INDONESIA

In 1997, the U.S. trade deficit with Indonesia was approximately $4.7 billion, an increase of $411 million from the U.S. trade deficit of $4.2 billion in 1996. U.S. merchandise exports to Indonesia were approximately $4.5 billion, an increase of $567 million (14.3 percent) from the level of U.S. exports to Indonesia in 1996. Indonesia was the United States' twenty-eighth largest export market in 1997. U.S. imports from Indonesia were $9.2 billion in 1997, an increase of $977 million (11.9 percent) from the level of imports in 1996. The stock of U.S. foreign direct investment (FDI) in Indonesia in 1996 was about $7.6 billion, an increase of 14.6 percent from the level of U.S. FDI in 1995. U.S. FDI in Indonesia is concentrated largely in the petroleum, manufacturing and financial sectors.

Overview

Indonesia entered a period of economic turmoil in July 1997 as Asian currencies, including the rupiah, began to depreciate. The Government of Indonesia (GOI) took a series of steps to address the increasingly serious economic and financial turmoil: in August, it floated the rupiah; in September, it tightened the budget and postponed major projects being undertaken by or in conjunction with state-owned entities; in October, it negotiated an economic reform program which the IMF board approved in November. Increasing turmoil and economic uncertainty led Indonesia to announce an enhanced IMF-supported reform program on January 15. The new program provides for unprecedented and accelerated structural reforms in virtually every sector of the economy and introduced major changes in the trade regime. Many of these changes are scheduled to take effect quickly, between February and April. If implemented they will substantially improve the operating environment for businesses in Indonesia.

IMPORT POLICIES

In recent years, Indonesia has liberalized its trade regime and has taken a number of important steps to reduce protection. Since 1996, the Indonesian Government has issued deregulation packages that have reduced overall tariff levels, simplified the tariff structure, removed restrictions, replaced non-tariff barriers with more transparent tariffs, and encouraged foreign and domestic private investment. The Government of Indonesia issued a deregulation package in July 1997 which introduced additional tariff reductions. In conjunction with its stabilization program agreements with the International Monetary Fund, the government issued additional reform packages in November 1997 and January 1998 which reduced taxes, tariffs and quantitative restrictions on exports and imports.

Tariffs

Indonesia's tariff regime is in rapid flux, having introduced accelerated tariff reductions for a broad number of products in November 1997 and January 1998. Indonesia's applied tariff rates range from 5 to 30 percent. Major exceptions to this range are the 170 percent duty applied to all imported distilled spirits and the 125 percent duty assessed built up passenger vehicles (subject also to a 75 percent import surcharge for total import taxes of 200 percent on these vehicles). In May 1995, the Indonesian Government unveiled a comprehensive tariff-reduction package covering roughly two thirds of all traded goods, designed to reduce most tariffs to under 5 percent by 2003. The package stipulated that all tariff items with a rate of 20 percent or less would be reduced to no greater than 5 percent by 2000, and items with rates of more than 20 percent would be reduced to no more than 20 percent by 1998, and 10 percent by 2003. Exclusions from these tariff cuts for chemical, metal, and agricultural products have recently been removed, leaving in place the exclusion for automobiles. This tariff reform generally extends Indonesia's commitments under the Association of Southeast Asian Nations (ASEAN) Free Trade Area (AFTA) on an MFN basis. In February, 1998, the government reduced tariff rates on non-food agricultural products 5 percentage points and will cut them to a maximum of 10 percent by 2003. Tariffs on all food items are to be cut to a maximum of 5 percent in February 1998.

U. S. industries have expressed concern over access to Indonesian markets which remains restricted by various trade barriers. These complaints cite tariffs and taxes imposed on imported products, large motorcycles (150 percent import duty; 35 percent "luxury tax"; 10 percent value-added tax), toys (30 percent import duty), wine (40 percent import tariff; 10 percent value-added tax; 35 percent luxury tax; 2.5 percent local service tax), films and videos, distilled spirits (170 percent import tariff; 35 percent luxury tax), air conditioning and refrigeration equipment (25-50 percent tariff), forest products (0-20 percent tariff), and soda ash (5 percent tariff; 10 percent value added tax).

