

**JAPAN-INDONESIA  
ECONOMIC PARTNERSHIP  
AGREEMENT**

**JOINT STUDY GROUP  
REPORT**

**May 2005**

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## **I. BACKGROUND**

1. During the APEC Summit Meeting in November 2004, President Susilo Bambang Yudhoyono of the Republic of Indonesia addressed to Prime Minister Junichiro Koizumi of Japan the importance of Economic Partnership Agreement (EPA) as a means to further promote the close economic relationship between the two countries.
2. On December 16, 2004, Minister of Economy, Trade and Industry Shoichi Nakagawa of Japan and Minister of Trade Mari Elka Pangestu of the Republic of Indonesia shared the view on the need to launch the Joint Study Group to explore the future of the economic partnership between the two countries.
3. On January 6, 2005, Minister for Foreign Affairs Nobutaka Machimura of Japan and Vice President H. Muhammad Jusuf Kalla of the Republic of Indonesia decided to hold three rounds of meetings by April 2005 in order to produce recommendations on issues including whether to commence negotiations on a bilateral EPA.
4. The first round of the meeting was held in Jakarta on January 31 and February 1, 2005. The second round was in Bali on March 4 and 5. The third round was in Tokyo on April 11 and 12.
5. The meetings were conducted between the representatives of relevant ministries and agencies of both Governments, and involved representatives of academic and private sectors from the two countries. A wide range of areas was covered by the discussions throughout the meetings.

## **II. OVERVIEW**

1. Japan and Indonesia have established a close economic relationship in a wide range of areas.
2. In the field of trade in goods, Japan is the largest trade partner in both export and import for Indonesia. According to the Indonesian trade statistics issued by the BPS Statistics Indonesia, its trade with Japan accounts for 19.06% of export and 13.07% of import in 2004. Japan's trade with Indonesia accounts for 1.60% of export and 4.11% of import in 2004 according to the trade statistics issued by the Ministry of Finance,

Japan. It is also observed that Indonesia is an important energy supplier to Japan.

3. In the field of investment, the private direct investment from Japan to Indonesia has been declining due to the stagnation of Indonesian economy after the crisis in Asian economies in the year of 1997. Although solid recovery has not yet been observed, Japan has always been one of the top investors for Indonesia. According to the Indonesian statistics, from 1967 to 2004, cumulative foreign direct investment from Japan to Indonesia accounts for 19.47 % of the total foreign direct investment to the country, which makes Japan the largest investor for Indonesia. It is also noted that the number of Japanese enterprises operating in Indonesia is approximately 1,000 and that of Indonesian workers employed by those Japanese enterprises is over 200,000.
4. In addition, Japan is the largest provider of Official Development Assistance (ODA) to Indonesia.
5. The close economic relationship mentioned above, however, will not be maintained for perpetuity without continuous efforts by the two countries. In the Joint Study Group, the researchers of both sides indicated that the bilateral EPA between the two countries could significantly benefit both sides.
6. Taking these circumstances into consideration, detailed discussions were conducted in each area by the Joint Study Group, as introduced below, with a view to further strengthening the economic partnership between the two countries.

### **III. SUMMARY OF DISCUSSIONS**

#### **1. Trade in Goods**

Both sides shared the view that the Japan-Indonesia EPA should include elements of free trade agreement consistent with Article XXIV of the General Agreement on Tariffs and Trade, given that improvement of market access for trade in goods including tariff elimination and reduction is an important element to strengthen the economic partnership between the two countries. The Indonesian side expressed interests in reduction or elimination of tariffs, especially in tariff peaks or in tariff escalation as well as in non-tariff barriers, particularly of products of interests between the two countries.

