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PURSE PROJECT

Private Participation in Urban Services

PRELIMINARY REVIEW AND EVALUATION OF CENTRAL GOVERNMENT POLICY

PURSE Report No. 101.02.1/93/003

Submitted by
Chemonics International
Jakarta, Indonesia

In association with
Resource Management International
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March 1994

Under Contract No. AID 497-0373-C-00-3030-00
United States Agency for International Development

**BAPPENAS
DEPARTEMEN DALAM NEGERI**

**DEPARTEMEN KEUANGAN
DEP. PEKERJAAN UMUM**

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GLOSSARY OF TERMS AND LIST OF ACRONYMS

GOI	Government of Indonesia
LG	Local Government
PURSE Project	Private Participation in Urban Services Project
ELIPS	Economic Law and Improved Procurement Systems Project
PPP	Public-Private Partnerships
PSP	Private Sector Participation
IUIDP	Integrated Urban Infrastructure Development Program
IUDP	Integrated Urban Development Program
BOT	Build Operate and Transfer
BOO	Build Operate and Own
GBHN II	The second 25 year national development plan
REPELITA	The five year national development plan
PUOD	Directorate General for general government affairs and regional autonomy
TINGKAT (Tk I & Tk II)	Level of local government; Tk I provincial, Tk II kabupaten
PEMDA (Tk I & Tk II)	Local Government; kabupaten and/or provincial level
DPRD (Tk I & Tk II)	kabupaten and provincial level house of representatives
PDAM	Local government water supply enterprise
PDK	Local government waste collection enterprise
BUMD	General term for local government companies
APBN	Central government development budget
CIPTA KARYA	Directorate General of Human Settlements
PLP	Sub Directorate for environmental sanitation
RUTRK	25 year local government structural
RDTRK	5 year detailed urban structure plan
IKK	Capital city of a kecamatan (local district)
KOTAMADYA	Municipality sized city with Tk II status
KADIN	Chamber of commerce; chapters exist at all government levels
HIPMI	Young chamber of commerce for company owners under 40's years of age
REI	Real Estate Indonesia - association of real estate developers and professionals
BKPM	Investment coordinating body - national level
BKPMD	Investment coordinating body - provincial level
PAKTO 23	The latest investment deregulation package issued on October 23, 1993
DUP	Project proposal from a government agency
DIP	Project approval with funding approval from Department of Finance
BINA SAREKDA	Unit within Bappeda for coordination of economic planning
KEPPRES	Presidential decree
PERMENDAGRI	Ministerial regulation

Executive Summary

Purpose and Scope of the Report: The purpose of this study is to outline existing government policies and policy deficiencies which impact on the process of facilitating private sector participation in urban environmental projects. This study will highlight areas and issues still requiring more detailed policy guidance and development for public-private partnership initiatives.

Some of the more fundamental legal issues concerned with PPP and PSP projects will also be discussed in so far as they impact upon policy development. However, it is not within the scope of this report to enter into a detailed discussion of points of law or provide an exhaustive list of all laws and regulations pertaining to PPP and PSP type projects.

Objectives of the Report:

1. To compile and discuss existing GOI and ministerial policies regarding public-private partnerships and other forms of private participation.
2. To highlight areas where more detailed policy guidance is required for public-private partnerships in the water, waste water and solid waste sectors.

General Conclusions and Basic PPP Policy Assumptions:

Macro/global policies expressing the GOI's commitment to pursuing the PPP/PSP option for provision of infrastructure are already embodied in current legislation, specifically Permendagri 4/1990 and Permendagri 3/1986, and numerous public statements by both the President and his ministers.

A large number of projects have already been implemented under the auspices of Permendagri 3/1986, although only one of these projects was within the three PURSE sectors of water supply, waste water and solid waste. The private sector has already recognized the opportunities inherent in the two ministerial regulations mentioned above. What is now required is a second tier of more detailed policies backed up by updated legal statutes, technical standards, bidding and contractual procedures and promotional activities to support implementation of the more complex forms PPP such as large water supply, waste water and solid waste landfill projects.

The following newspaper article dated August 20, 1993 from the 'Jakarta Post' highlights the current situation and the government's sense of urgency:

The government has set an ambitious target to replace all 400 laws, the legacy of Dutch colonial rule, still exant 48 years after independence. The National Law Development Board (BPHN) announced [19 August, 1993] that it hopes to phase

out about 70 colonial laws each year during the next five years and replace them with legislation more in line with national aspirations.

BPHN Chairperson Sunaryati Hartono described the effort as a "crash program". But she told reporters that there are now only 50 people in Indonesia with true expertise on Dutch Laws, the Anglo-American legal system, the Dutch language and legal development in general. "All of them are aged over 60 years", she said.

Meanwhile BAPPENAS said that legal development will become a main issue during the Sixth Five-Year Plan (Repelita VI) which begins next April.

The private sector as well as local government is now looking to the Central Government for further guidance on procedural, financial, technical and legal issues.

An important part of the legal reform effort has been undertaken by the USAID funded **Economic Law and Improved Procurement Systems Project (ELIPS)**. In addition to the ELIPS project (which is planned to run for 4 years) the World Bank recently commissioned a study entitled, '*The Indonesian Legal System and its Impact Upon Private Sector Participation in Municipal Solid Waste Services*'. A significant proportion of this report was devoted to deficiencies with the current procurement system, in particular Keputusan Presiden No. 29, and how those deficiencies impact upon the private sectors ability to effectively participate in solid waste management in Indonesia. A brief summary of the findings of this report will be provided in section 1.6.

Organization of the Report:

This report is divided into eight main sections. Each section deals with an important aspect of public-private partnership policy formulation. Within each of these sections specific policy recommendations are presented as subsection headings. The issues inherent in each policy statement are discussed directly after each statement. Where the policy statement is self evident no further clarification or discussion is given.

1. Laws and Regulations

This component is principally concerned with a comprehensive review of existing legislation and recommendations for addendum's, amendments, explanations and the development of technical guidelines for local government officials.

2. Institutional and Procedural Issues

This component provides recommendations for reviewing agencies responsible for implementing PPP/PSP and streamlining of implementation procedures.

3. Repelita Programs and Objectives

Outlines the basic role of PPP/PSP in the overall Repelita program

4. Decentralization Policies

Emphasises the opportunities which exist for local government to facilitate and delegate much of their development role with the help of the private sector. Assuming more responsibility for development will also help to improve local government's own technical and managerial abilities.

5. Human Resource Development

Crucial to all development programs are the skills of the people who must carry them out. This component suggests ways of upgrading skills and promoting awareness to opportunities which exist within the framework of working with the private sector.

6. Private Sector Concerns

This section lists issues which must be resolved to the satisfaction the private sector if PPP is to succeed in Indonesia.

7. Socio-Economic/Political Issues

Deals mainly with poverty alleviation and labour usage issues.

8. Existing PPP/PSP Projects and Practices

This section suggests issues and lessons which should be gleaned from existing projects.

9. Specific Conclusions

This section summarizes the main findings of the report and attempts to prioritize some of the policy recommendations for future action.

POLICY FRAMEWORK

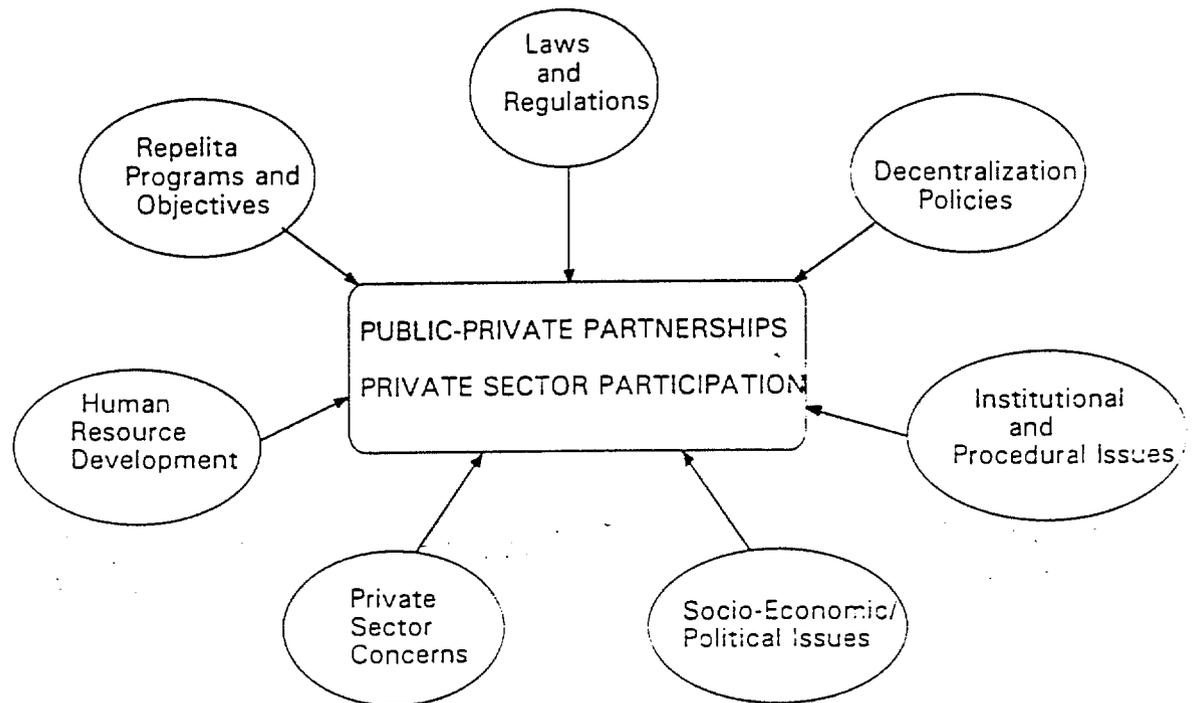
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PUBLIC PRIVATE PARTNERSHIPS & PRIVATE SECTOR PARTICIPATION

Public Private Partnerships, like any development initiative, are heavily influenced by other tangential factors which must be assimilated if a workable, implementation-orientated policy framework is to be found.

The basic approach and methodology of this report is expressed in the diagram below.

PPP/PSP POLICY FRAMEWORK



Macroeconomic Policy Environment

Urban Development Scenario

The anticipated urban development scenario for the period covering Repelita VI (the sixth 5 year plan) and the next 25 year development plan (PJPT II) describes a country enjoying high rates of economic growth and progressing rapidly towards middle income status. However, this rapid growth has placed a heavy strain on the country's already overworked stock of urban infrastructure. The government has estimated that approximately US\$10 billion per year needs to be spent each year well into the twenty-first century to support projected economic growth rates.

It has been projected by Bappenas that by the end of PJPT II in the year 2018, over 67% of Indonesia's population will be urban dwellers. This means that many large cities will virtually double in population. The increased densities resulting from this population increase will also greatly increase the demand for urban services. The Central Government has been closely monitoring this situation. Among its many responses has been a progressive decentralization of central government controls on the development of environmental infrastructure. Part of this decentralization process is to permit local governments to seek capital and technology through involvement with public-private partnerships (PPP) such as build, operate and transfer (BOT) projects, and through private sector participation (PSP) through service, management and operations contracts.

Central Government Urban Development Policy for PJP II

The Central Government has identified four main challenges for future urban development in its Repelita VI urban policy statement:

1. The level of urban poverty which still exists in Indonesia's large cities.
2. The capability of the urban workforce to participate more actively in economic development given demands for greater productivity and the need to master new technologies.
3. Availability of land in urban areas, increases in urban densities and pollution of water resources.
4. Imbalances in levels of development between regions; cities; urban and rural areas; and between specific types of cities.

The GOI's specific urban development policies as stated in Repelita VI are as follows:

Develop a stable and integrated urban management system which encompasses socio-economic priorities and spatial planning issues.

- Upgrade the capability of human resources to reduce urban poverty and unemployment.
- Establish a firm basis for the continued development of institutional and financial capabilities of urban centers.

- Institutionalize an urban development management system which is planned and integrated.
- Provide a firm and appropriate legal basis to support continued urban development.
- Preserve and upgrade the quality of the physical environment as well as socio-economic conditions within urban areas.

Existing Projects and the Regulatory Environment

At present there are only two infrastructure projects in Indonesia which fit into the category of Public-Private Partnerships (PPP). One is the PDAM Badung joint venture with PT. Tirtaatha Buanamulia which supplies water to the tourist areas of southern Bali. The other is the municipal incinerator located at the TPA (final disposal site) in Surabaya.

Both of these projects were initiated under the two basic laws which regulate the commercial involvement of local government and local government enterprises with third parties. The Bali joint venture was created under Permendagri 4/1990, whereas the incinerator was initiated under Permendagri 3/1986.

Since these two projects a number of attempts have been made to create even larger water projects using the Build Operate and Transfer (BOT) model. The regulatory basis for these attempts has also been Permendagri 4/1990. It would appear that the private sector is presently able to initiate and negotiate agreements with local governments and local government enterprises under the present legislation. Although problems have been expressed by private sector parties regarding contracting and legal details these have to a large degree been worked out on a project-by-project basis.

Of the three sectors involved in PURSE, i.e. water supply, waste water and solid waste; it is evident that water supply and waste water present the greatest technical and financial challenges. The demand for both clean water and sewerage treatment facilities is very high. Across Indonesia the average percentage of urban population serviced by PDAMs is still below 50%. At present only two cities have installed sewerage systems. These systems, one in Bandung and one Jakarta, service very limited areas at present. Medan is to date the only city which has planned a city-wide sewerage system. Construction has already begun on the first stage of the Medan system which will cover the central part of the city under the MUDP program. There are plans to progressively expand this system to eventually cover the whole urban area. When completed this will be the most developed system in the country.