In 1997, Indonesia continued to reduce tariffs. In September 1997, tariffs rates on 153 items, primarily raw materials and intermediate products, were cut by between 5 and 10 percentage points. Following these cuts, 52 percent of Indonesia's tariff lines were between 0 and 5 percent. As of January 1, 1998, the average unweighted tariff was 11.7 percent, compared to 20 percent in 1994. In the Uruguay Round market access negotiations, Indonesia committed to bind 94.6 percent of its tariff items, mostly at ceiling bindings of 40 percent. Exceptions to the 40 percent binding include automobiles, iron, steel, and some chemical products. In accordance with the WTO Agreement on Agriculture, Indonesia has agreed to tariffy its non-tariff barriers on agricultural products. Some of the exceptions to the 40 percent tariff bindings are still heavily protected. For example, when the Indonesian Government lifted the import ban on completely built-up cars in 1993, the ban was replaced with duties of up to 200 percent and import surcharges of 100 percent. The import levies were decreased in a subsequent deregulation package, but tariffs of up to 125 percent are still compounded by import surcharges of up to 75 percent on completely built-up models. Indonesia has committed to remove import surcharges on items bound in the Uruguay Round by the year 2005. The pioneer auto program (see also "Investment Barriers"), currently in WTO dispute settlement proceedings and stipulated for elimination in the stabilization program negotiated with the IMF, was intended to provide tax- and duty-free treatment for one designated company which uses a unique Indonesian-owned trademark. All processed goods are subject to a 10 percent value-added tax. A luxury tax ranging from 20 percent to 35 percent is also levied on certain products.

Quantitative Restrictions

Prior to the IMF memoranda of economic and financial policy of November 1997 and January 1998, the sole importer and distributor of major bulk food commodities, such as wheat, rice, sugar, and soybeans, was the National Logistics Agency (BULOG), a state trading entity. Prices of these commodities were often higher than world market prices. Other agricultural products are subject to local purchase requirements. As a result of the IMF stabilization program, the role of the National Logistics Agency (BULOG) has been sharply curtailed. Current regulations now permit private companies to import and distribute wheat, wheat flour, soybeans, garlic, and sugar. Because of the financial crisis and looming shortages, BULOG has been authorized to continue to import these commodities at subsidized exchange rates in an effort to stem sharp food price increases. BULOG retains the authority to manage all rice imports. Local content regulations on dairy products were eliminated on February 1, 1998.

Import Licensing

The government continues to reduce the number of items subject to import restrictions and special licensing requirements. As a result of the January 1996 reform package, 203 tariff lines still remain subject to restrictive import licenses, down from 261 in 1994 and 1,112 lines in 1990. The January package reduced restrictions on imports of 23 tariff lines, including seven categories of steel products. However, some U. S. industries continue to express concern over Indonesia's license and quota system which operates as a *de facto* ban on imports such as, motorcycles, wine, films and videos. For goods that continue to be regulated, the following import license categories exist (number of affected tariff lines provided in parentheses): registered importers -- alcoholic beverages (27), hand tools (6); producing importers -- artificial sweeteners (3), propylene granules (2),engines and pumps (5), tractors (3), knocked-down electronic keyboards (1), and scrap materials (57); approved importers/sole agents -- motor vehicles (47); BULOG -- rice (4); state oil company PERTAMINA -- lube oil (3); PT Dahana -- explosives (4). In accordance with Indonesia's WTO commitments, the non-tariff barriers on items not controlled by state trading agencies will be removed over a ten-year period.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

In May 1990, the Indonesian Government issued a decree that states that the Department of Health must decide within one year of receipt of an application whether to grant registration for new foreign pharmaceutical products. In practice, registration can take much longer, although companies report the process is slowly improving. Foreign pharmaceutical firms have complained that copied products sometimes become available on the local market before their products are registered.

New maximum pesticide residues (MRLs) for all food commodities were announced in August 1996. These MRLs are largely consistent with the international CODEX standards. The United States has commented on the unworkability of Indonesia's WTO notification that shipment-by-shipment certification would be required.

The Indonesian Government also introduced a new broadly based food law in November 1996 and now is in the process of drafting implementing regulations. Early indications of the plans for these regulations has caused concern among U.S. and other exporters, particularly about how issues such as labeling (including "halal" certifications), product expiration, and advertising will be handled.

