# INDONESIA

## TRADE SUMMARY

In 2001, the U.S. trade deficit with Indonesia was approximately $7.6 billion, a decrease of $360 million from the U.S. trade deficit of about $8.0 billion in 2000. U.S. goods exports to Indonesia were approximately $2.5 billion, an increase of $97 million (4.1 percent) from the level of U.S. exports to Indonesia in 2000. Indonesia was the United States' 38th largest export market in 2001. Meanwhile, U.S. imports from Indonesia were $10.1 billion, a decrease of $262 million (2.5 percent) from the level of imports in 2000.

U.S. exports of private commercial services (i.e., excluding military and government) to Indonesia were $1.4 billion in 2000 (latest data available), and U.S. imports were $401 million.

The stock of U.S. foreign direct investment (FDI) in Indonesia in 2000 was about $11.6 billion, an increase of 10.6 percent from the level of U.S. FDI in 1999. U.S. FDI in Indonesia is concentrated largely in the petroleum, manufacturing and financial sectors.

## OVERVIEW

Although Indonesia achieved moderate economic growth in 2001, the country has still not shaken off the effects of the 1997-99 financial and economic crisis. After almost a year of fierce political infighting, the People's Consultative Assembly removed President Wahid in July 2001 and replaced him with his deputy, Vice President Megawati Soekarnoputri, the daughter of the nation's founding president. The new government brought a measure of political stability and entered office with a great deal of good will. But the nation's most serious problems -- building effective, democratic institutions; establishing the rule of law; restoring private capital inflows; and addressing the chronic problems of corruption, debt, and a crippled banking system -- have stymied the new team as they did its predecessor. On top of these domestic problems, the global economic environment turned sharply negative after September 11th and Indonesia's exports, a key contributor to the nascent economic recovery in 2000, slowed sharply.

The Government of Indonesia's relationship with the International Monetary Fund (IMF) has provided the framework for the country's economic policies since November 1997. IMF-supported economic reforms promote internal restructuring and reinforce existing policies of trade and investment liberalization.

On the trade side, although old protectionist habits occasionally re-emerge, the Government of Indonesia’s long-term liberalization program has stayed generally on track. Indonesia fully implemented the final stage of its commitments under the ASEAN Free Trade Agreement (AFTA) on schedule on January 1, 2002. On a cautionary note, however, the Government of Indonesia has expressed its reservations about the pace of liberalization within AFTA, and noted an interest in pursuing emergency exit clauses from AFTA commitments in general. Major concerns about The Government of Indonesia’s policies articulated by U.S. industry address the broader investment and business climate. They include the lack of contract enforceability; discriminatory taxation; the absence of a transparent and predictable regulatory environment; arbitrary and inconsistent interpretation and enforcement of laws; irregularities in certain government procurement tenders; and ineffective enforcement of intellectual property rights. Commercial dealings in Indonesia are impaired by a host of uncertainties, including widespread corruption, an ineffective judicial system, non-existent credit reporting, and underdeveloped capital markets.

## IMPORT POLICIES

**Tariffs**

As of January 2002, 67.4 percent of Indonesia's tariff lines were assessed import duties ranging between zero and five percent. Indonesia's average unweighted tariff is 7.3 percent, compared to 20 percent in 1994.

In the late 1980's the Indonesian government began long-term trade reform to wean the economy away from an overdependence on oil and gas and increase Indonesia's industrial competitiveness. In the early 1990's, the government began a series of annual deregulation packages designed to gradually lower applied tariff rates, convert non-tariff barriers into tariffs, and remove restrictions on foreign investment. By the projected end of the process in 2003, there will be a three-tier tariff-rate structure (0 percent, 5 percent or 10 percent), except on sensitive items such as automotive goods and alcohol. The most recent tariff package, issued January 11, 2001, reduced tariffs by 5 percentage points on 1,279 tariff lines. The majority, 769 lines, had tariff rates reduced to 10 percent or below.

In the Uruguay Round market access negotiations, Indonesia committed to bind 94.6 percent of its tariff schedule; most tariffs are bound at 40 percent. Products for which tariff bindings exceed 40 percent or which remain unbound include automobiles, iron, steel, and some chemical products. Indonesia committed to remove import surcharges on items bound in the Uruguay Round by the year 2005 and had done so by the end of 1996. In accordance with the WTO Agreement on Agriculture, Indonesia agreed to eliminate non-tariff barriers on agricultural products, and replace them with tariffs. In the agricultural sector, 1,341 tariff lines have bindings at or above 40 percent, including the most sensitive and heavily protected sectors. Local content regulations on dairy products were eliminated on February 1, 1998.

