

Major Concerns of Investors to and in Indonesia

Seminar

*Prospek Investasi di Daerah Menyongsong
Berlakunya Undang-Undang Investasi yang Baru*

*Fakultas Hukum Universitas Trisakti
Jakarta
22 July, 2002*

by

Karen Mills

KarimSyah Law Firm

*Level 11; Sudirman Square Office Tower B
Jl. Sudirman Kav. 45 - 46
Jakarta, 12930 , Republic of Indonesia
Telephone: (+62-21) 577-1177
Telefax: (+62-21) 577-1947
E-mail: kmills@cbn.net.id*

MAJOR CONCERNS OF INVESTORS

FOREIGN & DOMESTIC CURRENT & PROSPECTIVE

LEGAL UNCERTAINTY/ JUDICIAL SYSTEM

MANPOWER/INDUSTRIAL RELATIONS PROBLEMS

INFRASTRUCTURE

TAXATION & CUSTOMS

BANKING SYSTEM/FINANCIAL SECTOR PROBLEMS

REGIONAL AUTONOMY/DECENTRALISATION PROBLEMS

LACK OF INCENTIVES FOR FOREIGN DIRECT INVESTMENT

OTHERS:

POLITICAL SYSTEM/UNCERTAINTY

SECURITY

ENVIRONMENTAL DESTRUCTION

INTELLECTUAL PROPERTY RIGHTS VIOLATIONS

(Note: Corruption is not listed separately because it pervades most, if not all, of these issues - as it does virtually the entire economic and political system of this country.)

MAJOR CONCERNS OF INVESTORS IN INDONESIA

I have been asked to discuss some of the concerns of current and potential foreign investors to Indonesia. In my experience and discussions with businessmen, consultants and government officials, it seems to me that for the most part the concerns of foreign investors do not differ in any substantial way from that of domestic investors, or prospective investors. The problems faced by Indonesia affect everyone to a greater or lesser degree, and thus we should all: foreign and local, government and businessmen, employers and employees, strive for the same kind of reforms and for the same kind of economic growth for the mutual benefit of everyone in this country.

Let me also mention first that there does seem to have been some improvement in at least the macro-economic position of Indonesia since the heat of the economic crisis of 1997-1998 and its attendant political upheaval in this country. We have had successful rescheduling of both public and private sector debt through the Paris and London clubs, the Rupiah seems to be leveling out somewhat (although it remains uncertain and its strengthening can have both positive and negative effects depending upon from whose viewpoint one is looking), we seem to have restored our relationship with the IMF. In addition we do see a number of businesses beginning to thrive again and new businesses opening up, although it is often speculated that this is made possible by the cash that remains in the system since debts are not being paid.

But despite positive macroeconomic indicators, there has not been an attendant increase in foreign investment. In fact there has continued to be a drop in new investment. This can only be attributed to the perception by prospective and actual investors that Indonesia is no longer friendly to foreign investment, whereas other jurisdictions, such as China, Thailand, Malaysia and the Philippines, to name only a few nearby, are more sensitive to the needs of foreign capital. That is one of the major problems facing Indonesia today - competitiveness: how to continue to draw investment capital from abroad when there are many other, perhaps more attractive, options open to such capital elsewhere.

In the words of the Chair of the International Business Forum: "In the race to generate budget revenues and produce new regulations, there seems to be no one in (Indonesian) government asking the question: "How will our decisions affect the investment climate?" If this is the case, it is small wonder that investors do not see their interests being considered and do not feel a welcoming atmosphere. Furthermore there is a growing perception that Indonesia does not really have any political will to reform its stalled systems and to eradicate the misconduct and imbalance which has shaped the past 25 or 30 years of development.

GOVERNMENT'S STATED PRIORITIES:

At the Pre-CGI Private Sector Briefing in June, Minister Dorojatun Kuntjoro-Jakti Described the Priorities of Development Policies in Preparation of the 2003 Budget, as follows:

- Focus on Fiscal Sustainability, Revitalisation of Real Sector by
 - Pushing Ahead on Asset sales & Privatisation of state assets
 - promotion of debt restructuring
- Improving environment for economic growth
 - improve decentralisation
 - legal, governance and security environment
 - foundations for 2004 elections
- Mobilisation of private sector resources to improve key infrastructure:
 - electricity
 - roads
 - water
 - telecommunications
- Policies & programs to maximise employment generation
 - trade, industry & labor policies; how these can be modified to generate the maximum number of quality jobs
- Poverty eradication & improve public services for sustained growth
 - education
 - health
- improvement of spatial planning and inter-govt coordination
 - to reduce/ eliminate/deal with flooding & water quality problems.