GOVERNMENT PROCUREMENT

In 1994, the government enacted a new procurement law to regulate government procurement practices and to strengthen the procurement oversight process. Most large government contracts are financed by bilateral or multilateral donors each of which imposes its own procurement requirements. For large, government-funded projects, international competitive bidding practices must be followed. The government seeks concessional financing, which includes a 3.5 percent interest rate, a 25-year repayment period, and a 7-year grace period.

Some projects do proceed on less concessional terms. Foreign firms bidding on certain government-sponsored construction or procurement projects may be asked to purchase and export the equivalent in selected Indonesian products, but this rarely occurs. Government departments and institutes and state and regional government corporations are expected to utilize domestic goods and services to the maximum extent feasible, but this is not mandatory for foreign-aid-financed goods and services procurement. State-owned enterprises that have offered shares to the public through the stock exchange are exempted from government procurement regulations.

Some U.S. companies have expressed concern with regard to Indonesian procurement policies requiring local participation and content, that in many situations impede U.S. companies' ability to compete in this market. Non-transparent government procurement policies have also rendered competition difficult. Concerns, in particular, have focused on the engineering and construction industries.

Foreign joint ventures are not eligible to tender for government pharmaceuticals procurement. The requirement that doctors employed in government institutions prescribe only listed generic drugs also prevents the procurement of foreign pharmaceutical products. Foreign companies are generally prohibited from competing in the generic drug market.

In January 1998, the GOI issued a new presidential decree regulating cooperation between the government and the private sector in the provision and/or management of infrastructure. The decree requires that infrastructure projects be publicly tendered on a competitive basis rather than negotiated with a single preferred company. The decree also contains provisions for the legitimate use of intellectual property in projects.

EXPORT SUBSIDIES

As part of its June 1996 deregulation package, the Indonesian Government extended rediscount facilities for "special exporters" in certain industries, namely textiles and textile products, shoes, electronics, timber and rattan products, and leather goods. Eligible exporters may sell their export letters of credit or other instruments to the central bank, Bank Indonesia (BI), through foreign exchange banks. BI rediscounts the export drafts at SIBOR for special exporters and SIBOR plus one for general exporters. Through a decree issued on December 31, 1996, the Indonesian Government extended this rediscount facility to exporters of crude palm oil and its derivatives and pulp and paper products, as well as to "special suppliers" to the special exporters. BI also announced that it will rediscount in U.S. dollars, in addition to rupiah.

Companies producing 65 percent for export may apply for restitution of import duties paid on inputs that are subsequently re-exported in a finished form. Import-duty exemptions may also be granted for all capital equipment, machinery, and raw materials needed for the initial investment. Companies located in bonded or export-processing zones pay no duty until the portion of production destined for the domestic market is released, at which time duty is owed only on that portion.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Under the Special 301 provisions of the 1988 Omnibus Trade and Competitiveness Act, the U.S. Trade Representative raised Indonesia to the "priority watch list" in 1996, from the "watch list" where it had been since 1989. It remained on the "priority watch list" in 1997. In the past year developments in Indonesia's protection and enforcement of IPR in the copyright area have shown some positive developments. In the past six months Indonesia has stepped up enforcement of intellectual property rights; eased distribution restrictions on the recording industry, made progress in updating the copyright law and adhering to treaty standards; and a launched a number of successful enforcement actions in the copyright area. Concerning enforcement actions, the police have conducted several high-profile raids on stores selling pirated music and video compact disks and computer software. The raids resulted in the seizure of hundreds of thousands of illegal copies of CDs, video compact disks (VCDs), and computer software. Criminal cases against the merchants are now being pursued in local courts.

In the copyright law amendments itself, the International Intellectual Property Alliance (IIPA) cites favorably the establishment of exclusive rental rights for computer programs and sound recordings and the extension of term of protection of computer programs to 50 years; the ratification of the Paris text of the Berne Convention and the WIPO copyright treaty. U.S. industry also noted that the new patent law is an improvement over the previous.