Contracting with corporate entities for the provision of environmental infrastructure is a highly complex undertaking in which Indonesian local governments have very little experience. Therefore an important component of the Central Government's overall policy framework needs to be a well thought out risk management strategy. This strategy should seek an equitable sharing of risk between corporate and government entities as well as motivate all parties to perform in accordance with their responsibilities under agreed contractual arrangements. Risk management involves a hierarchy of risks which need to be assessed in order of importance. The importance of each type of risk within the

hierarchy will also vary according to the type of project, the mixture of financing instruments used and the level of technical difficulty involved.

Broadly speaking the types of risks involved can be described as follows:

- Project Performance Risks
- Development Risks
- Construction Risks
- Operations Risks
- Domestic Currency Risks
- Foreign Currency Risks
- Legal Risks

Funding Sources for Environmental Infrastructure - Mobilizing Capital Markets

Lessons learned from previous attempts at large BOTs such as Umbulan Springs and the recently signed Paiton electric power deal have shown that the large amounts of debt required to finance these projects can have implications for the government's monetary policy and national debt management strategy. There are also limits to the funds available from both private and multilateral lenders for these types of infrastructure projects given the keen competition which exists for these funds within ASEAN, Indochina and China.

Issues such as Indonesia's balance of payments, government based debt, private debt and the country's debt service ratio need to be considered by the Department of Finance. Inflationary issues linked to the money supply and availability of debt have already prompted Bank Indonesia to impose traditional monetarist restrictions on the type of debt that foreign banks are allowed to issue to local and foreign firms. The restrictions of the "tight money policy" (the local name given to these loan restrictions) which were implemented in 1992 are still in effect. Debt, like risk, should be spread as widely as possible to limit overall risk, and as far as possible the debt for infrastructure projects should be locally based; especially since 70% to 80% of the inputs for such projects can be sourced in local currency.

However, straight debt is not the only way, or the best way to finance large infrastructure projects. For the types of utility projects being considered by the PURSE project 100⁰, debt financing is not the most prudent option, especially given local Rupiah interest rates and the volatility of floating exchange rates. As in most western countries equity financing should be a large part of any utilities financing strategy. This means mobilizing local capital markets.

The issuing of equity instruments such as bonds and shares is nothing new to Indonesia. Many of Indonesia's larger companies, locally known as conglomerates, have already "gone public". Since the high profile initial public offerings (IPO) of the early nineties there has been a steady stream of newer subsidiary firms (belonging to the conglomerates) going public with IPOs. However, with the exception of a number of toll roads, which

were in large part financed by limited bond issues, there has been no equity financing of infrastructure in Indonesia.

The capital markets in Indonesia are still relatively underdeveloped. Any forays into new financial instruments or commercial paper are only being tried by the larger and more globally orientated conglomerates. Local governments are still wary of issuing bonds. Those that have tried made limited offerings that were sold directly to their own provincial development banks (Bank Pembangunan Daerah). The lack of a secondary bond market is also a significant limiting factor in marketing these instruments.

What appears to be needed at present because of the potential cost, technical risks and long-term cash flow characteristics of large environmental infrastructure projects is an alternative to the traditional reliance on straight debt, whether private or multilateral, in favor of a well managed mix of debt and equity financial instruments. A detailed description of these financing options has been prepared in the PURSE report entitled, '*Project Financial Structures and Financial and Performance Guarantees for Build Own and Transfer Projects (BOT)*'.

Elements of a Policy Framework and Preliminary Recommendations:

1. Laws and Regulations

1.1 Inconsistencies and contradictions between current laws and regulations pertaining to PPP/PSP.

The principal laws and regulations pertaining to PPP/PSP have been divided into those laws which permit and/or support PPP/PSP and those laws which forbid and/or hinder public-private partnerships. (see Table 1. on page 32)

The laws which are currently used as the basis for PPP/PSP projects are Permendagri 3/1986 and Permendagri 4/1990. English translations of Permendagri 3/1986 and 4/1990 are attached as appendix 1 and 2. The first (3/1986) covers the participation of local government capital in private profit-making commercial ventures with third parties. The second (4/1990) covers the procedures required for local government enterprises, or Badan Usaha Milik Daerah (BUMD), to work with third parties.

Each of these ministerial decrees, and the issues arising from them, is administered by a Sub Directorate in the Ministry of Home Affairs. In the case of 3/1986 the administering agency is SubDit. Penyertaan Modal Daerah (Participation of Local Government Capital), which is under Directorate Keuangan Daerah (Regional Finance), Directorate General PUOD. For 4/1990 the agency concerned is SubDit. Bina Perusahaan Daerah (Support of Local Government Enterprises), which is under Directorate Bina Pendapatan Daerah, Directorate General PUOD.

The authority and involvement of each SubDit is determined by the way in which local government or Local Government Enterprises (BUMD's) choose to work with the private sector (third parties).

The SubDit Penyertaan Modal Daerah must be consulted if local government assets such as land, buildings or capital are to be used as equity in private sector projects. If a third party wants to work with a local government enterprise, such as a PDAM or PDK, then they must work through SubDit Bina Perusahaan Daerah.

The two laws mentioned above appear to have a degree of overlap. For instance, in Permendagri 3/1986 and 4/1990 the reporting and approval requirements to the Kepala Daerah and Minister of Home Affairs are very similar. Both laws also allow the same types of business formats for working with third parties. It is also expected that after the joint enterprise reaches the profit making stage a percentage of the profits, in accordance with the agreement will go into local government revenue (Kas Daerah).

It appears that the P.T. company established under both Kepmen 3/1986 and 4/1990 are very similar in form to a BUMD or PD (Perusahaan Daerah) and will have to operate under very similar conditions given the extensive role of the Kepala Daerah.

It should be stressed that given the pivotal role of the kepala Daerah it is important that he should be a strong force for the promotion of professional profit-oriented management for joint venture companies where Pemda has invested equity.

1.2 Current technical health and environmental standards for drinking water, waste water treatment and solid waste disposal.

In the case of water, and especially drinking water, there has been a sufficiently long history of overseas assistance in water supply projects to have institutionalized adequate levels of technical knowledge in both central and local government to be able to tender for and supervise water supply projects.

Unfortunately, waste water and solid waste have not received the same intensive technical support. It is apparent that many so-called standards for waste-water treatment and solid waste are not yet at a level of technical detail which can be issued to the private sector for the preparation of tender documents.

In the case of waste water discharges to rivers, Bapedal has established its Clean River Programme based on the following laws and regulations:

1. Law No.4 of 1982 on Basic Provisions for the Management of the Environment.
2. Law No.5 of 1984 on Industry.
3. Law No. 9 of 1985 on Fisheries.
4. Law No. 11 of 1974 on Irrigation.
5. Government Regulation No. 20 on Water Pollution Control.
6. Government Regulation No. 29 of 1986 on Environmental Impact Analysis.
7. Decree of the State Minister for Population and Environment No. Kep-02/MENKLH/1/1988 on Guidelines for Determining Environmental Standard Quality.
8. Decree of the State Minister for Population and Environment No. Kep-03/MENKLH/11/91 on standard of liquid waste for activities already in operation.
9. Circular of the State Minister for Population and Environment No. 03/SE/MENKLH/6/1987 on Procedures for Addressing Environmental Pollution and Damage.

10. Other laws and regulations (Perda - Peraturan Daerah) issued by provincial and/or local governments.

Bapedal and Directorate PLP, Cipta Karya currently have a series of general guidelines which contain long lists of technical and environmental aspects which should be considered. Specific technical standards and knowledge, when required, has to date been acquired by hiring external consultants for specific projects.

One example is the landfill at Bantar Gebang, Bekasi. The design for liners and leachate collection was subcontracted to a private consultant (P.T. Arkonin) who used landfill design standards which would generally be considered to be lower than current international standards to guide the construction of the second cell of the current landfill. A third cell using the same design standards is currently under construction. Officials at the landfill also confirmed that detailed design standards (at least to tender standard) were not yet available from Cipta Karya. PLP, Cipta Karya also confirmed their need for more detailed technical standards.

Currently available guidelines do not yet have the force of law, nor have minimum acceptable standards been established which private sector firms can use for bidding purposes. This issue is now receiving new urgency because Directorate PLP (Environmental Sanitation) within the Directorate General of Cipta Karya has committed itself to a Repelita target of a new sanitary landfill for every city with a population in excess of 500,000 people.

Because of this Repelita commitment, it is felt that substantial opportunities now exist for private sector firms to become involved in the construction and management of landfills, especially where the landfill is part of a well managed and integrated solid waste management system.

1.3 Relevance of current legislation to stated government objectives for PPP/PSP and private sector concerns.

The GOI's objectives for urban infrastructure development are generally supported by central government actions. However, key issues which impact on the willingness of local governments to enter into PPP/PSP projects are not being dealt with at Tk II level.

The current legislation is focused on defining and monitoring the use of Pemda assets and/or the involvement of BUMDs who wish to enter into joint ventures with the private sector. However, this legislation does not encourage Pemda or BUMDs to actively seek such joint ventures. On the contrary, regulations 3/1986 and 4/1990 in their current form could be seen by local government officials as a disincentive to private partnerships.

Historically local government officials have preferred the less complicated approach of simply selling or swapping Pemda assets and then receiving a commission from the private firms who derived benefits from acquiring the land and/or construction of buildings.

According to PUOD many Tk II governments have yet to be convinced that the PPP or PSP approach will increase PAD (Pendapatan Asli Daerah - Local Government Revenues) and reduce the burden for regional development on local governments. Efforts are currently being made by PUOD and other agencies to promote this approach but more resources need to be devoted to educating and informing Pemda Tk II of the full scope of PPP and PSP options.

1.4 Laws and regulations pertaining to the management and provision of water supply, waste water and solid waste services.

The GOI's laws and regulations, although somewhat ambiguous about the management of water resources by non-government entities, have not prevented private sector firms from engaging in water and solid waste joint ventures or service contracts. If these ventures have had problems it is usually because of the poor understanding that Pemda officials have had about commercial realities. In some cases private sector firms have also tried to take advantage of this situation.

A good example of this can be found in Surabaya where contractors are only given 3 month contracts to collect garbage and sweep the main roads. After each 3 month period the individual contractors are then moved to a new location where they have to recruit a new work force. This type of system does little to support or encourage small local contractors who are already working on small margins.

Although cheap, this type of arrangement will not provide an efficient or comprehensive municipal waste management system because contractors have no medium term financial security and are therefore unable to secure loans for investment in new equipment. Government must be aware of the financing issues which are faced by private investors and structure contracts accordingly. Guidelines on how to draw up service contracts and management contracts would definitely help.

Water Supply - Public Versus Private

Of the three sectors mentioned above water supply presents the greatest challenge from a legal and policy perspective. Water has both the characteristics of a private good - for sale; and a public good - which needs regulation in the interests of the common good.

A piped water supply has the characteristics of a natural monopoly. The investment cost is high and the system requires large economies of scale to be commercially viable. Also the likelihood of competing water systems is highly unlikely in any given service area. (Although, in Indonesia most PDAM systems do have to compete to some extent with

private wells) These monopoly characteristics make large water supply systems very attractive to the private sector.

Obviously the social and wider economic significance of water requires government involvement to allocate monopoly rights, regulate prices, monitor performance, and often to provide the most expensive up-front infrastructure investments such as dams, head works and large pipe mains. However, this does not mean that public operation is essential, or the best option available.

Although day to day competition in the market place is not practical, it is possible to introduce incentives for efficiency through competitive bidding for contracts to operate services. In theory, as long as competition is fair, it should not matter whether the competing firms are publicly or privately owned.

However, in Indonesia it may be advisable to emulate the experience of other countries where the public sector concentrates on those aspects of water supply that are not appropriate for the private sector (i.e. regulatory functions, oversight and heavy investments) and to contract with private firms for the day to day technical and commercial operation of the systems and if possible, for planning, financing and construction of infrastructure.

Regulating and monitoring the private provision of public services is a complex and difficult responsibility. The regulating agency, or agencies must establish financial and technical standards, design transparent procedures to select operators, monitor and evaluate operators' performances, periodically renegotiate contracts and revise standards. It is also important that the systems being privatized have viable economies of scale.

The more the private sector is involved in the provision of a public service, the more regulations have to be defined and enforced. For instance, the regulatory framework for concession contracts such as BOTs must be more comprehensive than for simple service contracts. Standard contracts and transparent award procedures are important components of an effective regulatory framework.

Of the many formats which exist for PPP/PSP type projects the one which has received the most attention has been the "Build Operate and Transfer -BOT" (sometimes called a public works concession). In this option the private sector is asked to finance new facilities, to operate them and to turn them to public ownership at the end of the concession period.

The USAID sponsored WASH study stated that the difficulties the Government has experienced in concluding negotiations of the few BOT schemes which have been considered so far can be attributed to:

1. the absence of a clear regulatory framework to guide the awarding of a public service to a private entity;
2. the limited experience of the Public Authority in negotiating such schemes which often are supply driven, i.e. initiated by private investors rather than by the Public Authority;
3. differences of view between the Central Government agency and the local water enterprises on the desirability of the proposed schemes;
4. an overly restricted competition; and
5. the political consequences resulting from the high cost of water to end users caused by the high cost of commercial borrowing and government subsidies.

