

**The report to the MPA Steering Committee
by MPA High Level Consultation for Investment Promotion**

1. Background and basic principles of the High Level Consultation for Investment Promotion

- ✓ The Memorandum of Cooperation (MoC) on the Cooperation for Establishing Metropolitan Priority Areas for Investment and Industry was signed between the relevant Ministers of Indonesia and Japan in Bali, Indonesia on December 10, 2010. In the MOC, both sides recognize the need for regular consultations between high-level representatives from the Government and the private sector of Japan and relevant institutions of Indonesia in order to create top-level investment climate in the region. The first Steering Committee of MPA has approved the terms of reference of the High Level Consultation for Investment Promotion on 17th March 2011.
- ✓ The purpose of the Consultation is to explore, with a spirit of reciprocity, ways to promote direct investment in Indonesia by making the investment-related regulations, rules and practices more conducive to direct investment. The Consultation will consist of a series of rounds which focus on a small number of urgent issues and draw concrete conclusions within approximately one year.
- ✓ According to the Terms of Reference, the Consultations were held four times to discuss the following 6 issues, the first on 30th March 2011, the second on 29th July 2011 the third on 19th March 2012 and the fourth on 6th June 2012.

2. Overview of the progress of discussion on the each issue

2.1 Enhancing Socialization of the New Regulation on Investment Area

- ✓ Both sides had made intensive discussions on what kind of measures could be taken to improve the predictability, transparency and stability of laws and regulations in Indonesia.
- ✓ The Indonesian side made comments as follows responding to the proposal from Japanese side to explore concrete measures to enhance predictability of the regulations, using practices in Japan, such as “public comment,” “grace period,” “transitional measures” and “standard processing period,” for reference.
 - The Indonesian Government has made efforts to enhance the socialization of the law and regulation. Law No.12, 2011 on formulating government regulations clearly requests the each Ministry to secure transparency of the laws and regulations through public consultation process. Coordinating Ministry of Economic Affairs will keep monitor for the implementation of this new Law since some regulations do not comply with or follow the steps and process shown in the new law.

- In this connection, Government of Indonesia is drafting the Presidential Decree to implement the Law No.12 2011 which would stipulate the detail procedures (i.e. procedure to collect comments from stakeholders at public hearing, obligation for the Ministries to secure appropriate transitional period before implementation, and so on) for all the Ministries to comply with.
- As for the socialization of the laws and regulations after their issuance, the Coordinating Ministry of Economic Affairs will arrange the briefing session, especially for the important ones, which is open to all the stakeholders including the foreign chambers and diplomatic missions on regular basis. Furthermore all the laws and regulations are available from BKPM website.

2.2 Promoting Dialogues between Japanese Investors and the Key Indonesian Agencies

a. Directorate General of Tax of the Ministry of Finance

- ✓ JJC Taxation Committee (JJC) , Embassy of Japan (EOJ) and Directorate General of Taxes (DGT) of Ministry of Finance of Indonesia have discussed and presented cooperation on how to contribute to enhancing investment climate in Indonesia in particular since November 2009.
- ✓ In October 2010 JJC, EOJ and DGT reached a conclusion to organize a Dialogue to discuss several issues including transfer pricing taxation and exchange views on the taxation system in Indonesia. The Dialogues started in October 2010 and were conducted five times to date.
- ✓ The major achievements are as follows.
 - a) Issuing Following-Up Guidelines on Transfer Pricing Taxation (PER-32/2011) including that transfer pricing taxation is basically no more applicable for transactions between domestic taxpayers with some condition and the hierarchy for the method of transfer pricing taxation from CUP to TNMM is no more requested.
 - b) Amending the Government Regulation for the Law on General Provisions and Tax procedures (PP-74/2011) in such as way (but not limited to) that a taxpayer is able to apply for objection and appeals and Mutual Agreement Procedures at the same time, and that the documentation utilized throughout Advance Pricing Agreement process shall not be used by DGT for tax audit and investigation.
 - c) Establishing a window for a taxpayer to consult Deputy Director of International Tax Cooperation directly with international taxation disputes as long as its efforts towards settlement have already made between regional tax offices and taxpayers.

b. Directorate General of Customs and Excise of the Ministry of Finance

- ✓ Directorate General of Customs Exercise (DGCE) , Ministry of Finance in Indonesia,

- have been continuously keeping very close dialogue with JJC Customs Committee.
- ✓ This series of dialogues has contributed to solving customs issues. The major achievements are as follows.
 - Import VAT Problem: Minister of Finance Decree No 143(2011) clarify that import VAT should be based on CIF price at the time of customs clearance out of bonded warehouse.
 - Certificate of Origin (COO) Problem for FTA/EPA: Indonesian customs now receive COO even if date of the issuance is before the shipment(B/L date).
 - Acceptance of the third country invoice under the ACFTA: On 3rd October 2011, the Government of Indonesia announced that the third country invoice under the ACFTA can be utilized.
 - ✓ On the other hand, we still have some pending issues including followings.
 - Minister of Trade Decree No 08/M-DAG/PER/2/2012 on pre-shipment inspection on iron and steel products: JJC is requesting that the above Ministry of Trade Decree to be revised as soon as possible not to increase pre-shipment inspection on iron and steel products merely due to the revision of HS code from HS2007 to HS 2012.
 - Import license(API)problem: JJC is requesting to amend the article No.4 of Minister of Trade Decree No.27/M-DAG/PER/5/2012 regarding API-U license to be read as “API-U holder shall import the line of commodities which indicated in a business license issued by Indonesian Government” It means that API-U holder van import commodities over several sections of HS code products classification as it is, if the commodities are in line of their business license. On 21st Sep 2012, new Minister of Trade Decree (No.59/M-DAG/PER/9/2012) has been issued. Now JJC is scrutinizing the content of the new Decree.

