

PERSPECTIVES ON INDONESIA

CREDIT: GLOBAL INITIATIVES



SUSILO BAMBANG YUDHONYONO

‘There are plenty of signs that Indonesia is roaring again as the lion it used to be.’
—**Indonesian President Susilo Bambang Yudhoyono (pictured left)**

‘Bring your knowledge, bring your capital, and you’ll do well.’
—**Muhammad Lutfi, Chairman, Indonesian Investment Coordinating Board (BKPM)**

‘There’s no question that the top leadership is aware and proactive regarding the needs of foreign investment.’
—**Tun Musa Hitam, Chairman, World Islamic Economic Forum**



SANDIAGA S UNO

‘Get a good local partner. There are a lot of instances where the local partner selected hasn’t provided solutions, but has instead become a drag to a project. Do a background check. [The currency crisis of] 1998 provided a good litmus test. The businessmen who came through that time will settle their debts even while restructuring, and don’t run away from

their commitments.’
—**Sandiaga S Uno, Chairman, Permanent Committee for Small & Medium Enterprises of the Indonesian Chamber of Commerce and Industry (KADIN)**

‘The country welcomes genuine investors, and has several schemes to help make projects feasible and attractive ... Any serious investor should spend a few weeks here, to get the feel of the real situation on the ground.’
—**Mukesh Arora, Chief Executive Officer, PT NVision Indonesia**

‘A huge challenge for Britcham is to tackle the negative perception some companies in the UK have about Indonesia. We highlight those UK companies who are well-established in Indonesia, because Indonesia is a place of opportunity, no doubt about it. If that wasn’t the case, those companies would have pulled out years ago, rather than re-tendering or renewing contracts. They have been here a very long time and have learnt how to do things. You have to be a little bit brave, to take time to get the most out of Indonesia and to understand that you will make mistakes. The most important thing is to be prepared to invest in in-country experience: not just expat in-country experience, but also in-country experience from Indonesians.’
— **Chris Wren, Chief Executive Officer, British Chamber of Commerce (Britcham)**

‘Can you imagine 230 million people with a headache?’
—**Debnath Guharoy, Regional Director Asia, Roy Morgan Research, on the opportunities to sell goods, including basic pharmaceuticals, to Indonesia’s enormous domestic market**

‘There are issues but the opportunities far outweigh these ... we remain very confident about Indonesia and its economic future.’
—**Rob Crawford, President Indonesia & Malaysia, PT BlueScope Steel Indonesia** ■

FOREIGN DIRECT INVESTMENT IN INDONESIA 2007 (BY SECTOR)		
SECTOR	INVESTMENT (US\$M)	PROJECTS
1. Logistics & communications	3305.2	43
2. Chemical/ pharmaceuticals	1611.7	32
3. Metal, engineering & electronics	714.1	99
4. Food	704.1	53
5. Paper & printing	672.5	11

SOURCE: BKPM

ENVIRONMENTAL COMMITMENT

PT FREEPORT INDONESIA

WORKING TOWARD SUSTAINABLE DEVELOPMENT

TAILINGS ARE A RESOURCE

On the basis of research findings in conjunction with the Bandung Institute of Technology's Industry Affiliation and Research Agency (LAP-ITB), the properties of tailings are highly conducive to construction applications and render them more cost-effective compared with other raw materials.

Since 1996, PT Freeport Indonesia (PTFI) has been collaborating with the Bandung Institute of Technology's Industry Affiliation and Research Agency (LAP-ITB) - in the area of tailings utilization as a raw material for the manufacture of concrete, bricks, culverts, and other infrastructure products. A joint PTFI and LAP-ITB team completed several construction projects in the last few years using tailings as a main component. The projects include construction of community bridges in Mimika Regency, road sections in the PTFI operations area, drainage pipes in the Temika airport area, and various other public facilities.

Papua Governor Barnabas Suebu, during the signing of a Memorandum of Understanding on Tailings Utilization on November 24th 2006 said tailings was a vital part of the concept on infrastructure development in Papua. "With the power of God a solution has emerged for the tailings issue, from being regarded as a weak point to transformation into a resource."

PTFI has initiated preliminary activities in accordance with a Memorandum of Understanding signed with Mimika Regency Public Works Agency to prepare a location for holding tailings before their subsequent hauling to construction sites. PTFI and Mimika Local Government are collaborating on a study to look at the possibility of developing a manufacturing facility in the area.

Utilization of tailings in infrastructure construction in Papua entered into a new phase in May 2006 with the shipping of some 4,000 cubic meters of tailings to Merauke Regency. This test shipment was a collaboration between local businesses and the local government in support of infrastructure development in Merauke Regency.

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TAX REFORM FOR A BETTER INVESTMENT CLIMATE



Robertus Winarto, Technical Director with PricewaterhouseCoopers' Indonesian tax services, provides an update on tax reform measures in Indonesia.

The tax reform initiated in 2005 keeps on going. After the enactment of a new set of tax administration laws, Parliament was expected to pass into law the proposed income tax bill in July 2008.

Another proposed bill on VAT is currently under Parliamentary discussion. Optimism abounds that the discussion will be completed before year-end so that the whole tax reform package will take effect starting in 2009.

Along with some other tax incentives packages, the tax reform aims at improving the investment climate in Indonesia.