Solid Waste Management

The efficient management of solid waste in Indonesia will have to be done with a combination of technology-intensive standard industry practices and labour-intensive methods. Examples of both can already be seen in the track record of private sector involvement in this sector.

The WASH team reported a number of obstacles to private sector involvement in the more technology-intensive aspects of solid waste management. These can be summarized as follows:

1. Most local governments are generally reluctant to engage contractors for waste collection if they don't already own trucks.
2. The competition from multilateral funds for waste collection vehicles via IBRD or ADB projects such as IUIDP's Urban Development Projects (UDP) make it difficult for private sector contractors to compete. Local governments like to get the heavy equipment but often have major problems getting funds for O&M after the initial disbursement of the UDP project funds. This usually happens because no matching provision for O&M is made in the routine government budgets.
3. Private ownership and operation of collection systems and sanitary landfill sites is generally supported by most local governments and Dinas Kebersihan officials but the high cost of equipment and land has been a persistent obstacle for private sector investors. The special permissions required for large scale excavations and safeguarding ground water resources from potential leachate contamination are also difficult to acquire in the absence of nationally accepted design and operational standards.

Current experience clearly proves that there is still a large role for labour-intensive methods within an integrated solid waste management system. Generally speaking labour performs the following tasks within each stage of the disposal and management process:

- Collection of residential waste - organized mainly by neighbourhood groups
i.e. RT, RW, Kelurahan, Camat.
- Street sweeping - done by locally based contractors using unemployed "street" people.
- Recycling of waste - done by scavengers (pemulung).
- Bill collection - done by service contractors employed through Dinas Kebersihan or PDAM.

Another option which could be considered by local governments to mitigate the cost of sanitary landfills and increase overall efficiency is for several local governments to share a single facility. It is clear that given the volume and nature of the waste stream coming from Indonesia's larger cities unmanaged open dumping is no longer environmentally acceptable. This fact is also reflected in the Repelita plans of the Solid Waste Sub Directorate of Cipta Karya. Their Repelita submission states that every city with a population of over 500,000 people should have access to a properly managed landfill by the end of Repelita 6.

1.5 Formulation of addendum, amendments and explanations for incorporation into laws and regulations.

Due to the highly specialized nature of this area a significant part of this task is to be sub contracted to a locally based firm of legal specialists (SSEK).

PURSE is also mindful of the work being done by the ELIPS project on economic and procurement laws. Every effort will be made to avoid duplication of ELIPS activities.

1.6 Technical guidelines and legal requirements for conducting tenders, drafting contracts, tender documents, partnerships and service agreements.

Although this task is currently being undertaken by the PURSE project's contracts advisor a number of preliminary findings have already emerged which have implications for policy formation.

This topic, or at least those aspects which relate directly to procurement and tendering procedures, have already been dealt with in some depth by a recent World Bank funded study entitled, *'The Indonesian Legal System and its Impact Upon Private Sector*

*Participation in Municipal Solid Waste*¹. This report was prepared by Mrs. Sandra Cointreau-Levine, a solid waste management consultant for the Bank.

Some of the main points made by the report have significant policy implications and are worthy of a brief summary discussion in this paper.

Although the reports main focus is on solid waste, the findings regarding deficiencies in the current procurement system are just as relevant for other sectors.

The procurement system, i.e. tendering and bidding procedures for government projects is basically administered according to Keputusan Presiden (Keppres) No.29/1984. At the time this report was being written this decree was recently redrafted and a version was scheduled to be issued about late January 1994.

Keppres 29 has been the first attempt at instilling efficiency and transparency into procurement procedures for government tenders. The intent of the legislation is commendable, however, implementation of Keppres 29 has been undermined in a number of ways which limit private sector participation in solid waste as well as other urban services. The World Bank report mentioned above discusses these issues in some detail, however, for the purposes of this report the following dot points taken from section F-5 of the report basically summarize the main problems:

- **Keppres 29 is only sparsely distributed among the various levels of potential users. It is estimated that as many as 80% of of the GOI procurement staff does not have a complete copy of Keppres 29 and the associated supplements. Procurement personnel may therefore cite compliance with Keppres without fear of challenge.**
- **Neither Keppres 29 nor its supplements contain a set of standard, sample or model procurement documents which are applicable to to every procurement. Each user entity is free to develop its own approach to procurement based on its interpretation and application of the requirement; making it more stringent or relaxed as the circumstances dictate.**
- **Contractors large and small are administratively excluded from participating in the tendering of government contracts because the "Daftar Rekanan Mampu" (DRM) list of qualified contractors is updated only once a year. Prospective contractors cannot submit a bid unless they are either on the list or have a DRM number. A newly formed limited liability entity not on the DRM list may be permitted by the implementing procurement personnel to "lease" a DRM number from another contractor.**
- **The DRM list is not restricted to qualified contractors. If the list was representative of contractors' qualifications there would be no need for the procurement agencies to request voluminous qualification statements from**

prospective bidders. The DRM exists, many contractors have candidly stated, as an artificial barrier against unfavoured business.

- Advertising of government procurements is limited. Forthcoming procurements are generally advertised only when a bilateral or multilateral donor requires the GOI to do so.
- A review of more than 200 government tenders conducted by the legal advisors during the past eighteen months reveals a preference by the tender committee in selecting local contractors within the jurisdiction awarding the contract. Contractors from Java routinely were disqualified (for reasons meritorious and otherwise) from being awarded contracts in South Sulawesi. Contractors from South Sulawesi were routinely disqualified (again, for reasons meritorious and otherwise) from being awarded contracts in Java.
- Detailed data concerning the contractors' qualifications is a requirement to enable the tender committee to exercise broad discretion (after offers have been submitted) in selecting a contractor for award. The degree of discretion exercised, unfortunately, gives rise to the perception of arbitrariness from contractors not selected for award.
- Arbitrariness also exists in the review process. When the tender committee submits the procurement for review and approval of the contractor selected, the approving agency may, without reason, decline to approve the contractor recommended by the committee, and instead, select any of the three lowest, responsive bids.
- Contractors are effectively precluded from appealing a procurement decision. Any contractor who should issue a bid protest, no matter how egregious the decision of the tender committee, will find it difficult to compete for future awards.

The above mentioned problems will almost certainly be addressed by the new draft of Keppres 29 which is currently being circulated among relevant government agencies. The current legislation is a major improvement on the tendering system which existed previously. Continuing refinements will eventually tighten up tendering procedures to the point where businesses, local and foreign, can tender for government contracts on a relatively "level playing field". However, the refining process will probably continue well into Repelita 7.

1.7 The need for PPP/PSP technical guidelines, checklists and manuals to assist local government officials and private sector parties to formulate project proposals and understand tendering and contract procedures.

Central government agencies are fully cognisant of the fact that the key to successful promotion and implementation of PPP/PSP projects at Tk II level will be local government officials. Both PUOD and Bangda are very concerned about the ability of Pemda Tk II personnel to manage this process.

SubDit Penyertaan Modal Daerah, Dirjen PUOD, has already submitted a DUP proposal to fund an information campaign aimed at Tk I and Tk II officials. This would be followed by a series of seminars in Jakarta. Further seminars and workshops would then be conducted at the provincial and local levels.

PUOD also hopes to distribute a series of guidelines and manuals on how local governments can work with the private sector. Included would be a step by step guide on the procedures that need to be followed to secure approval for PPP projects which involve Pemda assets. Ideally this effort should also be supported by contributions from SubDit Bina Perusahaan Daerah, Dirjen PUOD and Direktorat Pembangunan kota, Dirjen Bangda.

1.8 Incorporation of environmental standards into local government spatial plans to provide guidelines for the private sector.

Central government agencies are aware that the large numbers of local land use plans currently required of most local governments are not having the desired impact on urban growth patterns or development activities. A case in point is the relevance of the Rencana Umum Tata Ruang Kota (RUTRK) as an effective planning tool.

As a 25 year structural plan it is generally too global and too short on critical details such as localized environmental priorities. However, because of the rigidity of the current centrally controlled planning system, even small towns are supposed to possess such documents. For very small urban settlements such as Ibu Kota Kecamatan (IKK) it is very difficult to technically justify such a large and expensive global planning instrument.

One option currently being considered by Bappenas to rationalize the number of planning documents required by local governments is a modified version of the Rencana Detail Tata Ruang Kota (RDTRK). This plan focuses on the substructure of the urban area.

The Bappenas unit working on this issue is planning to expand the scope of the RDTRK. Included will be some of the macro aspects of the RUTRK as well as more localized zoning aspects to direct the development of areas the size of keurahan (block plans)

Environmental protection and enhancement aspects are also planned to be included in the proposed widening of scope. Hopefully this will provide direction at a scale and level of detail which can be enforced by local government, and understood and readily adopted by the private sector.

2. Institutional and Procedural Issues

2.1 Operational roles of the agencies currently involved in the approval of PPP/PSP projects.

As stated above in Section 1.1, if local government assets such as land, buildings, equipment or capital are to be used as equity in private sector projects then SubDit Penyertaan Modal Daerah must be consulted. If a third party wants to work with a local government enterprise, such as a PDAM or PDK then they must work through SubDit Bina Perusahaan Daerah.

SubDit Penyertaan Modal Daerah was originally established in 1987 at section level. In April 1993 it was given the status of Sub Directorate For Regional Investment. Operationally both SubDits appear to have been working quite closely. For instance, where complex contractual arrangements are involved personnel from SubDit Penyertaan Modal Daerah have often been asked to assist because of the lack of expertise in this area in SubDit Bina Perusahaan Daerah.

The legal basis (as discussed in 1.1) for the existence and operation of both Sub Directorates suggests that they are performing almost identical functions, but for different clients, i.e. local government enterprises and local governments.

It was also the Institutional issues linked to the difference between their client bases that prompted the creation of two sub directorates instead of one. However, operationally it would seem to be more efficient to consolidate the activities of the two sub directorates in the implementation of PPP/PSP projects given the similarity of their roles and enabling legislation.

Progress in promoting genuine PPP and PSP projects as opposed to selling off or leasing government land, has been quite limited. Officials in SubDit Penyertaan Modal Daerah attribute the lack of progress, in part, to the following factors:

1. In general, local and regional government, as well as the private sector, are unaware of the opportunities inherent in Permendagri 3/1986.
2. Most local and regional officials do not fully understand how to form partnerships and therefore prefer the easier option of selling LG assets.
3. As a consequence of points 1 and 2 there has been very little effort invested in promoting these types of projects.
4. In most cases LG brings less equity and investment to projects than is needed to motivate the private sector. The undervaluing of LG assets contributes to this problem.

5. LG officials often need assistance with evaluating feasibility studies, sophisticated equipment and construction techniques.
6. Likewise legal and procedural guidance is needed to determine investment amounts, most appropriate type of contract, duration of partnership and profit sharing.
7. There is no comprehensive inventory of LG assets at either Central or local government level from which the private sector can "shop" for potential projects.
8. The provision of the guidelines, manuals and assistance outlined in points 5, 6 and 7 have not been forthcoming due to funding constraints within PUOD.

It is apparent that there is significant scope for PURSE to assist in the efforts of SubDit Penyertaan Modal Daerah to promote, facilitate and monitor PPP/PSP projects. Whether or not they will have the resources to begin their ambitious program will depend on the outcome of their 1994/95 DIP.

2.2 Establishment of a comprehensive data base of local government assets, particularly land and buildings which could be used as Pemda equity for PPP type projects.

As stated above in point 7 one of the major problems identified by SubDit Penyertaan Modal Daerah, Dirjen PUOD in promoting PPP and PSP projects to both local governments and the private sector is the lack of a comprehensive data base. Local government financial reporting formats do not as yet include a proper balance sheet of Pemda assets in the true accounting sense.

This is a significant problem because balance sheets are not only used to keep track of assets but also their relative value after depreciation; and in the case of land, appreciation. Local governments often have large numbers of assets in the form of land and buildings but their total number, location and real value is rarely known.

Local governments cannot promote their assets if they don't know what they are. Similarly, the private sector can't initiate project proposals if it has no "shopping list" to chose from.

2.3 Identification of bottlenecks in the current procedures for approving PPP and PSP projects at both local and Pusat levels.

By international standards Indonesia's licensing procedures for foreign investors are more than adequate, even at the provincial level. However, the time required to process a PPP

or PSP project at Tk I or Tk II level is very dependent upon the quality of local government (LG). Permendagri 3/86 specifies three main joint venture formats:

1. Purchase of shares from a legally constituted PT limited liability company which has good business prospects;
2. As a fully paid up partner in a new PT limited liability company;
3. Sub contracting certain LG functions and/or services to the private sector through management contracts, production contracts, profit sharing contracts, production sharing contracts and rental contracts for use of land, buildings, equipment and facilities.

The following procedures which are required to process a PPP or PSP project which involves LG assets show clearly the potential for bureaucratic delays. Current regulations state that:

- All LGs which want to enter into joint ventures with third parties must have a LG regulation (Perda) which acts as a legal basis. It also details clearly the scope of this cooperation, what must be done to have it approved and who must be consulted. It is apparent that a large number of Tk II LGs already have such a Perda. The proposed Perda is then sent to the Minister of Home Affairs for final approval, after which it has full legal status.

