law is currently being finalised by the Indonesian Parliament, and is included in the 2012 National Legislation Programme (Prolegnas). The purpose of this Law is to make halal certification and make it mandatory for food and beverages, medicines, cosmetics, chemical products, biological products and genetically-engineered products to have labels. It is also understood that the halal assessment will be applied to both product ingredients and the equipment used in the production process. Categorising certain pharmaceutical products as 'non-halal' will not assist with public health objectives. It will hinder a patient's access to the best healthcare available and work against disease prevention. The mandatory halal certification may also prolong the time that patients have to wait in gaining access to certain medicines. Medicines which may harm patients more than do good. The impact this will have on the industry will be quite significant in terms of additional costs considering that the Bill makes the requirement to physically separate premises and equipment used for processing halal pharmaceutical products from those used for processing non-halal products compulsory.

Recommendation

- To make halal certification voluntary
- The removal of pharmaceutical products from the definition of products that are subject to halal certification on the basis of public health. Pharmaceutical products are consumed and/or administered not out of preference but of necessity, and in general there is no halal alternative to a specific substance because similar products are produced using the same key substances and similar production processes. Putting a halal label on pharmaceutical products will potentially develop a patients' resistance against certain treatments or medical interventions which will have an adverse impact on public health.

4. Health insurance system in Indonesia

In 2004, the Government of Indonesia issued Law No. 40 of 2004 on National Social Security System, and in 2009 the National Board of Social Security (DJSN) was established. Law No. 24 of 2011 was issued mandating the establishment of the Social Security Implementation Agency (BPJS). Starting as of 2014, ASKES and JAMSOSTEK will no longer be considered as private limited companies under the Limited Liability Companies Law No. 40 of 2007 and the State-Owned Enterprise Law No. 19 of 2003. ASKES and JAMSOSTEK will be then in the form of an entirely government owned agencie and are no longer under the branch of the Ministry of State-Owned Enterprise. Social security services must be non-profit orientated, portable, have compulsory contributions, and prioritise the benefits for their clients.

Recommendation

- Changes must be made in he way the upcoming Social Security programme will be executed. It must be thought of as a social insurance principle and social investment to be borne by all related stakeholders.
- To acknowledge the private sectors role in health care services. The National Social Security System Law does not distinguish between public sector and private sector health care facilities. We are aware that public sector health care facilities are very limited, and that the private sector will participate based on the regional distribution policy in terms of health care access as long as there is a proportional funding scheme from BPJS.
- To accelerate the process of the formulation of the "Roadmap for Universal Health Coverage"

SECTOR 5:
TEXTILE AND GARMENTS

SECTOR 5:
TEXTILE AND GARMENTS

A. TEXTILE AND GARMENT INDUSTRY

1. Introduction

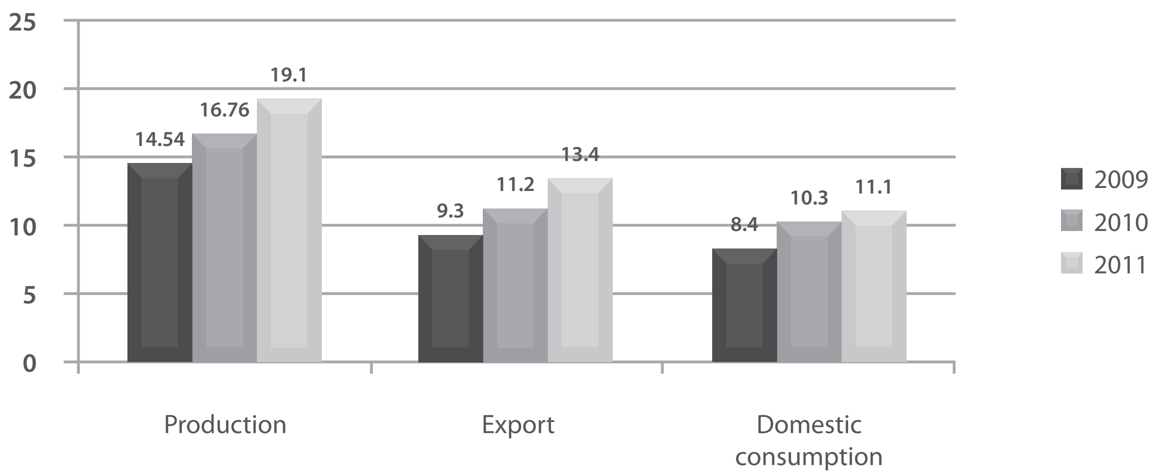
Indonesia, as one of the most populated countries in the world, has enormous potential in its textile sector. In 2011, Domestic consumption of Textile and Garment products reached US$ 11.1 Billion (or Rp 96.9 Trillion), growing 7.8% compared to 2010. The Indonesian Textile Association (API) predicts that the Textile and Textile Product Industry will grow at around 5% in 2012.