Effective January 1, 2002, Indonesia, along with the other five original ASEAN members, implemented the final phase of the ASEAN Free Trade Agreement (AFTA). Indonesia has reduced tariffs for all products included in its original commitment (7,286 tariff lines) to five percent or less for products of at least 65 percent ASEAN origin. The government will reduce rates on 66 remaining tariff lines, mostly in the chemicals and plastics sectors, to the 5 percent AFTA ceiling by 2003.

**Non-tariff Barriers**

Since its initial stabilization program with the IMF in 1997, Indonesia has dismantled many formal non-tariff barriers. Effective September 1998, the Indonesian Government sharply curtailed the role of the National Logistics Agency (Bulog), which had been the sole importer and distributor of major bulk food commodities, such as wheat, rice, sugar, and soybeans. Bulog is now an independent body (under the coordination of the Ministry of Agriculture) with the responsibility of maintaining stocks for distribution to military and low-income families and managing the country's rice stabilization program. The agency has floated the idea of again becoming a state trading enterprise, but no action had been taken as of December 2001. Bulog is no longer entitled to use credit liquidity from the central bank, a privilege it long enjoyed under the Soeharto regime. The agency now must use commercial credit and pay import duties like other importers.

Since late 1999, rice imports are subject to a specific tariff of 430 rupiah per kilogram (approximately 30 percent at an exchange rate of US$1= Rp 10,000). In addition, import duties on raw sugar are 20 percent and refined sugar

25 percent. Applied tariffs on all other food products are zero. In conjunction with the minimization of Bulog's authority and role, private companies are now permitted to import rice, wheat, wheat flour, soybeans, garlic, and sugar.

The Government of Indonesia is under increasing pressure from domestic agricultural interests for protection from world market forces but until now, with some notable exceptions, the Government of Indonesia has resisted such pressure and complied with its commitments under successive IMF programs. However, the Government of Indonesia continues to maintain a ban on imports of chicken parts, which the Directorate General of Livestock Services imposed in September 2000. Despite the efforts of several ministries to repeal the ban, the Ministry of Agriculture continues to insist that is necessary to assure consumers that imports are *halal* (produced in accordance with Islamic practices). The Ministry of Agriculture maintains this position despite the fact that U.S. imports comply with Indonesia's established requirements for *halal* certification. The United States has worked closely with Indonesian religious authorities to license specific U.S. meat producers as *halal* producers. The estimate of the trade loss from this ban is between $10 million and $25 million.

Other remaining quantitative limits apply to wines and distilled spirits. Besides the normal import duty of 170 percent, a 10 percent VAT and 35 percent luxury tax, the Government of Indonesia restricts imports of alcoholic beverages to three registered importers, including one state-owned enterprise.

The Government of Indonesia also imposes de facto quantitative restrictions on imports of meat and poultry products by requiring an Importer Letter of Recommendation ("Surat Rekomendasi Importir") before importers can import these products. In approving such a request the Government of Indonesia can arbitrarily alter the quantity allowed to enter. The United States believes the government uses this procedure as a way to limit imports. The estimate of the trade impact of this restriction is between $10 million and 25 million.

### Import Licensing

The Indonesian Government continues to reduce the number of products subject to import restrictions and special licensing requirements. 141 tariff lines are now subject to import licensing restrictions, reduced from 261 tariff lines in 1994, and 1,112 tariff lines in 1990. Alcoholic beverages, lubrications and explosives, and certain dangerous chemicals compounds continue to be subject to special import licensing regulations.

## STANDARDS, TESTING, LABELING AND CERTIFICATION

In July 2000, the Government of Indonesia began implementation of the Consumer Protection Law of 1998 by requiring registration of imported food products, including application for a registration number (ML), from the Agency of Drug and Food Control (BPOM). After complaints from Indonesian importers and retailers that the requirements were complicated, time consuming, and costly, BPOM granted temporary MLs for products registered prior to August 2001. These temporary MLs are valid until June 2002.