## **(1) Industrial Goods**

- a. Both sides emphasized that one of the main purposes of the Japan-Indonesia EPA is to pursue expansion of investment from Japan to Indonesia through the improvement of investment climate in Indonesia. The Japanese side stated that the improvement of market access should be discussed together with improvement of investment climate in Indonesia. On the basis of such understanding, and also recognizing the complementary nature of the industrial structure of Japan and Indonesia, the Japanese side expressed the view that immediate tariff elimination of substantially-all goods is the basic principle, and that both sides should aim at the tariff elimination ahead of the AFTA schedule. The Japanese side also expressed its particular interest in the elimination of tariffs on goods such as auto and auto-parts, electrical and electronics, steels, and textiles, where the Indonesian side maintains relatively high tariffs.
- b. The Japanese auto and auto-parts industries stated that immediate tariff elimination in principle is necessary in order to strengthen its cooperation with Indonesia's local partners through business partnership in a form of investment as well as complemented division of labor system on auto-parts. The Japanese steel industry emphasized that the export of steel from Japan is supplying high quality steel products to user industries including auto and electrical and electronics industries, and that it is in a complementary relationship with the Indonesian steel industry. In addition, the Japanese textile industry proposed that immediate tariff elimination for all textile products should be pursued on the basis of the agreement between concerned private sectors of both countries that staging schedule for tariff elimination should be in accordance with the reciprocity principle, and that unified rules of origin (in particular, the criterion of change in tariff classification) consistent with those under the ASEAN-Japan Comprehensive Economic Partnership Agreement (CEP) should be formulated.
- c. The Indonesian side expressed its interests in tariff elimination on various organic chemicals, plastic bags, glass products, textiles and footwear where Japan maintains tariffs including significant specific duties on some products. The Japanese side stressed that footwear,

leather, leather products are sensitive historically and socially for Japan.

- d. The Indonesian side expressed the view that there remain sensitive products in Indonesia, and that it needs to conduct further study on individual sectors. However, both sides decided to aim for trade liberalization to be consistent with the WTO.
- e. The Indonesian industry groups stated that it has considered industrial promotion rather than industrial protection as its basic position and that it aimed at strengthening Indonesia's competitiveness of domestic industries. In this regard, the Indonesian Chamber of Commerce (KADIN) stated that, taking development gap between the two countries into account, cooperation and trade facilitation in addition to liberalization of trade in goods is important. KADIN requested cooperation from Japan for the following issues: (a) transfer of science technology, (b) reinforcement of business partnership between local supporting industries in Indonesia and Japanese manufacturers, (c) enhancement of competitiveness of Indonesia's SMEs, (d) human resource development, and (e) the planning of Indonesia's industrial strategies to be provided as input to the government in relation to the Japan-Indonesia EPA
- f. The Indonesian auto and auto-parts industries requested the wide range of cooperation for supporting industries from the Japanese side, indicating the potential for expansion of the Indonesian auto market. The Indonesian electrical and electronics industry showed its interest in promotion of parts industry, and requested the Japanese side for assistance in technology transfer, human resource development and standards and conformity assessment. In addition, the Indonesian side pointed out that Indonesian textile products, which are labor-intensive commodities, are not competing with imports from Japan, and also indicated that it is prepared to join a dialogue between industries of both countries, as proposed by the Japanese textile industry.
- g. Both sides emphasized that, with a view to building win-win relationship between the two countries, it is important to promote Indonesian supporting industries and also to strengthen their business partnership with Japanese enterprises operating in Indonesia. The Japanese side pointed out that, in order to achieve these goals, the

Indonesian side should have well-coordinated industrial strategies by sectors, and suggested that it is prepared to further strengthen the existing cooperative relationship through active utilization of Joint Forum on Investment which was launched in December 2004 and the first meeting was held on March 14, 2005.

## **(2) Agriculture, Forestry and Fisheries**

- a. The Indonesian side was of the view that the EPA could contribute to the improvement of development and trade in agriculture, forestry and fishery areas for both sides and expressed its willingness to continue the discussions on the improvement of market access in these areas.
- b. Both sides explained that there are special and/or sensitive products in the areas of agriculture, forestry and fisheries for both countries. The Japanese side referred to sensitive products such as rice and rice products, barley, wheat and their products, meat, pineapples, bananas, starch, sugar and sugar products, dairy products, wood panel, tunas including skipjack tuna, IQ and IQ-related fishery products, certain oils and fats and processed foods. The Indonesian side referred to special products such as rice, corn, soybeans and sugar. Both sides confirmed that they will conduct negotiations on the EPA flexibly with considerations on special and/or sensitive products. Flexibility across products, including exclusion of products from the coverage of trade liberalization under the EPA, will be determined by considering sensitivities of products of both sides.
- c. The Japanese side requested that export subsidies, export duties and export restrictions by the Indonesian Government in the area of agriculture, forestry and fisheries should be eliminated. A Japanese agricultural organization emphasized, among others, that benefits of the EPA should be shared by all economic sectors, that the EPA should be in line with the efforts for food security and improvement in rates of self-sufficiency, and that it should pay attention to the multifunctionality of agriculture. The Indonesian side shared the view on these matters due to their concerns on rural development and improvement of rural livelihood.
- d. The Indonesian side insisted on the necessity of technical cooperation in the quarantine area. The Indonesian side pointed out that an EPA should not hurt small-scale farmers in Indonesia as well as those in

Japan. In this respect, the Indonesian side requested for cooperation by the Japanese side regarding activities of agricultural cooperatives and farmers organizations.