If the proposed joint venture involves purchase of company shares then:

1. The type and price of the shares must be clearly known then funds must be set aside from the LG budget APBD II;
2. The purchase of shares must be done through a local decree issued by the Kepala Daerah (Walikota or Bupati);
3. The Kepala Daerah will appoint a local official to act as the legal representative of the LG for the purpose of purchasing shares;

If the proposed joint venture requires the establishment of a new PT company then:

1. Based on the local Perda concerning joint ventures with third parties, an agreement in principle or MOU would be drafted and officiated by a notaris;
2. The Kepala Daerah then appoints one or more local officials to act as the legal representatives of the LG and become office bearers in the new PT company;
3. LG equity in the form of cash must be budgeted for in the local budget APBD II and approved by a decree from the Kepala Daerah. LG equity in the form of equipment,

facilities or land must also be approved by a local decree after agreement is secured from the local legislative assembly (DPRD). The transfer of non-cash assets must also be sanctioned by the Minister of Home Affairs, in this case the agency directly concerned is PUOD;

4. LG assets which are invested in joint venture companies are no longer under the control of Pemda and are no longer counted as Pemda assets.

If the proposed joint venture agreement is based on any of the above mentioned contracts then:

1. Agreement to working with the third party must be secured from the DPRD;
2. A contract must be drawn up;
3. The contract must be endorsed by a decree from the Kepala Daerah defining the terms and conditions of the contract;
4. The Governor of the province must then ask permission from the Minister of Home Affairs for the Kepala Daerah to implement the contract;
5. The Minister of Home Affairs must then respond and give final approval for implementation of the contract.

Pemda Tk I and Tk II must form a committee to determine the value of LG assets which are to be used in any project. This committee is also tasked with determining the amount of remuneration, compensation and/or profit sharing received by Pemda. The evaluation/appraisal committee should consist of:

- Dispenda
- Biro Perekonomian/Bagian Ekonomi
- Biro Perlengkapan/Bagian Umum
- Biro Keuangan/Bagian Keuangan
- Biro Hukum/Bagian Hukum
- Kanwil Agaria
- Unsur Tenaga Ahli/Konsultan

It is apparent that the speed with which the above procedures are implemented is very dependent on the capability of LG officials. Their understanding of and desire to enter into PPP and PSP projects is also crucial to the question of local political will to pursue the PPP/PSP option.

The constant requirement for approval by central government is also very time consuming and often necessitates several visits to Jakarta by local officials and several reciprocal visits by central government officials.

2.4 Dissemination of the PPP/PSP options for providing urban services through an information campaign via seminars and workshops to inform relevant government officials and the private sector.

The current PURSE project workplan has programmed a number of seminars and workshops to inform local government officials and the private sector about the PPP and PSP options available under Permendagri 3/1986 and 4/1990. Complementary activities are also being planned and undertaken by Dirjen PUOD - SubDit Penyertaan Modal Daerah and SubDit Bina Perusahaan Daerah, Seksi Kerjasama. However, the scope of PUOD's activities to support PPP and PSP will largely be determined by the DIPs they receive next financial year (starting 1 April 1994).

3. Repelita Programs and Objectives

3.1 Consistency of PPP/PSP policy objectives with Repelita sectoral programs and objectives.

The major GOI implementation agencies are all in agreement that the private sector must begin to accept more responsibility for providing environmental services, especially in conjunction with their own developments.

Services such as water, access and bypass roads, drainage, waste water treatment and rubbish collection should certainly be part of every private housing development. Provision of such services should also be part of the approval process for such developments. Making the private sector assume more responsibility for the social and environmental impact of their projects requires that: AMDALS be genuine and carefully reviewed; and that SKs and IMBs are issued in accordance with local planning regulations.

3.2 The role of PPP/PSP in supporting the increased role of the private sector in national development as outlined in the GBHN and the PJPT-II.

Bappenas' preparations for Repelita VI, and the second 25 year plan (PJPT II) have revealed quite a number of alarming trends in the development of Indonesia's larger cities. It is estimated that by the end of PJPT II in the year 2018, the urban population of Indonesia's largest 89 Tk IIs (identified by Bappenas as priority urban growth centers) will have doubled. Some of the more disturbing examples of this trend include the population of Jabotabek doubling from 15 million to approximately 35 million, and the greater Surabaya urban conurbation reaching approximately 10 million. Both of these large urban conurbations are still heavily involved in catch-up programs and are basically responding to rapid urbanization rather than directing it. The same is also true of the other rapidly growing provincial cities classified as priority growth centers.

It is clear that a continuation of current levels of investment in urban infrastructure will still result in large service shortfalls. It is also clear that the private sector in Indonesia does not yet have the financial resources to completely fill the gap. Therefore, the government will have to find ways of working around the projected shortfalls in physical infrastructure. One way it can do this is by increasing the efficiency of current service delivery through better management and maintenance of existing facilities. Much can be done to lighten the administrative burden of local governments, increase the efficiency of service delivery and reduce the cost of many urban services through the widespread use of management contracts, service contracts, public-private joint ventures and total privatization of appropriate services.

4. Decentralization Policies

4.1 Promotion and encouragement of local government officials to pursue the PPP/PSP option through reduction of the reporting and approval procedures that are currently required for such projects.

Many of the difficulties encountered in promoting PPP and PSP projects at the local level are closely linked to the practical and policy issues which are also impeding decentralization efforts. Under the government law Undang-Undang 5/1974 local governments, and in particular the Kepala Daerah (Walikota, Bupati or Governor), are given considerable latitude and authority to manage their own households. However, the ability of the Kepala Daerah and his administrators to fundamentally determine the scope, nature and speed of local development is extremely limited.

The debate on decentralization involves, among others, the following issues:

1. What constitutes decentralization?
2. Should decentralization be promoted by increased financial autonomy through larger untied block grants i.e. Inpres Dati I and Dati II ?
3. Should local and provincial governments be given authority to prioritize infrastructure requirements rather than the local representatives (Kanwil) of the big departments? (The Kanwil offices frequently do not keep local governments (LG) informed about their project plans).
4. Do all local and provincial governments have personnel who are capable of handling significantly increased technical and financial responsibilities? If not should the level of decentralization be commensurate with LG capability? If so how should this be assessed?

Question 1. above raises the issue of definition. In the opinion of many local government officials the current reality is that the Central Government is pursuing, at least at this stage, a policy of deconcentration rather than decentralization. Their position is that central agencies want to deconcentrate much of their administrative work load by delegating it to local government. The problem is that while administrative work might be delegated to Tk I or Tk II the real authority for making final decisions, including control of funds and management of projects, is still to a large degree, in the hands of central government. Many local government officials claim that they are being given more work to do but are receiving few of the benefits. The Indonesian metaphor frequently used to describe this situation is, "*Kepala diberikan tetapi buntutnya tetap dipegang*" or central government hands over the head but keeps hold of the tail.

From a practical viewpoint the Central Government appears to be using a staging strategy to implement decentralization because of the enormous differences between local government capabilities. Given the way the Indonesian government system works real decentralization will come first to those local governments with strong Kepala Daerah which show that they can handle additional administrative responsibilities. A good track record of local administration combined with skillful lobbying may then result in more locally based decision making authority and financial autonomy.

However, for the time being local governments are having to deal with the daily realities of trying to implement PPP and PSP projects in a highly centralized bureaucracy. Perhaps the most problematic of these realities are the extensive reporting and approval procedures that local governments must undertake to seek approval for even minor matters. For instance, almost every stage of the procedures outlined Permendagri 3/1986 and 4/1990 require final approval by the Minister of Home Affairs.

What this means in reality is that local government officials and their private sector partners for any PPP/PSP venture have to frequently travel to Jakarta to lobby for their projects and push their documents through the central bureaucracy. Local government officials also expect that these costs will be borne by the private sector partner. This adds significant costs to project preparation and acts as an effective deterrent to the private sector unless the project is large enough to justify such costs.

These administration and lobbying costs mean that private sector investors will be forced to consider only those projects which have high internal rates of return and a scale of operations large enough to absorb these start-up costs. The result will be that many smaller, but worthwhile projects, will not be considered by locally based private sector investors, and larger firms will have an unnecessary advantage.

However, even for larger projects the factors that work against decentralization efforts also work against local governments and locally based investors who want to enter into PPP projects.

Specifically, in the case of large water supply projects, these impediments have been:

1. Until now, large water supply projects have been planned, implemented and funded by central government agencies with multilateral aid.
2. Feasibility studies which have been done for BOTs have so far been initiated and funded by central government agencies.
3. Most of the technical expertise and experience in project planning and implementation is at the center.
4. Local investors who are big enough to mount such projects are centrally based.

5. Nearly all the permissions required for such projects (i.e. taking water from a river, foreign investment approvals, annual budget approvals, creation of local Perdas) are subject to central approval.
6. Institutionally the Central Government agencies are in the best position to initiate, authorize and especially coordinate innovations in PPP/PSP.

4.3 Involvement of private sector industry bodies such as KADIN, HIPMI and REI to promote PPP/PSP projects in the Daerah and to inform and mobilize their members.

Any serious efforts to promote PPP or PSP projects at the local level must involve members of the private sector. Current thinking seems to suggest that government can package project ideas independently and offer them to the private sector. This approach has so far received a poor response from the private sector.

This approach ignores private sector priorities and assumes that government can unilaterally determine the terms of private sector involvement in infrastructure or urban services. Organizations which can assist in lobbying private sector support for PPP or PSP already exist in every Tk I city and all but the smallest Tk II towns in Indonesia.

KADIN, or the local chamber of commerce has branches in every provincial capital and nearly all Tk II capitals. KADIN has formal standing with local government and has a national network which extends to its central branch which has links to the highest levels of the Central Government.

HIPMI, or the young chamber of commerce, has a parallel organization to KADIN. Its members are supposed to be under 40 years of age and must own their own companies. HIPMI's members in the "daerah" largely consist of contractors.

Other business groupings can also be found depending upon the economic structure of individual cities. For instance, Real Estate Indonesia (REI) is active in most large cities as is the Hoteliers Association (PHI). In cities where the tourist industry is an important economic sector the tourism industry association is also an influential private sector lobby group.

All of these groups can help local government to muster support for particular business ventures. It is common to see local businessmen in provincial and kabupaten towns engaging in business activities that are outside of their normal core businesses if they see that potential exists. These small business groupings have a great deal of capital at their disposal and often possess considerable management and entrepreneurial talent as well as excellent links with local government. They should definitely be targeted along with local government officials for any training or promotional activities involving PPP or PSP.

4.4 Promotion of public discussion and private sector involvement in local and regional development planning through a more open approach to urban planning.

Policy statement 4.4 is clearly dependent on a more open type of community based city planning. Ample evidence exists to support the position that town plans are more likely to receive the support of the local community if those communities have had the opportunity to contribute during the planning process. Many Tk II governments have stated their disappointment about the way planning consultants working for the Central Government have formulated the large number of plans which local governments are supposed to have.

It was not uncommon to hear of planning consultants who spent less than 2 weeks in the field gathering previous plans, statistical data and base maps. This data was then taken back to Jakarta where the plan was completed. A few months later the finished product was presented to the central agency which commissioned the study.

At this point the local government was consulted and asked to comment on the consultants presentation. The final approved version was then handed to the local government as their official town plan. After acceptance by the local DPRD the plan was given Perda status and became a legal document.

This situation has improved since 1991 when local governments were allowed to contract and manage their own planning consultants. As a result the overall quality of plans and their relevance to field conditions has begun to improve. As might be expected, where Pemda controls the payment of consultants local government input to plans becomes more important and consultants spend considerably more time in the field.

However, this should be viewed as only the first stage in the decentralization of urban planning. The structure, format and content of local government planning instruments is still considered rigid and often does not accurately reflect the local situation, especially in regards to local economic conditions. As discussed in policy statement 1.8, many important local development issues still need to be addressed.

The next step in a more open planning system is for local governments to instruct their consultants to consult more with private sector business people and the local community to ask for comments and new ideas and seek local acceptance for the plan.

4.5 The impact of the withdrawal of central government agencies from direct involvement in infrastructure projects in the daerah and the limitation of their role to providing technical advise.

The above recommendation is one of the issues at the heart of the decentralization debate. Central government agencies continue to initiate regional infrastructure projects instead of the regional governments themselves and then control project funding and management through the APBN DIP mechanism. As long as this practice continues local and regional governments will not have a chance to develop their own skills.

The argument frequently heard from central government officials is that local officials do not have the technical or management skills to handle large projects. At the provincial level this is simply no longer true; and most of the countries larger Kotamadya cities also possess some quite talented people. Although many of the medium to small Tk II local governments would undoubtedly need assistance; that assistance would certainly be available at the provincial level.

Some progress was made in this area in 1991 when the Minister of Public Works issued a decree stating that APBN funded projects previously administered by Kanwil PU (which answers directly to PU Jakarta) would now be handed over to Dinas PU, Tk I. This meant that the public works department of each provincial government was now responsible for managing many large PU projects. According to the Ministers decree the central PU directorates general and directorates are supposed to limit their involvement to technical support. However, for certain types of roads, irrigation and flood control projects Bina Marga and Pengairan still maintain an active role in implementation.

5. Human Resource Development

5.1 The need for a preliminary training needs analysis to determine the skills and resources required by local government officials to further operationalize PPP/PSP efforts.

5.2 Formulation of policy proposals for a HRD strategy which allows for reassigning and/or retraining of government workers whose jobs may be eliminated by privatization programs.