The total production of Textile and Textile Products reached 6,539.75 Million tons in 2011 (a growth of 13.81% compared to 2010). There are currently no fewer than 2880 textile manufacturers in Indonesia.

However, the number of textile imports from China increased significantly in 2011, dominating the domestic market with a market share of around 58%. The business 'doers' and entrepreneurs are very optimistic surrounding the growth of the industry in the near future.

2. Highlights Indonesia

Indonesia has more than Rp 155,77 trillion worth of investments in the Textile and Garment Industry as of today. This is spread across 2.880 companies, collectively employing 1,474,960 workers.
The Indonesian Textile and Garment Industry has a utilisation rate of 83%.



Value : Billion US$

3. Investment Opportunities

In the last 3 years, the total investment towards the Textile and Textile Product industry has been relatively low. The total investment for 2011 reached Rp.151.77 Trillion, increasing 1.26% from 2010 and 3.83% from 2009.

The Indonesian Textile sector employs a huge work force, totaling 1,474,960 in 2011 (an increase of 4.78% compared to 2010).

The cost of labour is quite competitive in comparison to China. However, labour is still cheaper to source in Vietnam, all be it for a lower skill level.

South Korea and Taiwan have set up textile and clothing manufacturing plants in Indonesia due to its labour intensive focus. Some textile manufacturers from China plan to move their operations to Indonesia, mainly because of the increasing labour costs in China.

4. Trade Opportunities

In 2011, Indonesian Textile and Clothing exports to the EU reached 1,787.7 Million Euros (an increase of 10.6% compared to 2010). In contrary for January - May 2012, the value of exports to the EU only reached 690.2 Million Euros (a decrease of 8.4% compared to the same period in 2010).

One of the barriers for Indonesian Textile and Clothing exports from Indonesia to the EU is that the tariff is currently set between 12%-16%. On the other hand, the tariff for Textile and Clothing machinery imports from the EU to Indonesia currently sits at 0%. Indonesia and the EU need to review the current tariff agreement to achieve a win-win solution.

To increase the competitiveness of the Indonesian Textile Industry, the Ministry of Industry has been running a restructuring programme for textile machinery and equipment since 2007. Through this restructuring programme, the Ministry of Industry provides financial support for some Textile and Footwear manufacturers. In 2010, there were 191 manufacturers who acquired financial remission with total investment value of Rp. 286.87 billion, while in 2011 only 134 manufacturers acquired it with a total investment of Rp. 73.54 Billion.

China has become the main provider for Textile Machinery and Equipment in Indonesia, although the qualities of the products are deemed lower than those of the EU. This is a great opportunity for the EU to claw back some of the market share.

B. FOOTWEAR INDUSTRY

1. Introduction

Indonesia has great potential for development in the footwear production and the footwear consumer market. Footwear production reached a total value of US$ 7,193 Million in 2011 (a growth of 13.81% from 2010) or equal to 855 Million pairs produced by 528 manufacturers.

In 2011, the Indonesian domestic consumption reached a total of US$ 3,382 Million (a growth of 5% compared to 2010) or, equal to 400 Million pairs of footwear.

2. Trade Opportunities

Footwear exports in Indonesia reached US$ 2,948.4 Million (an increase of 30% from 2010). This is equal to 46.7% of the total number of footwear products produced in Indonesia for 2011. Products regarded to be of higher quality than those originating from China.

3. Investments Opportunities

Indonesia provides employment for a huge number of people. The total number employed within the Indonesian footwear sector, for 2011, was 650,000 (an increase of 18% from 2010). The total investment within the footwear industry grew significantly in 2011, reaching Rp. 1,887 Billion (an increase of 93% from 2010).

Labour costs in Indonesia are competitive in comparison to China but, still more expensive than in Vietnam.
Most International brands, such as Nike and Adidas, place their orders in Indonesia, whilst foreign owned companies such as Clark, Timberland, Echo and Fortuna are already well established.

Manufacturers in China are looking to follow South Korea and Taiwan in establishing their manufacturing plants in Indonesia due to the labour intensive environment as costs in China continue to increase.

4. Investment Opportunity for Machinery and Equipment Restructuring Program

To increase the competitiveness of the Indonesian Footwear Industry the Ministry of Industry, in 2009, launched a Restructuring programme for Textile Machinery and Equipment. Through this restructuring Programme, the Ministry of Industry gave financial remissions for some footwear and textile manufacturers. In 2010, there were 191 manufacturers who had acquired financial remissions with total investment value of Rp. 286.87 billion, whilst in 2011 only 134 manufacturers acquired financial remissions worth a total of Rp. 73.54 Billion.