IPR protection shortcomings mentioned by industry include: software, book, video, VCD, drug, and apparel trademark piracy; audiovisual market access barriers; inconsistent enforcement and an ineffective legal system; and amendments to the copyright, patent and trademark laws that are not completely TRIPS consistent. The Indonesian Government often responds to U.S. companies that raise specific complaints about pirated goods and trademark abuse, but the court system can be capricious, and punishment of pirates of protected intellectual property is very rare. In the view of some U.S. firms, the lack of sophisticated intellectual property protection laws and regulations have provided much disincentive for industries to invest substantially in high technology projects in Indonesia. Amendments to the patent, trademark, and copyright laws enacted in 1997 are designed to bring Indonesia's laws into compliance with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), but industry has raised questions in certain areas.

As of July 1997, Indonesia has acceded to the following international conventions on intellectual property: the Paris Convention for the Protection of Industrial Property; Berne Convention for the Protection of Literary and Artistic Works (Paris 1971)[with a reservation on Article 33]; The Patent Cooperation Treaty; The Trademark Law Treaty; The World Intellectual Property Organization Copyright Treaty; the Nice Agreement for the International Classification of Unclassified Goods and Services; and The Strasbourg Agreement Concerning the International Patent Classification. Indonesia is a member of the World Intellectual Property Organization (WIPO).

Patents

Indonesia's first patent law went into effect on August 1, 1991. The new Patent Law amendment, which became law in February 1997, has improved the situation to some extent. For example, the term of protection has been extended to 20 years with a two- year extension period; a patent shall be canceled only in the event the patent holder fails to pay annual fees within a certain time; use of product or process invention before grant of patent shall constitute a patent infringement; and the Article in the prior law that denied the right to prevent importation was deleted to comply with Article 28 of the TRIPS Agreement. Also, Indonesia now provides product patent protection for foods and beverages. In some areas, improvements were made that were not required by the TRIPS Agreement. For example, the definition of the term "patent examiner" was enlarged to include examiners in other industrial property offices. This could facilitate work-sharing in the search and examination process. Also, the exclusion from patentability for plant and animal varieties was deleted.

Unfortunately, some of the problems in the previous law were not corrected and new problems were introduced by the 1997 amendment. Examples include: importation still does not meet the requirement to "work" or exploit the invention domestically as required by the first paragraph of TRIPS Article 27; the right to prevent importation of products made by patented processes is only available if the process is also worked in Indonesia; the content of voluntary patent licenses is more restricted than permitted by TRIPS Article 40; there is no requirement that Government use of patented invention comply with the provisions of TRIPS Article 31; inventions that are contrary to Indonesian laws and regulations are excluded from patentability in violation of Article 4*quater* of the Paris Convention and TRIPS Article 2; and the standard for excluding inventions contrary to the *ordre public* is inconsistent with the requirements of paragraph 2 of TRIPS Article 27.

U.S. pharmaceutical industries remain concerned that, although the patent law amendment last year is an improvement, the present patent law does not satisfy the TRIPS requirements; that it includes compulsory licensing provisions, a provision allowing the import of certain patented raw materials; and law and regulations on local working requirements and patent cancellation. The Pharmaceutical Research and Manufacturers of America (PhRMA) also pointed out the incidence of smuggled counterfeit drugs from neighboring countries, the issue of corruption, joint venture requirements, generic drug prescriptions and supply to government institutions and taxation.

Trademarks

The April 1993 trademark law provides for determination of trademark rights by registration rather than by first use. The law provides for protection for well-known marks but offers no procedures or grounds for owners of well-known marks to clear the trademark register of existing registrations infringing on well-known marks. Currently, the only avenue for challenging existing trademark registrations in Indonesia is to bring a court challenge. Cancellation must be sought within five years from the date of registration. But 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 apparently is not provided, even when a lower court invalidates false trademark registrations. The new trademark law may enhance protection by providing for administrative cancellation of registrations competing with well-known marks.

The International Anticounterfeiting Coalition (IACC) stressed the problems surrounding the protection of well known marks; specifically, the length of time it takes the system to consider challenges to trademark applications, the ability of Indonesian nationals to file applications for well known marks and the inconsistent application of trademark laws. The complaint is also that the existence of the new law has not resulted in effective protection or enforcement of IPR.