- e. The Indonesian side urged that the Japanese Government should recognize Indonesia as free from Foot-and-Mouth Disease (FMD) and lift the bans on imports of Sugar Cane Top due to FMD. The Japanese side pointed out in general that it is not appropriate to deal with individual SPS-related issues under EPA negotiations where trade liberalization and preferential treatments are to be discussed; thus, these issues should be discussed between specialists through existing channels based on scientific evidences. The Indonesian side emphasized that SPS issues have to be covered under the EPA negotiations.
- f. In the area of forestry, the Japanese side expressed the sensitivity of the wood panel manufacturing sector. Japanese organizations representing the interest of plywood, glued laminated timber, particle board and fiber board manufacturers expressed their concern on the current situation where competitiveness of domestic productions of plywood, glued laminated timber, particle board and fiber board is declining due to reductions in tariffs. The Japanese side requested the Indonesian Government to take further activities against illegal logging and discussed the importance of protection of tropical forest. The Indonesian side stated that serious and consistent efforts are being made in combating illegal logging. The Indonesian side also pointed out that illegal international trade in this sector must be addressed simultaneously.
- g. The Indonesian side, for the time being, recognized the tariff structure of Japan, and pointed out that tariff rates of plywood differ among wood species and requested the improvement so as not to misuse the tariff categories and requested to apply tariff rate correctly. The Japanese side explained that plywood made of certain kinds are differentiated by specifications so as not to compete with major domestic products, and that certain kinds of species are more important than others in view point of protecting tropical forest. The Japanese side recognized that the tariffs on tropical timber contribute to protecting the tropical forest. In addition, the Japanese side insisted that discussions on tariffs on wood panel should be packaged with

discussions on export duties, restrictions on logs, and on illegal logging. While recognizing the importance of combating illegal logging, the Indonesian side insisted that it should not be linked to market access. The Indonesian side welcomed Japan's offer for technical assistance on this issue.

- h. In the area of fisheries, both sides expressed their concern that trade liberalization could threaten sustainable utilization of fishery resources and affect negatively on the fishery resources management, and suggested that it would be more beneficial for the economic partnership of the two countries to further strengthen existing cooperative relations regarding the fishery resources management. While Japanese fishery industry groups pointed out that the fishing industries of the two countries are competing on fishery resources including tunas and skipjack tuna, both sides recognized the importance of taking further steps towards organized fishery resources management, specially to eliminate Illegal, Unregulated and Unreported (IUU) fishing around Indonesian waters. They also suggested that it would be more desirable under the EPA to study the possibility of promotion of cooperation in a wide range of the fishery field than to incline only to trade liberalization of fishery products.
- i. The Indonesian side requested, among others, technical support to eliminate IUU fishing vessels that had operated around Indonesian waters and to develop local shrimp broodstock. Both sides recognized the importance of cooperation to investigate fishery resources in Indonesian waters as a future business opportunity in Indonesia.

### **(3) Rules of Origin**

Both sides shared the view that it would be highly desirable that the rules of origin under the ASEAN-Japan Comprehensive Economic Partnership Agreement and those under the bilateral EPA are harmonized with each other.

## **2. Customs Procedures**

- (1) The Japanese side pointed out that balance between trade facilitation and ensuring security is important in the field of customs procedures. The Japanese industry requested to enhance predictability of customs procedures through further improvement of transparency in the procedures, facilitation of the procedures, uniform application of the

regulations, and so on. Based on these opinions, the Japanese side emphasized that with regard to customs procedures, the EPA should include the followings: (a) ensuring transparency, (b) cooperation and exchange of information between the customs authorities for the purpose of facilitating trade through simplification and harmonization of their customs procedures, and ensuring effective enforcement against illicit trafficking of goods, and (c) establishment of proper follow-up mechanism. The Indonesian side provided information concerning its customs procedures that have been simplified. In addition, the Indonesian side emphasized that Indonesia was making efforts to continuously improve its customs procedures.

- ( 2 ) The Indonesian side shared the views on the importance of cooperation between both customs authorities in the areas above.