Increased private sector activity in the form of management contracts, service contracts and joint ventures will eventually force GOI agencies to reevaluate their role as managers of development. Over the last ten years (approximately) local governments in the United States, Australia and Western Europe have been going through a privatization process which has significantly redefined the way in which local governments handle day to day management and development functions.

Experience has shown that the use of private sector expertise through service and management contracts can help to rationalize many government functions by allowing government employees to supervise, monitor and manage rather than implement. In nearly all cases the transitional restructuring period is painful for government agencies and their personnel, but the savings in administration costs and gains in overall efficiency more than justify the temporary transition problems.

A further step in this process is to delegate responsibility for promotion and management of PPP/PSP efforts at the local level. Institutionally it would seem appropriate for the economic section of Bappeda or "Bina Sarekda" to take on this task.

5.3 Publication of a PPP/PSP newsletter which can be used to inform local officials and private sector bodies about ways to plan, market, implement and administer PPP/PSP projects inclusive of Indonesian case studies and local government officials with PPP/PSP experience who can be contacted for information.

Unlike their counterparts in Western countries urban management officials in Indonesia have to date not been able to share mutually beneficial information via a nationally available forum. Municipal officials in Indonesia are being asked to accept more and more responsibility for managing development in their cities. Bappenas and Public Works have stated the urgent need for additional urban infrastructure throughout Indonesia and the pressure from the Central Government to make local government share the financial burden is also increasing. Local governments need a forum in which they can discuss these issues and share experiences.

A solution to this problem may soon be at hand. A non-government, non-profit organization has just begun publishing a national urban development magazine called '*Kota*' for distribution to urban officials throughout Indonesia. The name of this organization is BKS-AKSI (Badan Kerja Sama Antara Kota Seluruh Indonesia - Indonesian Body for Intermunicipal Cooperation). The objective of this organization is to provide a forum for urban managers and development professionals to share new ideas and initiatives. Given the degree to which precedence plays a part in motivating cautious government officials to try something new such a forum should be invaluable.

Understandably, progress in urban development and management is very uneven between cities. Many cities have undertaken initiatives in service contracts and other areas which have proven very successful and could easily be replicated in other cities. Some of these initiatives, such as the water fee collection system developed in Surabaya, have already been copied by other cities like Medan. However, Medan found out about the Surabaya system informally through the government grapevine. It would have been much quicker and easier for Medan to have read in detail about the Surabaya system in a regular publication than to have relied on gossip. Had information about the Surabaya system been available in a public forum such as the BKS-AKSI magazine '*Kota*' many other cities might also have adopted it by now.

Most officials are very hesitant to venture into new areas where they have little knowledge and where their own regulations are still unclear. However, where evidence exists of other officials successfully attempting new initiatives the willingness to accept risks increases significantly. The editorial staff at BKS-AKSI intend to provide detailed information about how things were done, the regulatory environment, contact addresses and phone numbers for further clarification.

This magazine should also be very helpful to central government officials who frequently state that local officials could be doing much more themselves but they either do not know about the latest legislation, do not fully understand it or do not know how to apply it for their own benefit. New regulations are also slow in reaching the local level, especially in the more isolated areas. Information about new legislation as well as commentaries on the ramifications for local government would be very useful in motivating local officials.

BKS-AKSI also intends to involve the private sector through advertising of specific products and services. It is also hoped that the private sector will contribute articles about issues and problems experienced on projects which might be of interest to urban managers. The publication of this magazine, and its Indonesia-wide distribution, is a good opportunity for the private sector to educate urban officials about private sector concerns and priorities and how best to involve the private sector in the provision of urban services and infrastructure.

6. Private Sector Concerns

6.1 Globally speaking private sector firms, especially the more wary foreign investor, have similar basic concerns about what can generically be described as doing business on a "level playing field" (or in other words, where everybody plays by the same rules). The GOI needs to consider addressing private sector concerns regarding:

- ambiguous and unclear regulations;
- complex bureaucratic procedures and requirements for central gov't approvals;
- enforceability of contracts;
- use of appropriate technology;
- government guarantees for payment (in the case of "take or pay" contracts);
- impartial arbitration of disputes;
- cost effective management in the running of PPP enterprises;
- difficulties in obtaining reliable data about Pemda assets;
- open and transparent tendering.

While the above are general concerns, private sector groups have expressed a specific reluctance to become involved in large water projects because of the following:

1. High up-front infrastructure costs.
2. Generally low rates of return caused mainly by low tariffs.
3. Poor internal management of water enterprises (kebocoran).
4. Low levels of technical and management skill among PDAM personnel.
5. Expectations to engage in cross-subsidization to support low income groups.
6. Political pressure to keep tariffs low from the Kepala Daerah or DPRD.

6.2 Selection of qualified local government counterparts to work with PPP/PSP projects or become office bearers in joint venture companies.

The issue of selecting qualified officials to become office bearers in PPP companies is crucial to good management. Among the large number of local government employees at both the Tk I and Tk II levels are many capable and highly educated people. Many of these people were educated at great expense by the Indonesian government or through scholarships provided foreign aid. Many of these talented people are underutilized and would probably respond well to the challenge of helping to manage a commercial enterprise.

The PPP joint venture company which was set up to run the water supply concession in the tourist belt of southern Bali is a good example of how well trained government employees can be used in new jointly owned and run enterprises. Many of PDAM Denpasar's top technical staff were transferred (with higher salaries) to the new joint venture company and have proven to be key figures in the management of this successful enterprise.

7. Socio-Economic/Political Issues

7.1 Inclusion of poverty alleviation and income distribution strategies into PPP/PSP projects.

When preparing tender documents or local laws/ordinances (Peraturan Daerah) local governments could consider including a number of provisions which could be used to evaluate contractors or proposed PPP projects based on their ability and willingness to support poverty alleviation strategies. The following could be included in local government selection criteria:

- requirements to maximize local labour content in all physical projects;
- requirements to include skills training to unskilled workers;
- requirements to maximize usage of local materials and local procurement;
- requirements to maximize local subcontracting opportunities for suitable project components;
- provide guidelines and manuals to local government officials and contractors on labour-intensive techniques;
- publicize, enforce and incorporate the above as selection criteria for awarding PPP/PSP contracts;
- publicly praise and endorse firms who follow these practices;
- support of the local informal sector (E.g., organize and use solid waste scavengers to carry out sorting and recycling activities).

The relationship between the cost of providing services and tariffs

One of the most problematic issues for PPP and PSP projects continues to be tariffs, especially in regards to water projects. Without exception all of the recently proposed BOT water projects in Indonesia have encountered major difficulties trying to resolve the issue of tariffs. Even the recently signed US\$2.2 billion Paiton deal for the generation of electricity by a privately owned facility experienced difficulty with the tariff issue.

There needs to be a policy decision linking the cost of services to the determination of tariffs for PPP and PSP projects. It is a generally accepted principal that privately provided services are most appropriate where income levels clearly indicate a capacity to pay on the part of consumers. Enclave developments have often been targeted for private sector involvement because of this factor. There also needs to be an awareness on the part of the government and the public that local governments should not have to subsidize urban services for those households and businesses which are more than capable of paying the true cost of the services. Many wealthy and upper middle class households are still enjoying heavily subsidized water and solid waste services because local governments have not yet adopted cost accounting management principals. Simply put, no local government in Indonesia, including DKI Jakarta, knows exactly what it costs to provide their current range of services. This also means that the benefits of private sector involvement are also hard to calculate because there is no accurate basis for comparison.

8. Existing PPP/PSP Projects and Practices

8.1 Recent experiences with operational PPP/PSP projects.

The PURSE team's Demonstration Projects Advisor is currently researching many of the issues mentioned in this paper in the context of case study projects under workplan Task 2.01, 2.03 and 2.04 to determine:

1. urban sectors with potential for this approach to the provision of urban services;
2. the way the project was conceived by either the private or public sector;
3. the way in which the agreement was negotiated to determine rights, responsibilities and profit sharing between the two parties;
4. the present operational performance of selected projects and whether they indicate success or failure of the PPP/PSP approach in the Indonesian context;
5. appropriate technical, economic and financial criteria for evaluating existing projects which can also be used to assess proposed demonstration projects;
6. overseas projects with relevance to the Indonesian context;
7. technically sound methods for quantification of problems and opportunities (e.g., in the case of solid waste: volumes of solid waste by type of waste).

9. Specific Conclusions

An analysis of the history of Indonesia's recent development initiatives reveals an institutional policy framework which appears to deal with new initiatives in a number of recognizable phases. These phases suggest the existence of an efficient institutional testing and learning methodology designed to speed up the implementation of new policy initiatives while at the same time minimizing the negative impacts associated with the need for a rapid response to pressing development needs.

To a significant degree the development of public-private partnerships in the provision and management of urban environmental services also seems to have followed these phases.

Phase one appears to be the testing phase. This phase is characterised by an expression of political will in the form of presidential and ministerial statements which are widely reported in the media and discussed at official forums. These policy initiatives are usually a prelude to further action and express the government's commitment to deal seriously with a particular obstacle to development. In this case, the enormous investment needed in urban infrastructure to maintain planned, and projected rates of economic growth for the Indonesian economy. These policy initiatives are frequently given regulatory support through the issuance of presidential decrees, ministerial decrees and/or deregulation decrees which can be issued and gazetted far quicker than a full Undang-Undang (national law approved by the DPR and enacted into law by the President).

Phase two is the implementation and analysis stage and is usually characterized by a short-term enthusiastic response by private sector entrepreneurs who try to quickly act on opportunities that may immediately be apparent under the new legislation. These early private sector attempts are generally supported by government officials who are keen to implement the new policy initiatives. During this phase government officials quickly detect the weaknesses in the first round of legislation and closely monitor implementation problems. The bureaucracies institutional response during this phase is also carefully monitored.

Phase three could be described as the institutionalization phase. During this phase the bureaucracy begins the process of reviewing the need for further legislation and also begins to formulate institutional responses to implementation problems through the drafting of new guidelines, standards and procedures. An important part of this institutional response is the attention given to human resource development issues.

Specific recent examples of this phasing approach to the implementation of new development initiatives can be seen in the development of industrial estates, deregulation of the banking sector and the recent investment deregulation package of October 23, 1993 (better known locally as Pakto 23).

It appears that the public-private partnership initiative is now in the third phase. Logically the first stage of institutionalization should be a prioritization of issues by urgency; or in other words, those problems which are preventing further progress should be dealt with first. Findings to date suggest that the most urgent problems are the legal and institutional issues covered in sections 1. and 2. These issues should be addressed quickly as past experience has shown that a lack of legal and procedural certainty causes delays as officials try to ensure that government policy is being followed. This situation substantially increases the cost of projects and results in long delays as officials try to secure Surat Keputusan (Decrees from the Kepala Daerah and Ministers) to approve key aspects of each project and cover themselves legally.

Interest from the private sector in PPP or PSP projects will increase as the regulatory framework becomes more predictable. The legal and procedural issues in section 1 need to be addressed to provide the level playing field needed to attract more private investors, especially cautious foreign investors. If the GOI wants to see more firms bidding for projects in competition with each other then the tendering process has to be seen by the private sector as open, free and transparent (More specifically, the issues raised in the World Bank report mentioned in section 1.6 regarding Keppres 29 will have to be addressed).

Of the issues discussed above, the most urgent priority should be given to the institutional issues discussed in section 2. As described by the Sub Directorate for Participation of Local Government Capital, PUOD, there is an urgent need for an information campaign to inform and educate central and local government officials about the true scope of the PPP and PSP option. Government officials also need to be aware of what their role should be

in such an arrangement, and what benefits can be derived. Since public-private partnerships cannot exist without a private partner it is appropriate that the private sector also be included in any information or education campaign.

Finally, it should be remembered that the private sector needs to take an active role in preparing the institutional, technical and legal framework required to promote and facilitate their involvement in public-private partnerships. Since private sector firms are expected to play an important role in the implementation of projects; they should also be consulted during the formulation of operational policies for project implementation and management.

Table 1. Laws and Regulations Relevant To PPP/PSP

Laws/Regulations Which Support Or Allow PPP/PSP	Laws/Regulations Which Hinder Or Forbid PPP/PSP
Peraturan Menteri Dalam Negeri Nomor: 4 Tahun 1990 Regarding procedures for cooperation between local government enterprises and third parties.	Undang-Undang Dasar 1945 Pasal 33 Regarding authority to manage and exploit national resources.
Petunjuk Menteri Dalam Negeri Nomor: 3 Tahun 1986 Regarding participation of local government capital/assets in ventures with third parties.	Undang-Undang Pemerintah Nomor: 5 Tahun 1962 Pasal 5(4) Regarding authority to manage and /or provide essential social services. Not yet replaced by U.U.6
Undang-Undang Pemerintah Nomor: 5 Tahun 1974 Regarding decentralization and regional autonomy.	Undang-Undang Pemerintah Nomor: 1 Tahun 1967 Pasal 6 Forbids foreign investors from controlling drinking water.
Peraturan Pemerintah Nomor: 14 Tahun 1987 Regarding the delegation of responsibility for providing infrastructure to Pemda Tk I and Tk II.	Peraturan Menteri Dalam Negeri Nomor: 690-536 Tahun 1988 Regarding pricing policies for drinking water.
Keputusan Presiden Nomor: 32 Tahun 1992 Regarding economic sectors closed to foreign investment.	Keputusan Menteri Dalam Negeri dan P.U. Nomor: 5 /1984 dan 28/1984 Regarding calculation of water tariffs, operational procedures and accounting procedures for PDAMs.
Repelita V April 1, 1988 to March 31, 1994.	Keputusan Presiden Nomor: 42 Tahun 1989 Regarding BOTs in petroleum support sectors.