2.3 Improving the Import and Trade Procedures (CMEA/JICA Project for Capacity Development for Trade-Related Administration)

- ✓ The Coordinating Ministry for Economic Affairs (hereinafter referred to as “CMEA”), in collaboration with the JICA, has undertaken a series of activities to improve the import and trade procedures. Approximately 600 trade-related regulations were analyzed to streamline them. A web-based database entitled “Trade Rule Book” was established. (<http://rulebook-jica.ekon.go.id>)
- ✓ The questionnaire and interview survey was conducted to improve legal aspects of trade promotion.
- ✓ By June 2013, CMEA and JICA will have worked together on streamlining of the “upstream regulations and procedures” and conducting studies with providing best practices on how to maintain balance between trade/goods control and trade facilitation for the selected industries.

2.4 Improving Labor-related Practices and Regulations

- ✓ Task forces for labor-related practices and regulations were held twice over the problems related to labor, industrial relations and foreign business visitors and workers to improve investment climate, among JJC Labor Committee, Embassy of Japan, Ministry of Manpower and Transmigration (MOMT), Ministry of Law and Human Rights (MOLH)
- ✓ The major achievements are as follows.
 - Achievement
 - MOLH (DG for immigration) to facilitate appropriate treatment of entry visa (visa on arrival) for foreigners
 - Most settlement
 - MOMT has already made the guideline for stopping illegal strike. At the moment, the final draft of this guideline is being confirmed by Director General.
 - MOMT has already made the competency standard for people in charge of personal and industrial relations. At the moment, the final draft of competency standard is being discussed by Legal Affairs Bureau.
 - MOMT has already made the guideline for better industrial relations. At the moment, the final draft of this guideline is being confirmed by Director General.
 - MOMT confirmed that foreign director is allowed to sign any documents related to deal with personnel about only foreign employees.
 - MOMT to improve the procedures of issuing work permit, etc. for foreign workers in order to secure time for business succession to newly assigned foreign workers

2.5 Promoting Investment in the Energy Sector

- ✓ The Japan-Indonesia Energy Policy Dialogue”
 - The MPA High Level Consultation to support “The Japan-Indonesia Energy Policy Dialogue” including the view point of promoting business environment improvement in the field of resources and energy.
 - The first policy dialogue was held in Tokyo in May 2010. The Second Meeting of the Japan-Indonesia Energy Policy Dialogue was held in Kuta, the Republic of Indonesia on May 31, 2011. The third Meeting of the Japan-Indonesia Energy Policy Dialogue was held in Fukuoka in July 2012.
- ✓ MOU between BPMIGAS and JBIC
 - BPMIGAS and The Japan Bank for International Cooperation (JBIC) signed on 28th June 2011 a memorandum of understanding (MOU).

2.6 Promoting Incentive for Direct Investment in Indonesia

- ✓ As Income Tax Holiday, Minister of Finance Regulation No. 130/PMK.011/2011

(The Provision for the Income Tax Relief or Reduction for Corporation), was issued on August 2011. Japanese companies basically welcome the New Tax Holiday incentive, in terms of attracting big investment to Indonesia.

- ✓ As Income Tax Allowance, Government Regulation No. 52/2011 (The Provision for the Income Tax Reduction for certain business fields and/or certain regions) was issued on December 2011.
- ✓ The Government of Indonesia is strongly expected to set the clear criteria as to extend the allowance. Ministry of Finance of Indonesia and BKPM should work closely, so that BKPM act as a window to be responsible to customers with a close trace of the application and with a certain due date.
- ✓ Many Japanese companies expect the new sets of Tax Allowance for “SMEs investment”. SMEs, especially those in the supporting industry, are sources of the innovations and are should be invited to here for more value added and further expansion of Indonesian Economy.

3 Next step of the High Level Consultation for Investment Promotion

- ✓ As the achievements of the intensive discussions between both sides since the Consultation had been launched in March 2011, we could find remarkable improvements or solutions in many issues. On the other hand, we still have some pending issues or new issues with which both sides should keep addressing.
- ✓ Accordingly, the both sides agree to continue the discussion under the framework of the High Level Consultation for Investment Promotion and report regularly the progress of the discussion to the MPA Steering Committee.
- ✓ “Terms of Reference of the High Level Consultation for Investment Promotion”, which has been approved by the First MPA Steering Committee on March 17 2011, states “The issues to be discussed in and after the second round of the Consultation will be discussed and decided in the Steering Committee after the completion of the first round”.
- ✓ Based on this agreement by both sides, we expect that in the third MPA Steering Committee both sides will discuss and decide the framework of the discussion in the second round of the Consultation.