### **3. Intellectual Property**

- ( 1 ) The Japanese side stated that Japanese investors regarded the protection of intellectual property (IP) as an important element to select their investment destinations, and that it is necessary to improve Indonesia's environment for protection of IP in order to promote investment by Japanese enterprises. The Japanese side also emphasized the following points in particular: (a) improvement of IP protection system, (b) accession to international agreements, (c) streamlining and enhancing transparency of administrative procedures, (d) enhancement of public awareness on IP protection, and (e) enhancement of enforcement.

- ( 2 ) The Indonesian side explained that, in view of the importance of efforts in IP sector in Japan-Indonesia EPA, it has proceeded with the preparation to enact new laws to comply with international agreements such as the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), and that it is determined to take action. The Indonesian side shared the view on the significance of efforts in five areas proposed by the Japanese side. The Indonesia side referred to the domestic efforts, such as the expansion of the scope of protection for foreign well-known trademarks, the consideration for accession to Madrid Protocol, and the establishment of National Taskforce to enhance enforcement. In addition, expressing the gratitude for the past cooperation by Japan, the Indonesian side requested the Japanese side to continue its assistance to strengthen IP

systems, including capacity building for IP-related officials and exchange of information.

- ( 3 ) Both sides shared the view on the need to reinforce the existing cooperation in IP sector and to promote the establishment of adequate and effective system for IP protection.
- ( 4 ) The Japanese side requested for appropriate protection for the rights of breeders of new varieties of plants in agriculture, forestry and fisheries in accordance with UPOV91 Convention.

#### **4. Competition Policy**

- ( 1 ) Both sides shared the view on the importance of efforts in competition policy under the Japan-Indonesia EPA.
- ( 2 ) The Japanese side emphasized that the purpose of discussions on competition policy under the EPA is to prevent anticompetitive activities in the territories of both countries from hindering the benefits of liberalization in trade and investment, while pointing out that efforts in the area of competition policy will be a soft infrastructure for investment by Japanese enterprises. On top of these, the Japanese side suggested that efforts of a high standard including both enforcement cooperation and technical cooperation should be conducted under the EPA between the two countries, as Indonesia is one of the most advanced countries among the ASEAN countries in terms of efforts in competition policy. The Japanese side emphasized that notification, cooperation, coordination, and positive and negative comity in particular should be discussed in the field of enforcement cooperation.
- ( 3 ) The Indonesian side shared the view on an importance of enforcement cooperation under the EPA, while stating that the first step would be their effective application of competition laws of the two countries. The Indonesian side proposed that the focus of cooperation in this area should include: (i) exchange of information, and (ii) capacity building. The Indonesian side emphasized that those activities may include: a) reviewing competition policy and law; b) developing competition policy and law tools; c) capacity building for law enforcement agencies; d) increasing multi-stakeholders' support and awareness; and e) developing infrastructure capacity.

## **5. Standards and Conformance/Mutual Recognition (MRA)**

- ( 1 ) The Indonesian side showed its interest in, among others, mutual recognition of vocational qualifications and other issues.
- ( 2 ) The Japanese side explained that, without prejudice to the future negotiations on mutual recognition, in principle, mutual recognition under EPA should be for the verification and certification of product safety and such mutual recognition of vocational qualifications raised by the Indonesia side is different in nature from the mutual recognition which the Japanese side considers suitable under the EPA. The Japanese side explained that, in order to examine the possibility of mutual recognition, areas for such mutual recognition must be specified and the systematic and technical equivalence of both countries needs to be assured.
- ( 3 ) Both sides confirmed that the two countries would identify the areas of concern for the mutual recognition for the verification and certification of product safety, and have further examination by experts in order to specify the problems of relevant areas without prejudice to the necessity of such mutual recognition.
- ( 4 ) The Indonesian side expressed interest in obtaining by its relevant conformity assessment bodies of the status of Registered Foreign Certification Organization (RFCO) as well as Conformity Assessment bodies (CAB) in Japan for other products within the competence of the Ministry of Agriculture, Forestry and Fisheries (MAFF) and the Ministry of Economy, Trade and Industry (METI) of Japan, respectively.

## **6. Investment/Trade in Services**

- ( 1 ) The Japanese side stressed that it places the greatest importance on the field of investment/trade in services under the bilateral EPA, and that it would be very important to improve business environment where foreign companies can continue to stably operate under free and fair competition with the principle of non-discrimination between domestic and foreign capital, particularly in order for Indonesia to realize economic development by encouraging foreign investment.