That is the plan. But how well is it working?

At the same forum, the Chair of the Japanese Business Club advised that of all Japanese businesses seeking to invest offshore, only 14% are now considering Indonesia, while a majority are considering China and other areas. This is due to the perception that Indonesia is no longer friendly to foreign investment, for the reasons we will discuss here.

LEGAL UNCERTAINTY/JUDICIAL SYSTEM

Virtually everyone, from the farmers in Nusa Tenggara Timur to President Megawati Sukarnoputri, acknowledges that the most serious problem is the non-functioning judiciary.

At the Pre-CGI Private Sector Briefing in June, Suryo Sulisto succinctly and rightly pointed out that for the private sector to invest in more plant and equipment, create more jobs and pay more taxes, it is essential that the Government establish a clear set of rules, protecting the valid interests of all stakeholders (government, local and foreign private sector, borrowers and lenders, employers, employees: all taxpayers) and then effectively to enforce them.

The problems of the legal/judicial system can be separated into several categories:

The Laws themselves: Generally are adequate - IF they were being followed and properly implemented by the judiciary, police and other enforcement agencies.

Implementation/
Enforcement The laws are ignored, incorrectly interpreted and inconsistently applied, or used to further elite vested interests at the expense of those who seek faithfully to follow them. Where they are applied it is often with unproportionate penalties to prosecute minor or fictional infractions, again for the benefit of those who wield the power or control fat pursestrings.

The Judiciary Inconsistent rulings and judgements, ignoring or contrary to the law and often the facts emanate from nearly all levels of the court system, so that investors have lost all confidence in court actions. Even where parties to contracts chose to divest the courts of jurisdiction over disputes and chose instead arbitration, courts often ignore such agreements and take jurisdiction. Again, in most cases this is a result of influence and/or interference by the elite.

Parties to Contracts Investors who have entered into contracts with government-related bodies or powerful or wealthy elite have too often experienced complete negation or failure on the part of such parties to honor the agreements which they have entered into. Admittedly in some cases there are mitigating factors, such as the effect of the economic crisis upon infrastructure projects. But this tendency has not abated even with contracts entered into after the crisis, and investors no longer

have confidence in the ability to rely upon their contractual rights.

Powerful parties: Investors have found that even where they and their counterparts do honor contracts there is no guarantee that their projects will not be frustrated by forceful takeover by powerful parties. This trend is most devastating to domestic farmers and land owners who have had their land taken from them against their will by powerful developers, and such aggrieved persons have found no protection in any law enforcement agency whatsoever. No wonder they sometimes resort to taking the “law” into their own hands.

We read in the newspapers on a daily basis articles about misuse of judicial authority, irrational court decisions, in particular (lately) relating to bankruptcy, failure of the law enforcement bodies to prosecute serious wrongdoers or, where such cases do come to court, failure of the courts rigorously to prosecute and punish well positioned wrongdoers. One need only mention the names of Manulife, Tommy Suharto, Akbar Tandjung, Ginandjar and others. There is no need to go into detail - every one of us is familiar with these cases and how there has been no demonstrable will to achieve justice in such cases.

Contrast these with the case of the poor employee who borrowed a pair of old thong sandals so that he could observe his daily prayers, or the janitor who pocketed one of then President Habibie's “give-away” pens. Both were imprisoned for long sentences, without any special benefits. Again, how can this possibly look to prospective investors, particularly those from countries in which one can rely upon one's contracts and upon the law enforcement system to right wrongs and the courts to dispense justice in a fair and consistent manner?

One of our most prominent and perhaps our “cleanest” of lawyers, Frans Hendra Winarta often points out that there does not seem to be any real political will to reform the legal system. He has pointed out, also at the pre-CGI meeting, that most new laws are not responsive to the needs of business and are lacking in coordination, not being applied consistently, if they are applied at all.

We can put into place all the “Law Reform” we can think of. But it will do no good to anyone until the judicial system is cleansed of corrupt practices. And we cannot blame only the judges for this situation. It is cyclical. The judges are not paid a living wage, therefore it is imperative that they obtain some funds elsewhere. Lawyers are aware of this and too many of them exert improper influence upon the judiciary by offering enormous incentives to find in their favor

regardless of the legal or factual basis of the cases. Some even threaten judges if they do not follow their bidding. This trend has become so commonplace that it is almost impossible to have a case go through any court without either the judge demanding compensation for a ruling or at least one of the counsel offering this. To top off this situation, few judges have been educated in business transactions and therefore rarely do they even understand the implications of the contractual disputes they are appointed to adjudicate.

