

The report
to the MPA Steering Committee

MPA High Level Consultation
for Investment Promotion

December 2013

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

1.1 Background

- The Memorandum of Cooperation(hereinafter referred to as “MOC”) on the Cooperation for Establishing Metropolitan Priority Areas for Investment and Industry (hereinafter referred to as “MPA”) was signed between the relevant Ministers of Indonesia and Japan in Bali, Indonesia on December 10, 2010. (Attachment 1)
- 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 (hereinafter referred to as "the High Level Consultation for Investment Promotion" or "the Consultation") in order to create top-level investment climate in the region. Both sides also share the view that the first Consultation will be held in the first quarter of the year 2011.
- On this background, the 1st Steering Committee of MPA which was held on 17th March 2011 has approved the terms of reference of the High Level Consultation for Investment Promotion.(Attachment2)
- Furthermore, the 3rd Steering Committee of MPA which was held on 12th October 2012 has approved the launch of the second round of the High Level Consultation for Investment Promotion.(Attachment3)

1.2 Basic Principles of the Consultation

- 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.
- In order to achieve tangible results, the Consultation will consist of a series of rounds. In each round, the Consultation will focus on a small number of urgent issues and draw concrete conclusions within approximately one year.
- The issues to be taken up in the second round of the Consultation are listed in the paragraph 2.
- From the viewpoint of developing mutual understanding and promoting practical discussion, both sides have been continuing dialogues with considerable and sincere support from relevant ministries of Indonesian Government.

2 Overview of the Issues taken up in the Second Round of the Consultation

(i)Labor

- Both sides related to labor issues will discuss and solve the following issues and so on:

- a) Outsourcing
- b) Minimum wage determination process
- c) Proper treatment of working visa

(ii) Import and export

- Both sides related to Import and export issues will discuss and solve the following issues and so on:

- a) Prolonged lead time of custom clearance at the port and airport in Jakarta
- b) Import License (API) problem
- c) Pre-shipment inspection on iron and steel products

(iii) Taxation

- Both sides related to tax issues will discuss and solve the following issues and so on:

- a) Transfer Pricing Taxation audit
- b) Installment payment arrangement of corporate income tax
- c) VAT on export services
- d) Promotion of understanding about APA by taxpayers

(iv) Predictability of laws and regulations

- Both sides will discuss actions by the Government of Indonesia such as an enactment of presidential instruction which includes the measure similar to public comment as a specific action to enhance the predictability, transparency, and stability in Indonesian laws and regulations.

3. Overview of the progress of discussion and what remains to be discussed

3.1 Overview of the progress of discussion

- About Import License (API) problem on export and import issues, the new regulation of import licenses (Trade Minister Decree No.27 2012 and No.59 2012), which requires the renewal of existing import licenses for the purpose of import control, is now implemented relatively in a smooth manner in general after the implementation which has started in April, 2013, thanks to efforts by the Government of Indonesia such as the extension of the validity of old API in response to the request of business firms.
- About outsourcing on labor issues, the Government of Indonesia and Japanese sides have had meetings periodically since the enactment of Manpower and Transmigration Minister Decree No.19 2012 in order to discuss its smooth implementation.

- About minimum wage determination process on labor issues, presidential instruction No.9 2013, stipulating the standard of living cost (KHL) decided by Regional Wage Council is the upper limit of minimum wage theoretically, was enacted in September, 2013, with a view that minimum wage is just a safety-net. Additionally, the Government of Indonesia addressed increase of minimum wage based on Minister of Manpower and Transmigration Decree N.231 2003, stipulating small businesses who can't comply with increase of minimum wage may request to postpone.
- About tax issues such as the fair implementation of Transfer Pricing Taxation, Directorate General of Taxes (DGT) of Ministry of Finance of Indonesia and Japanese side had periodical dialogues which contributed to the improvement of the tax system and the investment climate in Indonesia.
- About predictability of laws and regulations, the draft of the presidential instruction to implement the Law No.12, 2011, which would stipulate the procedures to enact laws and regulations, is being finalized by the Government of Indonesia. The enactment of such presidential instruction will improve the predictability, transparency, and stability in Indonesian laws and regulations.