Presently, the main producer of Footwear Machinery and Equipment is Italy, with China poised to over-take them in the near future. In terms of quality, Chinese products are of a lower standard than those originating from Italy. The EU has the opportunity to continue providing footwear machinery and equipment with better quality.

C. ISSUES, IMPACTS, SOLUTIONS AND ACTION FOR THE TEXTILE AND FOOTWEAR INDUSTRY

1. Unbalanced Export/Import tarrifstariffs between Indonesia and the EU.

The EU's import tariff for textile products originating from Indonesia is 12%-16%, whilst the Indonesia's import tariff for machinery for Textiles and Footwear from the EU is set at zero. This will have a direct negative impact on Indonesian products as their prices cannot be as competitive as those from China.

The Head of the Indonesian Textile Association (API) said that the Government should re-negotiate these tariffs which could potentially lead to Indonesia's exports to the EU worth three times as much.

It is proposed that import tariffs for textile and footwear products between the EU and Indonesia be reviewed to encourage more trade.

2. Un-synchronised regulations between the Ministry of Trade and the Ministry of Industry.

Regulations that have been issued by the Ministry of Industry, the Ministry of Trade and the Ministry of Finance have different interpretations, some of which contradict each other, causing uncertainty throughout the industry. We strongly recommend that more comprehensive regulations be jointly issued from the Ministry of Trade and the Ministry of Industry in order to put an end to these uncertainties.

3. Crucial investment process at province and regional/municipality level

One of the main obstacles facing the industry are the difficulties that surround Foreign Direct Investment. This uncertainty needs to be addressed through the harmonisation between both the central and local Governments.

4. Labour pressure for wage hike, anti-outsourcing and health insurance.

Labour demonstration related to wage-hikes, anti-outsourcing and health insurance have negative impacts on the Industry. However, until the present date, there has been no decisive action from the government in resolving these issues. The direct impact will be on investors and capital outflow.

The Indonesian Government should step in to review multi-party agreements, those held between manufacturer associations and labour federations

5. Skilled labour is only concentrated in certain areas.

Skilled labour areas such as Tangerang and Bandung serve as obstacles in the development of manufacturing plants across Indonesia.

The Director General of Textiles and Miscellaneous Manufacturing Industry Base said that The Ministry of Industry will conduct labour training for 7,200 people ready for the textile sector. 3000 people will be allocated to Central Java, 2000 people will be allocated to West Java whilst the remainder will be allocated to East Java."

A solution would be to have a large quantity of training programmes held by the EU consisting of high quality European materials and education of European working standards in a hope to improve the nation's industrial sectors.

6. Value Added Tax (VAT)

Currently, Indonesian Textile products compete viciously with textiles made in China, Pakistan and India. While China, India and Pakistan apply sales tax, Indonesia applies Multiple Value Added Tax (VAT).

It is not suitable to apply this to products from the Textile and Textile Product Industry. It affects the production cost and has a negative impact on the competitiveness of Indonesian textile prices. The tax regulation should be reformed to become sales based.

7. Domination of China Chinese textile product

The domination of low priced Chinese textile products has a direct impact on local manufacturers and the domestic market. Products from China will become increasingly dominant in the local market if the competitiveness of Indonesian products continues to decline. The Indonesian Government should take firm measures to support the nation's Textile and Garment sector.

By reducing the import tariff between Indonesia and the EU and through the development of technology, equipment and labour, Indonesia will come to dominate the worldwide Textile market, overtaking China in the process. Procurement of the technology needed within the Indonesian Textile and Footwear Industry can be sought by agreements and investments from European companies.

8. The limitation of available raw materials (such as rubber) for the footwear Industry.

Raw materials for Small to Medium sized enterprises are still in great shortage. The reason for this is that most raw materials, such as cotton and rubber, are still imported. This results in high production costs and ultimately production instability.

The Director General of the Ministry of Industry for SME's has to intervene to ensure that large scale producers of raw materials in Indonesia are selling their products to local SME's.

Another solution to be provided by the EU is to have a government to government import agreement on raw materials, of which there is a local shortage of and that are specific to the footwear industry. The agreement should offer special treatment on imports tariff from EU to Indonesia and provide on exclusive procurement on footwear materials.