- ( 2 ) The Japanese side expressed that, in the area of investment, it is interested especially in national treatment in both pre-establishment and post-establishment stages, most favored nation treatment and prohibition of performance requirements as well as of restrictive measures on market access, that it will be important to provide as core elements in the Agreement, among others, expropriation and compensation, freedom of transfers and procedures of international arbitration between a Party and an investor of the other Party, and that introduction of standstill obligations and ensuring transparency regarding regulations are important.
- ( 3 ) The representative of the Indonesian Chamber of Commerce and Industry (KADIN) explained that national treatment in the steady process of liberalization and further liberalization is under consideration through the new upcoming Investment Law which is currently being amended; that the national treatment at the post-establishment stage is a policy in principle, but there is no discriminatory regulations even at the pre-establishment stage other than foreign capital restriction; that the new upcoming Investment Law, however, is a general law and specific law related to individual services provide for certain restrictions on foreign capitals in some cases; that the new upcoming Investment Law aims at simplification of investment-related procedures including shift from license system to registration system, and certain other arrangements including adoption of one-roof services are also planned to be prepared; and that there is no problem on the inclusion in the agreement of expropriation and compensation, freedom of transfers and the international arbitration between a Party and an investor of the other Party. The Indonesian side provided clarification regarding the existing laws and regulations of investment. (See the attachment)
- ( 4 ) The Japanese side expressed its interests in liberalization of service sectors including manufacturing-related services, construction services, information and communications services, transportation and tourism services, distribution services, financial services, and legal services. The Japanese side explained that Japanese construction services could contribute to the improvement of infrastructure in Indonesia, and that manufacturing-related services are essential to manufacturing industries in which the Japanese investors are among the largest contributors to Indonesian economy. The Indonesian side also

expressed its interest in services sector liberalization, including tourism, information and communication services, maritime transport, construction, education and health-related services.

- ( 5 ) The Indonesian side also explained certain progress of further liberalization beyond the levels already committed under WTO in trade in construction and financial services. As far as distribution services are concerned, the Indonesian side explained that this area has been opened for foreign participation.

## **7. Mineral Resources/Energy**

- ( 1 ) The Japanese side stated that the areas of mineral resources and energy, that are important areas for Japan, should be discussed within the Japan-Indonesia EPA, in particular the following issues: (a) deregulation of the market participation restriction on Japanese enterprises, (b) improvement of investment environment, and (c) securing stable supply of mineral resources and energy in emergency. In addition, the Japanese side referred to Indonesian efforts in the improvement of investment environment, and particularly emphasized the importance of mineral resources and energy areas in this context.

- ( 2 ) The Indonesian side pointed out that the area of energy is one of the most important pillars of the Japan-Indonesia EPA, and that it is willing to maintain constructive discussions through the negotiations of the Japan-Indonesia EPA.

## **8. Movement of Natural Persons**

- ( 1 ) The Indonesian side expressed its interest in mutual recognition of qualifications in tourism and hotel services, spa services, food- and beverage-related services, caregivers, seafarers and nurses. The Indonesian side requested: (a) acceptance of skilled workers or professional workers in areas such as nursing, caregiving, hotel and tourism industries, and (b) recognition of certified seafarers on Japanese tuna fishing vessels and allowing Indonesian officers to be officers in Japanese tuna fishing vessels. The Japanese tuna fishing industry expressed its expectation for further employment of Indonesian seafarers on Japanese tuna fishing vessels.

- ( 2 ) The Japanese side explained that Japan accepts professional or technical workers to enter into Japan as the Government's policy

while it is difficult to accept unskilled workers. A Japanese labor organization pointed out that discussions should be limited to acceptance of professional or technical workers. In addition, the Japanese side pointed out that the scheme under the Japan-Philippines EPA will be applied only to Filipino nurses and certified careworkers and that, if another country has any request for the acceptance of nurses and careworkers, it should be fully examined on a country-by-country basis; and that, while there is the voice expressed by the related industry above, the issue of seafarers is unsuitable for the discussions on the movement of natural persons which deals with the entry into and stay in Japan.