All imported food products must be tested by BPOM. Fees for such testing range from the Rp 50,000 ($5.00) to Rp 2.5 million ($250) per item, and between Rp 1 million ($100) to Rp 10 million ($1000) per product. Producers must provide extremely detailed information on

product ingredients and processing that may infringe upon proprietary business information. This has led some U.S. exporters to discontinue sales. It is estimated that the level of trade affected by this requirement is between $10 million and $25 million.

The Government of Indonesia has also begun implementation of a strict food labeling law that requires labels written only in Bahasa Indonesian on all consumer products. Labels may not include any other languages. This is a problem for U.S. companies who generally design labels to accommodate several export markets (often in several languages). It is temporarily acceptable to use stickers. U.S. exporters and Indonesian importers see this requirement as inappropriate and do not believe such labeling will be cost effective for smaller volume products. Industry estimates that up to $10 million in exports of canned fruits and vegetables, juices, and other consumer items could be affected.

Beginning January 2001, Indonesian regulations required labels identifying food containing "Genetically Engineered" ingredients and "Irradiated" ingredients. However, as of January 2002, implementation is pending until the government determines a threshold-presence level. If the government chooses to enforce strictly the regulation, sales of approximately $210 million in soybeans and soybean meal would be affected. The issue of genetically engineered food ingredients has not become a major concern for consumers.

## GOVERNMENT PROCUREMENT

Indonesia is not a party to the WTO Government Procurement Agreement. Indonesia's government procurement regime is governed by a number of overlapping laws, regulations, and presidential decrees. Most important is Presidential Decree (Keppres) No. 18/2000, issued February 2000, which updated the Law on Government Procurement of 1994. In addition, Construction Law 14/1999 governs procurement of civil engineering services and related consulting services. Regional decentralization may introduce additional barriers as local and provincial procurement rules are adopted.

Indonesia grants special preferences to domestic sourcing and set-asides for small- and medium-sized enterprises.

Bilateral or multilateral donors, each of which imposes special procurement requirements, finance many large government contracts. For large, government-funded projects, international competitive bidding practices must be followed. The Indonesian Government seeks concessional financing for most procurement projects. Since late 1999, the Indonesian government has conducted audits of the state-owned electricity company (PLN), the state oil and gas company (Pertamina), and the State Logistics Agency (Bulog). The audits identified irregularities in procurement procedures as major problems, but no legal actions have been taken against alleged perpetrators. The Government of Indonesia has committed to expand gradually the audit process to encompass other major state enterprises.

Foreign firms bidding on high value government-sponsored construction or procurement projects are periodically asked to purchase and export the equivalent value in selected Indonesian products. Government departments, institutes, and corporations are expected to utilize domestic goods and services to the maximum extent feasible, with the exception of foreign aid-financed goods and services procurement projects. State-owned enterprises that publicly offer shares through the stock exchange are exempted from government procurement regulations. Pertamina regulates the imports of all materials for use by the oil and gas sector.

## EXPORT SUBSIDIES

The government, through Bank Export Indonesia, maintains several credit programs that provide subsidized loans, primarily to agriculture and small and medium businesses. The entire structure of subsidized credits is undergoing significant change as economic reforms proceed.

## INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Under the "Special 301" provisions of the 1988 Omnibus Trade and Competitiveness Act, the U.S. Trade Representative placed Indonesia on the "Priority Watch List" in April 2001, noting the lack of effective enforcement of IPR in Indonesia and the need for prompt legislative action to bring Indonesia into full compliance with its TRIPS obligations. Problems in IPR protection raised by industry include: rampant software, audio, and video disk piracy; pharmaceutical patent infringement; apparel trademark counterfeiting; an inconsistent and corrupt law enforcement regime; and an ineffective judicial system. The lack of effective IPR protections and enforcement serves as a considerable disincentive for foreign investment in high technology projects in Indonesia. The Indonesian Government has, at times, responded to U.S. companies bringing specific complaints about pirated goods or trademark abuse, but the Indonesian court system can be frustrating and unpredictable, and effective punishment of pirates of intellectual property is rare. In a first of its kind decision, in late 2001, a U.S. software company won a civil suit against five computer retailers for bundling pirated software with the hardware they sell.

