

PURSE PROJECT

Private Participation in Urban Services

NARRATIVE DESCRIPTION

INDONESIAN LAWS AND REGULATIONS ON PUBLIC PRIVATE PARTNERSHIPS AND PRIVATE SECTOR PARTICIPATION IN THE SECTORS OF WATER SUPPLY, WASTEWATER AND SOLID WASTE

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PURSE Report No 101 01/94/016

Submitted by
Chemonics International
Jakarta Indonesia

In association with
Resource Management International
Sheladia Associates

November 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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LIST OF DEFINITIONS AND ABBREVIATIONS

APIT	Angka Pengenal Importir Terbatas (Limited Import License)
BKPM	Badan Koordinasi Penanaman Modal (Capital Investment Coordinating Board)
BPAL	Badan Pengelola Air Limbah (Waste Water Management Agency)
BPAM	Badan Pengelola Air Minum (Managing Board of Clean Water for Clean Water)
BUMN	Badan Usaha Milik Negara (State-owned Company)
BKPM Decree 15	BKPM Decree No 15/SK/1994 regarding implementation Provisions on Share Ownership/Shareholding in Companies Established in the Framework of Foreign Capital Investment (July 29, 1994)
BOO Projects	Build, Own and Operate Projects
BOT Projects	Build, Operate and Transfer Projects
Bapedal	Badan Pengendalian Dampak Lingkungan (the Environmental Impact Management Agency)
B3 Waste	Bahan beracun dan berbahaya (hazardous and toxic waste)
Business of Power Supply	All kinds of business in the supply of electricity undertaken by private companies and cooperatives as holders of a public electricity business license
CV	Commanditaire Vennootschap, a type of partnerships recognized under Indonesian Civil Code
Cipta Karya	The Director General of Housing Construction Planning and Urban Development

Clean Water Projects	The projects built by the Department of Public Works Working Unit in a Region and funded out of the Provincial or Municipal Budgets with or without foreign or Central Government aid
Cooperative	An economic organization of a social character comprised of persons or cooperative societies as members and formed as an economic entity to function collectively for the mutual benefit of its members
DNI	Daftar Negatif Investasi (Negative Investment List)
DOF	Department of Finance
DOME	Department of Mines and Energy
DOPW	Department of Public Works
DPR	Dewan Perwakilan Rakyat (Parliament)
DRM	Daftar Rekanan Mampu (List of Capable Contractors)
DRT	Daftar Rekanan Terpilih (List of Selected Contractors)
DSP	Daftar Skala Prioritas (Priority List of Investments)
DKI Decree No 179	DKI Governor Decree No 179 of 1991 regarding Production Cooperation Contract between DKI and PT Trinaga Terra relating to Garbage Processing in conjunction with Worm Cultivation (February 21, 1991)
DKI Decree No 313	DKI Governor Decree No 313 of 1984 regarding procedures for Obtaining License in Sanitation Sector in the Special Territory of the Capital City of Jakarta (February 25, 1984)
DKI Jakarta	Daerah Khusus Ibukota Jakarta (the Special District of the Capital City of Jakarta)
DKI Reg 10	DKI Regional Regulation No 10/1991 regarding Regional Corporation of Waste Water Management for DKI Jakarta (September 20, 1991)

DKI Reg 15	DKI Regional Regulation No 15 of 1981 regarding the Organizational Structure and Procedures of the Sanitation and Procedures of the Sanitation Authority of the Special Territory of the Capital City of Jakarta (December 7, 1981)
Dinas Daerah	Provinces and Municipalities
Dirty Water	A liquid containing human waste materials
Drainage	Liquid disposed of from any source whether residential or industrial
Drinking Water Supply	An undertaking to develop, to make available (supply) and to distribute clean water
Drinking Water Projects	The activities of planning, performance, such as supervision of the performance of construction, and construction, of a new drinking water system, expansion and/or rehabilitation of an existing drinking water system, the development of such a system and the organization of regional drinking water enterprises
E Java Reg 8	East Java Regional Regulation No 8 of 1989 regarding Water Pollution Control in the First Level Region of East Java (December 16, 1989)
Firma	A type of partnership recognized under Indonesian Civil Code
Foreign Investment Law	Law No 1 of 1967 (January 10, 1967) as amended by Law No 11 of 1970 (August 7, 1970)
GOI	Government of Indonesia
Garbage	All kinds of refuse generated by households, public buildings, factories and industrial sites, including waste building material, scrap automobiles and the like
IUT	Izin Usaha Tetap (Permanent Operating License)
IUKU	Izin Usaha Ketenagalistrikan untuk Umum (Permit for Electric Power Business)

Infrastructure and Facilities of Clean Water	All buildings equipment and fixtures for the production, supply and distribution of clean water for the public
Irrigation	The supply and management of water to support agricultural activities involving ground and surface water
JD	Joint Decree
JD 1978	Joint Decree of the Minister of Public Works, Minister of Home Affairs and Minister of Finance, Number 281/KPTS/1978, 160/1978 and 350/KMK 011/1978 regarding the Undertaking and Control of the Construction of Drinking Water Projects and the Aid from the Central Government (September 19, 1978)
JD 1984	Joint Decree of the Minister of Home Affairs and Minister of Public Works No 3 of 1984 and No 26/KPTS/1984 regarding Procedures of Proposal and Procurement of Clean Water projects and Temporary Operations and Transfer of Operations (January 23, 1984)
JD 4-27	Joint Decree of the Minister of Home Affairs and Minister of Public Works No 4 of 1984 and No 27/KPTS/1984 regarding the Guidelines for Drinking Water Regional Enterprises (January 23, 1984)
Joint Operation	A representative office licensed by the Department of Public Works which is permitted to engage in construction activity for profit, provided it forms with an Indonesian contracting company licensed as a contractor by the Department of Public Works
Keputusan Presiden	Presidential Decree (Keppres)
Keppres 15	Presidential Decree No 15 of 1984 regarding Organization of Departments (March 6, 1984)
Keppres 16	Presidential Decree No 16 of 1984 regarding the Implementation of the State Revenue and Expenditures Budget (march 22, 1994)

Keppres 25	Presidential Decree No 25 of 1987 regarding the Performance of Part of the Task of Operating Toll roads by Joint Venture (July 20, 1987)
Keppres 37	Presidential Decree No 37 of 1992, regarding the Supply of Electricity by the Private Sector (July 9, 1992)
Law No 11	Law No 11 of 1974 regarding Water Resources (December 26, 1974)
Law No 15	Law No 15 of 1985 regarding Electricity (December 30, 1985)
Law No 19	Law No 19 of 1960 regarding State Enterprises (April 30, 1960)
Law No 25	Law No 25 of 1992 regarding Cooperatives (October 21, 1992)
Law No 3	Law No 3 of 1989 regarding Telecommunications (April 1, 1989)
Law No 5	Law No 5 of 1962 regarding Regional Enterprises (March 5, 1962)
Law No 6	Law No 6 of 1969 regarding Declaration to Invalidate Various Laws and Government Regulation in Lieu of Law (July 5, 1969)
Level I Government	Provincial Government
Level II Government	Municipal Government
MOE	The Minister of Environment
MOHA	The Minister of Home Affairs
MOME	The Minister of Mines and Energy
MOPW	The Minister of Public Works
MPRS	Majelis Permusyawaratan Rakyat Sementara (Provisional People's Consultative Assembly)

MOHA 1	MOHA Regulation No 1 of 1984 regarding Procedures of Guidelines and Supervision of Regional Enterprises within the Regional Governments (January 31 1984)
MOHA Reg 3	The Minister of Home Affairs Regulation No 3 of 1986 regarding Regional Capital Participation in Third Parties (October 1 1986)
MOHA Regulation 4	The Minister of Home Affairs Regulation No 4 of 1990, regarding Procedure on the Cooperation Between Regional Enterprises and Third Parties (March 16, 1990)
MOME Reg 03	The Minister of Mines and Energy Regulation No 03 P/036/M PE/1993 regarding Cooperation between Pertamina and Private Companies in Oil and Gas Refining and Processing (February 27, 1993)
MOPW Decree 269	The MOPW Decree No 269/KPTS/1984 regarding the Establishment of the Management Board of Drinking Water (August 8, 1984)
MOPW Decree 510	The MOPW Decree No 510/KPTS/1987 regarding Establishment of the Waste Water Management Agency in the Special Territory of the Capital City of Jakarta (October 26, 1987)
MTPT Decree 39	The Minister of Tourism, Post and Telecommunication Decree No KM 39/ KS 002/MPPT-93 on the Cooperation in the Operation of Basic Telecommunication Services (February 27, 1993)
Maatschap	A contract whereby two or more persons agree to contribute something together in order to share the profit accruing from the common assets
Mini Plant	A water processing plant smaller than two hundred liters per second, the distribution of which covers a limited area
NPWP	Nomor Pokok Wajib Pajak (Tax Identification Number)
National Contractor	A contractor which is an Indonesian legal entity

New Income Tax Law	The new tax law which was reported out of Parliament in October of 1994 and which was signed by the President on November 9 1994
October Package	A set of deregulation measures issued in October of 1993
PBH	Perjanjian Bagi Hasil (revenue sharing patterns)
PDAM	Perusahaan Daerah Air Minum (Drinking Water Regional Enterprise)
PKUK	Pemegang Kuasa Usaha Ketenagalistrikan (the Holder of the Authority for Electric Power Business)
PLN	PT (Persero) Perusahaan Listrik Negara (the State Owned Public Electric Company)
PMA	Penanaman Modal Asing (Foreign Capital Investment)
PMDN	Penanaman Modal Dalam Negeri (Domestic Capital Investment)
PP	Peraturan Pemerintah (Government Regulation)
PP 10	Government Regulation No 10 of 1989 regarding the Supply and Use of Power (July 25, 1989)
PP 14	Government Regulation No 14 of 1987 regarding Transfer of Part of Governmental Affairs in the Field of Public Works to the Regions (June 27, 1987)
PP 18	Government Regulation No 18 of 1953, regarding the implementation of Transfer of Part of the Central Government's Affairs in the field of Public Works to the Provinces and Confirmation of Public Works Affairs of the Municipalities, Big Cities and Small Towns in Java (April 16, 1953)
PP 19	Government Regulation No 19 of 1994 regarding the Management of the Waste of Hazardous and Toxic Materials (April 30, 1994)
PP 20	Government Regulation No 20 of 1994 regarding Share Ownership in Companies Established Within the Framework of Foreign Capital Investment (May 19 1994)

PP 20 of 1990	Government Regulation No 20 of 1990 regarding Water Pollution Control (June 5 1990)
PP 22	Government Regulation No 22 of 1982 regarding Procedures of Water Arrangements (August 12, 1982)
PP 25	Government Regulation No 25 of 1991 regarding Exploration of the Form of Telecommunication Public Corporation (Perumtel) to become a State Limited Liability Company (PT Persero) (May 1, 1991)
PP 3	Government Regulation No 3 of 1983 regarding Procedures of Guidance and Supervision of Perjan, Perum and Persero (January 25, 1983)
PP 50	Government Regulation No 50 of 1993 on the Requirements for Share Ownership in Foreign Capital Investment Companies (October 23, 1993)
PP 8	Government Regulation No 8 of 1993 on the Operations of Telecommunications (February 16, 1993)
PPP	Public Private Partnership
PSP	Private Sector Participation
PT	Perseroan Terbatas (Limited Liability Company)
PUOD	Pemerintahan Umum Otonomi Daerah (Public Administration and Local Autonomy)
PAM Java	The PDAM for DKI Jakarta
PD PAL Jaya	Regional Cooperation of Waste Water Management for DKI Jakarta
PN Pertamina	The Indonesian National Oil Company
Peraturan Pemerintah	Government Regulations (PP)
Peraturan Pemerintah Pengganti Undang-undang	Government Regulations in Lieu of Laws which are statutes enacted initially by the President with subsequent consent of the Parliament
Peraturan Perundang-undangan	Laws and Regulations

Perda DKI 11	DKI Jakarta Regional Regulation No 11 of 1993 on the Provision of Drinking Water Services (December 13, 1993)
Perjan	Perusahaan Jawatan, company which is formed to provide public services
Persero	A state enterprise in the form of a limited liability company
Persekutuan Perdata	A type of partnerships recognized under Indonesian Civil Code (Maatschap)
Perum	Perusahaan Umum (a state enterprise which are directed to looking after the public interest and making profit)
Perusahaan Negara	State Owned Enterprise
RPTKA	Rencana Penggunaan Tenaga Kerja Asing (Manpower utilization plan)
Regulation 2	The Minister of Mines and Energy Regulation No 02 P/03/M PE/993, regarding the Implementation of the Business of Electric Power Supply by Private Companies and Cooperatives in the Interest of the Public (February 24, 1993)
Right on Water	The right to obtain and use water for certain purposes
SPPP	Surat Pemberitahuan Persetujuan Presiden (Notification of Presidential Approval)
SSEK	Soewito, Suhardiman, Eddymurthy and Kardono (Indonesian Legal Consultant which is appointed by Chemonics to do the Legal Research relating to PPP-PSP in Water Supply, Waste Water and Solid Waste)
Solicited Project	A project with respect to which the participation of a prospective investor in the supply of electric power is implemented through a tender participated in by a prospective investor selected in pre-qualification (Article 6 or Regulation 2)
Tap MPR	Ketetapan Majelis Permusyawaratan Rakyat (Resolutions of the People's Consultative Assembly/MPR)

UUD 45

Undang-undang Dasar 1945 (The Constitution of 1945)

Unsolicited Project

A project with respect to which prospective investors proposing projects in the framework of the electric power supply shall file an application to the Minister who is responsible for electric power affairs through the Director General whose scope of duty encompasses the electric power affairs (Article 24(1) of Regulation 2)

W Java Reg 3

Regional Regulation No 3 of 1988 regarding Control of Underground Water Surface Water Removal and Liquid Waste Disposal (February 24, 1988)

SECTION I EXECUTIVE SUMMARY

The purpose of this report is to provide a narrative description of Indonesian laws and regulations on public private partnership and private sector participation in environmental infrastructure development in the sectors of water supply, waste water and solid waste. To put that discussion in perspective and to provide a foundation for the analysis of the strengths and weakness of Indonesian laws and regulations that will be provided in our next report, this paper in Section II first sets forth the PURSE Project's objectives in commissioning this study and the legal reviews to follow. PURSE's purpose with this report is to survey the legal landscape of existing Indonesian laws and regulations in these sectors. This exercise provides the essential information needed in order to next determine where to proceed and how to get there. This survey thus also allows a further study or analysis of the strengths and weakness in the existing Indonesian legal system.

Section III of this Report indicates the laws and regulations that have been reviewed in preparing this report. Over 200 different promulgations have been identified and reviewed. The principles by which the hierarchy of these laws and regulations are established are set forth in Section III and the promulgations themselves are listed in Appendix A. Appendix B sets forth a matrix of laws and regulations that are relevant to those sectors upon which this paper focuses, while Appendices C-1, C-2 and C-3 respectively, summarize the relevant laws and regulations of each of the three sectors.

Section IV of the report briefly describes the research methods used in its preparation.

Section V contains important substantive information which we believe is an important foundation for the remainder of the report. This Section contains a summary of how the private sector generally participates in Indonesia's economy. It focuses on both the foreign and domestic investment community. That part of this Section that deals with foreign investment describes the workings of the Foreign Investment Law, generally and specifically how foreign investment companies are established, their minimum capital requirements, maximum foreign ownership, divestment rules and Department of Justice formation rules. This part also describes other common ways that foreign companies operate in Indonesia. This Section also describes how domestic companies organize themselves, focusing on Indonesian corporations and partnership structures. The types of state enterprises are then described.

Section VI focuses on private participation in the public utility business sectors. Private participation in electric power generation, telecommunications and toll roads are discussed, as these rules may be useful precedents for the sectors under review. Section VII discusses in detail existing Indonesian legislation on water supply, waste water and solid waste. Appendix I contains a description of the organizational structures of the Department of Public Works (DOPW). A basic understanding of DOPW is important, since the DOPW is significantly involved in these sectors.

A number of items of general legislation are important to these sectors which are described in Section VII A

Government Regulation No 14 of 1987 is then discussed as this regulation conditionally transfers significant public works authority to the Regional Governments. Among those areas that have been decentralized are irrigation activities and Cipta Karya activities, both of which, of course, have direct relevance to all three activities. The Central Government retains authority to withdraw delegated powers.

Minister of Home Affairs Regulation No 4 of 1990, governs how regional enterprises cooperate with the private sector. The conditions that are imposed on both regional enterprises and private entities are discussed, as well as the required investment levels. Specific Indonesian laws that allow build own and operate (BOO) and build operate and transfer (BOT) projects in specific industries are then discussed. In general, Indonesian law recognizes BOO Projects in the power sector and BOT projects in oil and gas refining and processing.

Minister of Home Affairs (MOHA) Regulation No 3 of 1986 allows regional governments to invest in third parties, and describes the various ways (i.e. share acquisition in an existing company, formation of a new company, or various types of contractual arrangements).

Finally, Section VII A describes Presidential Decree No 16 of 1994, as we believe an understanding of GOI procurement policies is relevant to this and later reports.

Section VII B focuses on water supply, and the inherent general limitations, or questions, created by the 1945 Constitution on private participation in this sector, restrictions which are repeated in the Foreign Investment Law.

Law No 11 of 1974 is Indonesia's first post-independence legislation dealing with water resources. The principle of private sector participation is established by this Law.

Government Regulation No 22 of 1982 implements Law No 11. It establishes licensing procedures and allocates Government authority for water resource development.

The Joint Decree of the MOPW, MOHA and the Minister of Finance, No 281/KPTS/1987, 160/year 1978 and 350/KMK 011/1978 (JD 78), governs construction of "drinking water projects" at the Regional Government level and establishes how and the types of Central Government assistance that will be given.

Joint Decree of MOHA and MOPW No 3 of 1984 and No 26/KPTS/1984 deals with "clean water projects", which apparently overlaps with JD 1978.

MOPW Decree No 269 of 1984 (MOPW Decree 84) created the BPAM or Management Board of Drinking Water while Joint Decree of MOHA and MOPW No 4 of 1984 and No 27/KPTS/1984, is the last in a series of decrees that establish guidelines for the creation and operation of PDAMs, or Perusahaan Daerah Air Minum. The creation of and rules governing PAM Java the PDAM for DKI Jakarta, is then discussed, as an example of a PDAM that was created under an earlier promulgation.

This Section of the Report closes with a discussion of Law No 5 of 1962 and the problem that is created by the revocation of Law No 5 by Law No 6 of 1969 and the failure to replace Law No 5 with new legislation that was contemplated by Law No 6. In substance Law No 5 sets forth the principle that are to govern the creation of regional enterprises, their operations, and their cooperation with the private sector.

Section VII C focuses on waste water treatment and disposal. PP 20 of 1990 is the key regulation for this area. Under PP 20 of 1990, the MOE has responsibility for the control of water pollution, and the Governor of each province has the responsibility to identify pollution sources and control measures.

PP 20 of 1990 allows the Provincial Government to enter into unspecified arrangements with the private sector. Jakarta's efforts to deal with waste water is seen in DKI Governor Decree No 313 of 1984 and MOPW Decree No 510 of 1987, particularly with the latter's establishment of BPAL. Waste water regulations for West and East Java present an interesting contrast, with the former allowing for private participation and the latter not.

Solid waste disposal is addressed in Section VII D. In contrast to the other areas, there is no Central or Regional Government Regulation dealing comprehensively with this area except as was provided for in the DSP of 1987 where garbage processing was listed on an open sector, and for hazardous waste, where private sector participation is encouraged by Government Regulation No 19 of 1994.

DKI Decree No 313 allows the licensing of businesses to work in the sanitation sector. An example of private participation in the solid waste sector in DKI Jakarta is also discussed in this Section.

SECTION II

INTRODUCTION DESCRIPTION ON THE PURSE PROJECT'S OBJECTIVES AND PURPOSES

Soewito Suhardiman, Eddvmurthy & Kardono (SSEK) has been appointed by Chemonics International to assist the PURSE Project in its legal and regulatory review of private sector participation in environmental infrastructure development in the areas of water supply, water waste and solid waste management. The main tasks of SSEK are to provide legal assistance to develop the baseline inventory of Public Private Partnership ("PPP") and Private Sector Participation ("PSP") laws and regulations¹, identify the need, if any, for new laws and regulations for PPP-PSP projects and prepare an academic draft of the proposed or amended legislation for review and consideration by the Government of Indonesia (GOI)

This paper contains the baseline inventory of PPP and PSP laws and regulations. In order to promote private sector investment in urban services, it is essential to gain a comprehensive understanding of existing laws and regulations governing PPP-PSP activities at present, to discover any deficiencies and to determine what action, if any, is required to allow the Indonesian legal system to accommodate PPP-PSP developmental efforts. In the absence of detailed knowledge about the present state of Indonesian law, it is not possible to formulate a program for improvement. Further, there is need to confirm whether or not certain basic assumptions are true. For example, there is a belief that the state of Indonesian law governing PPP and PSP is not well-developed as a general matter or with particular reference to environmental infrastructure, that some laws may conflict with one other, or may contain ambiguous and unclear provisions or be otherwise deficient. In addition, there is an assumption that there may be areas where there is no law or inadequate law to foster PPP-PSP involvement. These assumptions necessitate a legal review and the formulation of informed legal opinion on the intent and the interpretation of laws and regulations related to the private participation and public private partnership in urban environmental services.

The purpose of this legal and regulatory review is thus first to establish a baseline survey of existing Indonesian laws and regulations which impede and/or promote PPP-PSP in urban environmental infrastructure at the Provincial (Level I) and Municipal (Level II) Government levels in the areas referred to above². This review will establish a basic understanding of those laws and regulations and will serve as a foundation for the second stage of our scope of work, namely the analysis of the strengths and weakness in existing legislation, and the third stage, consisting of the development of a framework for the enactment of new or amended laws and regulations that will facilitate PPP-PSP in urban environmental infrastructure by local governmental entities.

¹ The phrase "laws and regulations" is a translation of the Indonesian term "peraturan perundang undangan" which is an Indonesian term of art meaning broadly promulgations having the force of law or having legal validity.

² This Paper most often refers to Provincial and Municipal Governments to distinguish Level I and Level II Government Levels. When both Government levels are referred to the phrase Regional Government is used.

Once the present state of law is known and its strengths and deficiencies are analyzed, it will be possible to recommend legislative changes either through amendments to existing laws and/or the adoption of new laws for PPP-PSP in water supply waste water and solid waste management services. These amendments and/or new laws should realize the following objectives

- a they should make explicit the GOI's interest in public private partnership and private sector participation in the production and financing of these services
- b they should formalize the legal basis (such as the legal structures of build operate and own and build operate and transfer) for private investment of capital and other resources to build and operate facilities and to cooperate with Regional Government enterprises in the construction of facilities and the provision of services in these sectors
- c they should define the nature and extent to which GOI guarantees or assurances are necessary in the performance of Regional Government institutions' fulfillment of contractual obligations with private sector firms for services, including contracts with extended terms of up to 15 years or more, and
- d they should enable the private sector to operate, with an appropriate balance of autonomy from and oversight by public agencies

The foregoing objectives are considered urgent, considering that the private sector requires clear direction and definition of the standards under which its activities will be regulated by the GOI. In particular, international and domestic lending institutions will require certainty in the contractual relationships between the GOI and its Regional Governments, on the one hand, and private sector participants, on the other, if capital is to effectively mobilized and obtained for such infrastructural development

SECTION III
SIGNIFICANT STATUTES ADOPTED ON PPP AND PSP IN WATER SUPPLY ,
WASTE WATER AND SOLID WASTE

In connection with this legal review SSEK has identified and compiled 45 laws and regulations concerning water supply, 5 laws and regulations relating to waste water and 9 regulations dealing with solid waste. The above referenced laws and regulations do not include the provincial decrees and municipal decrees issued by provincial and local governments. In order to identify the foregoing laws and regulations, we have examined and reviewed in detail over 200 promulgations. Appendix A lists these laws and regulations which have been identified, based on their level of authority and on their respective sectors. Appendix B sets forth the relevant laws in matrix form by the three sectors and Appendices C-1, C-2 and C-3 contain a summary of each promulgation concerning the three sectors.

Indonesian law recognizes a hierarchy of GOI promulgations. Pursuant to Resolution XX of 1966 of the Provisional Peoples Consultative Assembly (Majelis Permusyawaratan Rakyat Sementara/"MPRS") (July 5, 1966), Indonesian laws and regulations have the following rank:

- (i) The Constitution of 1945 ("UUD 45"),
- (ii) Resolutions of the People's Consultative Assembly /MPR ("TAP MPR"),
- (iii) Laws passed by the Parliament ("DPR") and Government Regulations in Lieu of Laws ("Peraturan Pemerintah Pengganti Undang-Undang") which are statutes enacted initially by the President, with the subsequent consent of the Parliament,
- (iv) Government Regulation ("Peraturan Pemerintah"),
- (v) Presidential Decrees ("Presidential Decree"), and
- (vi) Other promulgations, such as Ministerial Decrees, Ministerial Regulations, Ministerial Instructions and other promulgations, including regional and district Government Regulation.