INCOME TAX

The approved income tax bill will bring about the following changes:

- Reduction of income tax rates. A flat corporate tax rate of 28% will apply starting in 2009 and will be further reduced to 25% in 2010. Public companies, subject to a minimum listing of 40% and other conditions, will have an extra tax cut of 5% from the prevailing rate giving them an effective tax rate of 23% in 2009 and 20% in 2010. The top individual income tax rate will be reduced from 35% to 30% starting in 2009.
- Intercompany dividends. Dividends received by an Indonesian limited-liability (PT) company from another PT company will be exempt from income tax, subject only to a minimum share ownership of the dividend recipient in the company paying dividends of 25%. Hence, the 'active business' requirement is omitted.
- Dividends received by individual residents. Final income tax at the maximum rate of 10% will apply to dividends received by individual taxpayers from PT companies.
- Venture capital. Venture capital companies will no longer enjoy any privileges given that bond interest income received by them is assessable in their hands.
- Deduction contributions. Certain contributions will be treated as deductible expenses, e.g. contributions for scholarships, national disasters, social infrastructure, R&D, and educational facilities.

TAX INCENTIVES

Several tax incentives are offered to companies under certain circumstances.

- Income tax cut for public companies. A 5% corporate tax cut from the top rate for qualifying public companies is effective starting in 2008. Currently with the top rate of 30%, they can enjoy a discounted rate of 25%. Later, when the normal rate is reduced to 28% in 2009 and further down to 25% in 2010, they will still enjoy a tax rate of 5% lower. To be eligible, a public company must have at least 40% of the outstanding shares owned by at least 300 persons, each holding less than five percent, and this condition must be maintained for at least six months in a year.
- Tax-neutral business mergers. The Directorate General for Tax (DGT) has clarified the procedures for obtaining approval for tax-neutral business mergers. The requirement to liquidate dissolving companies is omitted. While a tax-driven arrangement is prohibited, the business-purpose test proves to be a simple procedure under the new rule.
- Investment allowance. Companies that invest in certain regions or business areas may enjoy an investment allowance up to 30% of the qualifying investment amount. The allowance is claimable as a deduction from the taxable income and must be prorated for six years, i.e. 5% per year for six years.

TAX ADMINISTRATION

The new tax administration law (TAL) has brought about the following changes:

- Shortening the statute of limitation to five years. Except in the case of tax crime, the TAL prohibits the DGT from issuing a tax assessment letter beyond the statute of limitation.
- 'Pay first, argue later' rule abolished. The new TAL allows a taxpayer who does not agree with the assessment to pay only the amount he believes to be correct. He can then bring an objection to the remaining balance with the DGT.
- Sunset Policy. The Government has announced a Sunset Policy under which taxpayers who revise their annual income tax returns for pre-2007 years are exempt from an interest penalty in respect of all the underpaid tax amounts. ■

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SETTING UP AN INDONESIAN SUBSIDIARY



Laksmi Djuwita, a Partner in PricewaterhouseCoopers Indonesia, outlines the steps involved in setting up a foreign subsidiary in Indonesia.

At the very beginning, a foreign investor must check if their proposed line of business is open to foreign investment. The Indonesian Government issues what it calls the Negative List of Investment (NLI), which describes in detail which business lines are open to foreign investors. Businesses can be 100% owned by foreign investors, or can involve an Indonesian business party, or there can be other investment requirements such as location or minimum level of investment. The NLI also describes business lines that are reserved for domestic investors only.

INVESTMENT TECHNICAL GUIDELINES

The next important step is to check if there are any additional investment requirements for the permitted proposed business line. For example, investment technical guidelines require investments in international freight forwarding businesses to have a minimum investment of US\$2 million, and two new branches outside Java island.

LETTER OF APPROVAL

The first important paper the foreign investor must obtain is a letter of approval issued by the Investment Coordinating Board (BKPM). The submission of the application form Model I/PMA to the BKPM should be accompanied by the following attachments:

- Power of attorney from each shareholder to the individual signing parties;
- Articles of incorporation of both Indonesian and foreign parties;
- Tax registration number (NPWP) of the Indonesian party;
- Flow chart of the company's production process, or a description of business activities for service companies.

The letter of approval will serve as a temporary operating licence and is valid for periods of one to three years, depending on the type of industry. Once the licence is issued, you can establish your foreign investment (or PMA) company, which is done through the

process of signing up articles of incorporation and having them executed as a notarial deed. These articles of incorporation must be approved by the Ministry of Law and Human Rights (MoLHR) before the company has limited liability. It normally takes three-to-six months to obtain final approval.

PERIOD OF ESTABLISHMENT

During this period, a PMA company is allowed to conduct pre-operating activities, including establishing its business. After the establishment of the PMA company, the company is also required to lodge an investment progress report (LKPM) with the BKPM on a biannual basis until the permanent licence is issued.

The PMA company must submit a master list for imported capital goods and raw materials, and a manpower plan to the BKPM for approval. Furthermore, a PMA bank account must be opened to facilitate monitoring by the central bank, Bank Indonesia. The master list comprises items that the company wishes to import into Indonesia. Listed approved items obtain duty and value-added tax concessions.

LICENCES AND PERMITS

Prior to commencing commercial operations, your PMA company is required to obtain the following licences and permits:

- permanent operating licence
- approval of master list for imported capital goods and raw materials (where relevant)
- importer registration number (APIT) (where relevant)
- approval of manpower plan
- work permits for expatriates

The permanent operating licence (IUT) is issued by the BKPM on behalf of the relevant minister. If you are required to form a joint venture with a local party then it is suggested that you have a joint venture agreement. ■

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