Indonesia enacted new laws in December 2000 to provide protection for trade secrets, industrial designs, integrated circuits, and plant varieties. In July 2001, Parliament passed amendments to existing laws on patents and trademarks. The government is also preparing amendments to the existing copyright law. Even with new laws in place, inadequate enforcement and a corrupt judicial system pose daunting problems for U.S. companies seeking enforcement of their rights in Indonesia.

Indonesia is a member of the World Intellectual Property Organization (WIPO) and has acceded to numerous international conventions on IPR. These include the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works (with a reservation on Article 33), the WIPO Copyright Treaty, the Patent Cooperation Treaty, the Trademark Law Treaty, the Nice Agreement for the International Classification of Unclassified Goods and Services, and the Strasbourg Agreement Concerning the International Patent Classification. Indonesia is not a party to the WIPO Performers and Phonograms Treaty.

### Copyrights

In 1997, Indonesia enacted amendments to its copyright law that brought it into closer conformity with international standards for copyright protection. The law currently includes provisions that establish a rental right in the areas of audiovisual, cinematographic, and computer software, which are protected as literary works. The law also establishes licensing rights, new protections for neighboring rights in sound recordings, and the rights of producers of phonograms. It also increased the term of protection for many copyrighted works to 50 years, as required by the TRIPS Agreement. A bilateral copyright agreement between the United States and Indonesia that entered into force in August 1989 extended national treatment for copyright protection to works created by citizens of each country.

The Indonesian government periodically steps up enforcement efforts against copyright piracy and consults with copyright holders and associations in order to prioritize its efforts. Nevertheless, Indonesia's overall record for copyright enforcement is poor. Piracy of video compact disks (VCDs) in Indonesia is widespread and this has disrupted the market for cinemas and for the sale and rental of legitimate products. Periodic raids result in the seizure of sizable amounts of pirate optical disk (OD) products. However, none of these cases resulted in meaningful penalties on pirates, or even permanent impoundment of equipment used to manufacture pirated products. According to U.S. industry estimates, total losses from copyright piracy in Indonesia during 2001 were approximately $200 million.

**Patents**

Indonesia's enacted its new Patent Law 14/2001 on August 1, 2001. The law consolidated into one text the three previous patent laws, and established an independent patent commission to rule on disputes and appeals. On the enforcement side, the law transferred jurisdiction over IPR civil cases from the district court to the Commercial Court and raised the maximum fine for patent violations to Rp 500 million ($50,000). The term of protection remains 20 years with a possible two-year extension. A patent is subject to cancellation only in the event the patent holder fails to pay annual fees within specified periods. Unauthorized use of a product or process invention that is the subject of a pending application constitutes patent infringement. As with full patents, however, effective enforcement during the patent-pending phase is problematic.

Unfortunately, the new law did not correct some of the weaknesses in the existing law that concern foreign rights holders. Chief among these is the requirement that an inventor must produce a product or utilize a process locally in Indonesia in order to obtain a patent for the product or process. Inventions that are contrary to Indonesian laws and regulations are excluded from patentability, and the standard for excluding inventions contrary to the public interest from patentability appears broader than the standards enumerated in the TRIPS Agreement.

**Trademarks**

Indonesia enacted its new Trademark Law 15/2001 on August 1, 2001. Like the new patent law, the latest version consolidated into one text a series of trademark legislation enacted over the past 20 years. The new law raised the maximum fine for trademark violations to Rp 1 billion ($95,000) and slightly reduced the maximum possible prison term. The Indonesian Government justified this move by claiming that financial penalties were a greater deterrent to IPR violators than prison. Foreign rights holders, arguing that most IPR cases never result in the maximum sentence, had pushed for minimum sentencing guidelines instead of greater fines, but this proposal did not make it into the final text.

The trademark law provides for the determination of trademark rights by priority of registration, rather than by priority of commercial use. The law also provides for the protection of well-known marks, but offers no administrative procedures or legal basis by which legitimate owners of well-known marks can cancel pre-existing registrations. Currently, the only avenue for challenging existing trademark registrations in Indonesia is to bring a court challenge, which is an unreliable and burdensome undertaking that must be initiated within five years from the date of the disputed registration. U.S. companies have found it difficult to protect their well-known marks, since judicial and administrative processes can be very

time-consuming and unreliable. Injunctive relief is also not provided, even when a lower court invalidates a false trademark registration.