SECTION IV RESEARCH METHODS

Exhibit IV of the SSEK sub-contract for legal services with Chemonics International sets forth the Scope of Work and is attached to this Report as Appendix D. This Report responds to Phase A of the Scope of Work and concerns Research and Identification of Regulations. SSEK's research has included the following activities:

- (i) preparation for the survey, including review of the terms of reference and work plan of the PURSE Project and meetings with Chemonics,
- (ii) review of in-house library materials, including SSEK's computerized data base of work product and legislation,
- (iii) preparation for and interviews with GOI officials,
- (iv) research of GOI laws and regulations, by the collection of information at relevant GOI agencies such as the State Department of Environmental Affairs, the Department of Home Affairs, the Department of Public Works, the Regional Government of DKI Jakarta, the Environmental Impact Management Agency (Badan Pengendalian Dampak Lingkungan or "BAPEDAL") and Representative Offices of Provinces located in DKI Jakarta,
- (v) research at the University of Indonesia, including the Legal Documentation Center, and
- (vi) research at the Central Bureau of Statistics

SECTION V
PRIVATE PARTICIPATION IN INDONESIAN ECONOMIC SECTORS

A An Introduction to Alternative Business Forms in Indonesia

We believe it is useful at this juncture to set forth the various methods by which investors, local and foreign can invest in Indonesian businesses. The purpose of this Section is to provide a broad overview of pertinent laws and regulations affecting foreign and domestic investment and business operations in Indonesia.

B Foreign Investment

There are four broad alternatives by which foreign business may operate in Indonesia: (i) equity investments, (ii) foreign oil company branch offices, (iii) technical assistance and licensing arrangements and (iv) representative offices.

B1 Equity Investments

a General

There are two different regimes by which foreign investors may make equity investments in Indonesian companies: establishment of an Indonesian limited liability company under the Foreign Investment Law, Law No 1 of 1967 (January 10, 1967), as amended by Law No 11, 1970 (August 7, 1970) (collectively, the "Foreign Investment Law") and establishment of certain types of Indonesian limited liability financial companies under regulations issued by the Department of Finance ("DOF").³ Investments made under the Foreign Investment Law are monitored and regulated by the Capital Investment Coordinating Board ("BKPM").

For all types of manufacturing companies and most types of service companies, the Foreign Investment Law provides the only legally recognized means of investment in Indonesia. Joint venture banks, insurance companies and finance companies are service industries that are not regulated by BKPM and are not subject to the Foreign Investment Law, but are subject to the jurisdiction of the DOF. In 1968, foreign banks were allowed to establish branches in Indonesia, but licenses are no longer issued. As the formation procedures of these financial companies are not directly relevant to this paper, but these companies could be generally important to the financing of PPP-PSP activities, a description of their formation procedures is set forth in Appendix E.

³ Foreign investment is also permitted pursuant to Indonesia's Domestic Investment Law, Law No 6 of 1968 regarding Domestic Capital Investment (July 3, 1968) (Law No 6). See e.g. Article I of Law No 6. However, foreign investment, in the sense of foreign capital from foreigners abroad, has not been permitted by BKPM under Law No 6.

b Foreign Investment Law Companies

As noted most foreign investments are made pursuant to Indonesia's Foreign Investment Law. The Foreign Investment Law has been supplemented by numerous Government Regulation, the most recent of which is Government Regulation No. 20 Year 1994 (May 19, 1994) ('PP 20") published on June 2, 1994 and its implementing decree issued by the State Minister of Mobilization of Investment Funds/Chairman of BKPM by way of Decree No. 15/SK/1994 regarding implementation Provisions on Share Ownership/Shareholding in Companies Established in the Framework of Foreign Capital Investment (July 29, 1994) ("BKPM Decree 15")

(1) Initial Steps

(a) Verification of the Negative Investment List

The first issue a foreign investor must address is whether the Indonesian Government will permit an investment in a desired line of business. As a general rule, all business sectors are open for foreign investment unless specifically prohibited. For this purpose, the Government publishes a Negative Investment List, known by its Indonesian initials as the "DNI"⁴. A copy of the most recent DNI was issued in June of 1993, as Presidential Decree No. 54 of 1993 regarding the List of Business Sectors Closed for Capital Investment (June 10 1993) and is attached as Appendix F. The DNI specifies the business areas in which foreign investment is prohibited, restricted or conditioned. A business area is open for foreign investment if it is not listed in the DNI, subject only to any specific controls issued by a Government Department that may have technical jurisdiction over the activity concerned.

(b) Selection of an Indonesian Partner

Until the adoption of PP 20, foreign investors were required to have a co-investor, commonly referred to as a partner. PP 20 allows 100 percent initial foreign investment in most areas and 95 percent foreign investment in certain strategic areas. These strategic investment areas are activities related to the "prosperity of the people", such as ports, production, transmission and distribution of public electricity, telecommunications, shipping, aviation, drinking water, public railways, atomic power plants and the mass media. In cases where a local partner is used, the foreign investor must negotiate a joint venture agreement with the local partner which sets out the terms and conditions of their business relationship. As a business matter, this document should be agreed, finalized and signed before the investors engage the approval process of the GOI.

⁴ Prior to the 1989 when the first DNI was issued, the Government maintained the DSP which listed those areas in which foreign investment was permitted and the conditions under which domestic investment could be made. Under the DSP approach, if a business sector was not listed in the DSP, no investment could be made. The DNI approach replaced this technique as part of the Indonesian Government's deregulation efforts.

NARRATIVE DESCRIPTION

**INDONESIAN LAWS AND REGULATIONS ON
PUBLIC PRIVATE PARTNERSHIPS AND
PRIVATE SECTOR PARTICIPATION IN THE
SECTORS OF WATER SUPPLY, WASTEWATER
AND SOLID WASTE**

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PURSE Report No 101 01/94/016

November 1994

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(c) **PT Company**

A foreign investment approved under the Foreign Investment Law must take the form of an Indonesian limited liability company, known as a 'Perseroan Terbatas' or PT. When this company is established and licensed under the Foreign Investment Law, it is often known as a "PMA" (the Indonesian acronym for foreign capital investment) or "joint venture company." This term is used loosely, the PT is not a joint venture in the American sense of a temporary business relationship for a specific project, but refers to the corporation to be established.

(d) **Required Business Forms for the Investor**

A foreign investor can be either a limited liability company or an individual, whereas the Indonesian investor can be a limited liability company (wholly-owned by Indonesian nationals), an Indonesian individual or an Indonesian cooperative.

(e) **Model I Application**

In order to initiate a foreign investment under the Foreign Investment Law, it is necessary to file a Model I PMA Investment Application with BKPM. A set of deregulation measures issued in October of 1993 (known as the "October Package") revised the Model I Application, a copy of which is attached as Appendix G.

The Investment Application identifies the investors, describes the proposed project including the intended name of the company, estimates the company's proposed annual production (or if the company is a service business, its projected annual sales), sets out the land area, if any, required for the company's operations, and specifies the number of proposed foreign and Indonesian employees. In addition, the investors must indicate the amount of the total foreign investment, which includes not only the intended equity capital, but the foreign loans to be obtained for the company. The application must also indicate the shareholding percentages of the foreign and Indonesian participants (if any), the projected time schedule to implement the investment, the proposed date for the commencement of commercial production and the power requirements for the project.

The foreign investor, and the Indonesian investor (if any), are required to submit certain attachments with the Model I Application.⁵ For the Indonesian investors, the attachments are a copy of its Articles of Association, if a company, a record of its basic rules, if a cooperative, or a copy of the investor's identification card, if an individual, and in any case a copy of the investor's tax registration number. The foreign participant, if a company, must supply a copy of its Articles of Incorporation, in English or Indonesian. In addition, the investor(s) must attach a flow chart of the manufacturing process, or the proposed company's business activities if the investment is in the services sector, a draft or executed joint venture agreement (in English or Indonesian), and a power of attorney if the application is not signed by the investors. The power of attorney is invariably required for the foreign investor.

⁵ The Model I/PMA has not yet been formally revised to take into account the possibility of wholly foreign investors.

(f) **Minimum Investment Levels**

Prior to Government Regulation No 50 of 1993 on the Requirements for Share Ownership in Foreign Capital Investment Companies (October 23 1993) (PP 50) BKPM generally required an investment level of at least US\$ 1 million Foreign investment in this context consists of both equity capital and foreign loans With the adoption of PP 20 the minimum capital requirements are deleted Decisions regarding the capital requirements for an investment are now left to the discretion of the investor(s) in light of appropriate commercial considerations BKPM does not impose strict debt-equity ratios and, except as noted below there is no minimum paid-in-capital requirement The investors thus have considerable latitude to decide how much of their total investment will be direct equity

(g) **Investment Incentives**

An approved Foreign Investment Law company is provided a range of investment incentives and guarantees by the GOI The Foreign Investment Law and BKPM policy permit access to foreign exchange for the free remittance of (i) dividends proportional to foreign ownership, (ii) proceeds from the sale of shares to Indonesian nationals, (iii) foreign loan payments (principal and interest), (iv) compensation in the case of nationalization and (v) repatriation of invested capital in case of liquidation As there are no foreign exchange controls in Indonesia, these guarantees are thus insurance against their applicability if adopted

Exemptions or reductions are also granted from import duties and value added taxes for certain imports related to the investment These include (i) a 100 percent exemption on import duties and an indefinite postponement of value added taxes on capital equipment for the approved project (the capital goods being subject to a limit equal to the amount specified in the approved Model I Application)⁶, (ii) a 50 percent reduction on import duties on support and auxiliary equipment (iii) a complete exemption, for two years' production, from import duties on raw materials, if the import duty is five percent or less, and otherwise a 50 percent reduction, (iv) a 100 percent exemption from import duties on consumable materials for one year's operations and on raw materials for one year's production and (v) a total exemption from import duties on personal effects for expatriate personnel, excluding liquor, tobacco and like items

Under the new tax law which was reported out of Parliament in October of 1994 and which was signed by the President on November 9 1994 (the "New Income Tax Law"), income tax incentives are permitted under Article 31A This provision and its Elucidation⁷ provide that a taxpayer which invests capital in certain fields of business and in certain regions may be granted tax facilities to be provided by Government Regulation The Elucidation limits this facility to the following

- (i) accelerated depreciation and amortization
- (ii) loss carry-forward for not more than ten years, and

⁶ A note must be made that under the new Value Added Tax Law to be effective as of January 1 1995 the postponement of value added taxes on the specified value added taxes objects may be limited to support export oriented companies located in a Bonded Zone and Entrepot Production for Export Purposes (EPTE) and other customs areas created only for such purposes

⁷ Elucidations are commonly enacted with laws and other promulgations and contain explanations of legal provisions

- (iii) reduction of Income Tax on dividends taxable under Article 26

Article 31A allows tax facilities to be granted pursuant to an agreement with other country or countries in the field of trade, investment and other sectors

(h) Term of Investment Approval

The foreign investment license granted by BKPM is for a period of 30 years from the date of commencement of commercial production [See Government Regulation No 24 of 1986 on the Validity Period of the License for Foreign Investment Companies (May 6 1986) as amended by Government Regulation No 9 of 1993 Regarding the Period of the License for Foreign Capital Investment Companies (February 17, 1993)] This term may be extended at the discretion of the Government and is automatically extended where an expansion of the project is approved As the Foreign Investment Law is only now approaching its 30-year anniversary the Government has not yet extended foreign investment licenses, but the Indonesian business community does not foresee any issue in this connection

(i) Maximum Foreign Ownership and Divestment Requirements

Prior to PP 20, the general rule was that the foreign investor could own only a maximum of 80 percent of the equity which had to be reduced to 49 percent or less within 20 years after the PMA company's commencement of commercial production With the adoption of PP 20, the Government no longer requires divestment by the foreign investor if the initial foreign investment is 95 percent or less For a PMA company which has 100 percent initial foreign ownership, the foreign shareholder must divest within 15 years after the PMA company starts commercial production PP 20 is silent as to what portion of the company's equity must be divested but it is reasonable to conclude that divestment would not be required to be more than five percent since a foreign investment project with that initial percentage of domestic investment would not be subject to further divestment

(j) Investment Application Approval

After an evaluation of the Model I/PMA Application, BKPM submits the application to the President of the Republic of Indonesia for approval When the application is approved by the President, BKPM so notifies the applicants The Notification of Presidential Approval is known as an "SPPP" and is, in effect, a temporary business license that permits the investors to go forward with their investment

(2) Post-Approval Matters

(a) Execution of Articles of Association

After the issuance of the SPPP, the investors are permitted to execute and file the articles of association for their company with the Indonesian Department of Justice This document is executed in notarial deed form by an Indonesian notary The usual time necessary to complete the Department of Justice's review is between 6 to 12 months Only after the

Department of Justice has approved the Articles of Association does the PT achieve limited liability. Before that period the parties operate as a company-in-information. In legal effect the investors have a partnership and for acts taken in the company's name the shareholders are jointly and severally responsible. Many companies engage in business during this period by acquiring land, constructing manufacturing plants and so on. They are permitted to do so by virtue of having executed the Articles and submitting them to the Department of Justice and having obtained the SPPP from BKPM. After the Articles are approved by the Department of Justice the shareholders' liability ceases, but the company's managers continue to be personally liable for the company's acts until such time as the Articles are filed at the district court of the PT's domicile and are published in the State Gazette. Publication of the Articles of Association in the State Gazette usually takes place more than one year after Department of Justice approval, and the directors' liability continues for this period. Typically, the shareholders and/or the company indemnifies the directors for acts taken in good faith during this period.

All Indonesian companies have a life limited to 75 years, but this term is renewable by the Department of Justice. As noted, the foreign investment law license issued by BKPM is limited to a term of 30 years, subject to renewal.

(b) Additional Permits

After the SPPP is issued, BKPM also issues additional permits and licenses. This process occurs concurrently while the Department of Justice reviews and approves the Articles of Association. Those permits and approvals include the following:

(i) master list approval, allowing the PT exemptions or reductions from import duties and indefinite postponement of value added tax and sales tax on luxury goods, on the importation of listed capital goods and related materials,

(ii) a limited import license (APIT), permitting the import of capital goods and certain raw and auxiliary materials for the company's own use,

(iii) a manpower utilization plan (RPTKA) approval of which is a precondition to the employment of expatriates, and

(iv) a permanent operating license (IUT). The IUT is issued when the PT is certified ready for the commencement of commercial production. (See Article 3, State Minister of Investment Funds Mobilization/Chairman of the Capital Investment Coordinating Board Decree No. 15/SK/1993 Regarding the Application Procedures for Domestic Capital Investment and Foreign Capital Investment (October 23, 1993).)

The local office of BKPM issues work permits for expatriate employees, and other regional offices of the Government also issue various permits and licenses.

B2 Branches of Foreign Oil Companies

A foreign oil company which executes a production sharing contract for oil and gas exploration or production in Indonesia with P N Pertamina the Indonesian national oil company is permitted to open a branch office in Indonesia by virtue of the production sharing contract. The branch office is permitted to employ both expatriate and Indonesian personnel and is subject to Indonesian income tax on its Indonesian operations and to Indonesian withholding tax on after-tax profits remitted abroad. These are the only branch offices of foreign companies that are now permitted to be opened in Indonesia. Foreign bank branches were allowed to be opened in 1968 but no new branches have been permitted.

B3 Technical Services Agreements and Licensing Agreements

Technical services agreements and licensing agreements are often entered into by Indonesian companies and foreign companies. Pursuant to a technical services agreement a foreign company agrees to provide expert manpower to an Indonesian company to assist it with its Indonesian operations. The foreign experts become employees of the Indonesian company and are paid by the Indonesian company. The foreign company has no business presence in Indonesia and is not subject to Indonesian income tax, unless it maintains a permanent establishment in Indonesia. If the technical services arrangement is structured incorrectly, a permanent establishment may be created. Under the New Income Tax Law if services are rendered in any form by an employee or other individual for more than 60 days within a 12-month period a permanent establishment may exist. (See Article 2(5)(j) of the New Income Tax Law.) This rule may be affected by an applicable tax treaty. In most of these transactions, certain residual employment ties are maintained between the seconded employee and the foreign company. Such ties may include stock option rights, pension fund benefits and the like. The employment relationship between the Indonesian employer and the seconded employee, and the protection that relationship provides to the foreign corporation from permanent establishment status, appears to be respected notwithstanding such residual ties.

The foregoing does not mean that the foreign corporation is free from tax on the technical services fees it receives. If technical services are provided in Indonesia to an Indonesian company, fees paid to the foreign company will be subject to Indonesian withholding tax. The tax rate is 20 percent of the gross proceeds remitted, subject to reduction if the foreign recipient is in a country that has a tax treaty with Indonesia. If the foreign corporation performs services for the Indonesian company solely outside Indonesia, fees should not be subject to Indonesian withholding tax. Under the present income tax law, if part of the services are provided both within and outside Indonesia, the tax authorities tend to treat the fees attributable solely to the services provided in-country and subject the entire amount to tax. Under Article 26 of the New Income Tax Law, fees for services provided outside Indonesia will be subject to withholding tax as of January 1, 1995.

Foreign companies also license technology, trade names and trade marks to Indonesian companies. All fees paid on such licenses are subject to Indonesian withholding tax under the same rate mentioned above, also subject to reduction by virtue of tax treaties. The licensing of

such technology and related intellectual property does not create a permanent establishment for the foreign company in Indonesia

In many cases, technical services agreements and license agreements are used in conjunction with foreign equity investments. A PMA manufacturing entity may receive a technology license from its foreign shareholder and enter into a technical services agreement to receive technical advice on the use of that technology via seconded employees to the Indonesian company. There is no prohibition on these arrangements under Indonesian law. Such arrangements allow the foreign investor to receive income from the PMA company, the expense of which may be deducted by the Indonesian entity against its Indonesian income tax. The Indonesian tax authorities may view such arrangements as disguised dividends and disallow the deduction in appropriate cases e.g., when the royalty rate is seen as too high.

B4 Representative Offices

A number of Indonesian Government Departments permit the formation of representative offices. Each of these representative offices requires a license from the Department concerned and none (with one exception) may engage in any profit-making activity. The purpose of a representative office is only to represent the foreign company and its business activities. The sole exception is a representative office licensed by the Department of Public Works which is permitted to engage in construction activity for profit, provided it forms what is known as a "joint operation" with an Indonesian contracting company licensed as a contractor by the Department of Public Works. In addition, the Department of Trade permits a representative office to be formed for purchasing Indonesian goods for export. This is not regarded as a profit making or trading activity. The specific application procedures to form representative offices under the jurisdiction of the Department of Trade and the Department of Public Works are set forth in Appendix H.

The Departments which presently issue representative office licenses are

- (i) the Department of Trade (for manufacturing and trading companies), pursuant to Minister of Trade Decree No. 78/KP/1978 Regarding Provisions on the Licensing of Representatives of Foreign Trading Companies (March 9, 1978),
- (ii) the Department of Public Works (for construction companies) pursuant to Minister of Public Works Decree No. 50/PRT/1991 Regarding the Licensing of Representative Offices of Foreign Construction Service Companies (February 7, 1991),
- (iii) Bank Indonesia (for banks) pursuant to Bank Indonesia Circular Letter No. 5/81/UPPB/PpB Regarding Provisions of Foreign Bank Representative Offices (August 16, 1972), as amended by Bank Indonesia Circular Letter No. 11/4/UPPK Regarding the Reporting of Loans, Guarantees and Other Investment Funds Made by the Legal Entity or Individual Abroad to Parties in Indonesia (October 8, 1978),

- (iv) the Directorate General of Sea Communications (for shipping companies) pursuant to Minister of Communications No KM 80/1988 Regarding General Agents and Representative Offices of Foreign Shipping Companies (November 21, 1988),
- (v) the Directorate General of Air Communications (for airlines) pursuant to Director General of Air Communications Decree No SKEP/02/I/85 Regarding Conditions and Provisions of an Undertaking of General Sales Agent (January 9, 1985), and
- (vi) BKPM (for regional representative offices), pursuant to Presidential Decree No 53 of 1987 Regarding Foreign Company Representative Offices (December 24, 1987), as implemented by Chairman of the Indonesian Capital Investment Coordinating Board Decree No 01/SK/1988 Regarding the Provisions of the implementation of Presidential Decree No 53 of 1987 Regarding Foreign Company Representative Offices (February 10, 1988)

C Domestic Investment

Indonesian nationals and companies wholly-owned by Indonesian nationals can engage in any business activity open to foreigners. The DNI also restricts and conditions investments by Indonesian businesses and thus must be consulted in any particular case. Indonesian nationals and companies wholly owned by Indonesian nationals may make investments in a variety of forms

C1 Ordinary Limited Liability Companies

They may form ordinary limited liability companies under Articles 36 to 56 of the Indonesian Commercial Code, which requires only Department of Justice approval

C2 Domestic Investment Law Companies

They may invest under the Domestic Capital Investment Law pursuant to Law No 6 BKPM approval is required, as a condition to obtaining duty-free import facilities. This process is commenced by filing a Model I/PMDN Application. The process for obtaining approval is similar to that for a PMA Company

C3 Partnerships

They may also form various types of partnerships. There are three types of partnerships recognized under Indonesian Civil Code: (i) Maatschap (in Indonesian "Persekutuan Perdata") (ii) the Firma, and (iii) Commanditaire Vennootschap, often abbreviated as a "CV"

a Maatschap

The Maatschap is the basic partnership form. The provisions governing a Maatschap are found in Book 3 of the Indonesian Civil Code of 1848, which defines the general character for all three types of partnerships. The Maatschap is the business form customarily used by consultants, lawyers, notaries and other professionals.

Article 1618 of the Indonesian Civil Code defines a Maatschap as a contract whereby two or more persons agree to contribute something together in order to share the profit accruing from the common assets. The Maatschap can be formed through a simple contractual agreement and no formal filing or governmental approval is required. The contract can be written or oral or can also be implied from the action of the parties. The Maatschap generally acts under the name of the partners, though this is not a legal requirement. According to the provisions of Article 1618 of the Indonesian Civil Code, agreement upon two matters is required to constitute a Maatschap contract: (a) the respective contribution of each party, which may take the form of money, goods, skills or effort, and (b) the intention to share in the profit as co-owners. The contribution of goods need not take the form of a transfer of title to the Maatschap but may consist of the right to use the goods for the benefit of the Maatschap. Where property is held in the name of the Maatschap itself, a special form of co-ownership known as a binding co-ownership is created, whereby the partners hold an undivided interest in the property in proportion to their respective interests in the partnership.

b Firma

The Firma is a partnership form which is generally utilized for commercial trading and service enterprises. The rules pertaining to a Firma are set forth in Title 3, Section 2 of the Indonesian Commercial Code.

c CV

The CV corresponds to the limited partnership known to American law. A CV is also subject to Title 3, Section 2 of the Indonesian Commercial Code of 1848.

The CV is governed by Article 19 of the Indonesian Commercial Code, which states that the CV is a partnership consisting of one or more ordinary partners and one or more silent partners. An ordinary partner is personally liable for the debts of the partnership. A silent partner who only contributes capital to the partnership is liable only to the extent of his contribution. The presence of silent partners is the essential feature of a CV. The status of a silent partner is significantly different from that of a creditor. A silent partner only has a right to share in the partnership's profits, to the extent of his contribution. A silent partner shares in the losses as well as the profit of the partnership but in either case he gains or loses only to the extent of his contribution. The legal status of a CV is regarded as a separate legal entity which may have its own assets separate from the private assets of the partners.