3.2 What remains to be discussed

- About the prolonged lead time of custom clearance at the port and airport in Jakarta on export and import issues, the lead time of custom clearance is still too long, which causes a lot of troubles to business. The Japanese side requests to establish the discussion forum with relevant ministries including Pelindo, Directorate of Customs and Excise of Ministry of Finance and Coordinating Ministry for Economic Affairs to solve the problem soon in cooperation with each other.
- About pre-shipment inspection on iron and steel products on export and import issues, the Japanese side requests National Single Window (INSW) Preparatory Team of the Government of Indonesia to coordinate the start of procedure as soon as possible for the exemption of pre-shipment inspection at custom clearance. The Japanese side also requests the Indonesia side not to extend Ministry of Trade decree No.8 2012 after 2016.
- About proper treatment of working visa on labor issues, Indonesia side and Japanese side need to discuss the treatment to allow foreign workers other than directors to stay extended time for the purpose of business succession to newly assigned foreign workers.

4. 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 in the Second Round of the Consultation about the issues in export and import, taxation, labor, and the predictability of laws and regulations; and to report regularly the progress of the discussion to the MPA Steering Committee.

MEMORANDUM OF COOPERATION
BETWEEN
THE MINISTRY OF FOREIGN AFFAIRS,
THE MINISTRY OF ECONOMY, TRADE AND INDUSTRY, AND
THE MINISTRY OF LAND, INFRASTRUCTURE,
TRANSPORT AND TOURISM
OF JAPAN
AND
THE COORDINATING MINISTRY FOR ECONOMIC AFFAIRS,
THE MINISTRY OF FOREIGN AFFAIRS, AND
THE NATIONAL DEVELOPMENT PLANNING AGENCY
OF THE REPUBLIC OF INDONESIA
ON
THE COOPERATION FOR ESTABLISHING
METROPOLITAN PRIORITY AREAS
FOR INVESTMENT AND INDUSTRY

The Ministry of Foreign Affairs, the Ministry of Economy, Trade and Industry and the Ministry of Land, Infrastructure, Transport and Tourism of Japan (hereinafter referred to as "the Japanese side"), and the Coordinating Ministry for Economic Affairs, the Ministry of Foreign Affairs, and the National Development Planning Agency of the Republic of Indonesia (hereinafter referred to as "the Indonesian side");

Wishing to increase Japan-Indonesia economic relations to a higher level;

Referring to the Agreement between Japan and the Republic of Indonesia for an Economic Partnership, signed in Jakarta on August 20th, 2007;

Taking into account the discussions at the Japan-Indonesia Ministerial Economic Dialogue held in Japan on October 14th, 2010 and the study on "the Indonesia Economic Development Corridors" that is supported by the Economic Research Institute for ASEAN and East Asia;

Paying attention to the fact that "the National Masterplan for Regional Economic Development" is now being developed by the Government of the Republic of Indonesia;

Also paying attention to the "New Growth Strategy" of the Government of Japan decided on June 18th, 2010, especially the "Asian economic strategy" in its third Chapter; and

Considering that promotion of Japanese direct investment to the Republic of Indonesia is highly and mutually beneficial as it will contribute to higher economic growth and increased employment in the Republic of Indonesia from industrial development, and create more opportunities for the Japanese economy to grow jointly with the Indonesian economy;

Pursuant to the prevailing laws and regulations in their respective Countries;

Hereby declare that they will cooperate to establish "Metropolitan Priority Areas for investment and industry (hereinafter referred to as "MPAs")" in the Republic of Indonesia in accordance with the concept of "the Indonesia Economic Development Corridors", which will be incorporated into "the National Masterplan for Regional Economic Development", and to transform such areas to be more attractive and suitable for direct investment and industrial development by accelerating infrastructure development and creating top-level investment climate in the region. Both endeavours should be based, in particular, on the principles stated below:

I. BASIC CONCEPT OF MPAs

1. Basic principles

- (a) Both sides recognize that the MPAs will be formulated and implemented under the sovereignty of the Republic of Indonesia in accordance with its relevant laws and regulations.
- (b) Both sides acknowledge that an integrated approach in developing infrastructure and improving investment climate is imperative for achieving competitiveness of and quality of life in the MPAs.
- (c) Both sides also acknowledge that the infrastructure and regulatory framework of MPAs should be efficient, effective and reliable as well as safe, secure and environmentally friendly.
- (d) Both sides recognize that for the success of MPAs it is essential that the relevant regional governments together with the private sector are actively involved in the planning, financing and operation of the projects in the MPAs.
- (e) Both sides recognize that the MPA's masterplan will be made available to all stakeholders interested in contributing to the MPAs.
- (f) Both sides also recognize that the geographical boundary of the MPAs are not predefined and, if necessary, will be defined on a case-by-case basis when specific policies and measures are implemented in the MPAs.