LOCAL ISSUES	IMPACT	PROPOSE SOLUTION	WHO SHOULD TAKE ACTION
Multiple Value Added Tax (VAT). While in China, India and Pakistan apply sales tax.	The price will be competitive	Tax reform, apply sales tax	Indonesian Government
Labour pressure for wage hikes, anti-outsourcing and health insurance	Investor and Capital outflow	Review multi-party agreements between manufacturer associations, labour federations and Government.	Indonesian Government (Ministry of Labour)
Domination of Chinese textile products in the domestic market, with lower prices	The share of the domestic market held by Local manufacturers will decrease.	Local Market Protection	Indonesian Government (Ministry of Trade)
Limitation of raw materials availability. Indonesia only produces fiber & polyester as a basic material, while high quality cotton is totally imported from Brazil	High production costs and Production instability	G to G export import agreements.	Indonesian Government in cooperation with Manufacturers
Crucial investment process at provincial and region/ municipality level	High investment costs	Set up a Foreign investment desk	Indonesian Government
EXTERNAL ISSUES			
Import Tariffs between Indonesia and the EU			
• Tariff of Textile imports from Indonesia to the EU are 12%-16% • Zero import Tariffs for Textile Machinery and equipment from the EU to Indonesia	The textile price from Indonesia will not be as competitive as Chinese product.	Review the agreement on the tariff system for Textile products. Textile tariff reductions will increase textile will almost triple exports to the EU.	Indonesian Government and the EU

CROSS SECTOR 1: INTELLECTUAL PROPERTY RIGHTS

CROSS SECTOR 1:
INTELLECTUAL PROPERTY RIGHTS

INTRODUCTION

The EIBD Working Group on Intellectual Property Rights (IPR's) aims at better understanding the opportunities arising from an improved legal and institutional protection of intellectual property, trademarks and cultural heritage.

This recommendation paper does not abandon itself to complain about inefficiencies on one side or a simply legalistic approach on the other. Any instrument of protecting intellectual property, or other achievements and resources deserving protection, should follow – among others - a business-minded rationale.

The following laws are related to IPR protection:

- Law No. 7 Year 1994 concerning the Ratification of Agreement Establishing the World Trade Organisation;
- Law No. 30 Year 2000 concerning Trade Secrets;
- Law No. 31 Year 2001 concerning Industrial Design;
- Law No. 32 Year 2000 concerning Layout Design of Integrated Circuits;
- Law No. 14 Year 2001 concerning Patents;
- Law No. 15 Year 2001 concerning Trademarks;
- Law No. 19 Year 2002 concerning Copyrights;
- Government Regulation No. 51 Year 2007 concerning Geographical Indication ("Government Regulation No. 51/2007"); and
- Government Regulation No. 7 Year 2005 concerning Organisational Structure, Duty, and Function of Trademark Appeal Commission ("Government Regulation No. 7/2005").

However, several factors that would ensure the system, as a whole, works to protect against IPR violations have not been implemented to the fullest. These factors include; purchasing power, lack of knowledge on IPR and uncertainty in the enforcement of criminal law.

The categorisation of Indonesia under the 'Priority Watch List' by the U.S. Trade Representative (USTR), because of the high level of copyright infringement on products that use digital media or optical discs such as VCD's, CD's, DVD's and software, backs this up.

ISSUES

1. A lengthy trademark registration process with an average time of two years.
2. The absence of regulations regulating well-known brands or trademarks, associated with Article 6, paragraph 1 letter b of Law No. 15 of 2001, regarding Trademarks relating to the protection of well-known brands.
3. The numerous similarities between trademark registrations require huge developments in the skills and knowledge (capacity building) for Trademark inspectors.
4. Many trademarks are registered in alleged bad faith.
5. The rules and implementation of these are not sufficient in the fight against trademark infringement. This is proven by probation and minimum fine sentences being issued as punishments. These do not act as a deterrent for the perpetrators.
6. The patent application process lasts on average five to six years through the Patent Cooperation Treaty (PCT) and longer if not.

7. Medicines are registered with the NA-FDC (BPOM) containing substances that are still protected under patents owned by others without prior permission/license.
8. Confidential Information is not protected under the Patent
9. There is a lack of boundaries for patents protecting invented software.
10. There is a lack of regulations surrounding Patents, resulting in them not always working in practice.
11. Industries, Universities and the general community have a lack of understanding of the benefits of patents. This results in an inefficient patent system.
12. It is an obligation to submit all patent applications in Bahasa Indonesia where accurate translations are demanded, especially in the claiming process.
13. There is a lack of understanding surrounding copy right protection with the owners due to the weakness in education and the socialisation of relevant issues
14. There is a lack of minimum compensation under the relevant laws surrounding copyright infringement (statutory damages).
15. Inadequate enforcement against copyright infringement even though it is a common offense.,
16. There are a number of copyright infringement cases occurring through the media and information technology that require special training for officers to tackle.
17. The lengthy duration of the Industrial design registration process with average time of 2 (two) years or more
18. The understanding and concept of industrial design protection within the community, the business community and relevant officials in government agencies needs to be improved
19. Lack of strategic programmes to create public awareness, especially within SME's and foreign companies, on the legal and normative substance of the design industry and its terms. Including the local community's cultural richness of Indonesia.
20. There are currently a few Indonesian products which have a close relationship with a particular geographical area, but are yet to be granted protection under the GI scheme by the Indonesian government
21. There are no concrete guidelines towards the supervision and protection of Indonesian registered GI products offshore. This may lead to the abuse of names, places or Indonesian products which may bear no relation to the manner in which they are being used.