C4 Cooperatives

Indonesia also recognizes cooperatives which were originally regulated by Law No 23 of 1967, until revoked and replaced by Law No 25/1992 regarding Cooperatives (October 21, 1991) ("Law No 25") Under Law No 25, a Koperasi is an economic organization of a social character comprised of persons or cooperative societies as members and formed as an economic entity to function collectively for the mutual benefit of its members A Koperasi can be established in the form of a legal entity with the approval of the Government The Government exercises its authority through to the Minister of Cooperatives and Small Enterprises

D State Enterprises

In 1960, Indonesia promulgated Law No 19 of 1960 concerning State Enterprises ("Law No 19") Based on Law No 19, state-owned enterprises, or "Perusahaan Negara", are all enterprises in which the entire capital is the property of the Republic of Indonesia

A Perusahaan Negara is a corporate body and acquires that status by a specific Government Regulation or Law establishing it The enterprise can possess property and can act separately from the GOI

The capital of a state-owned enterprise consists of state property duly separated from that of the GOI, but it is not divided into shares Pursuant to Law No 9 of 1969, Regarding the Forms of State Undertakings (August 1, 1969), state enterprises could take any one of three forms

D1 The PERJAN

The PERJAN is formed to provide public services PERJAN are not enterprises in the traditional sense of the word but are a more or less an independent part of the Government apparatus They are a sub-division of a Department, a directorate general of a Department or a Regional Government, and in this capacity possess a public character The PERJAN is not separate corporate body and does not have a separate capital divided into shares

D2 The PERUM

The activities of the PERUM are directed to looking after the public interest and making a profit PERUMs mainly operate in the field of public utilities and have the status of a corporate body which are regulated by law As a corporation, a PERUM can make a profit, possess its own name, property and freedom of movement as a private enterprise to enter into agreements, contracts and other relations with other parties Supervision of the PERUM is by a relevant Minister

D3 The PERSERO

This enterprise has the status of a corporate body and it is established in the form of a limited liability company based on the Indonesian Commercial Code. The capital of the PERSERO is entirely or partly state property but is separated from the property of the state and has capital divided into shares. The role of the Government is merely as a shareholder of the PERSERO. By the promulgation of the Government Regulation No. 3 of 1983 regarding Procedures of Guidance and Supervision of Perjan, Perum and Persero (January 25, 1983) ("PP 3"), the Perjan, Perum and Persero are all considered as "Badan Usaha Milik Negara" (a state-owned company), and are most often known by their Indonesian initials, "BUMN".

SECTION VI PRIVATE PARTICIPATION IN PUBLIC UTILITIES

The participation of the private sector in infrastructural activity in general for the supply of clean water and the management of both solid waste and waste water is not well-developed, whether the investment is from foreign or domestic sources. As noted above, until the adoption of PP 20 earlier this year, foreign investment in many of these activities was not permitted or was conditioned, and there are controversial areas (such as the mass media) where foreign investment may not be permitted notwithstanding the adoption of PP 20. Private sector participation, including foreign investment, has been permitted earlier in some public utility areas, such as electric power projects and telecommunications. This Section VI illustrates the relevant legislation on public utilities in general, and Section VII provides a detailed discussion on the sectors of water supply, waste water and solid waste.

A Electric Power

Law No. 15 of 1985 (December 30, 1985) ("Law No. 15") opened the electric power business to investment by cooperatives and private entities, established the basic framework for private participation in the electric power business and gave the opportunity to supply electric power to entities that obtained a Permit for Electric Power Business (Izin Usaha Ketenagalistrikan, commonly referred to as an "IUKU"). Law No. 15, however, did not define the term "private entities". Government Regulation No. 10 of 1989, Regarding the Supply and Use of Power (July 25, 1989) ("PP 10") required such private entities to be in the form of Indonesian limited liability companies, but did not address the issue of whether these entities could be foreign investment law companies formed under the Foreign Investment Law.

Foreign investment in electric power projects was first expressly permitted by Presidential Decree No. 37 of 1992, regarding the Supply of Electricity by the Private Sector (July 9, 1992) ("Keppres 37"). Keppres 37 also established the basic procedure by which private electric power projects are approved by the GOI. This procedure is now chiefly regulated by the Minister of Mines and Energy, pursuant to Minister of Mines and Energy Regulation No. 02 P/03/M PE/1993, regarding the Implementation of the Business of Electric Power Supply by Private Companies and Cooperatives in the Interest of the Public (February 24, 1993) ("Regulation 2"). Keppres 37 permits private entities, including those in the form of PMA companies, to engage in the "business of power supply". The term "business of power supply" is defined in Article 1 of Keppres 37 to mean "all kinds of business in the supply of electricity undertaken by private companies and cooperatives as holders of a public electricity business license".

Law 15 divides the electric power business into two main sectors

- (i) Electric power supply which includes
Electric power generation,
Electric power transmission, and
Electric power distribution
- (ii) Electric power support, which includes
Provision of consultancy services relating to the supply of electric power,
Construction and installation of electric power equipment,
Maintenance of electric power equipment, and
Development of the technology of equipment which supports the supply of electric power

Article 9 of Law 15 indicates that the electric power support business will be further regulated by Government Regulation, but as yet no Government Regulation have been issued for this activity. PP 10, Keppres 37 and Regulation No. 2 apply only to the electric power supply business.

Regulation No. 2 governs the procedures and steps that must be followed and the approvals and licenses that must be obtained in order for an electric power supply project to be established in Indonesia. This Regulation classifies electric power projects as either "solicited" or "unsolicited".

A solicited project is described in Article 6 of Regulation 2 as a project with respect to which "the participation of a prospective investor in the supply of electric power is implemented through a tender participated in by a prospective investor selected in pre-qualification."

An unsolicited project is described in Article 24(1) of Regulation 2 as a project with respect to which "prospective investors proposing projects in the framework of the electric power supply shall file an application to the Minister through the Director General."

The dispositive factor that determines the classification of a project as "solicited" or "unsolicited" is the identity of the party that initiates discussions for its establishment. If the Government invites proposals and advertises that it is seeking to establish a power project, such project is a "solicited" project, while if an entity or group of entities approaches the Government concerning the establishment of a power project, then it is an "unsolicited" project.

The classification of a project as "solicited" or "unsolicited" determines the particular procedures that must be followed, and the particular licenses and approvals that must be obtained, in connection with its establishment. This classification also has two other prime effects: it determines the parties that may purchase electric power from the supplier thereof and the procurement process that the Department of Mining and Energy ("DOME") must

follow as it decides whether to approve of a particular project and the builder owner or operator thereof

With respect to who may purchase the electric power generated by a power project, Article 5(1) of Regulation 2 provides that for solicited projects, the power must be sold to the Holder of the Authority for Electric Power Business (a "PKUK") Currently, the state-owned public electricity company, P T (Persero) Perusahaan Listrik Negara ("PLN") is the only PKUK For unsolicited projects, Article 30(2) of Regulation 2 permits a candidate IUKU holder of an unsolicited project to negotiate with a PKUK, any IUKU holder or the public-at-large as prospective buyers of electric power and with prospective lessees of a distribution network or a transmission network

As mentioned above (see page 9), the production, transmission and distribution of electricity was permitted by PP 20 The legislation discussed above obviously already permitted the production of power transmission of electricity Other than setting the parameters of initial foreign investment percentages, the purpose of mentioning electric power distribution in PP 20 was somewhat unclear

B Telecommunications

Pursuant to Law No 3 of 1989 on Telecommunications (April 1, 1989) ("Law No 3"), the management of telecommunication services is organized by the Government and is to be entrusted to an "operating agency" (Article 12 paragraph (1)) Under Government Regulation No 8 of 1993 on The Operations of Telecommunications (February 16, 1993) ("PP 8"), such "operating agency" is obligated to construct or make available telecommunication networks (Article 12) P T Telkom, under Government Regulation No 25 of 1991 on The Exploration of the Form of Telecommunication Public Corporation (Perumtel) to become a State Limited Liability Company (PT Persero) (May 1, 1991) ("PP 25") is the operating agency responsible for domestic basic and non-basic telecommunication services In order to attain the telephone unit installations and in keeping with the spirit of Law No 3, P T Telkom has invited the private sector to participate in the development of telecommunications facilities pursuant to which the private sector can share in the revenues generated from such facilities These arrangements are called revenue-sharing patterns or "PBH" (Perjanjian Bagi Hasil) The use of the private sector and the establishment of PBH arrangements is expressly permitted by Decree of the Minister of Tourism, Post and Telecommunication No KM 39/KS 002/MPPT-93 on The Cooperation in the Operation of Basic Telecommunication Services (February 27, 1993) ("MTPT Decree 39")

Under a PBH, P T Telkom may grant to a private party the right to install a given number of lines in a certain geographical area and construct the infrastructure required therefor, the cost of which is to be borne by the private party In return for performing this installation and construction, the private party is entitled to receive a percentage of the revenue generated by the telephone lines installed by the private party for a specific period of time, called a "revenue sharing period"

C Toll Roads

Private investment is permitted in toll roads. P T Jasa Marga, a state-owned company established pursuant to Government Regulation No. 4 of 1978 (February 25, 1978), has been given the authority for the construction, management and maintenance of toll roads in accordance with Government Regulation No. 8 of 1990 on Toll Roads (March 24, 1990). Pursuant to Presidential Decree No. 25 of 1987 Regarding the Performance of Part of the Tasks of Operating Tollroads by Joint Ventures (July 20, 1987) ("PD 25"), the Minister of Public Works has been granted the authority to permit P T Jasa Marga to have national and foreign private business companies take part in the realization of projects which include construction, operation, and maintenance of toll roads.

Private participation in tollroads may be carried out by any format capital investment. The investment must be in cooperation with PT Jasa Marga by a joint venture or in management, and the control of the tollroad must remain in the hands of the State.

The toll road sector consists of (i) the provision of toll road networks, (ii) the management and maintenance of toll roads, and (iii) the operation and management of facilities on toll roads or related to toll roads.

SECTION VII
PRIVATE PARTICIPATION IN URBAN ENVIRONMENTAL INFRASTRUCTURE -
WATER SUPPLY, WASTE WATER AND SOLID WASTE

A Laws and Regulations of General Application

This Section of the Report deals specifically with PPP-PSP in the three sectors of Water Supply, Waste Water and Solid Waste. However, before proceeding to a discussion of the laws and regulations that deal individually with each of these areas, we would like to discuss the laws and regulations that impact generally on all three of sectors.

We refer the reader to Appendix I, which describes the organizational structure of the Department of Public Works. This information may be important to an understanding of other Sections of this Report. This Section focusses first, on the transfer of certain Central Government authority over these areas to the Provincial and Municipal Government levels. Second, we consider the provisions of the Minister of Home Affairs Regulation No. 4 of 1990 Regarding Procedure on the Cooperation between Regional Enterprises and Third Parties (March 16, 1990) ("MOHA Regulation 4"), which provides for the manner in which regional enterprises may cooperate with the private sector. Third, we discuss examples where laws and regulations specifically permit or reference build, own and operate projects ("BOO Projects") and build operate and transfer projects ("BOT Projects"). Next, we focus on laws and regulations that permit the Regional Governments to participate in third-party activities. Finally, we include a brief description of governmental procurement policies, as contained in Presidential Decree 16 of 1994, Regarding the Implementation of the State Revenues and Expenditures Budget (March 22, 1994) ("Keppres 16").

A1 Transfer of Part of Public Works Affairs to the Provinces and Municipalities

As noted in Appendix I, the DOPW is responsible for the development of the public works sector. Government Regulation No. 14 of 1987 Regarding Transfer of Part of Governmental Affairs in the Field of Public Works to the Regions (June 27, 1987) ("PP 14") represents the Central Government's decentralization effort by giving the provinces and municipalities more autonomy in the field of public works. PP 14 replaced Government Regulation No. 18 of 1953 Regarding Implementation of Transfer of Part of Central Governmental Affairs in the Field of Public Works to Provinces and Confirmation of Tasks in the Field of Public Works of Municipals, Big Cities and Small Towns in Java (April 16, 1953), which dealt with the same subject and provided for a significant transfer of part of the Central Government's functions in the field of public works to the Provinces (Level I) and Municipalities (Level II).

The significant matters that are transferred include

a Irrigation

(1) The irrigation sector activities that are transferred to the Provinces (Level I) are execution and compliance of the plans for irrigation water supply, the issuance of licenses on the use of irrigation water, the determination of priorities for irrigation water distribution the execution of development, repair, and maintenance of irrigation networks drainage and buildings the construction of safeguards for securing irrigation functions and their related structures within the Provinces concerned, and the issuance of licenses for changing and/or removing structures and irrigation network channels

(2) The irrigation sector activities that are transferred to the Municipalities (Level II) are the formation and/or development of farmers' organizations using water and the development, rehabilitation, exploitation and maintenance of irrigation networks including ancillary irrigation infrastructure

b The Directorate General of Housing, Construction Planning and Urban Development (Cipta Karya)

(1) The Cipta Karya activities transferred to the Provinces (Level I) are supervision of planning, development, maintenance and management of clean water using pipe systems and artesian wells, planning, procurement and management of clean water, supervision and coordination of development, maintenance and management of infrastructure for clean water supply, garbage disposal, waste water, urban drainage and related infrastructure used by more than one Municipality

(2) The Cipta Karya activities transferred to the Municipalities (Level II) are the development, maintenance and management of infrastructure and related facilities for clean water supply, garbage disposal, waste water, drainage infrastructure in urban regions, and waste water disposal in urban regions ⁸

Except for the Special District of the Capital of Jakarta ("DKI Jakarta"), the Provincial and Municipal Governments may implement the functions transferred to them by establishing public works services for Irrigation and Cipta Karya within the Provinces and Municipalities (Dinas Daerah) The Minister of Home Affairs ("MOHA") is required to establish a guideline for the formation of an organization and work procedure of public works services for use by the Provinces

In executing public works affairs, the government heads of the Provinces and Municipalities must submit a periodic report to the MOPW and the MOHA The government heads of the Municipalities must also submit a report to the Governor of the relevant Province

We note that PP 14 provides that the transfer of delegated public works affairs must be done gradually in accordance with the capability of the relevant Province or Municipality and the Central Government continues to have ultimate and continuing authority over both

⁸ There are similar delegations of authority for Bina Marga activities which have no bearing on the present discussion.

delegated and non-delegated public works affairs. For example, the MOPW remains responsible for regional services (Dinas Daerah). Consequently, the Central Government may withdraw the delegated powers if it deems necessary. Pursuant to PP 14, the assets related to the delegated powers, including public charges and revenues, become the property of the Provinces and Municipalities, as appropriate. In that connection, the Provincial (Level I) and Municipal (Level II) Governments are authorized to promulgate regional regulations with respect thereto.

A2 Regional Enterprise Cooperation in the Private Sector

MOHA Regulation 4 applies to any form of cooperation by regional enterprises with third parties. MOHA Regulation 4, which revoked the previous regulation dealing with the same subject, is the basis for cooperation between regional companies and private entrepreneurs. MOHA Regulation 4 provides for a variety of forms of cooperation. Pursuant to Article 5 thereof, cooperation may be made in the form of

- a cooperation on management, operational, profit sharing, joint venture, financing or production sharing,
- b management contract, production contract, profit-sharing contract and business-area-sharing contract,
- c the purchase of shares or bonds from a limited liability which is legally established and has good prospects,
- d agency, license to use, and dealerships,
- e the sale of shares and bonds, privately and by public offering,
- f technical assistance from national or foreign consulting firms, or
- g any combination of two or more forms of cooperation described above.

MOHA Regulation 4 prohibits a change of the legal entity's status as a regional enterprise as a result of such cooperation with a third party.

Both the regional enterprise and the third party which conduct the cooperation are required to comply with the Regulation's requirements. These requirements are

a Requirements Imposed on the Regional Enterprise

- (1) it must have legal status as a regional enterprise, in accordance with existing laws and regulations,

- (2) it must possess a board of directors and a board of supervisors and employees assigned to such cooperation,
- (3) it must possess a plan business and feasibility study on the prospective business of the proposed joint venture, prepared by an expert in the field concerned, and
- (4) it must own its own property

b Requirements Imposed on the Private Party

Any prospective party intending to cooperate with a regional enterprise should have the same business objectives as the regional enterprise and meet the following requirements

(1) It must possess the following

- (i) legal status as a business firm,
- (ii) If an individual, he or she should possess a tax identification number ("NPWP"), and
- (iii) If a foreign company or institution, it should possess a permit or recommendation from the competent Indonesian Government authorities

(2) It must be a credible business, i e , it must be experienced in the business endeavor sought and have adequate working capital

c Requirements Depending on the Investment value of the Business Activity

Cooperation with third parties shall be conducted by the Board of Directors of the regional enterprise subject to the following conditions

- (1) If the investment value is less than Rp 500 000 000,- with a term of the cooperation of not more than one year, the cooperation can be implemented without the prior approval from the authorized official of the Province or Municipality concerned
- (2) If the investment value is between Rp 500 000 000,- and Rp 1 000 000 000, with a term of cooperation from one year to five years, the cooperation requires approval of the authorized official of the Province or Municipality concerned
- (3) If the investment value is more than Rp 1 000 000 000, and the cooperation has a term of more than five years, approval by the MOHA is required

- (4) Any investment with value or term not specified above may be implemented with the approval from the relevant Government level

General directives on the cooperation between regional enterprises and third parties are provided by the MOHA through his Director General of Public Administration and Local Autonomy (PUOD) and general supervision is conducted by the MOHA and the governmental head of the relevant Province or Municipality. For example, there is a specific MOHA decree on guidelines and supervision of regional government drinking water enterprises known by its Indonesian initials as "PDAM", discussed briefly on page 68

A3 Laws and Regulations that Permit BOO and BOT Projects

a Build, Own and Operate ("BOO") Projects

The BOO financing structure is recognized under Indonesian law as a financing structure for the electricity sector. It is expressly stated in Article 2(2) of Keppres 37 that the BOO structure is the preferred structure in the area of power supply by the private sector, though other structures are also possible. MOME Regulation No 02 P/03/M PE/1993 Regarding the Implementation of the Undertaking of the Electricity Power Supply by Private Sectors and Cooperatives for Public Benefits (February 24, 1993) also provides that participation of investors in the electric power supply business shall prioritize the build, own and operate method, as specified by the Government in tenders participated in by pre-qualified participants. There are no further regulations as to how to structure such BOO arrangements.

b Build, Operate and Transfer ("BOT") Projects

As to BOT, Indonesian laws make no reference to BOT structures as traditionally recognized.⁹ We note, however, that MOME Regulation No 03 P/036/M PE/1993 Regarding Cooperation between Pertamina and Private Companies in Oil and Gas Refining and Processing (February 27, 1993) ("MOME Reg 03"), which implements Presidential Decree No 42 of 1989 (August 4, 1989) regarding the same subject, appears to contemplate the BOT approach. Pursuant to MOME Reg 03, cooperation with Pertamina in this activity shall cover two stages:

- (i) cooperation in the construction of oil and gas refineries, where the private companies participating are to bear all costs required for the preparation and construction of refineries, and
- (ii) cooperation in the operation of oil and gas refineries, where private companies shall bear the costs required for the operation of refineries

⁹ SSEK's sub-contract with Chemonics provides a definition of BOT as a specific type of "public private partnership" in which a private sector organization will be responsible for construction and operation of an infrastructure project which provides a public domain infrastructure service.

Further, pursuant to Article 9 of MOME Reg 03, oil and gas refineries and supporting infrastructures can be transferred from private companies to Pertamina. There is no express requirement that the refineries must be so transferred.

A4 Laws and Regulations that Permit Regional Governments to Invest in Third Parties

As stated in Regulation of the Minister of Home Affairs No 3 Year 1986 Regarding Regional Capital Participation in Third Parties (October 1, 1986) ("MOHA Reg 3"), the purpose of share capital participation in third parties is to improve regional economic growth and to increase regional earnings. The capital participation of a region may be made in the form of

- (i) acquisition of shares in an established or prospective limited liability company,
- (ii) establishment of a new limited liability company, or
- (iii) a management contract, production contract, profit sharing contract, production sharing contract and share facility arrangement

The funds to acquire an interest in, or participate as a founder of, a limited liability are required to originate from the regional budget.

MOHA Reg 3 calls for a Regional Regulation as approved by the House of Regional Representatives to further stipulate the participations specified in (i) and (ii) above. For a contract is referred to in sub-paragraph (iii) above, a decree of the head of the region, ratified by the MOHA is needed, unless the contract has a term of less than five years, in which case the approval from the head of the Provincial Government is all that is required. Notice, however, must be given to the MOHA.

The MOHA continues to have a supervisory function. Assisted by the Director General of Public Administrative and Local Autonomy, the MOHA is authorized to provide general supervision of the Provincial or Municipal Government's participation in third party businesses.

Profit from participation in a third party business must be remitted to the relevant Provincial or Municipal Government's account and credited to the appropriate regional budget for the following year's account.

A5 Indonesian Government Procurement Policy as Expressed in Presidential Decree No 16 of 1994

The basic framework of the Indonesian Government's procurement of goods and services is set forth in Presidential Decree No 16 of 1994 regarding the Implementation of the State Revenues and Expenditures Budget (March 22, 1994) ("Keppres 16"). It comprises five

chapters subdivided into 92 Articles, three Attachments and an Official Elucidation. Keppres 16 further provides for the establishment of an interministerial team consisting of the Coordinating Minister for the Economy, Finance and Development Supervision (EKPU), the Minister of Finance and the State Minister for National Development Planning, to issue additional guidelines in the form of a Procurement Manual for the purposes of implementing Keppres 16 (Keppres 16, Article 90). It is expected that an official English translation of both Keppres 16 and the Procurement Manual will be issued and distributed. A number of Government Departments and state-owned enterprises will also issue their own implementing regulations in respect of Keppres 16.

The rules applicable to Government procurement are set out in Articles 21 through 30 of Keppres 16 together with Attachments I through III. These rules are applicable to the central Government and its Departments and Institutions as well as Level I and Level II administrations (Article 23(1) and (4)). Additionally, Keppres 16 applies to BUMN and BUMD in connection with procurement for "investment purposes" (Article 23 (5)). In cases where the procurement is made for "operational/exploitation purposes", Keppres 16 instructs the Boards of Directors of the relevant BUMN and BUMD to be "guided by" Keppres 16 implementing the procurement based on "principles of appropriateness, effectiveness and efficiency" ¹⁰ (Article 23 (5)(c)). Keppres 16 contains three essential principles, each of which is briefly summarized below.

a Preferences for the "Economically Weak Group" and Local Contractors

Keppres 16 provides preferences in the award of some contracts, particularly those of smaller amounts, to contractors from the so-called economically weak group and to local contractors.

(1) Economically Weak Group

Keppres 16 provides that Indonesia's economically weak group, defined as indigenous Indonesian people, should be given preferences by the Government in its procurement of goods and services (Keppres 16 Elucidation, Article 21 (5)). To be classified as contractors from the economically weak group within the meaning of Keppres 16, companies must satisfy certain criteria: (i) the majority of working capital must be owned by the economically weak group members, (ii) the majority of the boards of directors and commissioners must consist of economically weak group members, and (iii) the total capital or net assets of the company of the company in the fields of trade and services must be below Rp 100 million, and, in the fields of industry and construction, below Rp 400 million.

¹⁰ The Official Elucidation to Keppres 16 explains that goods and services which are operational or exploitation in nature may be either expensed items or non-expensed items. The general thrust of the Official Elucidation appears to be that fixed assets (i.e. capital goods) are considered to be for investment purposes within the meaning of Article 23 (5) (a) and, therefore, Keppres 16 is fully applicable to the procurement thereof whereas consumables and certain assets with a limited period of economic benefit are considered to be operational or exploitation in nature and, therefore, Keppres 16 does not strictly apply. The Official Elucidation also requires that the regulations regarding procurement of "operational or exploitation" goods and services for each BUMN and BUMD be put in writing.

(2) Local Contractors

Keppres 16 also provides that local contractors (which may or may not include economically weak group members) should also be given preference on contracts up to certain amounts. The "local contractor" must be established in the regency (Kabupaten) or municipality (Kota Madya)¹¹ where the project is located, or must have been granted a license from the relevant local government. Further, a majority of the management and employees of the contractor are required to be inhabitants of such regency or municipality. If no local contractor meets the requirements, then a qualified local contractor will be sought from the Regency or Municipality nearest the project's location in accordance with a specified order of priorities.

b Specified Tender Procedures for Contracts of Specified Amounts

Article 21 of Keppres 16 provides that the execution of a purchase can be done in four ways depending on the contract amount involved:

- (i) **Public Tender** A Public Tender is a tender that is generally advertised and open to all those who are interested and qualified to participate. In general, contracts of over Rp 50 million can only be awarded on the basis of a Public Tender or a Limited Tender.¹²
- (ii) **Limited Tender** A Limited Tender is a tender for certain works participated in by at least five contractors included on the List of Selected Contractors ("DRT"). The DRT is a list of contractors with particular qualifications and capabilities compiled from among contractors registered on the list of Capable Contractors ("DRM"). The DRM is a list of Government-approved contractors of goods and services, classified by business sectors and capabilities. As noted above, for contracts exceeding Rp 50 million a Limited Tender or a Public Tender is generally required.¹³
- (iii) **Direct Selection** Direct Selection is the procurement of goods or services without a Public or a Limited Tender, carried out by comparing at least three bidders and conducting technical and price negotiations, until a feasible and technically accountable price is obtained from a qualified contractor listed on the DRM. Direct Selection may be used to award contracts in excess of Rp 15 million and up to Rp 50 million.

¹¹ Both Kabupaten and Kota Madya are considered Level II authorities.

¹² Certain types of infrastructural projects, including clean water installations undertaken by Regional Drinking Water Companies (PDAM or Perusahaan Daerah Air Minum) are expressly exempted from this requirement. (Keppres 16 Article 22 (10) (a))

¹³ See footnote 12 above.