## SERVICES BARRIERS

Despite relaxation of some restrictions, particularly in the financial sector, services trade barriers to entry continue to exist in many sectors.

### Legal Services

A few powerful players in established local firms currently dominate the Indonesian legal market. Foreign law firms are not permitted to operate directly in Indonesia. Indonesian citizenship, as well as graduation from an Indonesian legal facility or other recognized institution, is required to practice as a lawyer. A foreign lawyer can only work in Indonesia as a "legal consultant" and must obtain the approval of the Ministry of Justice and Human Rights. A foreign law firm seeking to enter the market for the first time must establish a relationship with local firm. Because most major local firms in Indonesia already have alliances with international firms, this requirement acts as a de facto barrier to new entrants.

### Distribution

Indonesia has been gradually liberalizing the distribution services sector under terms of its agreements with the IMF. The Indonesian Government has eliminated restrictive marketing arrangements for cement, paper, cloves and other spices, and plywood under its IMF program. Indonesia has begun opening the wholesale and retail trade sectors to foreign investment. Since 1998, the government has allowed up to 100 percent foreign equity in the distribution and retail sectors, with the condition that the investor enter into a "partnership agreement" with a small-scale enterprise. This partnership agreement need not involve an equity stake in the project. The film sector is not covered by this regulation. The entire film sector, including film distribution and exhibition, remains closed under provisions of the 1992 Film Law (see Audio-Visual section below.)

The state oil and gas company, Pertamina, controls all refining, distribution and marketing of final products to consumers. Indonesia passed a new Oil and Gas Law in October 2001 that will, when fully implemented, deregulate the downstream sector and transfer Pertamina's regulatory functions to a new governmental body.

### Financial, Accounting and Banking Services

Under the WTO Financial Services Agreement, Indonesia committed to allow 100 percent foreign ownership for non-bank financial services companies that are publicly listed, including insurance and securities firms. The Indonesian Government also guarantees the access of existing financial services firms in its market. In 1999, the Indonesian Bank Restructuring Agency (IBRA) took over failed banks and recapitalized them after they fell below capital adequacy standards. Over 70 percent of banking assets are now held by IBRA. Restoring the financial health of the banking system and returning it to private hands is the key challenge for Indonesia's reform efforts. As part of that effort, divestment of the government's stake in Bank Central Asia, formerly the largest private sector bank in Indonesia, is a key performance criterion in Indonesia's IMF program. The Indonesian Government and IMF continue to discuss how to proceed with other divestments. The government lifted restrictions on branching and sub-branching for joint venture banks and foreign branches in 1998.

Multi-finance companies with foreign partners

are required to deposit 100 percent more paid-in capital with the government than with domestic ownership multi-finance companies. However, in November 1998, amendments to the 1992 banking law were enacted that allow 100 percent foreign ownership of Indonesian banks. All insurance policies in Indonesia must be purchased from either a domestic or joint venture company. The only exceptions to this requirement are if specific coverage is unavailable in Indonesia or if the insured is a wholly foreign-owned entity.

**Accounting Services**

Overseas firms are unable to practice under international firms' names, although terms such as "in association with" are permissible. Foreign accounting firms must operate through technical assistance arrangements with local firms. Foreign agents and auditors may act only as consultants and cannot sign audit reports. Citizenship is required for licensing as an accountant.

**Securities**

In 1998, the government removed restrictions on foreign ownership of securities firms, pursuant to Indonesia's commitments under the WTO Financial Services Agreement.

**Audio-Visual**

Indonesia prohibits foreign film and videotape distributors from establishing branches or subsidiaries. Under the Film Law, provision of importation and distribution services is reserved to 100 percent Indonesian-owned companies. Importation and in-country distribution of U.S. films must be handled through a single organization, the European and American Film Importers' Association (AIFEA). Duties, taxes, licensing, and other necessary payments also act as barriers to the film industry.

Film imports at present are undertaken by approximately 30 local companies (increased from the eleven members of the Government approved Film Import Association after the closure of the Ministry of Information) that import Western, Chinese and Asian films. The Film Law prohibits importers from distributing the product they import. However, this regulation is not being enforced and many importers directly distribute the product they import.