( 3 ) The Japanese side expressed its interest in the exemption of payment by short-term visitors to the funds for the development of skills, treatment on the short-term visa equivalent to the ASEAN countries, approval for concurrently serving as directors for both a local Japanese company and a local joint venture, unification of procedures for work permits, exemption of fiscal tax (departure tax), and elimination of the nationality requirements on a manager for personnel divisions of a local Japanese company. Responding to the Japanese requests, the Indonesian side provided the following clarification: (i) the request to exempt the so-called “fiscal tax” cannot be accommodated, since it is a method of installment of income tax for all residents going abroad and is treated as a tax credit for related persons, and (ii) the nationality requirement on a manager of personnel division is based on Law No. 13/2003.

## **9. Government Procurement**

( 1 ) The Japanese side stressed that it is important to discuss transparency of procedures for government procurement as well as market access based on principle of non-discrimination between domestic and foreign suppliers under negotiations on the Japan-Indonesia EPA in accordance with the international framework regarding government procurement, recognizing that government procurement under transparent and competitive environment will benefit the two countries and their citizens by enabling fair and efficient implementation of budget as well as strengthening competitiveness of their economies.

( 2 ) The Indonesian side explained that in the context of reform of the government procurement system, the enactment in 2003 and steady implementation of the Presidential Decree No. 80/2003, which beyond certain threshold allows market participation of foreign companies, are currently in progress.

## **10. Improvement of Business Environment**

- ( 1 ) The Japanese side noted that there is strong correlation between the improvement of business environment and the improvement of investment environment in Indonesia and emphasized the importance to build a stable mechanism under the Japan-Indonesia EPA to discuss relevant issues, which occur through daily business activities, such as customs clearance, taxation and labor, as well as the importance to develop investment rules and administrative procedures, for the promotion of investment to Indonesia by Japanese enterprises.
- ( 2 ) The Japanese industry enumerated the following issues as particularly important and urgent in view of the improvement of investment environment: (a) customs clearance, (b) taxation, (c) labor, (d) promotion of investment/development of supporting industries, and (e) infrastructure. The Japanese industry emphasized the necessity to establish a mechanism, which consists of public and private sectors from Japan and Indonesia, in order to find problems and solutions to such problems. The Japanese industry also proposed the active utilization of Joint Forum on Investment, whose establishment was decided in December 2004.
- ( 3 ) The Indonesian side emphasized that the improvement of business environment is important for the two countries, and that it is important to discuss broad spectrum of issues between public and private sectors in parallel with preparations by the government for legislation of taxation laws and labor laws. The Indonesian side stated that in its efforts to improve business environment, Indonesia has proposed: (i) an amendment of tax law which is aimed at improving transparency, predictability, simplicity and equality; and, (ii) the issuance of implementing regulation on tax facilities.

## **11. Cooperation**

- ( 1 ) The Indonesian side requested technical cooperation and capacity building from the Japanese side in wide range of areas covered under

the EPA. In response, the Japanese side requested the Indonesian side to specify and prioritize issues of interest in the area of cooperation.

- ( 2 ) In the field of agriculture, forestry and fisheries, the Indonesian side requested cooperation from the Japanese side in the following areas: technical support and development of human resources towards improvement of the management system of fishery resources including patrol for combating IUU fishing vessels, development of organic farming and agricultural cooperatives, empowerment of small-scale farmers, technical assistance on fruit flies handling and its facilities, development of non-timber forest products particularly on charcoal and agarwood, and cooperation on preservation of mangrove forest.
- ( 3 ) The Japanese side expressed its view that balance between cooperation and market access is important in the field of agriculture, forestry and fishery, and that it is hard to positively respond to the request of cooperation which would have or may have a negative impact on Japan's food security and its ongoing efforts towards structural reforms of domestic agricultural sectors. Instead, the Japanese side explained that cooperation which would directly benefit the well-being of the people who are engaged in agriculture, forestry and fishery in a small scale would be appropriate.
- ( 4 ) In the field of industry, the Indonesian side requested technical cooperation, development of human resources, assistance on standards and conformance, support for SMEs etc, for various industries including steel and nonferrous metal, ship-building, textiles, automotive, electronics, eye-glasses and jewelries.
- ( 5 ) The Japanese side indicated that, in the field of industry, development of supporting industries in Indonesia and their business matching with Japanese companies are necessary and expressed its view that Indonesia's clear strategy on industry is required for effective implementation of cooperation.
- ( 6 ) With regard to the training and internship schemes, the Indonesian side requested: (a) improvement of working conditions, (b) expansion of covered areas, and (c) employment after internship. The Japanese side responded that the training and internship schemes are not for

employment and have clear objectives of technology transfer to the developing countries. The Japanese side also indicated that ways to improve the implementation of the schemes be discussed. In this connection, a Japanese labour organization pointed out that there are problems regarding the schemes.