IMPACT

1. The lengthy terms and process for trademark and patent registration in Indonesia is considered to be the reason for trademark protection uncertainty, until the trademark/patent is finally registered. The absence of a government regulation in favor of Article 6, paragraph 1 letter b of Trademark Law No. 15 year 2001 can harm the owner of the well-known brand or Trademark;
2. Enforcement of inadequate legal protection can cause difficulties for companies that can lead to a decreasing level of investor confidence. Particularly in the form of violations surrounding the counterfeiting of well-being products such as medicines and cosmetics which can have fatal consequences.

3. Double patent registration where the contents of product are owned by different parties;
4. The low understanding of domestic patents gives the impression that the patent system is more reliable for foreign inventors or foreign companies.
5. Protracted patent applications process due to unclear explanations or descriptions of the claim and the patent application documents;
6. cancan result in the reduction of youth creativities, potential losses in state revenue from taxes, loss of potential employment, and lack of trust from the international community surrounding copyright enforcement in Indonesia;
7. The lengthy terms of the industrial design registration process in Indonesia can lead to legal uncertainty and the protection of industrial design creations. This can result in delays in the production and commercialisation of industrial design in question.
8. The lack of Government granted protection under the GI schemehas caused the name of some areas in Indonesia, which produce unique products, to be jeopardised by unauthorised parties, as such:
   a. The use of the name "Gayo" by a Dutch company for their coffee product.
      In 2008, the people of Indonesia were shocked to receive a letter from Holland Coffee B.V. (an Amsterdam-based Dutch company) ("Holland Coffee") reprimanding the use of the name "Gayo" on the packaging of Gayo coffee exported to the Netherlands. Holland Coffee informed Indonesia that it had registered a trademark "Gayo Mountain Coffee" under its name. Holland Coffee prohibited CV Arvis Sanada, an Indonesian business entity which produces and exports Gayo Coffee to many countries, including the Netherlands. The registration of the word "Gayo" as a trademark was a wakeup call to the people of Indonesia, and therefore, instigated the protection of Gayo Coffee under the GI scheme in Indonesia and IFTO.
   b. The use of the name "Toraja" for the coffee product produced by a Japanese company.
      Key Coffee Inc. (a Japanese company) registered a trademark "Toarco Toraja" for its sour and bitter tasting coffee to the Japanese Agency of Patent Registration. The registration was fully completed on 14 January 1977, and since then, Key Coffee Inc. had always prevented the use of word "Toraja" by any other coffee supplier. In Japan itself, there were disputes regarding the abuse of word "Toraja" by another coffee supplier (Avance Trading Co.). The monopoly of the word "Toraja" for the marketing of coffee was deemed to bring disadvantages to other coffee suppliers, and therefore, leading them to appeal to the Japanese authorities for a universal use of the word "Toraja". They argued that "Toraja" was a name of a territory, and that it did not belong to anyone. Therefore, the use of it should not be limited. On the other hand, Indonesian coffee suppliers suffered difficulties in penetrating international markets (particularly Japan) with the original Toraja coffee.

SUGGESTED SOLUTIONS

1. Providing a more effective and efficient system to accelerate the process of a trademark, patent, copyright andindustrial design registration, in order to improve legal certainty for investors;
2. Providing an official mechanism to accelerate trademark, patent and copyright registration applications with an official fee or charges in accordance with the principles of the justice and the public order;
3. The goverment must issue a Government Regulation (Peraturan Pemerintah) on the protection of well-known trademarks in favour of Article 6, paragraph 1 letter b of Law No. 15 Year 2001.;