To say that the system has become rotten throughout is almost an understatement. This is currently being studied by the UN “rapporteur” Dato Param Cumaraswamy, who becomes more and more incredulous every day of his assignment as he discovers how deeply is the damage and how difficult it will be to reform, even if there were the political will to effect any such reform, of which we have seen little if any evidence.

The only solution this writer can suggest would be to take commercial cases completely out of the existing court system. Leave the court system for civil and criminal cases, for which its judges are better equipped, and make an effort to clean up the system there, where there is not usually as high finance at stake.

For commercial cases, a completely new court system could be established, based more closely to the way an arbitral institution operates, except that it is backed by the government and mandatory. These commercial courts could be run as a business and self supporting. Every plaintiff would deposit a percentage of its claim, say 5% more or less, to cover costs and these funds would be used solely for the courts and to pay proper salaries for the judges. The judges themselves would come at first from the business bar and from academia, with new recruits, having been properly trained in business law, sitting as apprentices. Eventually, when they had sufficient experience, the new judges could take over. The courts would be managed by clean experienced retired professional business management and be entirely transparent - all books open to the public. And all decisions published, so that any improprieties would be known by all, in itself an incentive to the rendering of just and correct decisions.

Frans Winarta has listed some of the ways in which corruption of the courts is evident, and it may be instructive to repeat these here, although it is not likely to be news to anyone:

“Corruption and Judicial Corruption

Corruption in the judicial context is a common practice in the day to day legal system of Indonesia such as:

- Bribery
- Fraud
- Utilization of public resources for private gain;
- Deliberate loss of court records; and
- Deliberate alteration of court records

Those acts will result in the lost of impartiality and independence of the judiciary. Corruption also occurs when instead of proceedings being determined on the basis of evidence and the law, their outcome is affected by improper influences, inducements, pressures, threats, or interference, directly or indirectly, from any quarter of for any reason including those arising from:

- A conflict of interest;
- Nepotism;
- Favoritism to friends, or a particular Association or Institution;
- Consideration of promotional prospects;
- Consideration of post retirement placements;
- Improper socialization with member of the legal profession the executive, or the legislature;
- Socialization with litigants, or prospective litigants;
- Predetermination of an issue involved in the litigation;
- Prejudice;
- Having regard to the power or desire of government or political parties or other pressure groups.”¹

“The law, in its procedural as well substantive aspects, is essentially made and administered by persons whose views and interpretations are buffeted by the winds of change through the year, so that it has become a truism that the quality of justice depends more on the quality of the (persons) who administer the law than on the content of the law they administer”. (Roscoe Pound)

¹ *Legal Reform Agenda, by Frans Winarta, S.H., M.H., Member of the National Law Commission of the Republic of Indonesia.*

MANPOWER

That the current state of Manpower regulations serves nobody's interests seems to be understood across the board.

At the pre-CGI forum, Suryo Sulisto, Vice Chair of KADIN, commented that the recent regulations, KepMen 150, intended as an incentive for greater employment by private business, resulted in exactly the opposite, and turned out to be a "massive disincentive" for businesses to employ more people, or to protect existing jobs.

Much has been written, and surely a great deal more said, about the direction in which new regulations seem to be moving. By making it virtually impossible for businesses to dismiss employees who do not perform their jobs or who cause problems for other workers or, worse, siphon off funds or commit other crimes, these regulations make businesses, employers, hesitant to employ workers at all. We have a situation in which new work force, out of school or training programs: those unemployed who are eager to work and work hard, cannot find jobs because those who hold jobs have no incentive to perform well. Businesses, and worse, government offices and state owned companies, have a multitude of employees who are not performing and there is no way to encourage them to do so where there is no threat of termination. This makes these businesses uncompetitive and discourages them from hiring more workers, and in many cases discourages new businesses from moving to Indonesia.

I do not believe that most employers are overly concerned about the quantum of severance payments that must be made on dismissal, as long as dismissal can be effected. If that were the case, businesses would hire more workers, and there would be an incentive for workers to perform well in order to retain their positions.