#### **IV. RECOMMENDATIONS OF THE JOINT STUDY GROUP**

1. Based on the detailed discussions on each sector above, including economic analyses on the Japan-Indonesia EPA by scholars of both sides, and convinced that the Japan-Indonesia bilateral EPA covering a broad range of areas will contribute to further development of close economic relationship between Japan and Indonesia, the Joint Study Group for the Japan-Indonesia EPA decided to recommend to the Leaders of both countries that the two countries should launch negotiations on the Japan-Indonesia bilateral EPA, in parallel with negotiations on the ASEAN-Japan Comprehensive Economic Partnership Agreement which will start in April 2005.
2. Both sides confirmed that the negotiations will be conducted based on the following principles:
  - (1) For enhancement of economic partnership between the two countries, it is necessary to discuss a broad range of areas and to promote liberalization, improvement of rules and cooperation in accordance with the specific features of economic relations between the two countries. In this respect, in case it is more effective in bringing about high-level liberalization and rule-making, future discussions should include elements of cooperation in each area, which is designed to achieve the highest possible level of liberalization and rule-making. Both countries will conduct the negotiations constructively, positively and with flexibility, recognizing the existence of sensitive sectors in both countries.
  - (2) The two countries will take into account the progress of negotiations on the ASEAN-Japan Comprehensive Economic Partnership Agreement.

#### **V. SCOPE AND MODALITY FOR NEGOTIATIONS ON THE JAPAN-INDONESIA ECONOMIC PARTNERSHIP AGREEMENT**

1. Based on the discussions in the Joint Study Group, both sides provisionally concluded that the scope of bilateral EPA negotiations based on the recommendations by this Group should be as follows:
    - a. Trade in Goods
      - Tariffs and Non-tariff measures, Rules of Origin, Trade Remedies
    - b. Customs Procedures
    - c. Trade in Services
    - d. Investment
    - e. Movement of Natural Persons
    - f. Government Procurement
    - g. Intellectual Property Rights
    - h. Competition Policy
    - i. Standard and Conformance
    - j. Improvement of Business Environment
    - k. Cooperation
    - l. Dispute Avoidance and Settlement
2. The issue of energy and minerals will be discussed under this EPA.
3. Modality for negotiation should be discussed at the 1<sup>st</sup> meeting.
4. Both sides shared the view that two countries should start the EPA negotiations as soon as possible and conclude them within a reasonable period of time.

– END –

## ATTACHMENT

1. The Indonesia adopts a negative list system, which always minimizes, from time to time, the number of closed business sectors to foreign direct investment. Now besides eleven business fields closed absolutely for investment, there are also eight business fields closed to foreign direct investment.
2. Indonesia applies national treatment in the post establishment and full most-favoured-nations treatment. There is still a regulatory reason not to apply full national treatment.
3. Indonesia applies the ten days process to finish any new investment and expansion of investment.
4. Indonesia attaches importance to direct investment protection such as freedom of transfer, subrogation and dispute settlement between state and investor. Law No.1 of 1967 governs some important issues such as the right of transfer, nationalization and compensation as well as repatriation. Therefore, Indonesia gives consideration to dispute settlement on investment between state and investors. Indonesia, as a member of Convention on the Settlement of Investment Disputes between States ad National of other States (ICSID), has already ratified this convention by: Law No. 5 of 1968.
5. Indonesia still adopts a divestment program. 100% foreign owned company shall sell a part of its shares to Indonesian citizens and/or Indonesian legal entities within a maximum of fifteen years after the commencement of commercial operation, by way of direct ownership and/or through the domestic stock exchange.
6. Indonesia government is in the process of revising the existing investment law. It is hoped that the upcoming investment law will accommodate internationally recognized standard, practice and principles of investment. The law, as an example, will ensure that equal treatment will be accorded to investors irrespective of their nationalities (based on the most favored nation's principle). Moreover, the government of Indonesia, through this law, also attaches importance to the protection from nationalization and expropriation. When it happens, the government will offer compensation. Therefore, the government also guarantees a right to transfer and repatriate, in term of acceptable foreign currencies. In addition going to international arbitration in order to settle investment disputes is a part of the new investment law.