2. Institutional setup

In order to ensure expeditious establishment and efficient operation of the MPAs, both sides share the view that a steering committee will be established and co-chaired in principle at the ministerial level, represented by relevant stakeholders from both sides (hereinafter referred to as "the MPA Steering Committee"). The MPA Steering Committee will monitor, coordinate and facilitate the establishment and management of the MPAs. Both sides also share the view that, if necessary, a technical committee

(hereinafter referred to as "the MPA Technical Committee") will also be established at a working level to assist the MPA Steering Committee. Both sides have decided that the MPA Steering Committee and the MPA Technical Committee will function in a well coordinated and collaborative manner under existing frameworks in such areas as transport, industry and public works.

3. Priority

Both sides recognize that the establishment of the MPA in the area which includes the cities of Jakarta, Bogor, Depok, Tangerang and Bekasi (hereinafter referred to as "the Jabodetabek MPA") will be the first priority since the area already has a certain level of accumulation of industry, infrastructure and population. Both sides also recognize that the Government of the Republic of Indonesia, together with related regional governments, plans to establish MPAs in other metropolitan areas on the basis of the success of the Jabodetabek MPA.

4. Key pillars and major components

Both sides share the view that the acceleration of infrastructure development and creation of a top-level investment climate in the region will be the key pillars of cooperation for each MPA.

(a) Acceleration of infrastructure development

Both sides assume that the following projects will be included as major components under the pillar of cooperation for the acceleration of infrastructure development in the Jabodetabek MPA:

- (i) Development of an international port;
- (ii) Upgrading the industrial area to the east of Jakarta;
- (iii) Development of a mass transportation network;
- (iv) Development of a road network;
- (v) Development of an airport and its related infrastructure with sufficient capacity;
- (vi) Improvement of the water supply and sewage system;
- (vii) Improvement of the waste management system;
- (viii) Improvement of the flood management system; and
- (ix) Improvement of electric power infrastructure.

(b) Creation of top-level investment climate in the region

In order to achieve this in the region, both sides decided that they should intensify and better coordinate their efforts to make the existing investment-related regulations, rules and practices in the MPAs more conducive for direct investment. To this end, both sides recognize a need for regular consultations between high-level representatives from the Government and the private sector of Japan and relevant institutions of the Republic of Indonesia (hereinafter referred to as "the High Level Consultation for Investment Promotion"). Both sides recognize that the High Level Consultation for Investment Promotion should be conducted in line with the Agreement between Japan and the Republic of Indonesia for an Economic Partnership. Both sides decided that the outcome of the High Level Consultation for Investment Promotion should be reported to the MPA Steering Committee.

5. Masterplans

Both sides recognize that the establishment of the MPAs should be carefully planned and coordinated through development of masterplans. Both sides confirm that, as an initial step, a comprehensive masterplan for the Jabodetabek MPA should be developed as early as possible to set the guideline for key issues, including the identification of fast-track projects, quality standards, implementation schedule, financing scheme and framework for private sector participation. The Japanese side will consider providing financial support for the masterplan for the Jabodetabek MPA.

6. Project preparation

In addition to developing masterplans, both sides recognize that project preparation including feasibility studies, basic designs and financing arrangements is the key to the successful implementation of the MPAs. As for the Jabodetabek MPA, both sides share the view that project preparations, especially for the fast-track projects, should be conducted in parallel with the development of the masterplan and, therefore, are appreciative of the fact that some project preparations with support from Japan have already started for the said MPA.

II. TIME FRAME

Both sides expect that the MPAs will be established in accordance with the following time frame:

1. The first MPA Steering Committee will be held in the first quarter of the year 2011;
2. The first High Level Consultation for Investment Promotion will also be held in the first quarter of the year 2011;
3. The study to develop the comprehensive masterplan for the Jabodetabek MPA will be started by the end of the second quarter of the year 2011;

4. The comprehensive masterplan for the Jabodetabek MPA will be completed and approved by the relevant stakeholders by the end of the second quarter of the year 2012;
5. The feasibility studies for the fast-track projects in the Jabodetabek MPA will be started as early as possible while the masterplan is being developed, and will be completed and approved by the relevant stakeholders by the end of the year 2012;
6. The construction work for the fast-track projects in the Jabodetabek MPA will start by the end of the year 2013; and
7. The Jabodetabek MPA will become operational by the end of the year 2020.

III. MISCELLANEOUS CONDITIONS

1. Costs and expenses

Both sides decided that, unless otherwise specifically decided, the stakeholders of the MPAs would bear the costs and expenses arising from the implementation of their own work under this Memorandum of Cooperation (hereinafter referred to as "MOC").