Almost as detrimental to employment is the new provision which requires severance to be paid to workers who resign voluntarily. This encourages employees to take jobs and if they are not interested in performing, to resign and take new jobs as and when they wish. And again, it discourages businesses to employ more workers. Likewise the criminal sanctions placed upon employers are seen as an indication of disinterest in encouraging new business.

In order to be competitive in the world market for investment, Indonesia needs to be seeking to offer better conditions and incentives, or at least as good conditions as other countries in the region who are also seeking foreign investment, not worse. No other country imposes criminal sanctions on employers who, for example, do not offer special facilities for breastfeeding, or fail

to procure training or apprenticeship licenses . No other country denies an employer the right immediately to fire an employee who steals from the company. No other country requires severance payments to an employee who voluntarily resigns. Can we wonder why more businesses are moving elsewhere: to China, Thailand, Malaysia and the Philippines for example?

There is no question that the welfare of workers needs to be secured: employers must ensure a safe working conditions, reasonable hours, sufficient minimum wage to allow a reasonable standard of living and other basic needs. But in return workers must perform the jobs they hold and help the businesses to thrive. Only successful businesses can increase wages, expand their workforce, and offer better benefits to their employees. Employers and employees would benefit best if they both see their relationship as a partnership to achieve success in the business: what benefits the company will also benefit the employees. Where labor and management is pitted against each other as though enemies, both will lose. but the employees will lose more because the business can close up and move elsewhere, leaving the workers unemployed..

A 2002 working paper study made by the OECD had concluded that job protection laws of the sort Indonesia is seeking to promulgate have proven the sole primary factor in discouraging hiring and encouraging high levels of unemployment. Indonesia seems to have it all back to front on this score.

This would be one of the simplest problems to overcome, simply with feasible, rational new regulations that comply with or exceed the international standard.

INFRASTRUCTURE

Many intended projects instituted by the private sector have been frustrated by the lack of adequate and efficient public infrastructure. The lack of adequate roads, ports, power supplies and clean water and water treatment facilities in many parts of Indonesia has either discouraged investment in such areas or caused costs to skyrocket, making these businesses uncompetitive, and causing cancellation of some such projects and discouraging inception of many more.

The Chair of the International Business Forum has estimated that Indonesia will require well over U.S.\$ 130 billion investment over the next ten years to provide infrastructure that can support annual growth of 6%-7%, which is necessary to absorb new entrants into the labor force and keep us from becoming even less competitive with other countries in the region. As early as the late 1980's the government realised that at least 75% of such infrastructure would need to be funded by the private sector.

Unfortunately, as a result of, or at least subsequent to, the economic crisis of 1997-1998, it has been apparent that most attempts at government/private sector cooperation have failed. This is most evident in the recent high profile situations with the KSO telecommunications joint operations, the private power projects, the Jakarta clean water projects, and the Jakarta Outer Ring Road project. These failures have given Indonesia a most unfortunate negative reputation for private cooperation with the government or state-owned companies, with the certain result that it will become more and more difficult for the government to obtain private sector funding for the infrastructure it needs.

This will, again, decrease competitiveness for foreign dollars and also make it more and more difficult for business to be run, particularly in outer areas, as infrastructure not only is not improved, but also may deteriorate without adequate funding even for maintenance of what we do have.

TAX

Indonesia underwent a major reform of its tax and customs systems in 1983, effective as of 1984. The intention was to reduce the cost of doing business, encourage increased trade and investment and strengthen competitiveness of doing business in Indonesia.

That was 18 years ago, and although, as written, the reforms might have worked, in reality these objectives have not been achieved. In fact it seems that the reverse is true and Indonesia is seen as less and less competitive all the time.

This lack of competitiveness is perceived in three dimensions:

- Official tax rates are relatively high;
- But actual costs of doing business are considerably higher
- And even despite compliance, there are often abuses and attacks, particularly on specific sectors, such as oil, gas, mining and energy.
- The perception is that the tax office expects foreign interests to fund most of Indonesia's tax revenue.

The basis of the 1984 income tax law was self-assessment. As in many other countries, such as the US for example, taxpayers prepare returns reporting the whole of their income, deducting allowed expenses and calculate their tax based upon the resulting taxable income. Most foreign businesses are accustomed to this kind of reporting and have complied correctly. But more and more often the tax office, or individual tax officials, have disregarded these returns and continue to milk compliant taxpayers by imposing irrational assessments inconsistent with the law, as well as the facts. Understandably the goal of the tax office is to increase tax revenue. However, this can far more easily and properly be done by increasing the tax base - seeking out businesses and individuals (including government officials and parliamentarians) that are not reporting and paying taxes, rather than continuing to "hunt in the zoo", as the constant harassment of compliant taxpayers is referred to.