- (iv) **Direct Procurement** Direct Procurement is the purchase of goods or services from an economically weak group company without any Public or Limited Tender or Direct Selection. Contracts in excess of Rp 5 million and up to Rp 15 million may be awarded by Direct Procurement.

c Preference for Domestic Goods and Services

Article 23 (1)(a) of Keppres 16 sets forth the basic principle that in executing Government purchases, domestic products must be given priority as far as possible, and national capabilities and potentials must be observed. Keppres 16 further provides that in using domestic products, the Government must ensure that (i) the terms and conditions of the contract clearly require the use of local goods and services, (ii) that in implementing the procurement, proper inspections are carried out to ensure that local goods and services are truly being provided, (iii) that if certain domestic goods are produced with imported materials, then priority must be given to products with the fewest imported materials, and (iv) that in executing such contracts, Indonesian National Standards should be used to the maximum extent possible (Article 24 (2)).

Special rules under Keppres 16 also apply to foreign-funded projects, whether in the form of foreign aid or foreign commercial credits (Keppres 16 Attachment I, Section VI Attachment II, Section IV). In general, foreign contractors in many cases will have greater opportunity to participate in projects funded from abroad, although Indonesian national priorities and policies (including preferences given to "national contractors") will continue to be observed to the extent possible. In this regard, we note that the term "national contractor" is defined simply as a contractor which is an Indonesian legal entity (Keppres 16, Attachment II, Section I 9). It appears, therefore, that PMA companies will be treated as national contractors for purposes of Keppres 16.

B Private Participation in Water Supply

B1 The 1945 Constitution

Article 33 of the Indonesian Constitution of 1945 provides that "production branches which are important to the country and which provide for the needs of the people must be under the control of the State", and "earth, water and other ground resources have to be controlled by the Government for the maximum benefit of the people". Article 33 thus enshrines the concept that Indonesia's natural resources - and specifically "water and its resources" - belong to the nation and are to be utilized for the benefit of the Indonesian people.

B2 The Foreign Investment Law

The Foreign Investment Law prohibited foreign investment in certain specific areas, if foreigners had full control. These activities included nine areas that were considered important to the country and critical to the prosperity of the people. Among these activities is drinking water. It is not clear what was intended by "full control", but it is assumed that this phrase

means 100 percent foreign ownership, which was permitted when the Foreign Investment Law was first adopted. This interpretation is consistent with PP 20, which allows foreign investment in drinking water, if the maximum foreign equity is 95 percent. PP 20 thus removes any doubts about foreign investment in this sector. However, PP 20 does not provide any details as to how the drinking water sector should be structured and specifically whether it should be accomplished in cooperation with any Governmental entity or agency.

As noted above (see page 14), the BKPM formerly issued an investment list called the DSP. Under the 1986 DSP, "drinking water plant" was an activity open for foreign and domestic capital investment. However, there was no elaboration on what was meant by this term. The 1986 DSP provided that an investment in drinking water had to be undertaken through an unspecified form of cooperation with a Drinking Water Regional Enterprise, i.e., a PDAM. The 1987 DSP specified that in making an investment in drinking water plant, the cooperation had to be with the "Regional Government." Again, the form of cooperation was not specified. As will be noted from our general discussion above, neither the 1986 DSP nor the 1987 DSP are now effective, as the DNI is now used. The current DNI does not list drinking water as a prohibited or conditional business sector and therefore both foreign and domestic investments are permitted in these areas, subject to laws and regulations, including PP 20.

B3 Law No 11 of 1974

The first post-independence legislation dealing specifically with water resources was Law No 11 of 1974 on Water Resources (December 26, 1974) ("Law No 11"). Articles 2 and 3 reiterate the constitutional principle that water resources have a social function and that their exploitation should be for the maximum prosperity of the people and should be controlled by the State. Article 3 (2) gives specific authority to the Government to

- a manage and develop the use of water or its resources,
- b formulate, stipulate and issue licenses regarding water resource management,
- c organize, legalize and issue licenses for the purpose of allocation and use of water resources,
- d organize, legalize or issue licenses for the exploitation of water resources, and
- e determine and arrange legal deeds and legal relations between persons and/or legal entities in water resources matters "

Article 3 thus gives the Government the right to manage and control the resource, while also specifically permitting, in Article 3(2)e, the Government to cooperate with persons and legal entities in this sector. Article 4 of Law No 11 further specifically provides that the Government's authority referred to in Article 3 "may be assigned to Government institutions, Central or Regional and/or certain legal entities which conditions and procedures shall be arranged by Government Regulation." Private sector participation is also contemplated by Article 11 of Law No 11, dealing with exploitation of water resources, which provides as follows

"Legal entities, social entities and/or private entities which conduct water and or watersprings exploitation, must obtain Government approval, to be conducted on a cooperative basis and family principles "

The foregoing articles thus appear to open this sector to participation by private entrepreneurs The official Elucidation to this Article confirms the intent that the people be allowed to participate in the development and exploitation of water resources

Article 11(3) of Law No 11 contemplates that a further Government Regulation will be issued concerning PPP-PSP Article 4 of Law No 11 also contemplates a further Government Regulation on water resources matters However, the only Government Regulation that have been issued relevant to this sector to date are Government Regulation No 22 of 1982 Regarding Procedures of Water Arrangements (August 12, 1982) ("PP 22") and PP 14 as discussed in the preceding section, at pages 41 to 44 PP 22 is discussed in detail below

Article 14 of Law No 11 deals with the financing of "Procedures of Water Arrangement and Development", and provides as follows

"All financing to conduct activities in the framework of Procedures of Water Arrangement and Development shall be subsequently provided by Government Regulation"

Article 14 thus appears to require people or entities that receive the benefit of water resource development to contribute to the costs of such development This phrase is capitalized in Law No 11, which normally is done to signify a specifically defined term However, the phrase is not defined in Section 1 of Law No 11 or elsewhere in that Law The following phrases are defined, but it is not clear that both of the following were intended to be included within the scope of Article 14

"1 6 Procedure of Water Arrangement

"Procedure of Water Arrangement is all effort to arrange the guidance for the ownership, possession, management, use, exploitation, and control of water resources, including non-animal natural riches contained therein, for the maximum benefit of the People"

"1 9 Water Resources Development

"Water Resources Development is all effort to develop the use of water resources in accordance with organized and harmonious planning and technical planning for the maximum benefit of the people "

It is to be noted that a major part of water resource development is "irrigation" Irrigation is not defined in Law No 11 but is referred to in the official Elucidation Paragraph 3 of the official Elucidation's General Explanation provides a circular definition, insofar as water resources are not just for the use of agricultural (irrigation) activities, but are also meant to include irrigation in the case of "the supply and management of water to support agricultural activities involving ground and surface water" (emphasis supplied) In addition, irrigation

for agricultural activities includes the development of swamp areas for agricultural purposes flood control the supply of drinking water urban water water for industry the prevention of water pollution, and other uses These various terms are not defined

Law No 11 also provides in Article 12 that the exploitation and maintenance of irrigation facilities may be conducted by legal entities or private individuals who directly enjoy such facilities, pursuant to a Government Regulation The development of facilities for the public generally is required to be conducted by the Central or Regional Government

Law No 11 provides for criminal sanctions of up to two years imprisonment or a fine of up to Rp 5,000,000 if one intentionally exploits water and its resources in violation of the Government's plan or without a license If one negligently violates the regulations on water resources, he or she is liable to a maximum jail term of three months and/or a maximum fine of Rp 50,000

Article 5 Paragraph 1 of Law No 11 refers to the "Minister" which is given the task of water resources affairs, who is authorized and responsible to coordinate all regulations concerning planning, technical planning, control, exploitation, maintenance, protection and the use of water or water resources Law No 11, however, does not specify which Minister within the Central Government is intended to have such authority The Elucidation of Article 5 only mentions that it is important that such Minister be able to coordinate actions among the Departments and other Government institutions dealing with water resources PP 22 also does not specify the meaning of "Minister" Article 1 of PP 22 simply refers to "Minister" as the Minister which is responsible for water resources, and Article 8 of PP 22 provides this term shall be the same as referred to in Law No 11

Presidential Decree No 15 of 1984 on the Organization of Departments (March 6, 1984) ("Keppres 15"), as amended several times and as last set forth in PD 18 discussed above, refers to the "Minister of Public Works" Article 109 of Keppres 15 states that the DOPW is a part of the Government headed by a minister who is directly responsible to the President Pursuant to Article 110(5) of Keppres 15, the main task of the DOPW is to carry out part of the general administrative tasks and development in the field of public works Based on the foregoing, it is reasonable and logical to conclude that the "Minister" referred to in both Law No 11 and PP 22 is meant to be the Minister of Public Works ("MOPW") as referred to in Keppres 15

B4 PP 22

PP 22 implements Law No 11 and contains a number of important provisions

a The "Right on Water"

Article 2 of PP 22 provides for the "right on water" which is a right to use water The right to use water is defined in Article 1 g of PP 22 as the right to obtain and use water for certain purposes It is to be noted that Article 19 requires a license for any use of water resources for purposes of urban needs, agriculture, power plant industry, mining, water

traffic, timber floating, recreation, health and other needs in accordance with the requirements of development. It is unclear, however, whether the license referred to in Article 19 is intended to include the right on water.

b Allocation of Authorities and Responsibilities

Under Law No 11, the authority of the Government can be delegated to Government agencies, at Central as well as at Provincial (Level I) and Municipal (Level II) levels or to certain legal entities. As the implementing regulation of Law No 11, PP 22 allocates the following authorities and responsibilities for water resources development among various Governmental Departments:

- (i) The MOPW has authority for a river basin that crosses more than one regional boundary (Article 5.3 of PP 22).
- (ii) The MOME is responsible for the administration and management of hot water springs as mineral and energy sources (Article 6.1 of PP 22).
- (iii) The Provincial Government is responsible to assist the Central Government with regard to water or water resources arising from river basins or parts of a river basin located within its territory. The Provincial Government is responsible to the MOPW (Article 5.1 of Law 11).
- (iv) The Governor of the Province is authorized to issue licenses for use of water from groundwater resources of a certain depth, by virtue of the technical directives from the MOME (Article 6.2 of PP 22). In practice, such licenses are required to be obtained if water is taken from ground water or water stream sources for use as drinking water, household, industry, ordinary agriculture, irrigation, mining, urban undertakings and for other purposes. Such licenses are not needed if the water is only needed for a household drinking water purposes and for research purposes. The use of ground water for household purposes includes obtaining water by using a human-powered well or by using a piped well with a diameter of 2 inches or less, up to maximum amount of 100 cubic meters per month and without using a centralized distribution system.¹⁴
- (v) In addition, PP 22 also designates other units (*instansi-instansi lain*) within the Central as well as the Provincial Governments and certain enterprises to carry out research and feasibility studies and planning in the field of water resources, the results of which are to be provided to the MOPW as the input for the MOPW to implement and develop water resources (Article 11 of PP 22).

¹⁴ See Article 12 of Regulation of MOME No 03/P/M/Pertamben/1983 Regarding Groundwater Management (December 15 1983) as amended by Regulation of MOME No 08 P/03/M PE/1991 (December 14 1991)

B5 PP 14

PP 14 has been discussed in some detail above (see pages 37 to 40). As to water supply, PP 14 concerns the activities of the DOPW. As discussed above, without decreasing the responsibilities of the MOPW, public works affairs have been transferred to the Provincial (Level I) and Municipal (Level II) Governments. Specifically as to water supply affairs, the Cipta Karya affairs which have been transferred to the Provincial Government (Level I) are, among others, (i) the supervision of planning, development, maintenance and management of clean water using pipe systems and artesian wells, (ii) the planning, procurement and management of clean water involving the interests of more than one Municipal Government (Level II), and (iii) the supervision and coordination of development, maintenance and management of infrastructure and facilities for clean water supply (Article 3 C 6, 7, 8).

The Cipta Karya affairs which have been transferred to the Municipal (Level II) Government are the development, maintenance and management of infrastructure and related facilities for clean water supply (Article 4 C 10 of PP 14).

B6 Joint Decree of the MOPW, MOHA and Minister of Finance, Numbers Control of the Construction of Drinking Water Projects with the Aid from the Central Government (September 19, 1978) ("JD 1978")

JD 1978 is relevant to the implementation of the water responsibilities transferred under PP 14 to the Provincial (Level I) Government and the Municipal (Level II) Government.

As noted above, certain water supply activities were transferred to the Provincial (Level I) Governments and the Municipal (Level II) Governments. Drinking water supply services are thus now the responsibility of the Regional Governments. The implementation of this transfer (insofar as water supply affairs are concerned) has been done both with and without aid from the Central Government since water supply affairs were originally transferred to the Provincial and Municipal Governments in 1953, pursuant to Government Regulation No. 18 of 1953, Regarding the Implementation of Transfer of Part of the Central Government's Affairs in the Field of Public Works to the Provinces and Confirmation of Public Works Affairs of the Municipalities, Big Cities and Small Towns in Java (April 16, 1953) ("PP 18 of 1953").¹⁵

JD 1978 recognizes that the Provincial and Municipal Governments have conducted water supply affairs through the PDAMs and that the PDAMs have often been unable to manage and finance drinking water supply projects by themselves. Therefore, JD 1978 provides that PDAMs may apply for aid from the Central Government to develop and fund water supply projects.

Pursuant to JD 1978, the Central Government gives aid in two ways:

¹⁵ PP 18 of 1953 was revoked by PP 14.

- (i) First in the conduct of the project by arranging implementing and supervising the
 - a preliminary study and/or feasibility study,
 - b the primary plan,
 - c the construction program,
 - d the financing program, and
 - e the system development program and the company s management capability, and
- (ii) Second, in the financing of the project by funding
 - a offshore and/or onshore loans for the PDAM channeled through Bank Indonesia and/or
 - b by providing share equity for the PDAM from the budget of the Provincial or Municipal Government concerned

A PDAM is required by JD 1978 to file an application for project aid with the Central Government through the DOPW, and copied to the DOHA, Bappenas and DOF, after obtaining approval of the Head of the Provincial or Municipal Government

B7 Joint Decree of MOHA and MOPW No 3 of 1984 and No 26/KPTS/1984 regarding Procedures of Proposal and Procurement of Clean Water Projects and Temporary Operations and Transfer of Operations (January 23, 1984) ("JD 1984")

JD 1984 applies to "clean water projects", which are projects built by the DOPW and funded out of the Provincial or Municipal Budgets, with or without foreign or Central Government aid JD 1984 applies to "clean water projects", which is defined to mean projects built by the DOPW's Working Unit in a Region It is not clear whether the term "Region" means either or both of a Province or a Municipality JD 1984 appears to apply to only Municipal drinking water projects

The meaning of a "Project" pursuant to JD 1978 is defined to mean a "drinking water project" This term is broadly defined in JD 1978 to cover the activities of planning, performance, such as supervision of the performance of construction, and construction, of a new drinking water system, expansion and/or rehabilitation of an existing drinking water system, the development of such a system and the organization of regional drinking water enterprises

From the above discussion, it is apparent that there is an overlap in the scope of these two decrees, both of which are still valid

Pursuant to Article 1 b of JD 1984, a clean water project is considered to be operational if the infrastructure and the facilities of clean water are able to produce clean water supplies to the point of a public hydrant or a household Upon the completion of a project, a

provisional managing board for clean water, known as a Badan Pengelola Air Minum ("BPAM") is formed by the DOPW with the approval of the Head of the Municipal (Level II) Government. The BPAM then manages and operates the project, including the establishment of the water tariff, subject to the approval of the relevant Head of the Municipal Government. The functions and operations of the BPAM are set forth in the next Section.

B8 MOPW Decree No 269/KPTS/1984 Regarding the Establishment of the Management Board of Drinking Water (August 8, 1984), ("MOPW Decree 269")

MOPW Decree 269 provides for the establishment of a BPAM by the Directorate General of Cipta Karya as a temporary board based in the Municipal (Level II) Government. The BPAM's role is to operate and manage clean water projects which are already in operation but which have not yet been transferred to a PDAM. In other words, when the project is ready, and until a PDAM is available, the BPAM will provide public services and earn revenues in the field of clean water supply.

The task of a BPAM is to manage clean water supply and infrastructure facilities. It has the job of hiring the personnel to do so, with the objective of prioritizing the use of local manpower. A BPAM is expected to perform these activities for no more than five years or when the PDAM is established, whichever happens first.

The chief of the BPAM is appointed by the Director General of Cipta Karya upon the recommendation from the Head of the Municipal (Level II) Government. The chief of the BPAM is responsible to the Director General through a provincial coordinator which is appointed to coordinate BPAM activities in Municipalities within the Province concerned.

All infrastructure and facilities of a BPAM are the state's property but part of the relevant project. The BPAM can obtain revenues from the sale of water, which revenues are to be used for project operation and maintenance. If the revenues are not sufficient to cover BPAM's costs, they will be met from the Central Government's budget.

The drinking water tariff is stipulated by the Director General of Cipta Karya pursuant to the recommendation of the chief of the BPAM and pursuant to the directives stipulated in Joint Decree of the Minister of Home Affairs and MOPW No 5 Year 1984 and No 28/KPTS/1984.

It is to be noted that in MOPW Decree 269, the term "Project" refers to a "clean water project" conducted by the DOPW. It is also interesting to note that MOPW Decree 269 also has a definition of water supply that is different from the definitions contained in JD 1978 and JD 1984. MOPW Decree 269 defines "Drinking Water Supply" as an "undertaking to develop, to make available (supply) and to distribute clean water". Article 1 j of MOPW Decree 269 defines "infrastructure and facilities of clean water" as all buildings, equipment and fixtures for the production, supply and distribution of clean water for the public. A BPAM is responsible for this infrastructure as well. Since the infrastructure is held by a

BPAM until a PDAM can assume responsibility for the project. This raises the question as to whether there is a role for the private sector in the construction or operation of such infrastructure.

**B9 Joint Decree of MOHA and MOPW No 4 of 1984 and No 27/KPTS/1984
Regarding the Guidelines for Drinking Water Regional Enterprises
(January 23, 1984) ("JD 4-27")**

The Perusahaan Daerah Air Minum (Drinking Water Regional Enterprise or "PDAM") body is a Regional Government-owned enterprise. It is established by a Provincial or Municipal Regulation, as appropriate, based on Law No 5 of 1962 on Regional Enterprises (March 5, 1962) ("Law 5") in conjunction with Law No 6 of 1969 on Declaration to Invalidate Various Laws and Government Regulations in Lieu of Law (July 5, 1969). Law No 5 is discussed in more detail below in Section 11, pages 71 to 74.

We note here that Law No 5 has been revoked but is still followed nonetheless, since its replacement has not been enacted. The owner may be either the Province or the Municipality, it is not clear how this decision is made at the Provincial and Municipal levels.

A PDAM is required to provide drinking water services to the public in a fair manner without interruption.

The purpose of PDAM's business is to

- (i) to construct, maintain and operate drinking water supply facilities
- (ii) to provide education and supervise the use of water in a fair and efficient manner
- (iii) to prevent the illegal use of water, and
- (iv) to provide drinking water services to the public on an ongoing basis

A PDAM is under the jurisdiction of two Departments of the Central Government, as well as the Provincial or Municipal Governments concerned. MOHA controls PDAM as to non-technical affairs, while MOPW provides technical directives to PDAM. A PDAM is a legal entity, and as such may conduct legal acts for its own account, but it is restricted by various regulations of MOHA in dealing with third parties. For example, MOHA Regulation No 1 of 1984, Regarding Procedures of Guidelines and Supervision of Regional Enterprises within the Regional Governments (January 31, 1984) ("MOHA 1") requires the approval of higher level authorities when a regional enterprise participates in a joint venture or enters into a cooperation with a third party for a term exceeding five years. A PDAM is also subject to MOHA Regulation No 4 as discussed in Section VII A 2 above. See pages 40 to 44.

For purposes of this Report, our review focuses on the PDAM of DKI Jakarta. Review of other municipal PDAMs, for comparative study purposes, will be discussed in our analysis of Provincial and Municipal Regulations dealing with PDAMs in general.

B10 PDAM DKI

The PDAM for DKI Jakarta, commonly called PAM Jaya, was established in 1968 by Governor of DKI Decree No Lb 3/3/22/1968, Regarding Reconstruction of Drinking Water Regional Company of the Special Region of Jakarta Capital City (December 10, 1968) Regulation No 13 of 1992 on the Regional Company for Drinking Water in the Special Region of Jakarta Capital City (PAM Jaya) (October 15, 1992) reorganized PAM Jaya

PAM Jaya is a legal entity that has the power to engage in the business of supplying and distributing drinking water in Jakarta. The main purpose of PAM Jaya is to perform business activities related directly to the supply and distribution of drinking water that fulfills the Government's health requirements. PAM Jaya is also required to provide good service consistent with economic principles normally applicable to the private sector. One of PAM Jaya's functions is to assist the Governor in regulating, issuing licenses and supervising drinking water installations conducted by third parties in DKI Jakarta.

PAM Jaya obtains its capital and other funds from its internal funds, through equity contributions by DKI Jakarta, through aid received from governments and third parties and from onshore and offshore loans.

PAM Jaya is managed by a Board of Directors which consists of a President Director and maximum of three Directors supervised by a Board of Supervisors. The President Director and the Board of Supervisors are responsible to the Governor.

The Board of Directors must obtain written approval from the Governor (among others) when PAM Jaya arranges onshore and offshore loans, organizes cooperation agreements with a term of more than one year or performs other principal matters relating to the operation and management of PAM Jaya. Such written approval shall be given by the Governor after receiving recommendations from the PAM Jaya's Board of Supervisors.

In developing its business, PAM Jaya can conduct a cooperation with a private entity from either Indonesia or foreign countries, a state-owned company, a regional-owned company and/or a cooperative. PAM Jaya's participation may be in the form of a traditional joint venture.

The cooperation can relate to the following activities in support of the supply and distribution of drinking water: (i) construction on water meters, (ii) the provision of machines or spare parts for drinking water facilities, and (iii) pipes, chemicals, services, and facilities.

In 1993, DKI Jakarta issued another promulgation which provide specifically for provision of drinking water services as set forth in DKI Jakarta Regional Regulation No 11 Year 1993 on the Provision of Drinking Water Services (December 13, 1993) (Perda DKI 11"). Pursuant to Perda DKI 11, the DKI Governor appointed PAM Jaya as the entity responsible for the supply and distribution of drinking water to the public in Jakarta. Perda DKI 11 also deals with the provision of drinking water services conducted by parties other than PAM Jaya. Such other parties must be licensed by the Governor of DKI which license

covers standard water (i e , water for drinking and other purposes), installation of plant, and the installation of pipe network facilities

Perda DKI 11 provides that PAM Jaya is responsible for installation of water processing plants larger than 200 (two hundred) liters per second and the distribution of which covers an area larger than that permitted for a mini-plant Perda DKI 11 allows the operation of a mini-plant by the private sector, including cooperatives A "mini plant" under Perda DKI 11 is a water processing plant smaller than two hundred liters per second, the distribution of which covers a limited area However, Perda DKI 11 defines neither the term "limited area" open for private sector involvement nor the term "larger area" restricted to PAM Jaya involvement

Pursuant to Perda DKI 11, the Governor of DKI determines the procedures and requirements to obtain licenses which are then issued by PAM Jaya The licenses required for various activities are the following

- (i) Every plot is allowed to obtain only one water supply installation, unless the Director of PAM JAYA otherwise approves
- (ii) A water supply installation through a pipe network must be done pursuant a license
- (iii) A hydrant installation must obtain the written approval from the Director of PAM Jaya

The water supply tariff is set by the Governor

B11 Cooperation by PDAM with the Private Sector

PDAM can cooperate with the private sector However, there is a legal deficiency in the basis of this cooperation As mentioned earlier, the latest law applicable to the establishment of a PDAM is Law No 5 However, Law No 5 is, as a legal matter, no longer in effect Law No 6 of 1969 revoked several laws, including Law No 5, on the assumption that, in the case of Law No 5, a replacement law would be put into place This has not yet been done The Indonesian Government authorities, however, appear to deal with Law No 5 as if it is still operative, as a matter of practical necessity

Based on Law No 5, a Regional Government enterprise is required to (a) provide service, (b) organize the public's needs, and (c) gain revenues

The purpose of Law No 5 was intended to granting ample and real autonomy to the Provincial and Municipal Governments

Under Law No 5, the status of a legal entity is achieved by virtue of the Regional Government Regulation under which a regional enterprise is established A regional enterprise

can also come into existence by the transfer of a regional enterprise from the Central Government to a Provincial or Municipal Government within the framework of the decentralization of the state administration. This appears to be clear from the Elucidation of Law No. 19 of 1960 concerning State Enterprises (April 30, 1960) ('Law No. 19"), which provides in Section 6 that the "decentralization system, as provided for in Article 18 of the Constitution, requires the evaluation of a possible transfer of either the revenues of a state enterprise or the state enterprise itself to the regional government."