**Construction, Architecture and Engineering**

Foreign consultants working under government contracts are subject to government billing rates. Foreign construction firms are only permitted to be subcontractors or advisors to local firms in areas where the government believes that a local firm cannot do the work. Also, on government-financed projects, foreign companies must form joint ventures with local firms.

**Telecommunications Services**

Indonesia's commitments under the WTO Basic Telecommunications Agreement were modest. The government committed to a maximum foreign investment limit of 35 percent for telecommunications services companies, but did adopt the WTO Reference Paper on pro-competitive regulatory principles.

Indonesia's new Telecommunications Law took effect on September 8, 2000 and the Indonesian Government is preparing implementing regulations. The law phases out the exclusive rights of PT Indosat and Satelindo for international calling service and PT Telkom for domestic long distance service and local fixed-line service. The Government of Indonesia has begun to divest its stake in PT Telkom. In December 2001, it sold an additional 12 percent stake, raising the total stake held by private

investors to 42 percent. In January 2002, it raised telephone tariffs closer to market levels as part of an effort to make the company more attractive to investors. PT Telkom will lose its monopoly over local fixed-line service in early 2002, eight years ahead of schedule, and the long-distance providers will lose their exclusive rights in 2003, rather than 2005. The new law drops the previous requirement that prospective foreign investors partner with a state-owned enterprise or enter into a revenue-sharing arrangement.

## INVESTMENT BARRIERS

In line with other chronic law enforcement problems plaguing Indonesia in recent years, foreign investors point to the lack of effective contract enforceability as the most serious impediment to new investment. The sectors in which contract disputes are most prominent are electricity and telecommunications.

The Indonesian Government states that it is interested in attracting and increasing foreign investment, which it hopes to accomplish by reducing burdensome bureaucratic procedures and other requirements on foreign investors. Indonesian law provides for both 100 percent direct foreign investment projects and joint ventures with a minimum Indonesian equity of five percent. In 1998, the government opened several previously restricted sectors to foreign investment, including harbors, electricity generation, telecommunications, shipping, airlines, railways, roads, and water supply. The government has for several years been preparing a new investment law. That law, which may be enacted in early 2002, would overhaul existing regulation dating back to the late 1960's.

Foreign capital investment is primarily governed by the Foreign Capital Investment Law of 1967, as well as by subsequent presidential and ministerial decrees. The Capital Investment Coordinating Board (BKPM) and other relevant agencies must approve most proposed foreign investments in Indonesia. Obtaining the required permits, however, can be cumbersome and time-consuming, as BKPM lacks centralized authority to issue such permits, requiring investors to deal with considerable red tape. Specific laws and regulations administered by various specialized technical agencies, rather than BKPM, cover investment in petroleum extraction, mining, forestry, and banking. Joint ventures with a majority Indonesian share, or in which Indonesians own 45 percent of shares with at least 20 percent of total stock sold through the Indonesian stock market, are treated as domestic companies for certain purposes. This arrangement provides the opportunity to borrow short-term working capital in rupiah from state banks.

Indonesia maintains restrictions on investment in some sectors and closes others completely to foreign investment. These restrictions are implemented through a "negative list." The Government of Indonesia released the most recent version of the negative list in August 2000. Although the revised list opened some sectors, particularly certain medical services, to foreign investors, the biggest surprise was the extension of the prohibition on foreign investment in print and broadcast media to include "multimedia services," defined as Internet services and electronic commerce. Since all of the major Indonesian-language Internet portals in operation are joint ventures with significant foreign equity, this provision caused substantial disruption to current investors. The Indonesian Government rescinded the ban two weeks later. Foreign investment is prohibited in the film industry.

The new list does open the medical services industry to projects that are 95 percent foreign-owned, and specifies that foreign ownership is

allowed under certain very restrictive circumstances in other sectors that were previously closed to foreign investors.

On January 1, 2001, Indonesia began to implement a large-scale decentralization of authority and finances from the central government to the provincial and district-level governments. This policy was established under Laws 22/1999 and 25/1999. The Government of Indonesia has yet to complete key implementing regulations, which has resulted in ongoing difference of opinion between central and local governments about who has authority in certain cases or on certain issues. This adds to the level of uncertainty facing foreign investors. In many areas, local governments have instituted revenue-raising measures ("retribusi") which have had a distorting effect on inter-province or international trade.