4. Improve working facilities, infrastructure and compilation of a complete database of trademark registrations
5. Improve coordination between DG IPR and NA-FDC (BPOM) in the protection of the contents of drugs (and pharmaceuticals), nullifying double registrations for one product.
6. The enforcement and sanctions need to be affirmed and fully supported in order to generate a deterrent effect. Coordination between relevant law agencies, at various levels, needs to be enhanced so that the control and law enforcement will be simplified.
7. Requirements to improve the skills and the abilities of examiners in order to be more objective and comprehensive in deciding trademark, patent and copyright applications. Systemised and regular Education, socialization and training activities have to be held among the examiners.
8. Hold an Intensive socialisations among industries, research and development ministries, government institutions and universities regarding the benefits, importance and legal protection of the patent system and legal protection in order to grow awareness.
9. Necessary training on patent drafting, both for the inventor, researcher and consultant IPR's. Specifically for the patent examiner at the Patent Office;
10. The Indonesian Goverment needs to be more proactive in protecting products embodying specific and distinctive characteristics which are closely related to geographical areas. Therefore, the Indonesian Government must actively participate in the protection of such products.
11. DG IPR play a more active role in identifying products with particular characteristics to be developed. DG IPR should involve local communities who have been directly engaged in the process of the production of such products.
12. In addition, the Indonesian Government can contribute by doing the following:
    a. Fund the research and development of a product to define the basic standard.
    b. Encourage the society to maintain and rejuvenate existing products in their respective areas
    c. Create a scheme that expedites the registration process of GI; and
    d. Actively market and create the good image of Indonesian products in foreign markets.
13. The producers and the associations that work to protect these products should work together in lobbying to the government for the protection of their products;
14. The Governments of other states can help protect products bearing certain characteristics which are closely related to a geographical area by doing the following:
    a. Conduct scrupulous due diligence upon any registered trademarks within its state of ownership.
    b. Impose legal consequences to imitators or counterfeiters.
15. Countries within the EU are by now familiar with Indonesia's GI scheme. Especially since there are currently more than 3000 products registered. Comparative studies and the transfer of knowledge between Indonesian and EU officials will help with Indonesia gaining a better insight in (i) how to increase society's awareness in the importance of GI protection, and, (ii) the importance of maintaining the quality of protection.

WHO IS TO TAKE ACTION

1. Coordinate all related agencies in making changes and improvements to the Trademark regulation;
    a. Directorate General of IPR: By issuing government regulations that better protect well known trademarks and improve the quality of protection that these and newly registered trademarks are given.

b. Indonesian Police Department: Develop their capacity in the field of IPR so that they are competent in the investigations of cases of related to Trademarks, Patents and Copyright infringements (IPR in general).
c. Court: appointing trained and experienced Judges in dealing with IPR cases. Judges to be placed at each of the Commercial Courts, designated to the handling of civil cases of IPR disputes.
d. National Agency of Food and Drugs Control (BPOM): Coordinate with the Directorate General of Intellectual Property Rights on the licensing of particular medication or food and beverages that often require BPOM registration.
e. Customs Department: Executing instructions and complete technical guidance related to efforts in the protection of trademarks and copyrights at Indonesian ports and airports.

2. Directorate General of Intellectual Property Rights and NAFDC (BPOM) has an important role to play in maintaining the confidentiality of patent data. It is and further advised that they pay more attention to this and coordinate efforts to develop system that fully protects data related to individual Patents (protection of data) at all institutes. Ultimately protecting the rights of the Patent owners.
3. Directorate General of Intellectual Property Rights should begin to develop a more efficient system for patent protection.
4. Hold intense socialisation, education and dissemination trainings on Copyright Law.
5. Reorientation and improve Copyright law enforcement to encourage greater employment through the effect of technology transfer and foreign investment.
6. Strong political will from the Government in reforming the law in an effort to improve Copyright protection in Indonesia.
7. Extensive promotion through numerous media channels, in and outside of Indonesia, bilateral and multilateral, in an aim to reassure investors and foreign parties of Indonesia's positive policies involving the investment and trade of Copyrighted products.
8. An extensive Anti-piracy and anti-counterfeiting campaign.
9. The Government should immediately complete the draft amending Copyright Law enforcement to become better prepared in fighting perpetrators.
10. The Indonesian Police Department must increase their cooperation with the relevant law enforcement agencies as well as training investigators in the field of IPR.
11. Customs: Immediately make provisions to guidelines and technical instructions for controlling the flow of imports and exports of goods through ports and airports, especially those related to the Supreme Court Regulation No. 4 and no. 5 of the provisional measures, and the temporary suspension.
12. The Ministry of Industry and Trade, the Ministry of Tourism and Creative Economy, the Ministry of Cooperatives and SME's, Universities, Associations and Professional organisations, to hold intensive socialisation and education programmes regarding Industrial Designs.
13. Producers and associations (local producers, farmers, research institutions, Indonesian Coffee and Cocoa Research Institute – ICCRI and Centre de Coopération Internationale en Recherche Agronomique pour le Développement – CIRAD, district, provincial and central government(s), the private sector and on previous occasions the French Embassy in Jakarta) related to products within specific regions that implement GI protection should work together to draw up common regulations for the production and determining the boundaries of protected areas.
14. Government to Government cooperation and support to simplify the registration process and fully recognize Indonesian GI's in Europe.