Copyrights

In 1987, Indonesia enacted amendments to its copyright law which generally brought it closer to conformity with international standards for copyright protection. The draft law includes new provisions to recognize rental rights for copyright holders in the areas of audiovisual, cinematographic, and computer software, which are protected as literary works, adds protections for neighboring rights in sound recordings and rights of producers of phonograms, and copyright licensing, as well as, increasing the term of protection for many copyrightable works to fifty (50) years, as required under the TRIPs Agreement.

A bilateral copyright agreement between the United States and Indonesia that went into effect in August 1989 extended national treatment to each other's copyrighted works. The Indonesian Government has demonstrated that it wants to stop copyright piracy and that it is willing to work with copyright holders toward this end. There is good enforcement of the ban on pirated audio and video cassettes and textbooks, but efforts to combat software piracy are still at an early stage. In 1996, rampant piracy of video compact disks (VCDs) developed in Indonesia. This is disrupting the market for cinemas, as well as sale and rental markets for legitimate videos and laser disks. U.S. industry has expressed concern over the gradual increase in the video piracy rate, which is now 85%. Enforcement efforts targeting pirated VCDs have just begun. Two large government organizations have taken major steps toward eliminating unauthorized software from their premises.

The major problems cited by the International Intellectual Property Alliance (IIPA) with the Indonesian copyright regime are the following: copyright infringement of business software, Video Compact Discs (VCD), laser discs, video games and books; market access restrictions; insufficient enforcement efforts; an ineffective court system and deterrence penalties; restrictions on importation, distribution and retailing by other than 100% owned Indonesian companies; a ban on foreign investment in cinema construction and development of video retail outlets; and, restrictions on videocassette duplication.

New Technologies and Trade Secrets

Biotechnology and integrated circuit layout designs are not protected under Indonesian intellectual property laws. The government is in the process of preparing laws on trade secrets, industrial designs, and integrated circuits. Indonesia is a member of the World Intellectual Property Organization (WIPO) and is a party to the substantive provisions of the 1934 London Text of the Paris Convention for the Protection of Industrial Property.

SERVICES BARRIERS

Despite some loosening of restrictions, particularly in the financial sector, services trade barriers to entry continue to exist in many sectors. Foreign accounting firms must operate through technical assistance arrangements with local firms, and citizenship is a requirement for licensing as an accountant. Foreign agents and auditors may act only as consultants and cannot sign audit reports. Foreign law firms cannot establish a practice in Indonesia, and graduation from an Indonesian legal faculty or an institution recognized as the equivalent is a requirement to be admitted to the bar. Foreign consulting engineers can only operate by forming a joint-venture with local partners in Indonesia.

Indonesia

Distribution

Over the past two years Indonesia has begun to liberalize distribution in the domestic market. Liberalization is likely to accelerate as Indonesia implements the January 1998 IMF package, which calls for an end to restrictions on trade in the domestic market. On February 1, 1998, for example, according to new regulations, restrictive marketing arrangements for cement, paper, cloves, other spices and plywood were eliminated.

Indonesia is also opening wholesale and retail trade to foreign investment. In November 1997, the GOI enacted limited reforms which allowed foreign-owned factories in Indonesia to distribute their goods at the wholesale level immediately and at the retail level in the year 2000. These reforms were accelerated and broadened with the issuance of a new decree in January. The new decree allows foreign firms with a foreign investment license (PMA) to engage either in wholesale or retail trade (to engage in both wholesale and retail trade, companies must obtain separate PMA licenses) beginning March 31, 1998. Restrictions limiting PMA companies to distributing only their own products are also scheduled to be removed by the end of March 1998.

A number of U.S. companies have expressed concern that existing restrictions increase costs and impede their ability to effectively market and service their products in Indonesia, thereby limiting choice and competition, e.g., films and videos. Express delivery firms have expressed concern with their inability to wholly own or control express firms in Indonesia, obtain courier licenses, truck licenses, customs brokerage licenses or bonded warehouse licenses, and to self-handle their aircraft in Indonesia.