<p>Undang-Undang Pemerintah Nomor: 8 Tahun 1971 Regarding the licencing of private sector firms in the Migas sector.</p>	<p>Peraturan Menteri Pertambangan dan Energi Nomor: 03/39/M.PE Tahun 1989 Regarding BOT projects in petroleum support sectors.</p>
<p>Undang-Undang Pemerintah Nomor: 15 Tahun 1985 Regarding private participation in the electricity generating sector.</p>	
<p>Undang-Undang Pemerintah Nomor: 3 Tahun 1989 Regarding private participation in the telecommunications sector.</p>	
<p>Surat Petunjuk Menteri Dalam Negeri Nomor: 5 Tahun 1990 Regarding the change in status of a local enterprise (PDAM) to PERUMDA or PERSERODA.</p>	

ANNEX I
English language version
of the
Regulation
of the Ministry of Home Affairs
Number 3 of 1986

GENERAL

THE MINISTRY OF HOME AFFAIRS.

Regulation of the Minister of Home Affairs
Number 3 Year 1986 dated October 1, 1986

R E

PARTICIPATION OF REGIONAL CAPITAL IN
THIRD PARTIES UNDERTAKING

THE MINISTER OF HOME AFFAIRS,

- Considering :
- a. that based on Article 60 of Law Number 5 Year 1974 re Principlos of Regional Administration, the Regional Administration can operate undertaking as one of the Regional Earning/Revenue resources regulated with Regional Regulations;
 - b. that in fact there have been some Regions which carry out undertakings in the form of capital participation in Third Party's undertakings both in term of money or goods correlating with the business world, but the procedures for their implementation, promotion and supervision are still widely varying;
 - c. that said participation of Regional Capital must be directed to strategic undertakings and the benefit of which can be expected to boost the Regional economic activity or as one of the Regional Earning resources;
 - d. that the procedures for operating the Regional owned undertaking as referred to in Chapter V articles 35, 36, 37 and 38 of Regulation of the Minister of Home Affairs Number 4 Year 1979 re Management Implementation of the Regional Administration's Property, it is necessary to improve and enhance them as long as said Regional property is needed for the Regional capital participation in Third Party's undertaking;
 - e. that in the implementation of the capital participation and for the security of said Regional Property Asssts, it is considered necessary to regulate it by a Regulation of the Minister of Home Affairs.

- In view of :
1. Commercial Code (State Gazette Year 1847 Number 43) as several times amended and lastly by virtue of Law Number 4 Year 1971 re Amendment and Addition to the Provision of Article 54 in the Commercial Code (State Gazette Year 1847 Number 23), (State Gazette Year 1971 Number 20, Supplement to State Gazette Number 2959);

2. Law Number 5 Year 1974 re Principles of Regional Administration (State Gazette Year 1974 Number 38, Supplement to State Gazette Number 3037);
3. Government Regulation Number 5 Year 1975 Re Management, Accountability and Control of the Regional Finance;
4. Government Regulation Number 6 Year 1975 re Composition System of Regional Budget, Implementation of Regional Financial Administration, and Composition of Regional Budget Accountability
5. Regulation of the Minister of Home Affairs Number 11 Year 1975 re Models of Regional Budget Composition System, Implementation of Regional Financial Administration and Composition of Regional Budget Accountability;
6. Regulation of the Minister of Home Affairs Number 4 Year 1979 re Management of Regional Administration's Property.

By due observance of

: Decree of the Minister of Home Affairs Number 94 Year 1984 re First Step for Synchronization of Regional Budget with State Budget.

H A S DECIDED :

To stipulate: REGULATION OF THE MINISTER OF HOME AFFAIRS RE PARTICIPATION OF REGIONAL CAPITAL IN THE THIRD PARTY'S UNDERTAKING

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Regulation meant by :

- a. Region shall be First Grade Region or Second Grade Region as referred to in Law Number 5 Year 1974.
- b. Regional Administration shall be the First Grade Regional Administration or Second Grade Regional Administration as referred to in Law Number 5 Year 1974.
- c. Head of Region shall be the Head of First Grade Region or the Head of Second Grade Region as referred to in Law Number 5 Year 1974.
- d. Regional Representative Board (UPRD) shall be the Regional Representative Board of the Province-the First Grade Region-or the Regional Representative Board of the Regency/Municipality-the Second Grade Region.
- e. Regional Regulation shall be the Regulation stipulated by the Head of Region with the approval of the Regional Representative Board.
- f. Competent Official shall be the Minister of Home Affairs for the First Grade Region and the Governor-Head of the First Grade Region for the Second Grade Region.

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g. Regional ...

- g. Regional Capital shall be the Regional Assets (not yet separated) both in the form of money and goods which can be valued in money such as land, buildings, machines, inventory, evidence, facilities and other rights.
- h. Regional Capital Participation shall be every undertaking participating Regional Capital in a Joint business with the Third Party and or the utilization/use of the Regional capital by the Third Party with a certain fee/charge.
- i. Third Party shall be any Agency or Undertaking Bodies and or Individual outside the Organization of the Regional Administration, inter alia the Central Government, Other Regional Administrations, State Owned Undertaking Bodies, Regional Undertaking Bodies, Cooperatives Undertaking; National Private and/or Foreign Private Companies subject to the Indonesian laws.
- j. Management Board shall be the Management Board of Regional Capital Participation/Third Party's undertaking in

CHAPTER II

OBJECTIVES

Article 2

- (1) The Regional Capital Participation in Third Party's undertaking is intended to improve the Regional Economic Growth and to increase the Regional Earnings/Revenues.
- (2) To achieve the objective as mentioned in paragraph (1) hereof, the participation of Regional Capital in the Third Party's undertaking shall be executed based on business economic principles.

CHAPTER III

PROCEDURE FOR CAPITAL PARTICIPATION

Article 3

The Participation of Regional Capital in Third Party's undertaking can be implemented by :

- a. Purchasing shares of a Limited Liability Company (PT) having already been incorporated and good prospect.
- b. As founder in the establishment of a Limited Liability Company.
- c. Management Contract, production contract, profit sharing contract, production sharing contract and business location sharing contract.

Article 4

- (1) The Undertakings of Regional capital participation to the Third Party shall be regulated and stipulated by a Regional Regulation.
- (2) The Regional Regulation as referred to in paragraph (1) hereof shall contain the principal matters :
 - a. Consideration on capital participation establishment.
 - b. Objective of capital participation
 - c. Procedure for capital participation
 - d. Promotion and Supervision.
 - e. Decision in respect to the undertaking output/product
 - f. Other things considered necessary.

- (3) The Regional Regulation as referred to in paragraphs (1) and (2) hereof, shall come into force after being legalized by the Minister of Home Affairs.

Article - 5

- (1) To perform purchase of shares in a Limited Liability company (PT) based on the Regional Regulation as referred to in Article 4, it is necessary to first provide its fund in the Regional Budget (APBD).
- (2) After the fund is already available for the shares purchase as meant in paragraph 1 hereof, then a probing can be made toward the Limited Liability company (PT) which will sell shares so as to obtain information data with respect to the types and prices of said shares.
- (3) If the Head of Region can approve the type and prices of shares as referred to in paragraph (2) hereof, then its implementation shall be stipulated by a Decree of the Head of Region regarding said shares purchase.
- (4) The Head of Region can designate an Official to serve as the Representative of the Regional Administration in implementing the shares purchase.

Article 6

- (1) Every time a Regional Capital Participation is performed of a Limited Liability company (PT) based on the Regional Regulation as meant in article 4, it is stipulated by a Regional Regulation in the establishment
- (2) Before stipulating the Regional Regulation as referred to in paragraph (1) hereof, a Basic agreement shall be made between the Head of Region and the parties participating in the establishment of the PT.
- (3) The Basic agreement as referred to in paragraph (2) hereof shall contain the principal matters:
- a. Identity of respective Parties.
 - b. Kinds/Types and values of the shares capital of the parties.
 - c. Business undertaking sector.
 - d. Capital proportion
 - e. Rights, obligations and sanctions
 - f. Other matters considered necessary.
- (4) Based on the basic agreement and Regional Regulation regarding the Regional Capital Participation as referred to in paragraphs (1) and (3) hereof, then a Limited Liability company (PT) shall be established by a Natural deed.
- (5) The Head of Region can designate one official or more, who will act for and on behalf of the Region together with the Third Party to establish a Limited Liability company (PT).

Article 7

- (1) The Regional Capital Participation as referred to in article 6 in the form of money shall be budgetted in the Regional Budget and executed by a Decree of the Head of Region.
- (2) The Regional Capital Participation as referred to in article 6 in the form of goods shall be stipulated by a Decree of the Regional Head after obtaining an approval from the regional Representative Board.

Particularly for the immovable goods, before being implemented said Decree of the Regional Head is required to have the approval from the Minister of Home Affairs.

- (3) The First Regional Property in the Limited Liability Company (PT) constitutes the separated Regional Property.

Article 8

- (1) To conclude a management contract, production contract, profit sharing contract, production sharing contract and undertaking location sharing contract based on the Regional Regulation as meant in article 4, the Head of Region shall request a prior approval from the Regional Representative Board on said contract plan.
- (2) After obtaining an approval from the Regional Representative Board as referred to in article (1) hereof, a conditional joint agreement shall be concluded between the Head of Region and the Third Party containing the main matters as follows:
- Identity of the respective parties.
 - Type and value of the capital from the Regional party.
 - Business sector.
 - Term/period of the agreement.
 - Right and obligation as well as sanctions.
 - Other matters considered necessary.
- (3) The implementation of the management contract, production contract, profit sharing contract, production sharing contract, and or undertaking location sharing contract as referred to in the agreement in paragraph (2) hereof shall be stipulated by a Decree of the Regional Head, which shall be effective after it is ratified by the Minister of Home Affairs. If said Decree of the Regional Head is not ratified by the Minister of Home Affairs, then the agreement shall become void / invalid.
- (4) Toward the Decree of the Regional Head as referred to in paragraph (3) of this Article of which the validity period is less than 5 (five) years, the ratification competence thereof shall be delegated to the respective Governor-Head of the First Grade Region and reported to the Minister of Home Affairs, in this case, the Director General of PUOD.

Article 9

- (1) To perform an examination toward the goods as capital brought in the establishment of the Limited Liability Company (PT) and or determining the value of the Regional property/goods as well as the payment consideration etcetera in preparing the agreement for management contract, production contract, profit sharing contract, production sharing contract, and undertaking location sharing contract as referred to in article 7 paragraph (2) and article 8 paragraph (2) the Head of Region shall establish a committee consisting of the elements:
- Regional Revenue Service.
 - Bureau of Economic Affairs/Division of Economic Affairs.
 - Bureau of Supplies/General Affairs Division.
 - Bureau of Finance/Finance Division.
 - Bureau of Legal Affairs/Legal Affairs Division.
 - Directorate of Agrarian Affairs/Sub Directorate of Agrarian Affairs.
 - Element of Expert/Consultant.

- (2) The Regional Revenue Service shall schedule and monitor the progress of the Regional capital participation undertakings with Third Party in the framework of improving Regional Revenue/Earnings.
- (3) If considered necessary, before taking decision on the Ratification of the Regional Regulation and/or Decree of the Head of Region, the Minister of Home Affairs can designate an Official to conduct on the spot examination on the administrative, procedural, physical, socio-economic aspect etcetera required.

CHAPTER IV
P R O M O T I O N

Article 10

- (1) The Minister of Home Affairs shall be competent to perform general promotion in connection with the Regional capital participation in Third Party's Undertaking.
- (2) In implementing the general promotion as meant in paragraph (1) of this article, the Minister of Home Affairs shall be assisted by the Director General of General Administration and Regional Autonomy.
- (3) In implementing the general promotion as referred to in paragraph (2) of this article, the Director General of General Administration and Regional Autonomy shall receive directives from and report all matters to the Minister of Home Affairs.

Article 11

- (1) The Head of Region shall perform promotion toward the Regional capital participation in Third Party's undertaking
- (2) In implementing the promotion as referred to in paragraph (1) hereof, the Head of Region shall be assisted by the Secretariat of Regional Territory.
- (3) If considered necessary the Head of Region can establish a Management Board as the executive apparatus assisting the Regional Administration.
- (4) The Organizational Structure and Work Procedure of the Management Board as referred to in paragraph (3) hereof shall be stipulated by the Head of Region based on the directives from the Minister of Home Affairs.

Article 12

- (1) In the event of Regional capital participation/a Limited Liability company (PT) then to represent the Regional Administration, the Head of Region can designate an Official to sit as member of the Board of Commissioners if based on the number of shares owned by the Region it has the right to have a seat in the Board of Commissioners in accordance with the provisions of the prevailing legislative regulation. / in
- (2) The Head of Region can designate an Official who shall continuously represent the Region to monitor the implementation of management contract, production contract, profit sharing contract, production sharing Contract and undertaking location sharing contract.

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(3) The Officials ...