CROSS SECTOR 2: **SUSTAINABILITY**

CROSS SECTOR 2: **SUSTAINABILITY**

Sustainable development can be defined as the development that meets the needs of the present without compromising the ability of future generations to meet their own needs" . All citizens of the world should have the desire to preserve the quality of life for future generations. The current use of the world's natural and environmental resources is unsustainable. There are also widespread social problems that need to be resolved, such as poverty and social disintegration.

Public concern over sustainability issues, such as climate change, the availability of clean water and food supply, is growing, both in Europe and in Asia. This public concern is having an increasing impact on the production, trade and consumption of products. It leads to additional requirements imposed by buyers, and government regulations. Although the public concern over sustainability is genuine and largely justified, the information on which the concern is based is not always correct, and the measures taken by buyers or by governments are not always the most efficient or effective to achieve a sustainable world.

The concern over sustainability however also creates new opportunities, by generating demand for new products (such as eco-products and renewable energy) and stimulating research and innovation. There is also growing evidence that an active sustainability policy contributes to the efficiency, risk management and profitability of companies.

The concept of sustainability implies a balance between the needs of today and those of the future. Actions and measures that are aimed at long-term objectives need to take into account possible adverse short-term effects, and vice versa. Solutions need to be found for short-term loss of employment or income, especially for vulnerable people, which may result from sustainability driven actions. Sustainability is defined as all environmental and social aspects of products and processes of production and consumption. Environmental aspects range from local pollution of water, soil and air, to biodiversity and global issues such as climate change and ozone layer depletion. Social aspects are all parts of labour relations, such as compliance with labour regulations and ILO-standards on freedom of association, child and bonded labour and workplace health and safety issues, to local communities, cultures and human rights .

Below, the Indonesian and European business community have set out the principles of what they believe is an efficient and effective sustainability policy, in which business, government and non-governmental organisations each carry an important part of the responsibility for a sustainable world.

Much progress has been made in recent years in the environmental and social sustainability of production processes around the world. Also in Indonesia, there are many examples of sustainable production in agriculture, mining and manufacturing, and these examples do not always receive the credit they deserve.

There is however a need to further expand sustainability principles to all major producers and also to smaller and medium-sized companies. The efforts in Indonesia need to be mirrored with supporting policies in the European Union, swift implementation of agreements between Indonesia and the European Union, and facilitation of trade of sustainable products.

1. Accounting for Sustainability Costs

Indonesia is a resource-rich country, where natural assets like food, energy, water and a growing range of raw materials are being heavily exploited. These resources are, in many cases, limited in supply. The importance of sustainable use of Indonesia's natural resources for the country's economy creates the need for an accurate accounting and valuation of the state of natural capital in Indonesia, including internalising negative externalities through appropriate pricing. Institutionalising a GDP+ measurement that moves beyond basic economic activity in the context of sustainable growth, consumption, income distribution, natural resource depletion and social well-being (quality of life) indicators could also be considered. This would support the implementation of national policies related to sustainability, such as the commitment to reduce carbon emissions.

More material, coherent and integrated information on environmental, social and governance (ESG) information should be included into corporate financial reports or in separate sustainability reports. This integrated reporting should be mandatory for listed companies and encouraged for other companies, so that Indonesia can establish and maintain a competitive and leadership position among emerging Asian economies. This would help to attract long term sustainable and responsible investment.

2. Enforcement of Existing Regulations

Consistent enforcement of existing environmental regulations by governments and respect for the law by companies should have the highest priority.

Governments have to use the tool of regulations responsibly. Regulations should only be used where other mechanisms to improve sustainability, such as incentives and voluntary standards, are ineffective.

It is suggested that the European Union and Indonesia expand technical co-operation and learn from each other in the area of environmental regulations and the enforcement thereof, through meetings and exchange visits.

3. Stimulating before Regulating

Sustainability should be stimulated by internalising the sustainability costs of a product into its financial price. This should be achieved by reducing disincentives and creating incentives for sustainable products and by taxing non-sustainable products. Policies that fit into this principle are :

- Greening of the Taxation System : reducing subsidies on polluting products (such as fossil fuels) and applying higher taxes on polluting products rather than on non, - or less polluting products, and offering tax breaks on investments in sustainability and environmentally friendly products, such as fuel-efficient cars;
- Charging environmental clean-up costs to the polluter;
- Providing subsidies or low-cost financing for investments in new technologies that improve sustainability;
- Stimulating joint research by government-funded research institutions and the private sector to find solutions to sustainability issues;
- Providing information and technical assistance on implementing sustainability standards;
- Supporting technological co-operation between Indonesian and European companies, by creating new lines of information exchange and communication between Indonesian and European companies that make it easier to match supply and demand of environmental technologies. Examples are focused match-making meetings;
- Providing incentives and more affordable funding for investments in sustainability.

These policies should be considered in both Indonesia and the European Union.