2. Detailed documents

In order to facilitate and implement the cooperation under this MOC, both sides may adopt detailed documents and any recommendations therein tabled by the MPA Steering Committee.

3. Confidentiality

Both sides confirm that all the stakeholders of MPAs will adhere to the principle of confidentiality, will not disclose information to any third party, and will not use information related to MPAs which is obtained from stakeholders of MPAs, except for the purpose of supporting the establishment and management of the MPAs.

4. Revision and modification

- (a) This MOC may be revised or modified at any time through mutually confirmed written consent on both sides.
- (b) Such revision or modification will be operational on such date as may be decided in writing by both sides.

5. Settlement of problems

Any problem arising from the implementation of this MOC will be settled amicably through consultation or negotiation between both sides.

6. Commencement, duration and termination

- (a) The cooperation under this MOC will commence on the date of its signature.
- (b) The cooperation under this MOC may be terminated at any time by either side by giving written notification at least six (6) months prior to the date of the intended termination.
- (c) The termination of the cooperation under this MOC will not affect the duration of any ongoing projects or activities until their completion.

In Witness Whereof, the undersigned, have signed this Memorandum of Cooperation.

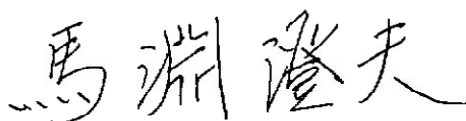
Signed in duplicate in Bali on this tenth day of December in the year 2010 in the English language.



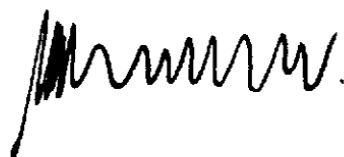
Seiji Maehara
Minister for Foreign Affairs
of Japan



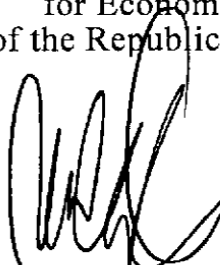
Yoshikatsu Nakayama
Vice Minister of Economy,
Trade and Industry
on behalf of Minister of Economy,
Trade and Industry of Japan



Sumio Mabuchi
Minister of Land, Infrastructure,
Transport and Tourism of Japan



M. Hatta Rajasa
Coordinating Minister
for Economic Affairs
of the Republic of Indonesia



R. M. Marty M. Natalegawa
Minister of Foreign Affairs
of the Republic of Indonesia



Armida Salsiah Alisjahbana
Minister of National Development
Planning of the Republic of Indonesia

Terms of Reference of the High Level Consultation for Investment Promotion

The Memorandum of Cooperation on the Cooperation for Establishing Metropolitan Priority Areas for Investment and Industry (hereinafter referred to as "the MOC") 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 (hereinafter referred to as "the High Level Consultation for Investment Promotion" or "the Consultation") in order to create top-level investment climate in the region. Both sides also share the view that the first Consultation will be held in the first quarter of the year 2011.

Against this background, the first Steering Committee of the Metropolitan Priority Areas for Investment and Industry (hereinafter referred to as "the Steering Committee") approved the terms of reference of the High Level Consultation for Investment Promotion as follows:

1. Basic Principles of the Consultation

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.

In order to achieve tangible results, the Consultation will consist of a series of rounds. In each round, the Consultation will focus on a small number of urgent issues and draw concrete conclusions within approximately one year.

The issues to be taken up in the first round of the Consultation are listed in the paragraphs below. 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.

2. Issues to be Taken Up in the First Round of the Consultation

(1) Enhancing Socialization of the New Regulation on Investment Area

The Consultation will 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.

(2) Promoting Dialogues between Japanese Investors and the Key Indonesian Agencies

The Consultation will give encouragement and support for realizing fruitful dialogues between Japanese investors and the following two agencies:

(i) Directorate General of Tax of the Ministry of Finance

This dialogue has already started since October 2010.

(ii) Directorate General of Customs and Excise of the Ministry of Finance

This dialogue needs to start as early as possible. The dialogue needs to be consistent with the policy consultation between the Customs authorities of Japan and Indonesia.

(3) Improving the Import and Customs Procedures

The Consultation will give necessary support to the “Project on Capacity Development for Trade-related Administration,” which is now in progress between the Coordinating Ministry for Economic Affairs and JICA, in order to improve the import and customs procedures by streamlining and integrating the existent import licenses and improving accessibility of INSW (Indonesia National Single Window).