Article 5 (4) of Law No. 5 provides that production branches which are related to the people's prosperity in the Regions shall be undertaken by regional enterprises, where the capital comes entirely from the Regional Government. If a regional enterprise's capital belongs entirely to the Regional Government, then the capital is not divided into shares. If only part of this capital is provided by the Regional Government or if more than one Regional Government is involved, then the capital is divided into shares.

A regional enterprise can cooperate with state enterprises, cooperative associations and with private enterprises.

A regional enterprise is managed by a Board of Directors and may consist only of Indonesian citizens, who are appointed and dismissed by the Head of the region, after having heard the considerations of the Regional Parliament if the capital belongs entirely to a Region. If only part of the regional enterprise's capital belongs to the region, the members of the Board of Directors shall be appointed from the candidates nominated by the holder's priority shares, which is the Regional Government. The Board of Directors represents the enterprise.

The shares of a regional enterprise must consist of priority and common shares. Priority shares can only be owned by the Regional Government and are only transferable among the regions, while common shares can be owned by the Regional Government, Indonesian citizens and/or legal entities established by virtue of Indonesian law, in which case the participants may consist only of Indonesian citizens. (Article 8 (3)) All shares must be registered shares, and each share gives the holder the right to cast one vote. With regard to Shareholders meetings, Article 18 of Law No. 5 stipulates that the procedures for such meetings shall be governed by the regional enterprise's deed of establishment.

As noted above, a PDAM is a regional enterprise and as such pursuant to Article 6(1) of Law No. 5, PDAM may cooperate with the private sector. In Article 45 of DKI Regulation No. 13 (the DKI regulation concerning PAM Jaya), it is expressly stated that PAM Jaya may enter into joint ventures with third parties.

C Private Participation in Waste Water Treatment and Disposal

C1 Central Government Regulations

The basic regulation dealing with the treatment and disposal of waste water is Government Regulation No. 20/1990 Regarding Water Pollution Control (June 5, 1990) ("PP 20 of 1990"). PP 20 of 1990 places primary responsibility for the control of water pollution

with the Provincial (Level I) Government authorities under the supervision of the Minister of the Environment ("MOE") The Governor of each Level I Region is charged with the responsibility of designating a technical department to survey the quantity and quality of water in such region for pollution control purposes in accordance with priorities established by the Governor (Articles 2 and 3) Additionally, each Governor must do the following

- (i) identify pollution sources and stipulate control measures (Article 5),
- (ii) group water resources into one of the designated quality categories set out in PP 20 of 1990 (Article 10),
- (iii) develop programs for improving water quality (Articles 11 and 12),
- (iv) coordinate with other Governors and the MOE regarding water pollution affecting more than one region and other matters of mutual concern (Articles 10 and 13),
- (v) determine the pollution absorption capacity of the region's water resources (Article 14),
- (vi) identify and publicly announce water resources constituting a hazard to public safety (Article 24),
- (vii) stipulate allowable liquid waste standards (Articles 15 and 25),
- (viii) regulate liquid waste disposal (Articles 26 and 27), and
- (ix) generally supervise and enforce water pollution regulations (Articles 29 to 34, 36 and 37)

None of these activities are expressly open to participation by the private sector under the terms of PP 20 of 1990

In addition to the responsibilities of the Governors itemized above, PP 20 of 1990 also permits, but does not require, the Level I authorities to make available liquid waste disposal and/or treatment facilities for which a fee may be collected The Official Elucidation to PP 20 of 1990 provides that such disposal or treatment activities can be conducted by the Level I authorities themselves or contracted out to the private sector PP 20 of 1990 is silent as to the manner in which the private sector might participate except that the wording of the Official Elucidation implies that there is no requirement for a private company to enter into a joint venture for purposes of providing such services Similarly, no indication is given as to the specific licenses that might be required by a private entrepreneur in such a project, although presumably, at a minimum, the licensing provisions found in Articles 25 through 28 of PP 20 of 1990 would apply

C2 Regional Government Regulations

Pursuant to PP 14, regional (Level I) authorities have responsibility for the following matters relating to waste water

- (i) providing guidance in the planning, construction maintenance and management of clean water for villages, including pipeline systems and artesian wells,
- (ii) planning, procurement and management of clean water involving the interests of more than one district (Level II),
- (iii) providing guidance in the construction, maintenance and management of clean water supply infrastructure and means,
- (iv) providing guidance for the construction, maintenance and management of waste water disposal means and drainage in residential areas in the districts (Level II),
- (v) coordination of the construction, maintenance and management of waste water disposal involving more than one district (Level II), and
- (vi) the construction, maintenance and management of urban drainage systems serving more than one district (Level II) (Article 3 c 6 through 11)

Level II authorities are given the following waste water responsibilities under PP 14

- (i) the construction, maintenance and management of clean water supply means and infrastructure,
- (ii) the construction, maintenance and management of residential drainage systems,, and
- (iii) the construction, maintenance and management of waste water disposal means and facilities in residential areas (Article 4 c 10 through 12)

Among Level I authorities, the Governor of Jakarta has promulgated the most extensive set of decrees dealing with waste water management Following is a summary of the status of waste water management regulations applicable to DKI, with particular reference to provisions relating to private participation

The Sanitation Authority of DKI Jakarta was established by DKI Regional Regulation No 15 of 1981 Regarding the Organizational Structure and Procedures of the Sanitation and Procedures of the Sanitation Authority of the Special Territory of the Capital City of Jakarta (December 7, 1981) ("DKI Reg 15") The Sanitation Authority reports to the Governor and is generally charged with the duty of improving the cleanliness, order, beauty and healthful conditions of the city Among its specific responsibilities are the following

- (i) preparing work programs in the city sanitation sector,
- (ii) organizing systems for garbage and dirty water collection, transportation, disposal, destruction and recycling,
- (iii) supervising the planning and implementation of garbage and dirty water disposal systems from public buildings and business sites which cause pollution,
- (iv) conducting studies on garbage and dirty water pollution,,
- (v) providing sanitation services to the community including government and private organizations,
- (vi) supervising and issuing licenses to all businesses involved in the sanitation sector, and
- (vii) working with other institutions in preventing pollution counsel by garbage, dirty water and other sources (Article 5(j))

As early as 1984, procedures were put in place to permit private participation in certain types of solid waste¹⁶ and waste water transportation, processing and disposal, and these procedures continue to apply in those areas not yet serviced by the city sewer system¹⁷ (DKI Governor Decree No 313/1984 regarding Procedures for Obtaining License in Sanitation Sector in the Special Territory of the Capital of Jakarta ("February 25, 1984") ("DKI Decree 313")) The scope of DKI Decree 313 in respect of waste water is limited to so-called "dirty water" (air kotor) which is defined as a liquid containing human waste materials (Article 1(f)) DKI Decree 313 also defines the term "drainage" (air buangan) to mean liquid disposed of from any source whether residential or industrial (Article 1(g)) The licensing provisions of DKI Decree 313, however, apply only to dirty water, they do not extend to drainage

Article 2(2) of DKI Decree 313 establishes three (3) categories of licenses

- (i) business license for transport services in the sanitation sector,
- (ii) business license for the destruction, processing and/or recycling of solid waste and dirty water, and
- (iii) location license for solid waste and dirty water final disposal

DKI Decree 313 sets out both the administrative requirements and technical qualifications for companies wishing to obtain such licenses For a license to process dirty water an application must be submitted directly to the Governor (Article 4(a)) For a license

¹⁶ The application of DKI Decree 313 to solid waste is discussed in Section VII C 2

¹⁷ Certain areas of Jakarta are now serviced by the pipeline network of the city sewer system. These areas fall under the jurisdiction of PD PAL JAYA as discussed in more detail later in this Section.

to provide transport services or to have a disposal site approved, application must be made to the Head of the Sanitation Authority (Article 4(b)) Although there is no stated restriction as to the type of legal entity that may apply for such licenses (Article 3), the documentary requirements for the application include the submission of a copy of a membership card in the Association of Indonesian Sanitation Technical Experts (Article 5(b)(8)) Depending on the membership qualifications of that organization, this requirement may exclude some otherwise qualified applicants

The technical qualifications required of applicants depends on the nature of services to be provided and may include possession of appropriate motor vehicle(s) and equipment, suitably outfitted crew, sufficient minimum capacity and/or operating methods that cause no negative impact to the environment, (Article 5(a))

In 1987, the MOPW issued Decree No 510/KPTS/1987 Regarding Establishment of the Waste Water Management Agency in the Special Territory of the Capital City of Jakarta (October 26, 1987) ("MOPW Decree 510") MOPW Decree 510 established the Waste Water Management Agency of DKI ("BPAL") on an expressly temporary basis, pending establishment of a regional corporation (i.e., Perusahaan Daerah) to manage waste water in Jakarta

The creation of BPAL was a matter of some urgency at that time due to the absence of any other agency to manage the Waste Water Pilot Project referred to in the Preamble of MOPW Decree 510 We understand the Waste Water Pilot Project to have consisted of the construction of a sewage disposal pipeline system serving four districts within Jakarta The responsibilities and authorities of BPAL, however, did not extend to the collection, transportation, processing and disposal of waste materials covered by DKI Decree 313 These activities remained under the jurisdiction of the Sanitation Authority

In 1991, pursuant to DKI Regional Regulation No 10/1991 regarding Regional Corporation of Waste Water Management for DKI (September 20, 1991) ("DKI Reg 10"), a regional corporation known as "PD PAL JAYA" was established to take over the duties and powers of BPAL The stated mission of PD PAL JAYA is to improve public welfare and the quality of the environment by providing services relating to the collection, channeling and treatment of waste water (Article 5(1)) DKI Reg 10 sets out in detail the specific activities it is to undertake in reaching its objectives

- (i) Drawing up, planning and implementing program of short, mid and long terms in the framework of developing the system of channeling waste water and processing it,
- (ii) Drawing up and implementing surveys, data-gathering programs, analyses, preparation of technical stipulations and guidelines on the service of pipeline network systems and the processing of waste water,
- (iii) Constructing facilities and infrastructure for waste water in accordance with the plans and budget which have already been stipulated,

- (iv) Operating and maintaining pipeline networks and processing installations already constructed, so that the disposal fulfills quality standards,
- (v) Handling applications for the installation of waste water pipeline connections in its service territory,
- (vi) Supervising the quality of customer's waste water which is to be processed so that it fulfills the installation criteria already stipulated,
- (vii) Providing counseling to the public regarding the planning of the DKI Administration in the development of waste water pipeline networks and the processing of waste water,
- (viii) Collecting tariffs for the service of disposing of waste water and collecting other legal earnings pursuant to the prevailing stipulations, and
- (ix) Establishing work relationships with various parties in order to reach the objectives already stipulated (Article 5(2))

The "various parties" referred to in Article 5(2)(i) are identified in Article 7 as including state-owned corporations, region-owned corporations, cooperatives and "third parties". The term "third parties" is not defined although it evidently includes privately-held entities.¹⁸ The Official Elucidation to DKI Reg 10 explains that the cooperation referenced in Article 7 must relate to activities "directly related" to the business of PD PAL JAYA but that the rights and authorities of PD PAL JAYA cannot be transferred to third parties. To date, our research has not disclosed any written decision or other written announcement from PD PAL JAYA to enter into any arrangement with a private company.

In 1988, the West Java Region promulgated Regional Regulation No 3 of 1988 regarding Control of Underground Water, Surface Water Removal and Liquid Waste Disposal (February 24, 1988) ("W Java Reg 3"). W Java Reg 3 is primarily concerned with companies which are removing water resources for their own use and/or discharging liquid by-products as a result of their operations. Any removal of surface or ground water (with limited exceptions) and any discharge of liquid waste must be licensed by the Governor (Article 3(1)). The licenses are non-transferable and are valid for two years, subject to renewal. W Java Reg 3 does not include provisions relating to PPP-PSP activities per se.

Waste water management is also addressed in East Java Regional Regulation No 8 of 1989 regarding Water Pollution Control in the First Level Region of East Java (December 16, 1989) ("E Java Reg 8"). E Java Reg 8 generally requires operators discharging liquid wastes to obtain a license to do so from the Governor and sets out civil and criminal penalties.

¹⁸ "As a Perusahaan Daerah, PD PAL JAYA is expressly permitted to enter into cooperative arrangements with entities from the private sector pursuant to Law No 5/1962 regarding Regional Enterprise (February 14 1962). This authority was more recently confirmed under MOHA Regulation 4 discussed in Section VII A.2 on pages 40 to 44 which sets out guidelines for joint ventures between a regional enterprise such as PD PAL JAYA, and third parties. Moreover DKI Governor Decision No 240/1992 regarding Organizational Composition and Working System of the Regional Corporation of Waste Water Management for the Special Territory of the Capital City of Jakarta (February 11 1992) describes the role of the Business Director of PD PAL JAYA to include establishing cooperation with other parties in the framework of business development" (Article 7(1)(c)).

for a party's failure to do so. Like W. Java Reg. 3, it contains no provisions relating to PPP-PSP activities.

D Private Participation in Solid Waste Disposal

D1 Central Government Regulations

There is no Central Government law or regulation that provides a general outline of solid waste management policies and procedures. In the Priority List of Investments ("DSP") of 1987, however, "garbage management" was included as one of the sectors opened to both foreign and domestic investment. In this context "garbage management" was defined to include

- (i) trash collection,
- (ii) transportation from collection points to processing or disposal sites,
- (iii) garbage processing, and
- (iv) final disposal.

As explained above, the Indonesian Central Government no longer prioritizes investments in accordance with the DSP, but the inclusion of garbage management in the 1987 DSP can be taken as an indication of the general willingness of the Government to seek assistance from the private sector in solid waste management.

With the exception of hazardous and toxic waste as discussed below, the authority and responsibility to handle solid waste disposal has been transferred to Level I and Level II governmental authorities pursuant to PP14 (Articles 3 C 9 and 10, 4 C 11 to 13). Prior to commenting on the opportunities for private participation in waste disposal in cooperation with Level I and Level II authorities, we will review the Central Government's regulation relating to hazardous and toxic waste.

Government Regulation No. 19 of 1994 Regarding the Management of the Waste of Hazardous and Toxic Materials (April 30, 1994) ("PP 19") establishes relatively comprehensive guidelines for the storage, collection, transportation, processing and accumulation of hazardous and toxic waste (bahan beracun dan berbahaya, commonly referred to as "B3 Waste"). B3 Waste is generally defined as any waste material which is explosive, flammable, reactive, toxic, infectious, corrosive or found to meet a certain level of toxicity upon testing (Article 3). Particular B3 Waste materials are identified in the attachments to PP 19. B3 Waste does not include radioactive waste, the responsibility for management of such waste is expressly reserved by the government to itself (Article 7).

PP 19 permits "business companies" (which term is understood to mean private entrepreneurs) to engage in the collection (Article 10(1)) and transportation (Article 14(1)) of

B3 Waste Moreover, based on the licensing provisions of PP 19,¹⁹ it appears that private participation is allowed in all facets of B3 Waste management

All companies undertaking collection, processing or accumulation of B3 Waste are obligated to obtain a license from the Agency for the Control of Environmental Impact ("BAPEDAL") (Article 21(1)(a)), and a location license for the processing site from the Head of the Land Office for the relevant district or municipality (Level II) based on the recommendation of the BAPEDAL (Article 22) Companies to be engaged in the transportation of B3 Waste must obtain a license from the Minister of Communications (who is required to consult with the BAPEDAL) (Article 21(1)(b))

Prior to licensing of any B3 waste management activities, the applicant must submit an environmental impact assessment together with plans for environmental, monitoring and management (Article 23(1)) These are all submitted to BAPEDAL for approval together with the license application

Although PP 19 permits private participation in the management of hazardous and toxic wastes, it also prohibits the importation of such waste into Indonesia (Article 27(1) With prior approval, however, B3 Waste is permitted to be transported through Indonesian territory (Article 27(2) and (3)) We also note that the importation of plastic waste and scrap material is prohibited pursuant to Minister of Trade Decree No 349/Kp/XI/92 (November 21, 1992)

D2 Regional Regulations

The transfer of Cipta Karya functions from the Department of Public Works to the Regional Governments under PP 14 expressly includes

- (i) providing guidance for the construction, maintenance and management of garbage disposal infrastructure and means, and
- (ii) coordination of the construction, maintenance and management of garbage disposal used by more than one district (Level II) (Article 3 C 9 and 10)

Similarly, PP 14 transfers to the Municipal (Level II) Governmental responsibility regarding

- (i) the construction, maintenance and management of garbage disposal systems, and
- (ii) the construction, maintenance and management of sanitation services and facilities (Article 4 C 11 and 13)

¹⁹ Article 21 of PP 19 provides that every business company undertaking the collection, transportation, processing or final accumulation of B3 Waste is obligated to obtain certain licenses Based on this provision and a general reading of PP 19 we conclude that the absence of an express provision elsewhere in PP 19 to permit private enterprises from conducting B3 Waste processing and accumulation activities was not intended to exclude private participation from such endeavors

As with both the water supply and waste water sectors, our research has disclosed few decrees or other promulgations at the Provincial or Municipal level and, again, DKI Jakarta has been the most active in this regard

As previously discussed in Section VII C 2 dealing with waste water, the DKI Sanitation Authority (created under DKI Reg 15) is involved in the licensing of businesses providing services in the sanitation sector pursuant to DKI Decree 313 For purposes of DKI Decree 313, "garbage" is defined as all kinds of refuse generated by households, public buildings, factories and industrial sites, including waste building material, scrap automobiles and the like (Article 1(e))

In at least one instance, the Governor of Jakarta has approved a solid waste processing program with a private company, without apparent reference to the provisions of DKI Decree 313 DKI Governor Decree No 179 of 1991 regarding Production Cooperation Contract between DKI and P T Trinaga Terra relating to Garbage Processing in conjunction with Worm Cultivation (February 21, 1991) ("DKI Decree 179") refers to a Letter Agreement dated January 22 1991 between the DKI Government and P T Trinaga Tera establishing a working relationship in connection with garbage processing and worm cultivation DKI Decree 179 by its terms requires the ratification by the MOHA

APPENDIX A
LIST OF LAWS AND REGULATIONS RELATING TO PPP/PSP
IN THE SECTORS OF WATER SUPPLY, SOLID WASTE AND WASTE WATER
(IDENTIFIED BASED ON THEIR LEVEL OF AUTHORITY AND BY THEIR
RESPECTIVE SECTORS)

WATERSUPPLY

Laws

- 1 Law No 5 of 1960 dated September 24, 1960, on Basic Regulation for Agrarian Affairs
(B/E)
- 2 Law No 5 of 1962 dated February 14, 1962, on Government Regional Enterprise
(B)
- 3 Law No 1 of 1967, dated January 10, 1967, on Foreign Capital Investment, as amended by Law No 11 of 1970
(B/E)
- 4 Law No 6 of 1968, dated July 3, 1968, on Domestic Capital Investment, as amended by Law No 12 of 1970
(B/E)
- 5 Law No 11 of 1974 dated December 26, 1974, on Water Resources
(B/E)

Government Regulations

- 6 Government Regulation No 22 of 1982 dated August 12, 1982, on Procedure of Water Arrangement
(B/E)
- 7 Government Regulation No 23 of 1982 dated August 12, 1982, on Irrigation
(B/E)
- 8 Government Regulation No 14 of 1987 dated June 27, 1987, on the Transfer of Part of Government Affairs in Public Works Sector to the Regions
(B/E)

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- 9 Government Regulation No 5 of 1990 dated February 12, 1990, on Jasa Tirta Public Company (PERUM)
(B/E)
- 10 Government Regulation No 27 of 1991 dated May 2, 1991, on Swamps
(B)
- 11 Government Regulation No 35 of 1991 dated June 14, 1991 on Rivers
(B/E)
- 12 Government Regulation No 20 of 1994 dated May 19, 1994, on Share Ownership in Companies Established within the framework of Foreign Capital Investment
(B/E)

Presidential Decrees

- 13 Presidential Decree No 15 of 1984 dated March 6, 1984 on Structural Organization of the Ministries
(B/E)
- 14 Presidential Decree no 16 of 1994 dated March 22, 1994 on the Implementation of the State Revenues and Expenditures Budget (B/E)
- 15 Presidential Decree no 18 of 1994 dated March 26, 1994 on the Amendment of Presidential Decree No 15 of 1984 on the Organizational Structures of Ministries as Already Twenty Two Times Amended, the latest by Presidential Decree No 14 of 1994
(B/E)

Ministerial Regulations

- 16 Regulation of the Minister of Mining and Energy No 03/P/M/Pertamben/1983 dated December 15, 1983, on Ground Water Management
(B/E)
- 17 Regulation of the Minister of Home Affairs No 690-1572 dated November 8, 1985, on the Basic Provisions for Supervising Board Directors and Employees of Drinking Water Regional Enterprise
(B)
- 18 Regulation of the Minister of Home Affairs No 690-536 dated June 30, 1988, on Guidelines to Determine the Drinking Water Tariff in the Drinking Water Regional Enterprise
(B/E)

- 19 Regulation of the Minister of Public Works No 45/PRT/1990 dated July 30, 1990 on the Quality Control of Water in the Water Sources
(B)
- 20 Regulation of the Minister of Mining and Energy No 08P/03/M PE/1991 dated December 14, 1991, on the Amendment of Regulation of the Minister of Mining and Energy No 03/P/M/Pertamben/1983 dated December 15 1983 on Underground Water Management
(B)

Ministerial Decrees

- 21 Joint Decree of Minister of Public Works, Minister of Home Affairs and Minister of Finance No 281/KPTS/1978, No 160 of 1978 and No 350/KMK 011/1978 dated September 19, 1978, on the Organizing and Guidance of Watersupply Project Development with Central Government Assistance
(B)
- 22 Minister of Finance Decree No 540/KMK 011/79 dated December 13, 1979, on Fund Management of Regional Enterprise on Water Supply with Central Government's Aid
(B)
- 23 Minister of Public Works Decree No 389/KPTS/1980 dated October 2, 1980 on Transfer of Authority, Management, and Responsibility on Pump Wells for Drinking Water in the Province of Central Java
(B)
- 24 Minister of Health Decree No 2180/YANKES/INSTAL/XI/81 dated November 2, 1981, on the Formation of Team for Controlling and Supervising the Drinking Water Quality and Environmental Development
(B)
- 25 Minister of Public Works Decree No 269/KPTS of 1984 dated August 8, 1984 on the Establishment of Drinking Water Management Board (Badan Pengelola Air Minum/BPAM)
(B)
- 26 Joint Decree of the Minister of Home Affairs and the Minister of Public Works No 3 of 1984 and No 26/KPTS/1984 dated January 23, 1984, on Procedures of the Application for the Procurement of the Clean Water Project, the Temporary Management and the Transfer of Management
(B/E)

- 27 Joint Decree of the Minister of Home Affairs Decree and the Minister of Public Works No 4 of 1984 and No 27/KPTS/1984 dated January 23, 1984 on Development of Drinking Water Regional Enterprise
(B)
- 28 Joint Decree of the Minister of Home Affairs and the Minister of Public Works, No 5 of 1984 and No 28/KPTS/1984 dated January 23, 1984 on Guidelines concerning the Organization, System of Accountancy, Operational and Maintenance Technique, Repair Technique, Structure and Calculation of Costs to Determine the Drinking Water Tariff, Drinking Water Services to Customers, Management of Safe Water of the Capital of Districts and the Management of the Safe Water Public Taps for the Drinking Water Regional Company and Drinking Water Management Agency
(B/E)
- 29 Minister of Home Affairs Decree No 690-1599 dated November 13, 1985, on the Guidance and Monitoring Assignment of the Drinking Water Regional Enterprise (PDAM) in the Provincial Level
(B/E)
- 30 Minister of Public Works Decree No 275/KPTS/1987 dated June 18, 1987 on General Guidelines regarding the Task Division, Authority and Responsibility of the Use and Development of Ground Water in the surroundings of the Department of Public Works
(B)
- 31 Minister of Home Affairs Decree No 16 of 1991 dated February 16, 1991, on Guidelines of Accounting System for Drinking Water Regional Enterprise (PDAM)
(B)
- 32 Minister of Public Works Decree No 232/KPTS/1994 dated July 3, 1994, on the Adjustment of Retribution Basic Tariff on the Exploitation and Maintenance of Irrigation Infrastructures for the Use of Raw Water for the Interest of the Drinking Water Regional Enterprise (PDAM) and Industries in the Perum Jasa Tirta Working Territory
(B/E)
- 33 State Minister of Investment Fund Mobilization/Chairman of the Investment Coordinating Board Decree No 15/SK/1994 dated July 29, 1994, regarding Implementing Regulations on Shares Ownership/Shareholding in Companies, Established in the framework of Foreign Capital Investment
(B/E)

- 34 Minister of Public Works Decree No 211/KPTS/1994 dated July 28, 1994 on Organization and Working Procedures of the Department of Public Works
(B)