### Trade-Related Investment Measures

In 1995, pursuant to the WTO Agreement on Trade Related Investment Measures (TRIMS), Indonesia notified the maintenance of local content requirements to promote investment in several sectors, including the fresh milk and cream, utility boiler equipment, and soybean cake industries. Proper notification allowed developing-country WTO members to maintain such measures for a five-year transitional period, ending January 1, 2000. Indonesia eliminated measures applicable to soybean cake in 1996 and to dairy products and utility boilers in 1998.

## ELECTRONIC COMMERCE

Despite the proliferation of Internet service providers in recent years, several factors hinder the growth of electronic commerce in Indonesia. These include: lack of a clear policy in support of an open telecommunications infrastructure to support electronic commerce; limited access to fixed land lines controlled by the monopoly domestic telecommunications provider; a low level of computer ownership, by both businesses and individuals; and weak IPR protection. In particular, U.S. industry has identified the lack of a legal framework for ensuring security of on-line transactions as a major impediment. Parliament has been debating a cyber-law to address issues related to electronic commerce for more than a year. Lack of a cyber-law was cited by an Indonesian court as justification in the October 2001 acquittal of a "cyber squatter" who had improperly registered a domain in the name of a competitor. Indonesia has also experienced an explosion of credit card fraud in recent years which may hinder development of electronic commerce. Express delivery companies complain of increasing difficulties and higher costs as a result of fraudulent on-line transactions originating in Indonesia. Police are only just beginning to develop the means to deal with this problem.

## OTHER BARRIERS

### Transparency

A pervasive lack of transparency and widespread corruption are significant problems for companies doing business in Indonesia. Corruption was endemic under the former Soeharto regime, and remains an enormous problem for foreign companies in the new reform era. Demands for irregular and non-transparent fees to obtain required permits or licenses, government awards of contracts and concessions based on personal relations, and a legal system that is often arbitrary and for sale are frequently cited problems. Many of the new laws passed since late 1997 have established new institutions and agencies to respond to popular demands to deal with corrupt, collusive, and nepotistic practices. It is too early to judge the effectiveness of these institutions. In fact, there is widespread evidence that the prevalence of corrupt practices has in fact increased since

the end of the Soeharto era and concern that political and fiscal decentralization will increase the problem.

The Indonesian government has made efforts to address these concerns, including passage of a number of laws designed to address corruption among government officials. Law No. 28/1999 established stiffer penalties for corruption and an independent commission to investigate and audit the wealth of senior government officials. Law 31/1999 established an Anti-Corruption Commission. Neither law has been fully implemented. The press has reported a number of high profile corruption cases from the Soeharto, Habibie and Wahid administrations; however, to date, few individuals have been prosecuted and, of those, even fewer convicted.

**Automotive Policies**

On June 24, 1999, the Indonesian government announced a major revision of its national automotive policies designed to use market forces to foster a more efficient and globally competitive automotive industry. The government, in particular, seeks to promote a component-parts sector geared to supply both local and foreign manufacturers.

The new policy eliminated previously extensive tariff and tax incentives for local content. The Indonesian government substantially lowered tariff rates in all market segments for motor vehicles. The maximum tariff was reduced from 200 percent to 80 percent. Tariffs on kits imported for assembly, which had ranged from zero to 65 percent, are now a flat 25 percent for all but passenger cars, which are 35 percent, 40 percent or 50 percent depending on engine size. The tariff schedule for auto components and parts imported for local assembly has also been simplified to a flat rate of 15 percent for imported parts for passenger cars and minivans. The government also lowered luxury taxes across the board, although these were later raised somewhat. Imports of motor vehicles are no longer restricted to registered importers or sole agents of foreign automakers but are open to any licensed general importer.

In January, 2001, Indonesia raised the luxury taxes on sedans and SUV's with engine sizes above 4000 cc from 50 percent to 75 percent. Motorcycles with engine sizes from 250cc to 500 cc are subject to 60 percent luxury tax. A 75 percent luxury tax is applied on all motorcycles with engine size larger than 500 cc. The Government of Indonesia applies the same luxury tax both to motorcycles imported in kits or fully assembled. Indonesia also prohibits all forms of motorcycle traffic from its tollways, severely restricting the utility and attractiveness of U.S. motorcycles in the market.