(4) Improving Labor-related Practices and Regulations

Japanese investors and relevant Ministries related to the labor issues will start dialogues on the following issues:

(i) Securing the appropriate implementation of labor-related laws and regulations (including labor law and labor dispute settlement law)

(ii) Simplifying and securing the appropriate implementation of regulations and procedures for foreigners who work in Indonesia

(5) Promoting Investment in the Energy Sector

The Consultation will explore concrete measures to promote Japanese investment in the energy sector.

(6) Promoting Incentive for Direct Investment in Indonesia

The Consultation will discuss and explore possible incentives for direct investment in Indonesia.

Joint Press Release
On the Third Steering Committee Meeting of
the Metropolitan Priority Areas for Investment and Industry

October 9, 2012

2.MPA High Level Consultation for Investment Promotion

(1)The co-chairs appreciated the progress made in the meetings of MPA High Level Consultation for Investment Promotion, which have been held with the purpose of exploring, 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. Over the year, the Consultations were held four times to discuss 6 issues on which specific achievements were noted:

(i) Enhancing Socialization of the New Regulation on Investment Area

The Government of Indonesia has made progress to enhance the socialization of a new law on formulating government regulations. Relevant ministries are ensuring transparency of this process and undertaking public consultation. The Coordinating Ministry of Economic Affairs is coordinating this process.

(ii) Promoting Dialogues between Japanese Investors and the Key Indonesian Agencies

Follow-up guidelines on transfer pricing taxation have been issued, government regulation for the Law on General Provisions and Tax procedures has been amended to simplify the appeals process, and a window for taxpayer consultation with the Deputy Director of International Tax Cooperation on international taxation disputes has been created. Regular dialogues will also be held in relation to taxation issues to strengthen the partnership between Japan and Indonesia based on mutual understanding and benefit.

(iii) Improving the Import and Trade Procedures

The Indonesia Coordinating Ministry for Economic Affairs, in collaboration with JICA, has undertaken a series of activities to review and streamline trade-related laws and regulations under the Technical Cooperation Project for Capacity Development for Trade-Related Administration. This has included the establishment of “Trade RuleBook” covering 1,323 trade-related laws and regulations to date and all of these have been translated into English. These laws and regulations have now been uploaded to the CMEA website: <http://rulebook-jica.ekon.go.id>.

(iv) Improving Labor-related Practices and Regulations

The Indonesian Ministry of Manpower and Transmigration is working to prepare guidelines for the settlement of industrial relations disputes, competency standards to improve knowledge of labor-related rules and regulations, guidance for appropriate labor

related regulation compliance inspections, and streamlined procedures for issuing work permits for foreign workers and visit visas for foreign management executives.

(v) Promoting Investment in the Energy Sector

The Government of Indonesia and the Government of Japan established an Energy Policy Dialogue framework that is making a positive contribution to the relationship between the two countries. This is facilitating understanding particularly in the fields of oil and natural gas, electricity, coal and mineral resources as well as energy conservation and new energy. BPMIGAS and Japan Bank for International Cooperation (JBIC) signed a memorandum of understanding to build a business model that will encourage further expansion of the total capacity of natural gas supply in Indonesia, and promote gas-related business opportunities for Japanese firms.

(vi) Promoting Incentive for Direct Investment in Indonesia

An Income Tax Holiday regulation has been issued by the Ministry of Finance that is serving as an incentive to attract significant investment to Indonesia.

(2) Furthermore, the co-chairs recognized that some actions are under way to complete. The Indonesian side expressed its intention to enact a presidential regulation which will include the introduction of a measure similar to public comment as a specific action to enhance the predictability, transparency, and stability of Indonesian laws and regulations. The Japanese side requested the Indonesian side to smoothly admit the importation over several HS sections by general traders (API-U holder) based on the new regulation (Trade Minister Decree No59 2012). Moreover, it expressed its concern about illegal acts by demonstrators such as blockade, which frequently occur this year, and requested the thorough prevention of illegal strikes. It requested the further progress in the establishing of reasonable taxation system and the improvement in field -level operation. It expressed its expectation for Indonesia to introduce systems toward the upgrade of Indonesian industry through the clarification of application criteria and preferential measures for supporting industry (SMEs).

(3)The co-chairs approved the Report of MPA High Level Consultation for Investment Promotion.

(4)Based on the Report, the co-chairs shared the view to continue the framework of MPA High Level Consultation for Investment Promotion, as well as to start the Second Round of discussion building on the past efforts. They also shared the view to continue the discussion in the Second Round about the topics such as customs, taxation, labor, and the predictability of laws and regulations; and instructed MPA High Level Consultation for Investment Promotion to report the progress of the discussion at the Second Round to the next Steering Committee Meeting.