Ministerial Instruction

- 35 Instruction of the Minister of Home Affairs No 32 of 1980 dated June 18, 1980, on Implementation of the Prevailing Regulations in the framework of Management Development of Drinking Water Regional Enterprise
(B)
- 36 Instruction of the Minister of Home Affairs No 690-149 dated February 20 1985, on the Efforts to Reduce Water Loss in Drinking Water Processing in PDAM
(B)
- 37 Instruction of the Minister of Home Affairs No 690-1523 dated November 6 1985, on the Implementation of Operational Program for Increasing the Efficiency of PDAM Management
(B)

Ministerial Circular Letter

- 38 Circular Letter of the Minister of Mining and Energy No 04/SE/M/Pertamben/71, on the Control on Groundwater Drilling
(B)
- 39 Circular Letter of the Minister of Mining and Energy No 1409/M 387/SAP/1973 dated June 15, 1973, on Groundwater Management
(B)
- 40 Circular Letter of the Minister of Home Affairs No EKBANG/8/2/43 dated July 11, 1974, on the Drinking Water Regional Enterprise
(B)
- 41 Joint Circular Letter No Se/211/79 and BKT 8 7 41 dated December 5 1979 on the Record and Accountability of Water Subscribe Guarantee by the Treasurer
(B)
- 42 Circular Letter of the Minister of Finance No S-43/MK 011/1980 dated January 16, 1980, on Requirements of Government's Capital Participation for Drinking Water Projects Obtaining Government's Aid
(B)

- 43 Circular Letter of the Minister of Home Affairs No 690/1239/PUOD dated March 27, 1985, on Supervision and Control on the Ground Water Utilization (B)
- 44 Circular Letter of the Minister of Home Affairs No 690/7027/SJ dated July 10, 1985, on the Exemption for PDAM from the Obligation to Pay 60% of Net Profit to the Regional Government (B)
- 45 Circular Letter of the Minister of Home Affairs No 690/3671/PUOD dated September 20, 1985, on Regional Company's Employees Assigned to PDAM (B)

Regional Regulations

The Special Region of Jakarta Capital City ("DKI Jakarta')

- 46 Regional Regulation of Kotapradja Djakarta Raja (City Gazette of Kota Pradja Djakarta Raja Year 1957 No 15) dated August 14, 1957 on the Water Distribution from Water Channel in the Municipality of Jakarta (B)
- 47 Regional Regulation of DKI Jakarta No 3 of 1977 dated April 30, 1977, on the Establishment and Management of Drinking Water Regional Enterprise in DKI Jakarta (PAM JAYA) (*has been revoked by Regional Regulation of DKI Jakarta No 13/1992*) (B)
- 48 Regional Regulation of DKI Jakarta No 7 of 1988 dated July 30, 1988 on the Guidance of Drilling and Utilizing Groundwater in DKI Jakarta (B)
- 49 Regional Regulation of DKI Jakarta No 13 of 1992 dated October 15, 1992, on the Drinking Water Regional Enterprise of DKI Jakarta (B/E)
- 50 Regional Regulation of DKI Jakarta No 11 of 1993 dated December 13, 1993, on Drinking Water Services in DKI Jakarta (B)
- 51 Regional Regulation of DKI Jakarta No 2 of 1994 dated April 11, 1994, on the Drilling and Utilizing of Groundwater in DKI Jakarta (B)

West Java

- 52 Regional Regulation of the Second Level Region of Cianjur Regency dated June 29, 1953 on Regional Regulation of Cianjur Regency to amend for the sixth time the Regional Regulation of Kabupaten Cianjur containing the Provisions on the Water Distribution from Piping Water Company in Kabupaten Cianjur
(B)
- 53 Regional Regulation of the Second Level Region of Cianjur Regency No 3/Huk/021 2/1975 dated February 22, 1975, on the Establishment of Drinking Water Regional Enterprise in the Second Level Region of Cianjur Regency
(B)
- 54 Regional Regulation of the Second Level Region of Sukabumi Municipality No 3 of 1975 dated August 28, 1975 on the Establishment of Drinking Water Regional Enterprise in the Second Level Region of Sukabumi Municipality
(B)
- 55 Regional Regulation of the First Level Region of West Java Province No 3 of 1988 dated February 24, 1988, on the Control of Taking of Groundwater, Surface Water and Waste Disposal
(B)

East Java

- 56 Regional Regulation of the First Level Region of East Java Province No 16 of 1973 dated December 15, 1973, on the Transfer of Management on Clean Water Undertaking in the area of New District in the Surabaya Municipality to Regional Government of Surabaya Municipality
(B)
- 57 Regional Regulation of the First Level Region of East Java Province No 2 of 1987 dated May 21, 1987 on the Clean Water Regional Enterprise of the East Java Province
(B)

North Sumatera

- 58 Regional Regulation of the First Level Region of North Sumatera Province No 1 of 1985 dated March 2, 1985 on the Guidance of Drilling and Using of Underground Water
(B)

58

Bali

- 59 Regional Regulation of the First Level Region of Bali Province No 15 of 1988 dated November 18, 1988, on the Control of Taking of the Ground and Surface Water
(B)

East Kalimantan

- 60 Regional Regulation of the Second Level Region of Samarinda Municipality No 13 of 1974 dated April 13, 1974, on the Establishment of the Drinking Water Regional Enterprise in Municipality of Samarinda
(B)

West Kalimantan

- 61 Regional Regulation of Pontianak Municipality No 9 of 1963 dated November 7, 1964, on Drinking Water Distribution from Drinking Water Regional Enterprise of Pontianak Municipality
(B)

Irian Jaya

- 62 Regional Regulation of Jayapura Regency No 7 of 1973 dated December 11, 1973, on Drinking Water Utilization
(B)

Kabupaten Kotabaru - Kalimantan

- 63 Regional Regulation of Kotabaru Regency No 15-Per/DPRDS 54 dated December 31, 1954 on the Amendment of Regional Regulation of Kotabaru Regency No 44/DPRDS-1952 dated December 18, 1952 on Regulation of Water Distribution from the Regional Company on Water Channel of Kotabaru Regency
(B)

South Kalimantan

- 64 Regional Regulation of the First Level Region of South Kalimantan Province No 12 of 1989 dated February 23, 1989, on Guidance of Drilling and Utilizing the Groundwater and Surfacewater
(B)

Gubernatorial Decrees

The Special Region of Jakarta Capital City ("DKI Jakarta")

- 65 Decree of the Governor of DKI Jakarta No Ib 3/3/22/68 dated December 10, 1968, on Reconstruction of the Drinking Water Regional Enterprise of DKI Jakarta
(B)
- 66 Decree of the Governor of DKI Jakarta No D V-b 16/1/4/1973 dated August 13, 1973, on the Improvement of Organizational Structure and Procedure on Drinking Water Regional Enterprise of DKI Jakarta (PAM JAYA)
(B)
- 67 Decree of the Governor of DKI Jakarta No D IV-c 13/3/31/1973 dated September 6, 1973, on the Procedure of Submitting the Payment Invoice of Project Pelita of Drinking Water Regional Enterprise of DKI Jakarta Sector B and F
(B)
- 68 Decree of the Governor of DKI Jakarta No 237 of 1977 dated April 24, 1977, on the Allocation Authority of a 106 171 m2 Area of Land in Subdistrict Jatinegara, District Pulogadung in the Area of East Java as a Construction Place for Installation of the Water Purification
(B)
- 69 Decree of the Governor of DKI Jakarta No 664 of 1980 dated June 23, 1980, on Organizational Composition and Task Division of the Drinking Water Regional Enterprise of DKI Jakarta (PAM JAYA)
(B)
- 70 Decree of the Governor of DKI Jakarta No 1292 of 1988 dated November 27, 1980 on Improvement of the Provision on Article 4, Paragraph (1) Number 1 of the Decree of the Governor Head of DKI Jakarta No 664 Of 1980 dated June 23, 1980
(B)
- 71 Decree of the Governor of DKI Jakarta No 822 of 1989 dated June 26, 1989, on Organization and Working Procedures of the Drinking Water Regional Enterprise of DKI Jakarta (PAM JAYA)
(B)
- 72 Decree of the Governor of DKI Jakarta No 439 of 1991 dated March 7, 1991 on Provisions Concerning Underground Utility Network Installation on Particular Lanes in DKI Jakarta
(B)

- 73 Decree of the Governor of DKI Jakarta No 1258 of 1991 dated August 27, 1991, on Improvement of the Decree of the Governor of DKI Jakarta No 951 of 1990 on Organization and Working Procedures of Drinking Water Regional Enterprise in DKI Jakarta (PAM JAYA)
(B)
- 74 Decree of the Governor Head of DKI Jakarta No 1359 of 1993 dated September 29, 1993, on the Formation of the Supervising Board on Regional Company and Regional-owned Company in the Administration Area of DKI Jakarta
(B)
- 75 Decree of the Governor of DKI Jakarta No 7/077 6 dated January 3, 1994, on Application of the Ratification of Regional Regulation No 11 of 1993 on Drinking Water Services in DKI Jakarta
(B)

West Java

- 76 Decree of the Governor Head of the First Level Region of West Java Province No 2 of 1988 dated October 1, 1988, on the Implementation of Regional Regulation of West Java Province No 3 of 1988 on the Control on Taking of Groundwater, Surfacewater and Waste Disposal
(B)
- 77 Decree of the Governor Head of the First Level Region of West Java Province No 616/SK 1519/Huk/1988 dated October 1, 1988, on the Appointment of Regional Revenue Office of West Java Province to Record the Amount of Taking/Utilization of Groundwater and Surfacewater and to Stipulate the Taking Retribution
(B)
- 78 Decree of the Governor Head of the First Level Region of West Java Province No 38 of 1991 dated June 12, 1991, on Allocation of Water and Water Quality Standard at Water Resources in West Java
(B)

Central Java

- 79 Decree of the Governor Head of the First Level Region of Central Java No 660 1/26/1990 dated June 1, 1990, on Water Quality Standard in the First Level Region of Central Java Province
(B)

- 80 Decree of the Governor Head of the First Level Region of Central Java No 660 1/28/1990 dated June 11, 1990, on Allocation of Water of Bengawan Solo, Kaligarang and Pekalongan River in the First Level Region of Central Java
(B)

East Java

- 81 Decree of the Governor Head of the First Level Region of East Java No Hk/458/118/Sk dated October 14, 1974 on License for the Surabaya Mayor to Take the Water from Surabaya River (Kalumas) for the Purpose of the Need of Drinking Water Regional Enterprise in Surabaya Municipality
(B)
- 82 Decree of the Governor Head of the First Level Region of East Java No Hk-I/1/77 dated January 29, 1977 on the Implementation of Regional Regulation of East Java Province No 16 of 1973 on the Transfer of Clean Water Undertaking in New District in the Area of Surabaya Municipality to Government of the Second Level Region of Surabaya
(B)
- 83 Decree of the Governor Head of the First Level Region of East Java No HK I/68/77 dated June 22, 1977, on the Formation of Committee of Researchers and the Development of Society Health, Sanitation Hygiene, and Rural Water Drinking Facilities in the East Java Province
(B)
- 84 Decree of the Governor Head of the First Level Region of East Java No 31 of 1990 dated January 22, 1990 on the Ratification of the Decision Letter of the President Director of the Clean Water Regional Enterprise of the First Level Region of East Java dated October 10, 1989 No 910/014/509/1989 on Budget of Clean Water Regional Enterprise of East Java Province for year 1990
(B)
- 85 Decree of the Governor Head of the First Level Region of East Java No 96 of 1990 dated March 19, 1990 on Revenue Sharing of Fixed Retribution Collection and Groundwater Production for the Third Quarter of Budget Year 1989/1990 for the Regency/ Municipality in East Java
(B)

The Special District of Yogyakarta (“DI Yogyakarta”)

- 86 Decree of the Governor Head of DI Yogyakarta No 198/KPTS/1988 dated August 22, 1988, on the Implementation Guideline of the Regional Regulation of DI Yogyakarta No 3 of 1986 on the Guidance of the Drilling and Using of Underground Water
(B)

South-East Sulawesi

- 87 Decree of the Governor Head of South-east Sulawesi Province No 134/1969 dated November 4, 1969, on the Formation of the Supervisory Board on the Construction (Directors) of Drinking Water for the Capital of South-east Sulawesi Province and the Capital of Kolaka Regency
(B)

South Sulawesi

- 88 Decree of the Governor Head of the First Level Region of South Sulawesi No 584/VIII/1977 dated August 13, 1980, on the Establishment of the Drinking Water Regional Enterprise of the Wajo Regency
(B)
- 89 Decree of the Governor Head of the First Level Region of South Sulawesi No 301/V/1980 dated May 21, 1980, on the Formation of the Compiler Team for the Implementation Guidelines of Regional Regulation of the First Level Region of South Sulawesi No 5 of 1973 on the Management and Contribution of Irrigation in the First Level Region of South Sulawesi
(B)

North Sulawesi

- 90 Decree of the Governor Head of the First Level Region of North Sulawesi No 221 of 1976 dated November 4, 1976, on the Formation of the Compiler Team for Development Plan of the Irrigation Area of Dumoga
(B)

West Kalimantan

- 91 Decree of the Governor Head of the West Kalimantan Province No 006 of 1976 dated January 10, 1976, on Indemnification for Drinking Water Extension Project of Pontianak Municipality
(B)

Central Kalimantan

- 92 Decree of the Governor Head of the Central Kalimantan Province No 13/HK of 1974 dated May 16, 1974, on the Use of Water from Drinking Water Channel in Palangkaraya
(B)

Maluku

- 93 Decree of the Governor Head of the Region of Maluku No Kpts 076/GMAL/1969 dated October 6, 1969 on the Formation of the Supervising Board on Building for the New Construction Project of Drinking Water from Galala for the Housing of Maluku Province in Tantu - Ambon
(B)

Special Region of Aceh ("DI Aceh")

- 94 Decree of the Governor of DI Aceh No 36 of 1992 dated December 10, 1992 on Water Allocation and Water Quality Standard at Water Resources in the Special Region of Aceh
(B)

West Sumatera

- 95 Decree of the Governor Head of the First Level Region of West Sumatera No 03 of 1988 dated July 13, 1988, on Implementation Guidelines of Regional Regulation of the First Level Region of West Sumatera No 10 of 1986 on Guidance on Drilling and Utilizing the Groundwater
(B)

Nusa Tenggara Timur

- 96 Decree of the Governor Head of the First Level Region of Nusa Tenggara Timur No 48 of 1989 dated March 22, 1989, on the Formation of Monitoring Unit and Guidance on Drinking Water Regional Enterprise throughout the First Level Region of Nusa Tenggara Timur
(B)
- 97 Decree of the Governor Head of the First Level Region of Nusa Tenggara Timur No 100 of 1989 dated May 29, 1989 on the Formation of Tender Committee in the field of Improvement Project of Clean Water Facilities in Waingapu and Maumere for Year 1989/1990
(B)
- 98 Decree of the Governor of the First Level Region of Nusa Tenggara Timur No 246 of 1989 dated September 29, 1989 on Formation of the Steering Committee of Service Project of Rural Clean Water in 12 (twelve) Regencies in Nusa Tenggara Timur for Year 1989/1990
(B)

Gubernatorial Instructions

DKI Jakarta

- 99 Instruction of the Governor Head of DKI Jakarta No 53 of 1989 dated February 20, 1989, on the Implementation of Inventorying and Releasing Land/Location for the Construction of Clean Water Distribution Center Located on Cakung-Cilincing Road Subdistrict Sukapura, District Cilincing, North Jakarta
(B)
- 100 Instruction of the Governor Head of DKI Jakarta No 64 of 1989 dated March 1, 1989, on the Change of PAM JAYA's logo
(B)

Ratification of Regional Regulations

- 101 Minister of Home Affairs Decree No 690 32-462 dated June 1, 1988 on the Ratification of Regional Regulation of the West Java Province No 3 of 1988 on the Control of Taking of Underground Water, Surface Water and Waste Disposal
(B)



Ministerial Circular Letter

- 21 Circular Letter of the Minister of Population and Life Environment No 03/SE/MENKLH/6/1987 dated June 5, 1987, on Procedures on the Remediating of Life Environmental Pollution and Destruction Cases
(B/E)

Regional Regulations

- 22 Regional Regulation of the First Level Region of Bali No 16 of 1988 dated November 18, 1988, on Supervision and Remedy of Environmental and Waste Pollution
(B)

Gubernatorial Decrees

- 23 Circular Letter of the Governor Head of the First Level Region of East Java No 660 1/19997/230/1981 dated August 29, 1981, on Living Environment Pollution Problem
(B)
- 24 Circular Letter of the Governor Head of the First Level Region of East Java No 660 3/14997/025/1982 dated July 28, 1982, on Industrial Pollution Problem
(B)
- 25 Decree of the Governor Head of the First Level Region of East Java No 186 of 1982 dated September 10, 1982, on Committee on Control and Remedy of Living Environmental Pollution (KPPLH)
(B)
- 26 Decree of the Governor Head of the First Level Region of East Java No 48 of 1985 dated February 25, 1985, on the Committee on Control and Prevention of the Pollution of Production and Consumption Goods of the Community in the First Level Region of East Java
(B)
- 27 Circular Letter of the Governor Head of the First Level Region of East Java No 660 3/25781/025/1986 dated November 4, 1986, on Remediating the Environmental Pollution
(B)

- 109 Regional Regulation of Magetan Regency No 23 of 1955 dated August 11, 1955, on the Drinking Water Regulation of Magetan Regency (Ratification of the Provisional Regional Representatives Assembly of Magetan Regency)
(B)
- 110 Regional Regulation of Kota Kecil Pasuruan No 23 of 1955 dated August 11, 1955, on Water Channel Regulation of Kota Pasuruan (Ratification of the Provisional Regional Representatives Assembly of Kota Pasuruan)
(B)
- 111 Regional Regulation of Kota Besar Malang No 37 of 1955 dated August 11, 1955, on Cleanliness Regulation of Kota Besar Malang (Ratification of the Provisional Regional Representatives Assembly of Kota Besar Malang)
(B)
- 112 Regional Regulation of Kota Besar Malang No 38 of 1955 dated August 11, 1955, on Regulation of Drinking Water Distribution of Kota Besar Malang (Ratification of the Provisional Regional Representatives Assembly of Kota Besar Malang)
(B)
- 113 Regional Regulation of Kota Besar Madiun No 49 of 1955 dated August 11, 1955, on Regulation of Running Water of Kota Besar Madiun (Ratification of the Regional Representatives Assembly of Kota Besar Madiun)
(B)
- 114 Regional Regulation of Pamekasan Regency No 59 of 1955 dated August 11, 1955, on the Regional Regulation on Water Channel of Pamekasan Regency (Ratification of the Provisional Regional House of Representatives of Pamekasan Regency)
(B)

South Sumatera

- 115 Regional Regulation of Palembang Municipality No 17/Kpts/Dprdgr-Komad/68 dated August 5, 1968, on the Regulation on Tariff of Drinking Water Company of Palembang Municipality (Ratification of the Provisional Regional Representatives of Palembang Municipality)
(B)

Bali

- 116 Decree of the Governor Head of the First Level Region of Bali Province No 10/Hk 2/Hk 1977 dated June 13, 1977 on Ratification of Regional Regulation of the Second Level Region of Badung dated January 27, 1976 No 5/Perda/1976 on Drinking Water Regional Enterprise of Badung
(B)
- 117 Decree of the Governor Head of the First Level Region of Bali Province No 44/HDT/I C dated September 21, 1979 on Ratification of Regional Regulation of the Second Level Region of Klungkung dated May 9, 1978 No 10 of 1978 on Drinking Water Regional Management
(B)
- 118 Decree of the Governor of No 40/HDT/I C/1978 dated December 30, 1978 on Ratification of Regional Regulation of the Second Level Region of Badung dated February 23, 1978 No 5 of 1978 on the First Amendment of Regional 5/Perda/1976 on the Drinking Water Regional Enterprise of the Second Level Region of Badung
(B)
- 119 Decree of the Governor Head of the First Level Region of Bali No 605 of 1984 dated July 23, 1984, on Ratification of Regional Regulation of the Second Level Region of Buleleng No 1 of 1984 on the Establishment of Drinking Water Enterprise of the Second Level Region of Buleleng
(B)

South-East Sulawesi

- 120 Decree of the Governor Head of the First Level Region of South-east Sulawesi No 43/1978 dated February 28, 1978, on Ratification of Regional Regulation of the Second Level Region of Kendari No 3 of 1976 dated August 3, 1976 on the Establishment of Drinking Water Regional Enterprise (PAM)
(B)
- 121 Decree of the Governor Head of the First Level Region of South-east Sulawesi No 206/1978 dated June 6, 1978, on Ratification of Regional Regulation of the Second Level Region of Kolaka dated February 16, 1978 on Subscribe/Service Fee on Clean Water Supply
(B)

South Sulawesi

- 122 Decree of the Governor Head of the First Level Region of South Sulawesi No 569/XI/74 dated November 22, 1974, on the Ratification of the Project Location of Drinking Water Facilities and Family Toilet of the Regencies/Municipalities throughout South Sulawesi, in the framework of Presidential Instruction No 5 of 1974
(B)
- 123 Decree of the Governor Head of the First Level Region of South Sulawesi No 375/VII/1975 dated July 17, 1975, on the Ratification of the Regional Regulation of the Second Level Region of Soppeng No 4 of 1975 dated April 15, 1975, which amends for the Fifth Times the Regional Regulation of the Second Level Region of Soppeng on the use of Running Water and the Tariff Collection thereof
(B)

West Kalimantan

- 124 Decree of the Governor Head of the First Level Region of West Kalimantan No 148 of 1981 dated June 17, 1981, on Ratification of Regional Regulation of the Second Level Region of Sintang No 12 of 1980, on the Establishment of Drinking Water Regional Enterprise
(B)

Lampung

- 125 Decree of the Governor Head of the First Level Region of Lampung No G/095/D III/HK/1976 dated June 26, 1976, on Ratification of Regional Regulation of the Second Level Region of Tanjungkarang Telukbetung on the Establishment of Drinking Water Regional Enterprise of Way Riau
(B)

West Sumatra

- 126 Decree of the Governor Head of the First Level Region of West Sumatera No SK 188 342-207-1990 dated May 7, 1990, on Ratification of Regional Regulation of the Second Level Region of Padang Panjang No 3 of 1990 on Drinking Water Services of Drinking Water Regional Enterprise of the Second Level Region of Padang Panjang
(B)

Bengkulu

- 127 Decree of the Governor Head of the First Level Region of Bengkulu No 172 of 1981 dated June 30, 1981, on Ratification of Regional Regulation of the Second Level Region of Rejang Lebong No 7/PRT/DPRD/1981, on the Establishment of Drinking Water Regional Enterprise of the Second Level Region of Rejang Lebong
(B)

WASTE WATER

Government Regulation

- 1 Government Regulation No 14 of 1987 dated June 27, 1987, on Transfer of Part of the Government Affairs in the Field of Public Works to the Regions
(B/E)
- 2 Government Regulation No 20 of 1990 dated June 5, 1990 on Water Pollution Control
(B/E)

Ministerial Decrees

- 3 The State Minister of Population and Life Environment Decree No KEP-03/MENKLH/II/1991 dated February 1, 1991, on Liquid Waste Quality Standard for Activities already in Operation
(B/E)
- 4 Minister of Public Work Decree No 510/KPTS/1987 dated October 26, 1987, on the Establishment of Waste Water Management Agency in the Special Region of Jakarta Capital City
(B/E)
- 5 Regulation of the Minister of Public Works No 45/PRT/1990 on Quality Control of Water at the Water Resources
(B/E)

Regional Regulation

The Special Region of Jakarta Capital City

- 6 Regional Regulation of DKI Jakarta No 10 of 1991 dated September 26, 1991, on Regional Corporation of Waste Water Management in DKI Jakarta (B/E)

West Java

- 7 Regional Regulation of West Java Province No 3 of 1988 dated February 24, 1988 on Control of Groundwater, Surface Water Removal and Waste Disposal (B)

East Java

- 8 Regional Regulation of the First Level Region of East Java Province No 8 of 1989 dated December 16, 1989, on Water Pollution Control in the First Level Region of East Java Province (B/E)

Gubernatorial Decrees

- 9 Decree of the Governor of DKI Jakarta No 810 of 1983 dated July 27, 1983, on the Provisions and Requirements of the Organizing the Suction of Dirty Water from Housing's Septic tank and Similar Facilities in the area of DKI Jakarta (B)
- 10 Decree of the Governor of DKI Jakarta No 144 of 1984 dated February 3, 1984, on the Determination of Spot of Disposal Location for Drainage Waste Water of Household (Dirty Water from Septic tank of Housing and Similar Facilities) in DKI Jakarta (B)
- 11 Decree of Government of DKI No 313 of 1984 dated February 25, 1984 on the Procedures for obtaining License in Sanitation Sector in the Special Region of DKI Jakarta (B/E)
- 12 Decree of the Governor of DKI Jakarta No 2376 of 1984 dated April 26, 1984, on the Determination of locations for rainwater reservoir (PAH), hand pump well (SPT), family toilet (JK), drilled well (SGL) and Waste Water disposal Presidential Decree No 8/83 on Budget Year 1983/1984 in the Special Region of Jakarta City (B)