- (2) Provisions particularly regulating the procedures for exploiting the Region-owned undertakings as referred to in Chapter V articles 35, 36, 37 and 38 of Regulation of the Minister of Home Affairs Number 4 Year 1979 re Management Implementation of the Regional Administration Property shall be revoked and declared as null and void.
- (3) Matters not yet or not sufficiently regulated in this Regulation shall be further regulated by the Minister of Home Affairs.

Article 17

This Regulation shall come into force as from the date of its stipulation.

Stipulated in Jakarta
On October 1, 1986

THE MINISTER OF HOME AFFAIRS
signed

S O E P A R D J O

ELUCIDATION

E L U C I D A T I O N

O N

THE REGULATION OF THE MINISTER OF HOME AFFAIRS
NUMBER : 3 YEAR 1986

R E

PARTICIPATION OF REGIONAL CAPITAL IN
THIRD PARTY'S UNDERTAKING

I. GENERAL ELUCIDATION.

1. Concept and Legal basis.

In the framework of the implementation of tangible and responsible Regional Autonomy as well as to boost the Regional economic growth, efforts and endeavours are needed to foster the Regional Earning/Revenue resources.

Based on article 55 of Law No. 5 Year 1974 re Principles of Regional Administration it is stated that the genuine Regional earning / revenue resources consist of :

- (1) Regional Tax Revenues/Income;
- (2) Revenues Proceeds of Regional Distribution;
- (3) Revenues of Regional Companies;
- (4) Other legitimate undertaking revenues.

Further in article 60 of Law Number 5 Year 1974 it is also stated that by the Regional Regulation can be established some undertakings to increase Regional Earning resources.

From the genuine Regional revenue as referred to in figures (1), (2) and (3) of article 55 in Law Number 5 Year 1974, in reality it is not adequate enough to finance the subsistence and growth of the Regional Autonomy. It is therefore considered necessary to increase Regional Earning resources by founding some undertakings as referred to in article 60 of Law Number 5 Year 1974 which constitute one of the legitimate Regional undertakings as meant under point (4) article 55 of Law Number 5 Year 1974.

Based on the fact so far, many Regional Undertakings have been implemented in the form of capital participation in commercial undertakings, both the capital Joint venture with the Central Government, National Private and Foreign Private company with the form of a Limited Liability company (PT) and the Regional Property Exploitation (Under taking operation).

In operating the undertakings of the Regional capital participation so far, factually it always has linkage and correlation not separated with the Third Party, whereas the procedures for implementation, management, promotion, supervision and other things are still varying which among others are due to the non existence of a regulation as the implementation guidelines of the article 60 Law Number 5 Year 1974 which can serve as the legal basis in said Regional capital participation undertaking.

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Besides, the provision with respect to the Regional Administration Property Exploitation as referred to in article 35 of Regulation of the Minister of Home Affairs Number 4 Year 1979 re Management Implementation of the Regional Administration's Property need improvement and promotion, so that effectiveness and efficiency can be achieved. In connection therewith it is necessary to have a regulation in respect to the procedure for implementation, management, promotion, supervision etcetera with respect to the Regional capital participation with the Third Party, general and basic in nature with full flexibility, since this constitutes a dominant and supporting factor in performing said Regional capital participation.

When observed conscientiously, in Regions there are quite a few potential capital goods but they are idle, for instance land, buildings, machines, inventory, valuable documents and other rights. If said capital goods are managed as well as possible, they can be expected to serve as Regional earning resources.

In connection therewith, in endeavouring Regional capital participation with the Third Party, it should be done in the form of money and or goods which can be valued in money such as land, buildings, machines, inventory, valuable documents, facilities and other rights owned by the Regions.

The effort of the Regional capital participation with the Third Party can be performed :

- a. By purchasing shares from the Limited Liability company (PT) having already a corporate body and good prospect;
- b. As the founder in the establishment of the Limited Liability company (PT);
- c. By organizing a Management contract, production contract, profit sharing contract, production sharing contract, and undertaking location sharing contract.

2. Procedure ...

(To be Continued.)

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THE MINISTRY OF HOME AFFAIRS.

Regulation of the Minister of Home Affairs
Number 3 Year 1986 dated October 1, 1986

R E

PARTICIPATION OF REGIONAL CAPITAL IN
THIRD PARTIES UNDERTAKING

Continuation from Warta. CAFI No. 275- dated November 29, 1986

2. Procedure of Capital Participation

a. Purchase of shares.

- In principle, the shares purchase by the Regional Administration from a Limited Liability company (PT) shall be executed only if with the purchase of said shares they can really improve the growth of Regional economy and or increase Regional earnings.
- The shares purchasing shall be based on the Regional Regulation to the Third Party and for the procurement of/shall be budgetted in the Regional Budget (APBD), the implementation of which shall be stipulated by a Decree of the Head of Region. / fund

b. As founder in the establishment of the Limited Liability company (PT) :

- Every time performing the Regional Capital participation in the establishment of a Limited Liability company (PT), it shall be stipulated and regulated by a Regional Regulation both in the First Grade as well as Second Grade Region ratified by the Minister of Home Affairs.
- Before said Regional Regulation is stipulated, an agreement shall be first concluded between the Head of Region and the participating parties in the founding of the limited liability company (PT) which is formulated in an Agreement Deed. In said Agreement Deed shall be registered/inserted the identity of all parties, type and value of capital, capital proportion/percentage, business sector, right and obligation, sanctions and other matters considered necessary.
- The Regional Capital participation in the form of money shall be budgetted in the Regional Budget and the implementation of which shall be stipulated by a Decree of the Head of Region.

- The Regional Capital Participation in the form of goods shall be stipulated by a Decree of the Regional Head after obtaining an approval from the relative Regional Representative Board. Said approval shall be formulated in the form of a Decree of the Regional Representative Board. Particularly with respect to said Regional capital participation in the form of immovable goods, the Decree of the Regional Head concerned can only be implemented after being ratified by the Minister of Home Affairs.
- c. Management contract, production contract, profit sharing contract, production sharing contract and undertaking location sharing contract.

- Concept.

- 1) Management contract, in which the Region has a capital in the form of goods for a commercial undertaking, while the management thereof is carried out by the Third Party with the proviso that the Third Party will receive some profits on its service calculated from the proceeds of said undertaking and that matter is formulated in the Agreement Deed.
- 2) Production contract, in which the Region has a capital in the form of goods for a commercial undertaking, while the management thereof is carried out by the Third Party with the proviso, inter alia :
 - a) The Third Party provides an investment capital and or working capital.
 - b) The Third Party is obliged to pay a sum of money (royalty) to the Regional Administration in accordance with the agreement.
 - c) Profit & loss in the undertaking operation shall be for the account of the Third Party.
- 3) The profit sharing contract, in which the Region has a capital in the form of goods and or right on the goods for a commercial undertaking, while the management thereof is carried out by the Third Party with the following provisions :
 - a) The Third Party must provide an investment capital and or working capital.
 - b) The smooth operation of the undertaking shall be the responsibility of the Third Party.
 - c) The undertaking proceeds or profits shall be divided between the Regional Administration and the Third Party pursuant to the percentage determined in the agreement.

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- 4) The undertaking production sharing contract, in this case the Third Party will first invest its capital/equipment and other facilities needed, so that said undertaking will be able to produce and operate. The undertaking management shall be performed by the Regional Administration, in this case, the Management Board. The undertaking products/output in the form of produced goods shall be divided between the Regional Administration and the Third Party pursuant to the percentage determined in the agreement.
 - 5) The undertaking location sharing contract, in this case the Region has a lot of land bearing a status as Management Right and enabling to set up an undertaking location, while the construction/development there/is rendered to the Third Party on mutually profitable requirements : / -of
 - a) All costs for the completion of said undertaking location construction shall be the responsibility/liability of the Third Party.
 - b) A part of the already developed undertaking location shall be utilised or managed by the Third Party whereas the other part there-of shall be utilised and or its status decided by the Regional Administration.
 - c) The construction built by said Third Party shall be issued a certificate of Building Right on the HPL (Management Right) land.
 - d) Said built construction shall belong to the Regional Inventory.
 - e) The Third Party shall be given a full authority to manage said part of the construction/building for the term/period of the Building Right.
 - f) Said entire building shall become the Regional property after the expiration of the Building Right concerned.
- To make/draw up the management contract, production contract, profit sharing contract, undertaking production sharing contract, based on the Regional Regulation re Regional Capital Participation with the Third Party, a prior approval shall be required by the Head of Region to the Regional Representative Board, then a Joint required agreement shall be drawn up between the Head of Region and the Third Party which is cast in an agreement manuscript.
 - Based on the agreement mentioned above, shall be stipulated a Decree of the Regional Head re management contract, production contract, profit sharing contract, undertaking production sharing contract and or undertaking location sharing contract which shall be valid/effective after being ratified by the Minister of Home Affairs.

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- If said Decree of the Regional Head is not ratified/legalized by the Minister of Home Affairs, said agreement shall be void. The decree of the Regional Head re management contract, production contract, profit sharing contract and or undertaking production sharing contract of which the validity period is less than 5 (five) years shall be ratified/legalized by the Governor-Head of Region on behalf of the Minister of Home Affairs and the implementation thereof shall be reported to the Minister of Home Affairs, in this case, the Director General of General Administration and Regional Autonomy.

3. Promotion and Supervision.

- The successful or unsuccessful undertaking of said Regional Capital Participation with the Third Party shall greatly depend on the "attitude" and "political will" of the Regional Administration. Therefore, the Head of Region as the sole Manager/Entrepreneur in Region is required to perform general promotion and supervision efficiently and effectively on said Regional Capital Participation with the Third Party.

In that case, the Minister of Home Affairs shall perform general promotion and supervision toward the Regional capital participation with the Third Party.

- In order that all undertakings of said Regional capital participation with the Third Party actually play the role and function as best as possible in stepping up the Regional economic growth and increase the Regional Earnings, then the management thereof shall be executed professionally, effectively and efficiently as well as based on the principles of business economics.
- To achieve said purpose and if considered necessary the Head of Region can establish a Management Board as the executive apparatus which will assist the Regional Administration. The existence of said Management Board, therefore the handling of Regional Capital participation with the Third Party shall be under one roof so that the promotion and management thereof will actually run/operate and be implemented orderly and smoothly as well as the progress thereof can be monitored clearly and easily by the Regional Administration.
- Said Management Board shall be established separately from the Secretariat of the Regional Territory where the Management Board and their employees work as full timers on the consideration, that said Regional capital participation has become so large and developed so that it is not possible any more to be managed, controlled and developed further by the existing apparatus of the Regional Administration.
- If said Regional capital participation is not yet so large, then the establishment of Management Board can be executed by way of appointing several Officials/Staff of the Regional Apparatus whose task has close ties/relation to said Regional capital participation.

- If the Regional capital participation is just in one or two undertakings only, it is sufficient to be managed, controlled and developed by the functionally existing Regional apparatuses, in this case, the Regional Revenue Service.

II. ELUCIDATION ON ARTICLE BY ARTICLE.

Article 1 : Self explanatory.

Articles 2 and 3 : See General elucidation.

Article 4 :

Paragraph (1) : Based on the provision of article 60 in Law Number 5 Year 1974 in fact the Regions are given possibilities to organize undertaking activities to increase the Regional Revenue Sources, regulated by the Regional Regulation.

Actually, up till now there have been a lot of undertaking activities of the Regional capital participation with Third Parties, but the procedures of their implementation are still varying. For the orderliness of said Regional capital participation with the Third Party concerned it is necessary to be regulated and stipulated by a Regional Regulation in accordance with the meaning of said article 60 Law Number 5 Year 1974.

Paragraph (2) : Matters of the Regional Regulation as referred to in paragraph (1) of this article shall be linked with the provisions of this Regulation.

Paragraph (3) : Self explanatory.

Article 5 :

Paragraphs (1), (2) and (3) : See General Elucidation.

Paragraph (4) : Due to the busy occupation of the Regional Head, he can appoint an Official or more to represent the Region in effecting said shares purchasing.

Article 6 :

Paragraphs (1), (2) and (3) : See general elucidation.

Paragraph (4) : The same as Article 5 paragraph (4).

Article 7 :

Paragraphs (1) and (2) : See general elucidation.

Article 8 :

Paragraphs (1), (2) and (3) : See general elucidation.

Paragraph (4) : Delegation of authority/competence by the Minister of Home Affairs to the Governors-Heads of Region with respect to the legalization of the Regional Regulations on management contract, production contract,

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profit sharing contract and undertaking production sharing contract of which the enforcement period is less than 5 (five) years, is to accelerate its ratification process by considering that the validity period of said contract is not too long.

- Article :
Paragraphs (1) and (2) : Self explanatory.
- Article 10 : Self explanatory.
- Article 11 :
Paragraphs (1) and (2) : Self explanatory.
Paragraph (3) : See general elucidation.
Paragraph (4) : Shall be issued further implementation directives.
- Article 12 :
Paragraphs (1) and (2) : Self explanatory.
Paragraph (3) : The accountability to the Regional Head through said Management Board it is meant in order that the Management Board can monitor completely said Regional capital participation, considering the busy occupation of the Regional Head.
- Article 13 :
Paragraphs (1), (2), (3) and (4) : Self explanatory.
- Article 14 : Self Explanatory.
- Article 15 : Any Region which has already performed its capital participation with the Third Parties before the issuance of this Regulation, must adjust its arrangements to the provisions in this Regulation. The two year period for said adjustment shall be aimed at obtaining sufficient opportunity to take inventory on the capital participation concerned.
- Articles 16 and 17 : Self explanatory.