Financial Services

In its 1997 WTO financial services offer, Indonesia committed to allow 100 percent foreign ownership for non-bank financial companies that are publicly listed, including insurance and securities firms. The government also guaranteed the access of existing financial services firms in its market. Restrictions on joint venture banks, where the foreign ownership limit is 85 percent, were retained. Indonesia has committed to removing discriminatory capital requirements by the end of 1998. All insurance in Indonesia must be purchased from either a domestic or joint venture company. The only exceptions are for unavailability of coverage in Indonesia and total foreign ownership of the insured entity.

Banking: Any new foreign bank must be a joint venture between an Indonesian bank and a foreign bank from a country that offers reciprocity; the Indonesian partner must supply at least 15 percent of the capital. As of January 1998, the banking sector in Indonesia was undergoing a complete overhaul, with mergers and vastly revised regulations in the works. The World Bank, Asian Development Bank, and the IMF were closely involved in the restructuring plans. On January 15, 1998, the GOI announced that restrictions on branching and sub-branching for joint venture banks and foreign branches would be lifted. On January 27, the GOI announced that all restrictions on foreign investment in Indonesian Banks would be eliminated in order to attract foreign capital, management, and technology to the sector.

Securities: The 1997 WTO offer removes restrictions on foreign ownership of securities firms.

Motion Picture Market Access

Indonesia prohibits foreign film and videotape distributors from establishing branches or subsidiaries. All importation and distribution is restricted by the film law 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). Annual import quotas apply to foreign films and videotapes. Duties, taxes, licensing, and other necessary payments also act as barriers to the film industry.

Telecommunications Services

In the WTO negotiations on basic telecommunications services, Indonesia made several commitments, that, with one exception, did not go beyond the status quo. Its adoption of the reference price on regulatory principles was a welcome step. It set a foreign investment limit of 35 percent for telecom services companies. Indonesia maintained excessively long periods for existing restrictions on the number of services providers and made no guarantee of allowing unrestricted market access to international services in 2005, long distance in 2006, or local services in 2001. Fixed line services, including local and domestic long distance services, telex services, etc., must be provided in conjunction with the partially privatized national firm PT Telkom. Indonesia retained an economic needs test for mobile cellular and PCS providers.

INVESTMENT BARRIERS

The Indonesian Government is committed to increasing foreign investment and to reducing burdensome bureaucratic procedures and substantive requirements for foreign investors. The most substantial measure taken in this regard were in June 1994, when the government dropped initial foreign-equity requirements and sharply reduced divestiture requirements. Indonesian law provides for both 100 percent direct-foreign-investment projects and joint ventures with a minimum Indonesian equity of 5 percent. In addition, the government opened several previously restricted sectors to foreign investment, including harbors, electricity generation, telecommunications, shipping, airlines, railways, roads, and water supply. Some sectors remain restricted or closed to foreign investment and are implemented through a "negative list." These include television and radio broadcasting, theaters and video outlets, aircraft manufacture, logging, and wood processing.

In general, foreign capital investment is primarily governed by the foreign capital investment law, as well as by presidential and ministerial decrees. The Capital Investment Coordinating Board (BKPM) and other relevant agencies must approve all proposed foreign-manufacturing investments in Indonesia. The approval process is not used to block or restrict foreign investment. Obtaining the required permits, however, can be cumbersome and time-consuming. The most often heard complaint from investors about the Capital Investment Coordinating Board is that it is not a one stop investment shop. Investment in petroleum extraction, mining, forestry, telecommunications, and banking is covered by specific laws and regulations and handled by relevant technical agencies. Joint ventures with a majority Indonesian share, or in which Indonesians own 45 percent of shares and in which at least 20 percent of total stock is sold through the Indonesian stock market, are treated as domestic companies for certain purposes. This includes the ability to borrow short-term working capital in rupiah from state banks.

Despite the central government's plans to reduce red tape, regional license requirements and other levies can also make investing difficult. Every foreign investment project requires presidential approval. In practice, this means that the approval of investment applications can be delayed for indeterminate periods of time.

In 1996, the Indonesian Government issued a regulation under which tax exemptions may be provided to certain companies. This "tax holiday" was apparently created to attract large investments which Indonesia believes it is losing to other countries in the region with better tax incentives. Under current procedures, companies undertaking new investment in designated industries may receive a tax holiday for 5-12 years after the start of commercial production. Applications for tax holidays are reviewed by a team of five ministers and approved by the president.