- 13 Decree of the Governor of DKI Jakarta No 425 of 1985 dated 28 February 1985, on Revocation of the Decree of the Governor of DKI Jakarta No 144 of 1984 on the Determination of Spot of Disposal Location for Drainage Waste Water of Household (Dirty Water from Septic tank of Housing and Similar Facilities) in DKI Jakarta
(B)
- 14 Decree of the Governor Head of DKI Jakarta No 1346 of 1988 dated August 5, 1988 on Provisions on the Waste Water Management in DKI Jakarta
(B/E)
- 15 Decree of the Governor of DKI Jakarta No 45 of 1992 dated January 10, 1992 on Stipulation on the Management of with Piping System Waste Water in DKI Jakarta
(B/E)
- 16 Decree of the Governor of DKI Jakarta No 240 of 1992 dated February 11, 1992 on Organizational Composition and Working Procedure of the Regional Corporation of Waste Water Management of DKI Jakarta
(B/E)

Central Java

- 17 Decree of the Governor Head of the First Level Region of Central Java Province No 660 1/27/1990 on Classification of Liquid Waste in Level I Province of Central Java
(B)
- 18 Decree of the Governor Head of the First Level Region of Central Java Province No 660 1/28/1990 on Use of Water from Rivers of Bengawan Solo, Kaligarang and Pekalongan of the First Level Region of Central Java Province
(B)

Gubernatorial Circular Letter

- 19 Circular Letter of the Governor Head of the First Level Region of East Java Province No 660 1/24865/025/1987 dated November 23, 1987 on Disposal of Solid Waste, Liquid Waste and Air Waste
(B)

Gubernatorial Instructions

The Special Region of Jakarta Capital City ("DKI Jakarta")

- 20 Instruction of the Governor Head of DKI Jakarta No 21 of 1989 dated January 19, 1989, on the Sanitation Handling in the River Flow Areas (DAS) throughout the Territory of DKI Jakarta
(B)
- 21 Instruction of the Governor Head of DKI Jakarta No 129 of 1990 dated April 9, 1990, on the Regional Regulation on Waste Water Management and the Formation of Regional Company on Waste Water of (PDAL) DKI Jakarta
(B)
- 22 Instruction of the Governor Head of DKI Jakarta No 24 of 1994 dated January 12, 1994 on Organization on Coordinating the Control of Surface Water Utilization and Underground Water and Waste Water Disposal Control to Water Bodies
(B)
- 23 Instruction of the Governor Head of DKI Jakarta No 74 of 1994, on the Increase of Remediating Waste Water and Receipt of Waste Water Retribution
(B)

SOLID WASTE

Government Regulations

- 1 Government Regulation No 7 of 1973 dated March 17, 1973, on Supervision on Distribution, Storing, and Application of Pesticides
(B)
- 2 Government Regulation No 11 of 1975 dated April 16, 1975, on Work Safety towards Radiation
(B)
- 3 Government Regulation No 14 of 1987 dated June 27, 1987, on the Transfer of Part of Administrative Affairs in Public Works Sector to the Regions
(B/E)
- 4 Government Regulation No 49 of 1993 dated September 29, 1993, on Capital Participation of the State of the Republic of Indonesia for the Establishment of a Limited Liability Company in Processing Service of Industrial Waste of Hazardous and Toxic Materials in Cileungsi - Bogor, West Java
(B)

- 5 Government Regulation No 19 of 1994 dated April 30, 1994, on The Management of the Waste of Hazardous and Toxic Materials (B/E)

Ministerial Regulations

- 6 Regulation of the Minister of Health No 453/MEN KES/PER/XI/1983 dated November 16, 1983, on Hazardous Materials (B/E)
- 7 Regulation of the Minister of Industry No 148/M/SK/4/1985 dated April 23, 1985, on Security of Toxic and Hazardous Materials in Industrial Companies (B/E)

Ministerial Decrees

- 8 Minister of Trade Decree No 349/KP/XI/1992 dated November 21, 1992, on Ban on Plastic Waste/Scrap Imports (B/E)

Ministerial Circular Letter

- 9 Circular Letter of the Minister of Manpower No SE-11/M/BW/1989 dated October 31, 1989, on the Disposal of Hazardous and Toxic Waste Materials (B)

Regional Regulations

The Special Region of Jakarta Capital City ("DKI Jakarta")

- 10 Regional Regulation of DKI Jakarta No 15 of 1981 dated December 7, 1981, on the Formation, Organizational Structure and Procedure of Sanitation Authority of DKI Jakarta (B)

Gubernatorial Decrees

The Special Region of Jakarta Capital City ("DKI Jakarta")

- 11 Decree of the Governor of DKI Jakarta No Db 4/1/7/1967 dated December 6, 1967, on the Fusion of City Cleanliness Command to become Sanitation Authority of DKI Jakarta (B)

- 12 Decree of the Governor of DKI Jakarta No Da 11/1/8/68 dated February 8, 1968, on the Obligation to Provide Empty Land to be used as Temporary Places for Public Garbage Disposal
(B)
- 13 Decree of the Governor of DKI Jakarta No D IV-d 01/1/7/1973 dated February 5, 1973, on the Obligation for Residents to Provide Garbage Container, in the Territory of DKI Jakarta
(B)
- 14 Decree of the Governor of DKI Jakarta No 382 of 1977 dated June 9, 1977, on the Obligation of Industrial Companies and Agencies in the Territory of DKI Jakarta to Examine its Disposal Result to the Laboratory of Pollution PPMPL Regional Government of DKI Jakarta or to Appointed Laboratories
(B)
- 15 Decree of the Governor of DKI Jakarta No 717 Year 1979 dated September 24, 1979, on Delegation of Authority from the Governor Head of the Special Region of the Jakarta Capital City to the Heads of Territory to Warn and Close the Businesses which do not Comply with Sanitation Rules
(B)
- 16 Decree of the Governor of DKI Jakarta No 313 of 1984 dated February 25, 1984, on the Procedure to Obtain License in Sanitation Sector in DKI Jakarta
(B)
- 17 Decree of the Governor of DKI Jakarta No 179 of 1991 dated February 21, 1991, on Cooperation of Production Contract between the Administration of DKI Jakarta and P T Trinaga Terra regarding the Waste Processing and the Advantage with Worm Cultivation in DKI Jakarta
(B)

Gubernatorial Instructions

The Special Region of Jakarta Capital City ("DKI Jakarta")

- 18 Instruction of the Governor of DKI Jakarta No 33 of 1989 dated January 27, 1989, on Garbage Disposal on the Edge of the Road of Cakung Cilincing, North Jakarta and East Jakarta
(B)

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- 19 Instruction of the Governor Head of DKI Jakarta No 39 of 1989 dated January 27, 1989, on the Clarification of Instruction of the Governor of DKI No 279 of 1988 and the Technical Guidelines to Handle the Pollution Problem Caused by Tjoe Marlina's Farm and Waste Leather Factory CV Murni in Kecamatan Cengkareng - West Jakarta
(B)
- 20 Instruction of the Governor Head of DKI Jakarta No 54 of 1989 dated February 6, 1989, on the Remedying the Pollution Caused by the Activities of Pharmaceutical Industry in the Territory of DKI Jakarta
(B)
- 21 Instruction of the Governor of DKI Jakarta No 35 of 1990 dated February 6, 1990, on the Implementation of Industrial Waste Research to P4L DKI Jakarta Based on the Governor Decree No 382 of 1977
(B)
- 22 Instruction of the Governor of DKI Jakarta No 146 of 1990 dated April 17, 1990, on Waste Processing with Worm Cultivation by P T Trinaga Terra
(B)

Gubernatorial Circular Letters

- 23 Circular Letter of the Governor Head of the First Level Region of East Java No 660 1/8580/025/1987 dated April 14, 1987, on Waste Processing Development
(B)
- 24 Circular Letter of the Governor Head of the First Level Region of East Java No 660 1/24865/025/1987 dated November 23, 1987, on Solid, Liquid and Gas Waste Disposal
(B)

City Regulations

- 25 Regional Regulation of Kota Besar Semarang (Regional Gazette of Central Java Province dated March 28, 1957, Seri B nr 6) dated January 28, 1957, on Regulation of Garbage Disposal Cost
(B)
- 26 Regional Regulation of Surakarta Municipality No 10 of 1971 dated September 23, 1971, on the Garbage Cleaning
(B)

UNCLASSIFIED

Laws

- 1 Dutch East Indies Commercial Code of 1847
- 2 Law No 8 of 1971 dated December 15, 1971, on State Oil and Natural Gas Mining Enterprise
(B/E)
- 3 Law No 13 of 1980 dated December 29, 1980 on Roads
(B/E)
- 4 Law No 6 of 1983 dated December 31, 1983, on General Tax Matters
(E)
- 5 Law No 7 of 1983 dated December 31, 1983, on Income Taxation
(B/E)
- 6 Law No 8 of 1983 dated December 31, 1983, on Value Added Taxation on Goods and Services and a Sales Tax on Luxury Goods
(B/E)
- 7 Law No 5 of 1984 dated June 29, 1984, on Industry
(B)
- 8 Law No 15 of 1985 dated December 30, 1985, on Electricity
(B/E)
- 9 Law No 3 of 1989 dated April 1, 1989, on Telecommunication
(B/E)
- 10 Law No 24 of 1992 dated October 13, 1992, on the Arrangement and Spatial Layout
(B/E)

Government Regulations

- 11 Government Regulation No 36 of 1977 dated December 29, 1977, on the Termination of Foreign Trading Activities
(B/E)

- 12 Government Regulation No 4 of 1978 dated February 25, 1978, on the Capital Participation of the Republic of Indonesia in the Establishment of Limited Liability Company in the Field of Management, Maintenance and Procurement of Toll Roads Network, and the Provisions of the Efforts thereof
(B)
- 13 Government Regulation No 13 of 1980 dated December 29, 1980 on Roads
(B)
- 14 Government Regulation No 24 of 1986 dated May 6, 1986, on the Licensing Period for Foreign Investment Companies
(B)
- 15 Government Regulation No 25 of 1987 dated July 20, 1987, on the Implementation of Partial Task of Toll Roads Administration by the Joint Company
(B)
- 16 Government Regulation No 10 of 1989 dated July 25, 1989, on the Supply and Use of Electricity Power
(B/E)
- 17 Government Regulation No 8 of 1990 dated March 24, 1990, on Toll Roads
(B/E)
- 18 Government Regulation No 25 of 1991 dated May 1, 1991 on the Exploration of the Form of Telecommunication Public Corporation (Perumtel) to become a State Limited Liability Company (P T Persero)
(B/E)
- 19 Government Regulation No 8 of 1993 dated February 16, 1993, on the Operations of Telecommunication
(B/E)

Presidential Decrees

- 20 Presidential Decree No 20 of 1982 dated May 16, 1982, on Coordination of Control and Supervision of Regional Development
(B)
- 21 Presidential Decree No 17 of 1986 dated May 6, 1986, on Requirements of National Share Ownership in Foreign Investment Companies to be Treated Equally to Domestic Investment Companies
(B/E)

- 22 Presidential Decree No 22 of 1986 dated May 31, 1986, on the Priority List for Investment
(B)
- 23 Presidential Decree No 15 of 1987 dated May 25, 1987, on the Priority List for Investment
(B/E)
- 24 Presidential Decree No 25 of 1987 dated July 20, 1987, on the Performance of Part of the Tasks of Operating Tollroads by Joint Venture
(B/E)
- 25 Presidential Decree No 50 of 1987 dated December 22, 1987, on the Amendment of Presidential Decree No 17 of 1986 on the National Share Ownership Requirements in Foreign Capital Investment Companies to be Provided Equal Treatment to Domestic Capital Investment Companies
(B/E)
- 26 Presidential Decree No 21 of 1989 dated May 5, 1989, on the List of Business Sectors which are Closed for Capital Investment
(B/E)
- 27 Presidential Decree No 42 of 1989 dated August 4, 1989, on the Cooperation between Pertamina and Private Legal Entity in Refining and Manufacturing Efforts of Oil and Natural Gas
(B)
- 28 Presidential Decree No 37 of 1992 dated July 9, 1992, on the Supply of Electricity by the Private Sector,
(B/E)
- 29 Presidential Decree No 54 of 1993 dated June 10, 1993, on the List of Business Sectors which are Closed for Capital Investment
(B/E)

Presidential Instructions

- 30 Presidential Instructions No 15 of 1970 dated August 29, 1970 on the Procedures to Prepare the Draft of Law and Government Regulation of the Republic of Indonesia
(B)

Ministerial Regulations

- 31 Regulation of the Minister of Home Affairs No 6 of 1973 dated April 26, 1975 on the Foreign Cooperation and Technical Assistance
(B)
- 32 Regulation of the Minister of Home Affairs No 6 of 1975 dated March 7, 1975, on Inter-regional Cooperation
(B)
- 33 Regulation of the Minister of Home Affairs No 1 of 1984 dated January 31, 1984, on Procedure of Guidance and Supervision of the Regional Enterprise in Regional Government
(B)
- 34 Regulation of the Minister of Home Affairs No 3 of 1986 dated October 1, 1986, on Regional Capital Participation to the Third Parties
(B/E)
- 35 Regulation of the Minister of Home Affairs No 3 of 1990 dated March 16, 1990, on Management of Regional Enterprise's Assets
(B)
- 36 Regulation of the Minister of Public Works No 50/PRT/1991 dated February 7, 1991, on the Licensing of Representative Offices of Foreign Construction Service Companies
(B/E)
- 37 Regulation of the Minister of Mines and Energy Regulation No 02 P/03/M PE/1993 dated February 24, 1993, on the Implementation of the Business of Electric Power Supply by Private Companies and Cooperatives in the Interest of the Public
(B/E)
- 38 Regulation of the Minister of Home Affairs No 6 of 1993 dated October 12, 1993, on the Revocation of Regulation of the Minister of Home Affairs No 14 of 1974 on the Form of the Change of Regional Regulation
(B)

Ministerial Decrees

- 39 Minister of Home Affairs Decree No 536-666 dated October 7 1981 on the Guidelines of Implementation and Termination of Member of Director and Supervision Board of Regional Enterprise
(B)
- 40 Minister of Home Affairs Decree No 570-006 dated January 7, 1982, on the Guidelines of Regional Aid Provision
(B)
- 41 Minister of Home Affairs Decree No 23 of 1988 dated June 20, 1988, on the Procedure of Procurement on Goods and Service in the Department of Home Affairs and Regional Government
(B)
- 42 Minister of Mining and Energy Decree No 03P/39/M PE/1989 dated December 19, 1989, on the Guidelines and Requirements of Cooperation between Pertamina and Private Undertaking in Refining and Manufacturing Oil and Natural Gas
(B/E)
- 43 Minister of Tourism, Post and Telecommunication No KM 39/KS 002/MPPT-93 dated February 27, 1993, on the Cooperation in the Operation of Basic Telecommunication Services
(B/E)
- 44 Minister of Home Affairs Decree No 84 of 1993 dated October 12, 1993, on the Form of Regional Regulation and Change of Regional Regulations
(B)
- 45 Minister of Home Affairs Decree No 85 of 1993 dated October 12, 1993, on the Enactment of Regional Regulations and or Decision of Head of the Region after Legalization Period
(B)
- 46 Minister of Investment Fund Mobilization/Chairman of the Capital Investment Coordinating Board Decree No 15/SK of 1994 dated July 29, 1994, regarding Implementation Provisions on Shares Ownership/Shareholding in Companies, Established in the Framework of Foreign Capital Investment
(B/E)

Ministerial Instruction

- 47 Minister of Home Affairs Instruction No 5 of 1990 dated March 19, 1990, on the Form Conversion of Regional-owned Enterprise to be Two Forms of Perumda and Perseroda
(B)
- 48 Minister of Home Affairs Instruction No 31 of 1993 dated October 12, 1993 on Judicial Review of Regional Regulation
(B)

Regional Regulation

- 49 Regional Regulation of DKI Jakarta No 10 of 1988 dated November 29 1988 on the Capital Participation of DKI Jakarta by Third Party
(B)

Gubernatorial Decrees

- 50 Decree of the Governor of DKI Jakarta No 382 of 1977 dated June 9, 1977, on the Obligation of Industrial Companies and Agencies in the Territory of DKI Jakarta to Examine its Disposal Result to the Laboratory of Pollution PPMPL Regional Government of DKI Jakarta or to Appointed Laboratories
(B)

GENERAL APPLICATION

Constitutions

- 1 Constitution of 1945, Article 33
(B/E)

Laws

- 1 Law No 5 of 1962 dated February 14, 1962, on Government Regional Enterprise
(B)
- 2 Law No 1 of 1967 dated January 10, 1967 on Foreign Capital Investment
(B/E)
- 3 Law No 6 of 1968 dated July 3, 1968, on Domestic Capital Investment
(B/E)

- 4 Law No 6 of 1969 dated July 5, 1969 on Statement of Invalidity of Several Laws and Government Regulations in lieu of Laws
(B)
- 5 Law No 11 of 1970 dated August 7, 1970, on the Amendment and Supplement of Law No 1 of 1967 on Foreign Capital Investment
(B/E)
- 6 Law No 12 of 1970 dated August 7, 1970, on the Amendment and Supplement of Law No 6 of 1967, on Domestic Capital Investment
(B/E)
- 7 Law No 5 of 1974 dated July 23, 1974, on the Basic Principles of Administration in the Regions
(B)
- 8 Law No 4 of 1982 dated 11 March 1982, on Basic Provisions for the Management of the Living Environment
(B/E)

Government Regulations

- 9 Government Regulation No 29 of 1986 dated June 5, 1986, on Assessment/Analysis of Environmental Impact
(B/E)
- 10 Government Regulation No 14 of 1987 dated June 27, 1987, on the Transfer of Part of the Government Affairs in Public Works Sector to the Regions
(B/E)
- 11 Government Regulation No 51 of 1993 dated October 23, 1993, on Analysis of Impacts on the Environment (AMDAL)
(B/E)
- 12 Government Regulation No 20 of 1994 dated May 19, 1994 on Share Ownership in Companies Established Within the Framework of Foreign Capital Investment
(B/E)

Presidential Decrees

- 13 Presidential Decree No 23 of 1990 dated June 5, 1990, on the Environmental Impact Control Agency
(E)

Ministerial Regulations

- 14 Regulation of the Minister of Home Affairs No 4 of 1990 dated March 16, 1990, on the Procedure of Cooperation between Regional Enterprise and Third Party
(B/E)

Ministerial Decrees

- 15 Joint Ministerial Decree of the Minister of Home Affairs and the State Minister of Population and Life Environment No 23 of 1979 and No KEP-002/MNPPLH/2/1979 dated January 15, 1979, on Institutions for Natural Resource and Life Environment Management in the Region
(B)
- 16 Minister of Industry Decree No 134/M/SK/4/1988 dated April 28, 1988, on Preventing and Remedying Pollution as Consequence of Industrial Undertaking Activities towards Living Environment
(B/E)
- 17 Minister of Health Decree No 286/MENKES/SK/VI/1990 dated June 9, 1990, on Activities in the Health Sector which is Obligated to Perform AMDAL
(B)
- 18 Minister of Home Affairs Decree No 29 of 1992 dated March 14, 1992, on Guidelines on Implementation Procedure of Analysis on Environmental Impact for Foreign and Domestic Capital Investment Projects in the Regions
(B/E)
- 19 State Minister of Investment Fund Mobilization/Chairman of the Capital Coordinating Board (BKPM) No 11/SK/1993 dated July 2, 1993 on the Amendment of the of the Chairman of BKPM Decision No 21/SK/1992 on Formation of the Task Unit of Implementation and Supervision of the Analysis on Environmental Impact for Foreign and Domestic Capital Investment Activities
(B/E)
- 20 Minister of Investment Fund Mobilization/Chairman of the Capital Investment Coordinating Board Decree No 15/SK of 1994 dated July 29, 1994, regarding Implementation Provisions on Shares Ownership/Shareholding in Companies, Established in the Framework of Foreign Capital Investment
(B/E)

Ministerial Circular Letter

- 21 Circular Letter of the Minister of Population and Life Environment No 03/SE/MENKLH/6/1987 dated June 5, 1987, on Procedures on the Remediating of Life Environmental Pollution and Destruction Cases
(B/E)

Regional Regulations

- 22 Regional Regulation of the First Level Region of Bali No 16 of 1988 dated November 18, 1988, on Supervision and Remedy of Environmental and Waste Pollution
(B)

Gubernatorial Decrees

- 23 Circular Letter of the Governor Head of the First Level Region of East Java No 660 1/19997/230/1981 dated August 29, 1981, on Living Environment Pollution Problem
(B)
- 24 Circular Letter of the Governor Head of the First Level Region of East Java No 660 3/14997/025/1982 dated July 28, 1982, on Industrial Pollution Problem
(B)
- 25 Decree of the Governor Head of the First Level Region of East Java No 186 of 1982 dated September 10, 1982, on Committee on Control and Remedy of Living Environmental Pollution (KPPLH)
(B)
- 26 Decree of the Governor Head of the First Level Region of East Java No 48 of 1985 dated February 25, 1985, on the Committee on Control and Prevention of the Pollution of Production and Consumption Goods of the Community in the First Level Region of East Java
(B)
- 27 Circular Letter of the Governor Head of the First Level Region of East Java No 660 3/25781/025/1986 dated November 4, 1986, on Remediating the Environmental Pollution
(B)



- 28 Circular Letter of the Governor Head of the First Level Region East Java No 660 1/9487/025/1987 dated May 8, 1987, on Coordination and the Improvement of Activities of Committee on Controlling Remediating the Living Environmental Pollution (KPPLH) in the First Level Region of East Java (B)
- 29 Decree of the Governor Head of the First Level Region of Bali Province No 174 of 1990 dated April 11, 1990, on the Implementation of Regional Regulation of the First Level Region of Bali Province No 16 of 1988 on Supervision and Remediating the Environment Pollution by Waste (B)
- 30 Decree of the Governor Head of the First Level Region of Bali Province No 89/1990 dated February 13, 1990 on Formation and Composition of Analysis Commission of Environment Impact in the First Level Region of Bali Province (B)
- 31 Decree of the Governor Head of the First Level Region of Central Java No 660 1/36/1990 dated August 1, 1990, on Technical Guidelines on Document Evaluation of Environmental Impact Analysis of the First Level Region of Central Java (B)
- 32 Decree of the Governor of DKI Jakarta No 1893 of 1991 dated December 27, 1991 on Administrative Sanctions for Company/Industrial Activities Arising Damages and Environmental Pollution in DKI Jakarta (B)

Gubernatorial Circular Letters

- 33 Circular Letter of the Governor Head of the First Level Region of East Java Province No 660 1/8580/025/1987 dated April 14, 1987, on the Development of Waste Management (B)
- 34 Circular Letter of the Governor Head of the First Level Region of East Java Province No 660 1/24864/025/1987 dated November 23, 1987, on Construction of Waste Processing (B)
- 35 Circular Letter of the Governor Head of DKI Jakarta No 990 of 1981 dated September 29, 1981, on the Waste Handling (B)

Gubernatorial Announcement

- 36 Announcement of the Governor Head of DKI Jakarta No 1420/A/K/BKD/1972 dated June 7, 1972 on the Maintenance of the Cleanliness Particularly in the Shopping Center
(B)
- 37 Appeal of the Governor Head of DKI Jakarta No 1100 Year 1982 dated November 23, 1982, on the Implementation of the Clean Environment Activities in the territory of DKI Jakarta
(B)
- 38 Appeal of the Governor Head of DKI Jakarta No 14 of 1985 dated December 7, 1985, on the Environmental Cleanliness
(B)

City Regulations

- 39 Regional Regulation of Bogor Municipality No 5/PERDA/73 dated March 31, 1973, on Public Orderliness, Cleanliness and Health
(B)
- 40 Regional Regulation of Cianjur Regency No 2 of 1973 dated August 28, 1973, on the General Sanitary and Orderliness in Cianjur Regency
(B)

Note

- (B) available in Bahasa Indonesia
(E) available in English
(B/E) available in Bahasa Indonesia and English