Inconsistent policies also takes it toll. For example, BKPM seeks to offer incentives to encourage foreign investment, such as exemption of customs duties and postponement of VAT on capital goods and materials and components used for production of income, whereas the tax office sees these as reduction in tax revenue and consistently seeks to eliminate such incentives, with the result of discouraging investment. These practices are often referred to as Indonesia's "killing the goose that laid the golden egg".

The recent push to enforce taxation of worldwide income on foreigners, but not Indonesians has

certainly decreased Indonesia's competitiveness. Even the US IRS, where taxation of worldwide income has long been a policy, have advised the tax office that it has been their experience that the cost of administering this policy exceeds the revenue it generates.

Many investors, particularly in natural resources and energy fields have left Indonesia primarily because of the high cost and inconsistent administration of the VAT system. Explorers are required to pay VAT long before they realise any income, which increases their exploration costs by at least 10%. Refunds are slow to come, if they do at all, and often the administering officials insist upon a substantial portion for their personal pockets in order to release the refunds. This practice not only discourages investment but does not increase revenue to the government coffers in any way.

Many prospective investors in outer regions and provinces fear (and some have already experienced) the imposition of multiple taxation as the local governments impose various local taxes and imposts, despite clear provisions as to the totality of tax in their contracts.

As a result of these problems, many prospective investors are locating, or worse, re-locating, elsewhere: to China, Singapore, Malaysia and other countries where they can rely upon a consistent tax environment.

And note it is not the tax laws themselves that are causing these problems. If the tax laws were implemented as written and in a consistent manner it is doubtful that we would hear many complaints from taxpayers. It is the inconsistent implementation of, and failure of tax officials to follow, and perhaps even to understand, the laws that result in most, if not all, of the abuses.

We must wait to see if the newly established LTO (Large Taxpayer Office) will alleviate the problems experienced at least for the major players, or if it will simply turn out to be an indoor zoo in which it is easier for its highly paid officials to hunt.

In his paper for the pre-CGGI forum, the Chair of the Japanese Business Club has suggested the establishment of a neutral centre to receive companies' complaints and to provide expert interpretation of tax laws binding on the tax office as well as the taxpayer to afford some protection to the taxpayer and alleviate the mutual mistrust that has increasingly grown over the past 18 years.

CUSTOMS

Prior to the customs reform of 1984, most importers and exporters viewed the customs experience as nothing short of a nightmare. When Indonesia took extreme measures to solve the problems of corruption and interference being experienced, by engaging SGS to handle pre-shipment inspection, goods began to flow more smoothly in and out of the country and the economy benefited greatly. Today the situation has deteriorated once again.

There is now a serious lack of transparency in the customs clearance process which, coupled with irrational high costs and inexplicable delays is once again proving a serious disincentive to investment in production of any sort here, as well as both raising the cost of doing business and reducing state revenue.

Suryo Sulisto once again put it very clearly and succinctly: "In today's competitive economy the smooth flow of goods into and out of the country is vital to the ultimate success of any business"

It is clear to all involved that a major reform of the customs process, to make it transparent and efficient is essential to achieve competitiveness, maintain investment and direct the customs revenue into the state treasury, rather than into pockets of corrupt individuals.

To get an idea how uncompetitive we are, note that China has recently introduced 24-hour service for customs clearance, which has been one of the factors in increasing investment into China.

One need only view the backup of vessels clogging Tanjung Priok harbor to get an idea of how long the clearance process can take.

BANKING & FINANCE

As everyone is well aware, our banking system has been in dire straits for some time, at the very least since the onset of the economic crisis, but in fact to a lesser extent for some time before that.

The attempt to recapitalise domestic banks with the BLBI credits was a failure on a scale which has not even been fully addressed, with most of the liquidity funds not only not having been used for the intended purpose but much of it having virtually disappeared.

Today domestic banks are unable to provide sources of capital for domestic businesses, which in turn makes it difficult for domestic businesses to participate with foreign interests in investment partnerships or transactions. As many fields of business require foreigners to cooperate with local parties, some of the few foreign businesses that do wish to invest here are finding it difficult to reach feasible and workable arrangements with local companies.