Indonesia has notified to the WTO measures that are inconsistent with its obligations under the WTO Agreement on Trade-Related Investment Measures. The measures deal with local content requirements in the automotive industry, as well as for utility boilers, fresh milk, and soybean cake. Proper notification allows developing-country WTO Members to maintain such measures for a five-year transitional period after entry into force of the WTO. Indonesia therefore must eliminate these measures before January 1, 2000, and in the January 15, 1998 memorandum with the IMF committed to eliminate the requirement on dairy products by February 1, 1998. The United States is working in the WTO Committee on TRIMs to ensure that WTO Members meet these obligations.

Auto Policies: the 1993 Measures and the 1996 Pioneer Program

A WTO dispute settlement panel is scheduled to render judgement in the Spring of 1998 on the allegations of the United States, Japan, and the EU that elements of the 1996 automotive decrees and, in the case of the U.S. and EU complaints, the 1993 auto decrees, are inconsistent with Indonesia’s obligations under a number of WTO provisions.

In February 1996, Indonesia’s president issued a decree modifying the existing, WTO-inconsistent auto policy to grant tax and tariff exemptions to wholly owned Indonesian companies that use a unique Indonesian-owned trademark. Only one company, PT Timor Putra Nasional, was designated under the program to be exempt from the payment of any tariffs and luxury taxes if it increased the share of local content in the vehicles it produced over a three-year period. In June 1996, the government conferred further benefits on PT Timor by issuing a decree allowing the company to import from Korea, tax- and duty-free, up to 45,000 units of the “pioneer” car, during the first year of operation.

In February 1998, the government issued decrees canceling all special tax, customs or credit privileges previously granted to the national car program. Tariff preferences tied to local content levels for auto producers are scheduled to be eliminated by 2000.

OTHER BARRIERS

Transparency

A lack of transparency and corruption are significant problems for companies doing business in Indonesia, but since July the government has stepped up efforts to address these concerns. Demands for "facilitation fees" to obtain required permits or licenses, government award of contracts and concessions based on personal relations, and a legal system that is often perceived as arbitrary are frequently cited problems. A 1996 report from Bappenas (the National Planning and Development Board) recognized the judicial system's shortcomings. It noted the "need to reform judicial administration to ensure the speedy resolution of conflicts and an effective appeals system." It also called for improving " the skills and performance of legal and judicial personnel by strengthening ethical and professional standards, transparency, and accountability." Much of the substantial deregulation introduced since July 1997 is aimed at tackling some of the problems which either countenance these problems or which have arisen from them.

Indonesia's wood products sector remains heavily protected. Earlier government prohibitions on the export of raw rattan, logs, and timber were replaced with prohibitively high export taxes in May 1992. In the January 1998 IMF agreement, Indonesia committed to reducing export taxes on logs, timber, rattan, and minerals to a maximum of 10 percent and implementing a broad based resource tax that would be assessed on both exported and domestically consumed resources. The implementing decrees and regulations have not yet been issued. The Indonesian Government's practices in the wood industry have acted as obstacles not only to entry into the Indonesian market but also into the third-country markets such as Japan and Europe where U.S. finished and processed wood products compete with Indonesian products.

Some companies benefit from restrictive licensing regulations that severely inhibit competition in a number of areas in the domestic economy such as fertilizer and household gas.

Recent government decisions have reduced or eliminated a number of trade barriers, including: all budgetary and extra budgetary funding for the national aircraft company, IPTN, was ordered eliminated as of January 21, 1998; all import restrictions on new and used ships were ordered eliminated as of January 21, 1998; presidential instruction 6/1998 eliminates all barriers to foreign investment in palm oil plantations; the monopoly on clove marketing was eliminated as of January 21, 1998; the clove marketing board will be disbanded no later than June 30, 1998; the Ministry of Industry and Trade has been instructed to remove any restrictive marketing arrangements -- including export restrictions -- for cement, paper, plywood, wood, and rattan; and President Soeharto has issued instructions to all provincial governors prohibiting any intervention or restriction on trade, within or between provinces, of any commodity, specifically including cloves, cashews, oranges, and vanilla. The instructions also prohibit all provincial and local taxes on export goods.