4. Constructive Engagement

Regulations, standards and agreements need to be made on the basis of transparency and genuine consultation between companies, governments and other stakeholders.

Before issuing any new regulation or stimulation policy with regards to sustainability, the government needs to systematically consult with the business community on its expected effectiveness and impact.

Companies and stakeholders, often organised in non-governmental organisations, need to engage in genuine dialogues aimed at finding solutions for sustainability problems, based on facts, and basic common principles.

Companies should consider publishing a sustainability report, as a widely accepted communication mechanism on all sustainability issues.

Constructive engagement also implies respect for other cultures in the communication process, both between organisations as well as between countries.

5. Voluntary Standards and Self-Regulation

Before issuing legal restrictions on products, governments must give companies and the other related stakeholders the opportunity to formulate and implement voluntary sustainability standards.

Standards that have been achieved in national or international consultation, such as RSPO, FSC, MSC and GlobalGAP should be respected, also in relation to governments' own rules and regulations. However, governments should work together with companies during the formulation of the international standards to ensure that the country's interests are duly taken into account. The government has the right to regulate. It is however, agreed that companies should take the initial responsibility to set voluntary standards. If the government finds these inadequate, only then should it regulate. Government needs to have a system of cooperation with national accreditation bodies, producers, and certification bodies.

Government institutions in the financial sector could stimulate self-regulation of publicly listed companies through the stock market, with the following steps :

1. mandate sustainability (preferably integrated) reporting;
2. link executive compensation to long-term sustainability performance and encourage loyalty-driven securities that reward investors for holding shares / assets long term;
3. embed sustainability (ESG accountability and performance) as a fiduciary obligation of the Board of Directors;
4. enable development of reputable sustainability indices and sustainable investment products and asset classes beyond equity (bonds, sukuk, ETF/EPFs);
5. ensure security houses, investment managers, market analysts, rating agencies, insurance underwriters, public accountants and related institutions and peers include sustainability factors in their roles, responsibility and interaction with the capital market;
6. encourage and enable the leadership of the Indonesian Stock Exchange to be proactive in its policies, pronouncements and commitments to sustainable practices and performance, aiming to be an emerging market leader for sustainable and responsible investment.

6. Adherence to Internationally Accepted Standards

Companies in all countries should adhere to at least one of the internationally accepted standards of sustainability. Many of these standards not only cover environmental and social standards, but also principles of governance and business ethics. Companies should not only formally underwrite such standards, but also ensure their implementation through a systematic management approach.

Non-governmental organisations should consider applying similar principles .

Nevertheless, there are many instances in which sustainability initiatives in Indonesia do not receive adequate recognition by sustainability standard setting bodies. In the forestry sector for instance, official land ownership documents, as required by the international standard setting bodies, are not always available. Full reliance on law enforcement agencies is also not always effective. Efforts by forestry companies to apply alternative planting and harvesting techniques, should receive more recognition from standard setting bodies. There are many good examples in Indonesia, such as a pulp and paper company that applies protective rings of production forest around high conservation value areas. More attention to the effects and less emphasis on the methodology should be considered.

Another issue, especially for smaller producers, is the cost of certification. These are often prohibitively high. More competition among certification bodies should be encouraged.

Farmers mostly do not have the resources to invest in sustainability, and have very limited working capital. Special efforts are necessary to ensure that the financial benefits of sustainable production are felt immediately. Companies must be encouraged to develop new and innovative business models that are able to better engage local communities by helping them to address systemic issues such as unemployment.

Buyers usually attach higher credibility to voluntary standards than to mandatory standards. However, local certification can become a worldwide system as long as the system is recognised by the market and at the same level with existing international standards. Therefore, local certification needs to be well marketed.

International standards should take more into account what has already been implemented on local levels. Due attention should be paid to the governance and fairness in international certification standard setting.

7. Increasing Public Awareness

The public needs to be educated on the effects of unsustainable production and consumption on the current and future living environment. Some forms of pollution cause immediate health risks. Other forms of production and consumption deplete important resources such as clean water. The longer terms effects of loss of biodiversity and climate change also deserve attention. An extensive awareness campaign should be designed by the government, NGOs and companies taking the lead in sustainability.

The government has the prime responsibility to educate the general public about sustainability. Such education and awareness campaigns take years of consistent efforts in order to bring about changes in behaviour. Growing public awareness will increase the incentives for companies to apply sustainable production methods.

Several companies in Indonesia that are taking a leading role in sustainability have taken local initiatives to educate the public. These companies are generally also willing to share the lessons learned, and to help upscale local or company initiatives to national campaigns, or by joining local association or groups of companies with similar visions of sustainable business, such as the Indonesia Business Council for Sustainable Development (IBCSD). Information about Indonesian success stories in sustainability are also important in order to improve Indonesia's sustainability image.

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