An enormous amount of unproductive capital remains tied up in the maintenance of far too many domestic banks, which is devastating for Indonesia's budget. Most domestic banks are holding significant stocks of government bonds and at the same time what assets they have are not properly utilised. Banks that cannot meet capital adequacy ratios should not be allowed to continue in business. If they were to sell their productive assets to functioning banks and close down a great deal of these unproductive assets might be freed up to enhance the economy.

I am advised that after the first closure of a few banks, Suharto was distressed and ordered that no further banks should be closed. This caused the BLBI debacle, which has been the most devastating blow to the banking system. More banks should have been allowed to close at that time. But it is not too late to institute radical reforms in order to get the banking system working once again, and it does seem that, with the cancellation of the blanket guarantee on deposits some effort is being made in that direction. But it is vitally important to protect the deposits of small entrepreneurs and individuals to ensure liquidity and avoid political turmoil.

REGIONAL AUTONOMY/DECENTRALISATION

It is doubtful that anyone would argue against the proposition that in order for Indonesia to continue to grow with distribution of wealth and empowerment of all the people throughout the entire archipelago, more power, authority and responsibility must be taken up by the local governments of regencies and provinces. This was the idealistic view of former President Habibie, which he put, or perhaps forced, into practice in a manner viewed by many as too precipitous, before any groundwork had been laid for the assumption of such responsibilities by these regencies and provinces and their leaders, before training of leaders, before transfer of technology as to how to administer such powers and responsibilities.

The result has been spotty, and perceptions diverse. A study made by the Asia Foundation has shown that, although one must understand that this is a lengthy process, for the most part, regional autonomy is being approached in a responsible manner by those empowered and by the people in the regions.

But there are exceptions and indeed there is confusion. Many foreign investors in the regions, particularly those in the mineral extractive sector, see the result only as additional tax and regulator burden upon their projects, usually in contradiction to the terms of their license from and contracts with the central government and its agencies and state owned companies.

It is unfortunate that the decrees giving powers to the regions did not provide for a long term gradual process of orientation and training, exchange programs for administrators and municipal heads, and generally a more structured sequential program over, say, a ten year period or more. But that did not happen and Indonesia now must find a way to reach a balance between the interests and powers of the regions and those of the central government as well as those of the investors in the regions. This will not be an easy task. For investors, the main concern is that the regions and their administrative bodies recognise and give effect to the contractual obligations and tax implications, undertaken by the central government prior to the onset of the regional autonomy.

FOREIGN DIRECT INVESTMENT INCENTIVES

It is ironic that as the foreign investment regulations have become less onerous and more abbreviated, as the intention expressed is to open fields and percentages of allowed foreign investment and to reduce time and bureaucracy involved, in fact and in practice the time, costs, bureaucracy, impediments and requirements of investing in Indonesia have increased.

The most recent regulations have set a ten day period to obtain approval of foreign investment through BKPM. But as a practical matter, these approvals are taking longer than they were when the maximum stated time was a month. There seems to be less coordination, more inexplicable requirements indicated by BKPM personnel, and more hands out seeking gratuities before approval is issued than there has ever before.

The government is considering a new foreign investment law, one that has been under discussion for many years. This is intended to do away with the distinction between foreign and domestic investment and simplify the procedures.

The draft law also attempts truly to make BKPM a one-stop shop for investment in all areas, including those currently administered by other ministries or departments, such as the Ministry of Finance for banking, insurance, leasing and other financial services and MIGAS for oil and gas companies. Recent legislation also gave authority to regional governments to grant investment approvals in their regions, and are opposing the new blanket authority to be given to BKPM.

At present, just when the country needs foreign investment more than ever and has indicated a desire to make such investment quick, smooth and easy, we are finding the process more difficult, less transparent and more costly than ever. Once again it seems that, through its implementing officialdom, Indonesia is shooting itself in the foot.

Likewise the incentives which, as mentioned when we discussed tax, BKPM intends and promises to afford to investors, may be frustrated by the policies of other Ministries or Departments, such as the tax incentives for new investment, which remain questionable in each new application.

The writer wishes to acknowledge the inputs of, and thank:

Minister Dorijatun Kunjoro-Jakti
The Economic Section of the United States Embassy in Jakarta
The Asia Foundation
KADIN
AmCham Indonesia
The International Business Forum
The Japanese Business Club
Frans Hendra Winarta
Philip Shah
The Jakarta Post

Karen Mills

22 July, 2002