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ANNEX II
English language version
of the
Regulation
of the Ministry of Home Affairs
Number 4 of 1990

MINISTER OF HOME AFFAIRS
OF REPUBLIC OF INDONESIA

MINISTER OF HOME AFFAIR REGULATION
NUMBER: 4 YEAR 1990
CONCERNING
COOPERATION PROCEDURES BETWEEN LOCAL GOVERNMENTS COMPANIES
AND THIRD PARTIES

MINISTER OF HOME AFFAIRS

- Considering:
- a. That to increase efficiency and effectiveness of Regional Companies as sources of Real Regional Revenues, as target of Regional Economy and to participate in generating the development of National Economy/Development, therefore it is necessary to set up cooperation between Regional Companies and Third Parties;
 - b. That the Minister of Home Affairs Regulation Number 1 Year 1983 concerning the Guidance of Cooperation between Local Companies and Third Parties is not appropriate any more, therefore completing the regulation is needed.
 - c. That in connection with mentioned above, the Regulation concerning Procedures of Cooperation between the Regional Companies and Third Parties is needed.

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- Recollecting:
1. Law Number 5 Year 1962 concerning Regional Companies (State Gazette of the Republic of Indonesia Year 1962 Number 10, Supplement of the State Gazette of the Republic of Indonesia Number 2387), see Law Number 6 Year 1969 concerning Statement that any Laws and Government Regulation substituting Laws are no longer valid (State Gazette of Republic of Indonesia Year 1969 Number 47, Supplement of the State Gazette of the Republic of Indonesia Number 2901);
 2. Law Number 5 Year 1974 concerning Basic Principles on Administration in the Region (State Gazette of Republic of Indonesia Year 1974 Number 38, Supplement of the State Gazette of the Republic of Indonesia Number 307);
 3. The Government Regulation Number 5 Year 1975 concerning Management, Responsibilities and Controlling Regional Finance (State Gazette of the Republic of Indonesia Year 1975 Number 5);

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4. The Government Regulation Number 6 Year 1975 concerning Procedures of Arranging Regional Budgets, Implementation of Managing Regional Finance, and Recapitulation of Regional Budgets (State Gazette of the Republic of Indonesia Year 1975 Number 6);
5. Minister of Home Affairs Regulation Number 6 Year 1973 concerning Cooperation and Technical Assistance with Foreign Countries;
6. The Minister of Home Affairs Regulation Number 1 Year 1983 concerning Cooperation between Regional Companies and Third Parties;
7. The Minister of Home Affairs Regulation Number 1 Year 1984 concerning Procedures of Promoting and Controlling Regional Companies in the Regional Governments Domain;
8. The Minister of Home Affairs Regulation Number 690-1572 Year 1985 concerning Basic Stipulation of Board of Control, Directors and Staffing of Water Supply Companies;

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9. The Minister of Home Affairs Regulation Number 698-536 Year 1988 concerning Guidance of Water Supply Fare for Water Supply Companies.

Regarding:

1. Minister of Home Affairs Decree Number 536-666 Year 1981 concerning Guidelines for Appointment and Dismissal of Directors and Board of Control;
2. Minister of Home Affairs Letter Number 539-2344/PUOD Year 1988 concerning Increasing Promotion and Development of Regional Companies;
3. Results of Limited Conference of President Directors of entire Regional Companies of Indonesia in Jakarta from March 28th to 29th, 1989;
4. Results of Working Group's duty of Generating Team of entire Regional Companies of Indonesia (TP-PDSI) in Bandung from July 24 to 26, 1989;

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DECIDES

Stipulates: MINISTER OF HOME AFFAIRS REGULATION NUMBER: 4 YEAR
1990 CONCERNING COOPERATION PROCEDURES BETWEEN
REGIONAL COMPANIES AND THIRD PARTIES.

SECTION I

GENERAL PROVISIONS

Article 1

Intended in this Regulation with:

- a. Regions are the Level I and Level II Regions meant in the Law Number 5 Year 1974;
- b. Head of Region is the Head of Level I Region and the Head of Level II Region as mentioned in the Law Number 5 Year 1974;
- c. Regional Regulation is the regulation which is stipulated by the Head of Region and the Regional/Local Representatives and is approved by an Authorized Authority;
- d. An authorized authority is:
 - 1) Minister of Home Affairs for the Level I Regions

- 2) Governor, the Head of Level I Region for the Level II Regions;
- e. Regional Companies are all companies belong to either Level I Regional Governments or Level II Local Governments, which are established based on Law Number 5 Year 1962, and the whole or part of their equity forms separated Regional asset, with exception it is stipulated to other use regulated by Statute;
- f. Directors are the directors of Regional Companies;
- g. Board of Control is the Board controlling the Regional Companies;
- h. Cooperation is chains of activities as results of formal joints between Regional Companies and Third Parties for running the companies together to aim at a certain purpose;
- i. Third Parties are institutions, leagues, formal organizations, and individuals outside the companies such as Central Government, Foreign Countries, National Government Companies, Cooperative Organizations, National Private and Foreign Companies, Domestic and Foreign Finance Institutions, and/or other Regional Companies.

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SECTION II
BASIS, GOALS AND OBJECTIVES

Article 2

The basis of cooperation is to fulfill interests of their both sides with setting up union, that is:

- a. there is a legally secure and safety to follow written provision which is agreed.
- b. to give equal and proper advantages and profits for both sides.

Article 3

The purpose of cooperation is efforts to raise efficiency, productivity and effectiveness of Regional Companies to seek continuity and sustainable development the companies and to accelerate mobilization efforts through:

- a. to develop existing initiative;
- b. to set up new efforts with considering there are good prospects and mutual benefits.

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Article 4

The goal of cooperation is to increase effectiveness and efficiency, function and roles of Regional Companies as one of sources of Regional Revenues and to form the Regional Companies as one of generators of regional economy and national development.

SECTION III

FORMS AND PROCEDURES OF COOPERATIONS

Article 5

- (1) Choosing methods of cooperation is determined by characteristics and goals of Regional Companies and type of capital which is enclosed in the cooperation.
- (2) Methods of cooperation is run through:
 - a. Joint management, joint operation, joint profit shares, joint venture, joint expenditures, joint production shares;
 - b. Management contract, production contract, share of production contract and share of site contract;

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- c. Buying shares, obligation from other Limited corporations which are legalized and having prospects;
- d. Dealership, use and distribution;
- e. Selling shares, obligation and disseminate shares, and go public;
- f. Technical assistance and foreign aids
- g. Combination of two or more methods of cooperation include points a, b, c, and f.

Article 6

Cooperation is run without changing legal status of the Regional Companies.

Article 7

- (1) The effort of cooperation meant on article 5 above must assure
 - a. Increase efficiency and productivity of Regional Companies, or increase services to community;
 - b. Increase asset/capital security of the Companies;

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- c. The cooperation must be mutual benefits for both sides;
 - d. The role and responsibility of both sides are linked to the possible risks they may get, either during the cooperation or after the cooperation.
- (2) The cooperation agreement must contain clearly about form/procedures of cooperation, capital balance, results of efforts or fees, duration of cooperation, duty sanction and procedures to end the cooperation and or possibility to sustain the cooperation and all other which are important.
- (3) Executing the effort of cooperation meant on article 5 above must be reported to the Minister of Home Affairs in briefs.

Article 8

- (1) The Regional Companies will run cooperation with Third Parties must seek conditions as follows:
- a. Have legal status of Regional Companies in appropriate to the basis of existing Laws;
 - b. Have Board of Directors, Board of Control, employees designated on the basis of existing Laws;
 - c. Have proposal or feasibility study subject to become cooperation, and the study is set up by professional

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consultant appointed and agreed by both sides;

- d. Have legalized possession evidence to Regional Companies' assets.

(2) The candidates of cooperation partner (Third Parties), besides having the same goals with the Regional Companies, have to seek conditions as follows:

a. Have conditions:

- If Corporations, must have legal status on the basis of existing Laws;
- If individuals, have Social Security Number is enough;
- If institutions/foreign private companies must have permission/recommendation for authorized authority on the basis of existing Laws;

b. Have positive values from reliability and credibility views, that is:

- Have good attitude and dedication;
- Have skills/experiences in the fields of which the aim is set up;
- Have required capital.

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Article 9

(1) Cooperation with Third Parties is run by Directors of the Regional Companies with stipulations as follows:

- a. Investment value up to Rp 500,000,000.00 and no more than 1 (one) year, may be run without approval from Head of Region/ authorized authority;
- b. Investment value from Rp 500,000,000.00 to Rp 1,000,000,000.00 and the duration of cooperation from 1 (one) year to 5 (five) years may be run after having approval from the Head of Region;
- c. Investment value upper than Rp 1,000,000,000.00 and the duration of cooperation more than 5 (five) years may be run after having approval from the Minister of Home Affairs;
- d. Investment value or duration of cooperation out of stipulations on points a, b, or c, needs approval from authorized authority with considering maximum limits of investment value.

(2) Cooperation agreement meant at paragraph (1) is issued through

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Notarial Document.

- (3) For joint venture, besides to fulfill conditions as meant in article 8 paragraph (2), Balance of Payment and balance sheet for the last 3 years audited by Public Accountant are needed.
- (4) Conditions meant on paragraph (3) may be excepted for newly established Third Parties/companies in order to set up joint venture.

Article 10

- (1) Selling/purchasing shares, obligation to other parties directly through stock exchange (go public), may be undertaken after being approved by the Head of Region.
- (2) Approval of the Head of Region is issued after having consideration of the Board of Control.

Article 11

If considered necessary before the cooperation agreement is signed by both sides, it may be consulted first to the authorized authority.

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SECTION V

EXTENSION OF COOPERATIONS

Article 13

- (1) Extension of the cooperation is undertaken by the Directors of Regional Companies with prior request principle approval to the Head of Region and Authorized Authority.
- (2) Request meant on paragraph (1) is proposed with attaching results of examination and evaluation as mentioned in article 12 paragraph (1) and (2).
- (3) Administration procedures and arrangements are undertaken in appropriate to stipulations article 7, 8, 9, and 10.

SECTION VI

GENERATING

Article 14

- (1) General establishment to efforts of Regional Companies with Third Parties, is run by the Minister of Home Affairs in this case the Director General of Public Administration and

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SECTION IV

ENDS OF COOPERATIONS

Article 12

- (1) Within 6 (six) months before the agreement ends, both sides must examine and evaluate the assets and lending and borrowing money that connected with implementation and extension possibilities of the cooperation with the Third Parties.
- (2) If necessary the Head of Region may set up Examination and Valuation Team which includes the linked Regional/Local Governments/ Technical Agencies, Board of Control and professional Consultants.
- (3) Directors of the Regional Companies report the responsibilities of implementation of the cooperation efforts to the Head of Region, and attach all examination and evaluation results meant as paragraph (1) and paragraph (2), to have approval to sustain or to end the cooperation.
- (4) End of cooperation which is approved by the Head of Region meant at paragraph (3) must be listed on minutes and signed by both sides.

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SECTION IV
ENDS OF COOPERATIONS

Article 12

- (1) Within 6 (six) months before the agreement ends, both sides must examine and evaluate the assets and lending and borrowing money that connected with implementation and extension possibilities of the cooperation with the Third Parties.
- (2) If necessary the Head of Region may set up Examination and Valuation Team which includes the linked Regional/Local Governments/ Technical Agencies, Board of Control and professional Consultants.
- (3) Directors of the Regional Companies report the responsibilities of implementation of the cooperation efforts to the Head of Region, and attach all examination and evaluation results meant as paragraph (1) and paragraph (2), to have approval to sustain or to end the cooperation.
- (4) End of cooperation which is approved by the Head of Region meant at paragraph (3) must be listed on minutes and signed by both sides.

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Regional Autonomy.

- (2) The Director General of Public Administration and Regional Autonomy in appropriate with his job, generates cooperation efforts of Regional Companies with Third Parties, accepts all directions and reports all facts to the Minister of Home Affairs.
- (3) Generating cooperation of Regional Companies with Third Parties is under administered of the Bureau of Regional Economic Infrastructure Development at Level I Regions and under administered of the Division of Economics at Level II Regions.

SECTION VII

CONTROL

Article 15

General control to implementation of cooperation of Regional Companies with Third Parties is run by the Minister of Home Affairs and the Head of Region.

SECTION VIII

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RESULTS

Article 16

- (1) Part of profits or efforts of cooperation of Regional Companies and Third Parties which becomes property of the Regional Companies during one fiscal year, counted on the basis of existing accounting principles.
- (2) Efforts meant at paragraph (1), is allocated in appropriate to the budget planning of the Regional Companies which is approved by the Head of Region, including donation to the regional government in line with the basis of existing stipulations.

SECTION IX

TRANSITIONAL PROVISIONS

Article 17

- (1) Regional Companies or Regional Government Corporations which have undertaken cooperation with Third Parties before and after the Regulation Number 1 Year 1983 is promulgated, are able to continue until the end of the agreement.

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(2) If the agreement will continue, they have to follow all conditions within this Regulation.

SECTION X
CLOSING PROVISIONS

Article 18

At the moment the Regulation becomes effective, the Regulation Number 1 Year 1983 is no longer valid.

Article 19

The Minister of Home Affairs Regulation comes into force on the date of promulgation.

Promulgated in Jakarta
on March, 16th, 1990
MINISTER OF HOME AFFAIRS

RUDINI