LAWS AND REGULATIONS INDONESIA

	3	The allocation and standard quality of water at the water sources being under the management authority of managing agency as referred to in Law No 11/1974 regarding irrigation shall be stipulated by the Minister who is responsible to the irrigation sector after consulting with the Minister	Article 10 (3)
Control	1	The Governor shall determine the pollution holding capacity	Article 14
	2	To protect the quality of water, the Governor after consulting with the Minister may stipulate the quality standard of the liquid water	Article 15 (2)
	3	Each person or body disposing liquid waste shall be obliged to adhere to the quality standard of liquid waste disposal permit issued to it	Article 17 (1)
	4	The disposal of liquid waste into the ground may be done under the Minister's permit based on the research result	Article 19
	5	The disposal of liquid waste into the water shall be imposed with a retribution payment	Article 21 (1)
	6	The procedure for payment and the amount of retribution shall be stipulated in a Provincial Regulation	Article 21 (2)
	7	In case the Regional Government makes available a place and or facilities for disposal and process of liquid waste, the Regional Government may collect retribution	Article 22
Licensing	1	The disposal of liquid waste into water shall be done under the Governor's permit	Article 26 (1)
	2	The household waste disposal shall be regulated in a Regional Regulation	Article 27 (1)
Supervising and Monitoring	1	The quality of water shall be supervised by the Governor	Article 30 (1)
	2	In supervising the quality of water, the governor may appoint a Regional Agency	Article 30 (2)
	3	The governor shall stipulated the procedure for regional supervision	Article 30 (7)



APPENDIX B

**MATRIX OF RELEVANT LAWS AND REGULATIONS IN THE SECTORS OF
WATER SUPPLY, WASTE WATER AND SOLID WASTE RELATING TO PPP/PSP**

	Water Supply	Waste Water	Solid Waste
Constitution			
Law	<p>Law No 5 of 1960 regarding Basic Regulation for APART in Affairs (September 24 1960)</p> <p>Law No 1 of 1967 regarding Foreign Capital Investment (January 10 1967)</p> <p>Law No 6 of 1968 regarding Domestic Investment (July 3 1968)</p> <p>Law No 11 of 1970 regarding Amendment and Supplement of Law No 1 of 1967 (August 7 1970)</p> <p>Law No 12 of 1970 regarding Amendment and Supplement of Law No 6 of 1968 (August 7 1970)</p> <p>Law No 11 of 1974 regarding Water Resources (December 26 1974)</p>		
Government Regulation (PP)	<p>PP No 22 of 1982 regarding Procedure of Water Arrangement (August 12 1982)</p> <p>PP No 23 of 1982 regarding Irrigation (August 12 1982)</p> <p>PP No 14 of 1987 regarding Transfer of Part of Government Affairs in Public Works Sector to the Regions (June 27 1987)</p> <p>PP No 5 of 1990 regarding Jasa Tirta Public Company (PIRUM) (February 12 1990)</p>	<p>PP 14 of 1987 regarding Transfer of Part of Government Affairs in Public Work Sector to the Regions (June 27 1987)</p> <p>PP 20 of 1990 regarding Water Pollution Control (June 5 1990)</p>	<p>PP 14 of 1987 regarding Transfer of Part of Government Affairs in Public Work Sector to the Regions (June 27 1987)</p> <p>PP No 19 of 1994 regarding Management of the Waste of Hazardous and Toxic Materials (April 30 1994)</p>

	Water Supply	Waste Water	Solid Water
	<p>PP No 55 of 1991 regarding Rivers (June 14 1991)</p> <p>PP No 20 of 1994 regarding Share Ownership in Companies Established within the Framework of Foreign Capital Investment (May 19 1994)</p>		
Presidential Decree (KEPPRES)			
Ministerial Regulation	Regulation of MOHA No 3 of 1986 regarding Regional Capital Participation to the Third Parties (October 1 1986)		
Ministerial Decree	<p>Joint Decree of MOPW MOHA and MOI No 281/KPIS/1978 No 160 of 1978 and No 350/KMK 011/1978 regarding Undertaking and Control of the Construction of Drinking Water Projects with the Aid from Central Government (September 19 1978)</p> <p>Joint Decree of MOHA and MOPW No 3 of 1984 and No 26/KPIS/1984 regarding Procedure of Proposal Procurement for Clean Water Projects and Temporary Operations and Transfer of Operations (January 23 1984)</p> <p>Joint Decree of MOHA and MOPW No 4 of 1984 and No 27/KPIS/1984 regarding Guidelines for the Drinking Water Regional Enterprise (KEPPRESAM) (January 23 1984)</p> <p>MOHA Decree No 690/1599 regarding Guidance and Monitoring Assignment Towards KEPPRESAM in Provincial Level (November 13 1985)</p>	Decree of MOPW No 510/KPIS/1987 regarding the Establishment of Waste Water Management Agency in the Special Region of Jakarta Capital City (October 26 1987)	

	Water Supply	Waste Water	Solid Water
	<p>Decree of MOPW No 275/KPIS/1987 on General Guidelines regarding the Task Division Authority and Responsibility of the Use and Development of Ppoundwater in the Surroundings of the Department of Public Works (June 18 1987)</p> <p>Decree of the State Minister of Investment Fund Mobilization/Chairman of the Capital Investment Coordinating Board No 15/SK of 1994 regarding Implementation Provisions on Shares Ownership/ Shareholding in Companies established in the framework of Foreign Capital Investment (July 29 1994)</p>		
Ministerial Circular Letter (CI)	MOI CI No 543/MK 011/1980 regarding Requirements of Government's Capital Participation for Drinking Water Project Which Obtaining Government's Aid (January 16 1980)		
Regional Regulation (RR)	<p>RR of DKI Jakarta No 13 of 1992 regarding Drinking Water Regional Company of the Special Region of Jakarta Capital City (October 15 1992)</p> <p>RR of DKI Jakarta No 11 of 1993 regarding Drinking Water Services in the Special Region of Jakarta Capital City (December 13 1993)</p> <p>RR of the Second Level Region of Cimjur No 3/Huk/021 2/1975 regarding Establishment of Drinking Water Regional Company in the Second Level Region of Cimjur Regency (February 22 1975)</p>	<p>RR of DKI No 15 of 1981 regarding Organizational Structure and Procedure of Sanitation Department of the Special Region of Jakarta Capital City (December 7 1981)</p> <p>RR of the Special Region of Jakarta Capital City No 10 of 1991 regarding Regional Corporation for Waste Water Management of the Special Region of Jakarta Capital City (September 26 1991)</p> <p>RR of West Java Province No 3 of 1988 regarding Control of Ppound Water Surface Water Removal and Waste Disposal (February 24 1988)</p>	RR of DKI No 15 of 1981 regarding Organizational Structure and Procedure of Sanitation Department of the Special Region of Jakarta Capital City (December 7 1981)

	Water Supply	Waste Water	Solid Waste
	<p>RR of West Java Province No 3 of 1988 regarding Control of under P-Pound Water Surface Water Removal and Waste Disposal (February 24 1988)</p> <p>RR of East Java Province No 2 of 1987 regarding Clean Water Regional Company of the East Java Province (May 21 1987)</p>	<p>RR of the East of Java Province No 8 of 1989 regarding Water Pollution Control in the East of Java Province (December 16 1989)</p>	
Governor Decree	<p>Decree of the Governor of West Java Province No 2 of 1988 regarding the Implementation of Regional Regulation of West Java Province No 3 of 1988 on the Control on P-Pound Water Surface Water Removal and Waste Disposal (October 1 1988)</p> <p>Decree of the Governor of West Java Province No 616/SK 1519/Huk/1988 regarding the Appointment of Regional Revenue Office of West Java Province to Record the Amount of Taking of P-Pound Water and Surface Water and to Stipulate the Taking Retribution (October 1 1988)</p> <p>Decree of the Governor of West Java Province No 38 of 1991 regarding Allocation of Water and Water Quality Standard at Water Resource in West Java (June 12 1991)</p>	<p>Decree of the Governor of the Special Region of Jakarta Capital City No 313 of 1984 regarding the Procedures for Obtaining License in Sanitation Sector in the Special Region of Jakarta Capital City (February 25 1984)</p> <p>Decree of the Governor of the Special Region of Jakarta Capital City No 1346 of 1988 regarding the Provisions on Waste Water Management Agency in the Special Region of Jakarta Capital City (August 5 1988)</p> <p>Decree of the Governor of the Special Region of Jakarta Capital City No 45 of 1992 regarding Stipulation on the Management of Piping System for Waste Water in the Territory of the Special Region of Jakarta Capital City (January 10 1992)</p> <p>The Decree of the Governor of the Special Region of Jakarta Capital City No 240 of 1992 regarding Organizational Composition and Working System of the Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City (February 11 1992)</p>	<p>Decree of the Governor of the Special Region of Jakarta Capital City No 313 of 1984 regarding the Procedures for Obtaining License in Sanitation Sector in the Special Region of Jakarta Capital City (February 25 1984)</p> <p>Decree of the Governor of the Special Region of Jakarta Capital City No 179 of 1991 regarding Cooperation of Production Contract between the Special Region of Jakarta Capital City and P T Trimaga Terra regarding the Waste Processing and the Advantage with Worm Cultivation in the Special Region of Jakarta Capital City (February 21 1991)</p>

Note MOHA = Minister of Home Affairs
MOPW = Minister of Public Work
MOI = Minister of Finance

	GENERAL APPLICATION
Constitution	Indonesian Constitution of 1945 (UUD 1945 , Article 33 (August 18 1945)
Law	<p>Law No 5 of 1962 regarding Government Regional Company (February 14 1962)</p> <p>Law No 1 of 1967 regarding Foreign Capital Investment (January 10 1967)</p> <p>Law No 6 of 1968 regarding Domestic Investment (July 3 1968)</p> <p>Law No 11 of 1970 regarding Amendment and Supplement of Law No 1 of 1967 (August 7 1970)</p> <p>Law No 12 of 1970 regarding Amendment and Supplement of Law No 6 of 1968 (August 7 1970)</p> <p>Law No 5 of 1974 regarding Basic Principles of Administration in the Regions (July 23 1974)</p> <p>Law No 11 of 1974 regarding Water Resources (December 26 1974)</p> <p>Law No 4 of 1982 regarding Basic Provision for the Management of the Living Environment (March 11 1982)</p>
Government Regulation (PP)	
Presidential Decree (KEPPRES)	<p>KEPPRES No 54 of 1993 regarding List of Business Sector which are closed for Capital Investment (July 6 1992)</p> <p>KEPPRES No 16 of 1994 regarding Implementation of the State Revenue and Expenditure Budget (March 22 1994)</p> <p>KEPPRES No 18 of 1994 regarding Amendment of KEPPRES No 15 of 1984 on the Organizational Structures of Department as already twenty two times amended the latest by Presidential Decree No 14 of 1994 (March 26 1994)</p>
Ministerial Regulation	Regulation of MOHA No 4 of 1990 regarding the Procedure of Joint Venture between Regional Enterprise and Third Parties (March 16 1990)

GENERAL APPLICATION	
Ministerial Decree Ministerial Circular Letter (CL)	Decree of MOPW No 211/KPTS/1994 regarding Organizational Work Procedure of Department of Public Work (July 28 1994)
Director General Decree	
Regional Regulation (RR)	
Governor Decree	

Note: MOHA = Minister of Home Affairs
MOPW = Minister of Public Work
MOF = Minister of Finance

APPENDIX C

SUMMARY OF LAWS AND REGULATIONS IN THE SECTORS OF
WATER SUPPLY, WASTE WATER, SOLID WASTE RELATING TO PPP/PSP

LAWS AND REGULATIONS INDONESIA

LAW REVIEWED

Constitution of 1945 (UUD 1945) (August 18 1945)

Legal Authority

Constitution of 1945 (UUD 1945) (August 18, 1945)

Authorizing of activities related to the welfare of the people

- 1 Production branches which are important to the country and dominates the people's lives at large must be controlled by the State
- 2 earth, water and natural resources contained therein, shall be controlled by the State and used for maximum prosperity of the people

Art 33(2)

Art 33(3)

Conclusion

Article 33 determines that Indonesia's natural resources are controlled by the state and are to be utilized for the benefit to the Indonesian people

LAWS AND REGULATIONS INDONESIA

LAW REVIEWED

Law of the Republic of Indonesia No 5 of 1960 on Basic Regulation of Agrarian Affairs (September 24, 1960)

Legal Authority	Law of the Republic of Indonesia No 5 of 1960 on the Basic Regulation of Agrarian Affairs (September 24, 1960)		
Preamble	1	One of the purposes for issuing this Law is the implementation of provisions in Article 33 of the Indonesian Constitution Year 1945	being of the opinion (d)
	2	The national agrarian law must provide the possibility to attain full function of land, water and space which are to be utilized for the benefit of Indonesian people	
Authorizing of earth, water & space including natural resources	1	earth water and space, including natural resources contained therein, shall be controlled by the state as legal representation of the people The state's right of control meant in this Article maintains authority to <ul style="list-style-type: none"> a regulate and allocate, the use, supply and maintenance of said earth water and space b determine and regulate the legal relations between the people and earth, water and space c determine and regulate the legal relations between the people and legal actions concerning earth, water and space 	Art 2 points 2,3
The implementation of the state's Authority and Delegation	1	The authority originating from the State's right to control the earth, water and space, including natural resources contained therein, shall be used for the people's benefit The execution of the state's right may be delegated to autonomous regions and "adat" law communities if required but not contrary to national interests according to the provisions of Government Regulations	Art 2 points 3,4
The rights of earth water and space	1	Based on the State's right to control as meant in Article 2 of this law, it has determined various rights of land, water and space	Art 4
	2	The rights of land means the authority to use the land, as well as the body of the earth, the water and the space above it in as far as needed, for interests directly connected with the use of the land with restrictions according to this act and other higher level regulations	Art 4(2)

LAWS AND REGULATIONS INDONESIA

	3	The rights of water is the right to use and obtain water for certain purposes and/or to let this water stream onto another one s land The right to use water and to catch fish shall be regulated by Government Regulation	Art 47
	4	The rights to use space gives the authority to use the power and elements in the space for the maintenance and development of the fertility of the earth, water and natural resources contained thereon and other matters related thereto This right is regulated by Government Regulation	Art 48
Plan for the earth, water and space	1	in the framework of Indonesian Socialism, the Government of the Republic of Indonesia develops a general plan regarding the supply, allocation, and the use of earth, water and space inclusive of natural resources contained therein a for the state's requirements b for religious and other holy purposes in accordance with the basic belief in the Almighty God c for the purpose of a community's life, social, cultural and other welfare d for the purpose of improving agriculture, animal husbandry and fishery as well as parallel production e for the purpose of improving industries transmigration and mining	Art 14
	2	Based on the government's general planning in the abovementioned, Regional governments shall regulate the supply allocation and use of earth, water, and space for their regions by issuing regional regulations in accordance with each respective regions circumstances The said regional regulations shall be valid after having received legalization Level I Regions - from the President Level II Regions - from the Governor/Head of concerned regions Third grade Regions - from the Regent/Mayor of concerned regions	Art 14 (2&3)

LAWS AND REGULATIONS INDONESIA

LAW REVIEWED

Law of the Republic of Indonesia No 5 of 1962 on Regional Government Enterprise (February 14, 1962)

Legal Authority	Law of the Republic of Indonesia No 5 of 1962 on Regional Government Enterprise (February 14, 1962)		
Definition	1	The Regional Government Enterprise will consist of all companies established based on this Law having its capital either wholly or partially of separate regional wealth, unless otherwise provided for in this Law	Art 2
	2	A Regional Government Enterprise (of Level I or Level II Governments) will be established by virtue of a Regional Regulation. The said Regional Regulation will come into force upon legalization by the appropriate government executive [for Special Regions of the Capital City of Jakarta, the President, for Provincial (Level I Government) the Minister of Home Affairs for Municipal (Level II Government), a Governor of Level I]	Arts 1(d) & 4
Objectives and Field of Activity	1	The Regional Government Enterprise is a production unit with the objectives of <ul style="list-style-type: none"> a providing services b serving the public requirements c increasing revenue 	Art 5
	2	The objective of the Regional Government Enterprise is to perform regional development, in particular, national economic development to meet the public needs, giving priority to industrialization and harmony in the performance of the company	Art 5(2)
	3	The Regional Government Enterprise with its relevant fields of household affairs according to legislation, is regulated by the basic principles of administration in all Regions	Art 5(3)

LAWS AND REGULATIONS INDONESIA

	LAWS AND REGULATIONS INDONESIA		Water Supply
Authorization of production branches	The important production branches for the regions and provide the need of the people of the regions concerned must be under the control of the Regional Government Enterprise whose capital is wholly or partially, a part of the separate regional wealth		Art 5(4)
Cooperation	1	The implementation of its purpose, the Regional Government Enterprise can involve the cooperation between a state-company cooperative, and private	Art 6
	2	In the business sector conducting a relation with a cooperative sector, the Regional Government Enterprise should conduct cooperation with the cooperative	
Management	1	A Regional Government Enterprise will be managed by a Board of Directors The Board of Directors shall make decisions regarding management policy of the Regional Government Enterprise	Arts 11 & 15
	2	The Board of Directors is under the control of the appropriate government executive or the head of an agency appointed by such government executive	Art 19
Transfer of Regional Government Enterprise	1	The Regional Government Enterprise on a higher level, based on the agreement of the shareholder(s), can transfer the Regional Government Enterprise to a lower level of the region concerned	Art 28
	2	The cooperative and/or private company can participate in the supervision and performance of certain Regional Government Enterprise, which is implemented by the Regional Government Enterprise	Art 28(5)

LAWS AND REGULATIONS INDONESIA

LAWS REVIEWED

- 1 Law No 1 of 1967 (January 10 1967) on Foreign Capital Investments ("Law No 1")
 2 Law No 11 of 1970 (August 7 1970) on Amendment and Supplement to Law No 1 of 1967 ("Law No 11")

Legal Authority	1 Law No 1 of 1967 (January 10, 1967) on Foreign Capital Investments ("Law No 1") 2 Law No 11 of 1970 (August 7, 1970) on Amendment and Supplement to Law No 1 of 1967 (Law No 11)	
Preamble	Law No 11 of 1970 amends and supplements Law No 1 of 1967, Article 15 concerning exemption of tax for a Foreign Capital Investment Law ("PMA") Company Law No 11 of 1970 also amends Law No 1 of 1967, Article 16 authorizing the Minister of Finance to grant exemption of company tax for a PMA company	Law No 1 Art 15 Law No 11 Art 1 Law No 1, Art 16 Law No 11 Art 1 (II)
Definition	1 Definition of Foreign Capital Investment of Law No 1 is a foreign exchange which does not form a part of the foreign exchange resources of Indonesia, and which with the approval of the Government is utilized for financing an enterprise in Indonesia b equipment for an enterprise, including rights to technological developments and materials imported into Indonesia, provided that said equipment is not financed from Indonesian foreign exchange resources c that part of the profits, in accordance with this Law, which is permitted to be transferred but instead is utilized to finance an enterprise in Indonesia	Law No 1 Art 2
Field of activity	1 Fields of activities which are closed to foreign investment exercising "full control" i.e., those of importance to the country in which the lives of a great deal of people are involved, such as a harbors, b production transmission and distribution of electrical power for the public c shipping d telecommunications e aviation	Art 6(1)

LAWS AND REGULATIONS INDONESIA

	<p>f drinking water</p> <p>g public railways,</p> <p>h development of atomic energy</p> <p>i mass media</p>	
2	Industries performing a vital function in national defense, including, the production of arms ammunition, explosives and war equipment are absolutely prohibited to foreign investment	Art 6(2)
3	In addition to the abovementioned, the Government may determine certain fields of activities in which foreign capital may no longer be invested in	Art 7
4	In the fields of activity open to foreign capital cooperation may be effected between foreign and national capital, with due consideration to the following requirement An enterprise which is operated wholly or for the greater part in Indonesia as a separate business unit, must be a legal entity organized under Indonesian law and have its domicile in Indonesia	Art 3

LAWS AND REGULATIONS INDONESIA

REGULATIONS REVIEWED

- 1 Law No 6 of 1968 regarding Domestic Investment (July 3, 1968)
- 2 Law No 12 of 1970 regarding Amendment and Supplement to Law No 6 of 1968 (August 7, 1970)

Legal Authority	<ul style="list-style-type: none"> 1 Law No 6 of 1968 2 Law No 12 of 1970 	
Amendment & Supplement to Law No 6 of 1968	<ul style="list-style-type: none"> 1 Law No 12 of 1970 amends and supplements Articles 10 and 12 of Law No 6 of 1968 concerning exemption of tax for Domestic Capital Investment Law Company ("PMDN ") 2 Law No 12 of 1970 amends Article 13 of Law No 6 of 1968 concerning the authorization of the Minister of Finance to grant exemption of company tax for a PMDN company 	<p>Law No 12 Art I-III & Law No 6 Art 10 & 12 Law No 12, Art IV & Law No 6 Art 13</p>
Field of business activities	<ul style="list-style-type: none"> 1 Article 4 states that all fields of activity are in principal open to private enterprise 2 Elucidation of Article 4 states that private sectors are free to engage in all activities except in fields of strategic and public importance or the welfare of the people Fields of activity intended by Article 33 Paragraph 2 of the 1945 Constitution mentions that "production branches which are important to the state and provide the needs of the people must be under the control of the state" shall be conducted by the Government 	<p>Art 4 & its elucidation</p>

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LAWS AND REGULATIONS INDONESIA

LAW REVIEWED

Law No. 5 of 1974 Basic Principles of Administration in the Regions (July 23, 1974) (Law No 5")

Legal Authority	Law No 5 of 1974 - Basic Principles of Administration in the Regions (July 23, 1974) (Law No 5')	
Preamble	Law No 5 revokes Law No 18 of 1965 regarding Basic Principles of Administration in the Regions	Art 93 & Recital 1
Delegation of Territory	<ol style="list-style-type: none"> 1 Indonesian territory is divided into autonomous and Administrative territory 2 In the implementation of the decentralization principle (the transference of governmental affairs from the central government or higher level region to a lower level region), Indonesian territory is compiled into Level I Region and Level II Region 3 In the implementation of the deconcentration principle (delegation of authority from the central government or a regional head or head of vertical institutions to officials in lower regions), Indonesian territory is divided into Provincial regions and state capital city 4 Provincial regions are divided into Regency and municipality regions 5 Regency and municipality regions are divided into subdistrict regions 6 If deemed necessary and relevant with the growth and development of regions, the Regency regions can form an Administrative city regulated by government regulations 	<p>Art 2</p> <p>Arts 1(b) 3</p> <p>Arts 1(f)& 72</p> <p>Art 72(2)</p> <p>Art 72(3)</p> <p>Art 72(4)</p>
Name and limit of regions	<ol style="list-style-type: none"> 1 Name and limits of Level I Regions are the same as name and limits of Provincial regions or state capital city 2 Name and limits of Level II Regions are the same as name and limits of Regency and municipality regions 	Art 74

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Regional Autonomy	<p>1 Regions have the right, authority and duty to regulate and manage its household according to prevailing legislation</p> <p>2 Additional transference of governmental affairs includes sets of equipment, equipment and financial sources to regions will be determined by government regulation</p> <p>3 Governmental affairs which have been transferred to regions, can be withdrawn under the same level of regulations</p> <p>4 The regional autonomy is focused to Level II regions</p> <p>5 Under a promulgation, the Central Government can assign the regional governments to provide assistance to Central Government</p> <p>6 Such assistance provision by Level II Regions to Level I Regions shall be covered in a regional regulation</p> <p>7 The above assignments cover the expenses thereto</p>	<p>Arts 1(c), 7</p> <p>Art 8</p> <p>Art 9</p> <p>Art 11</p> <p>Art 12</p> <p>Art 12(3)</p>
Regional Government	Regional Government includes the head of a region and the provincial assembly The performance of the regional government will be established by the Secretariat of regions and regional official	Art 13
Regional Regulation	<p>1 A Regional official with the approval from the provincial assembly determines regional regulations</p> <p>2 Regional regulations cannot provide for matters which have been stipulated under laws and regulations issued by the higher legal authorities</p> <p>3 Regional regulations have the force of law and are considered binding after being published in the Region Gazette</p> <p>4 The form of regional regulations is determined by the Minister of Home Affairs</p>	<p>Art 38</p> <p>Art 39</p> <p>Art 40</p> <p>Art 44</p>

LAWS AND REGULATIONS INDONESIA

	5	A regional head can determine the decree for the implementation of regional regulations and the provisions concerning the assignment from the higher level government		
Officials Regions	in	1	Regional counseling board has the task of giving recommendations to the regional heads	Art 46
		2	Secretariat of regions is a staff unit helping regional heads in performing regional government	Art 47
		3	Region officials is a unit organizer for the regional government	Art 49
Regional Revenues	1	Sources of regional revenue are as follows <ul style="list-style-type: none"> a Revenue origin of a Region which may consist of <ul style="list-style-type: none"> - regional taxes - regional retribution regional enterprises - other legal regional undertaking b Revenues from central government aid <ul style="list-style-type: none"> contribution from central government - other contributions regulated by laws and regulations c other legal revenues 	Art 55	
	2	With regional regulations regions may provide for regional revenue sources	Art 60	
Guidance and/or Supervision		Minister of Home Affairs conducts guidance and general supervision on the implementation of regional government, either Regional household or the provision of assistances	Arts 67&71	

LAWS AND REGULATIONS INDONESIA

Water Supply

LAW REVIEWED

Law of the Republic of Indonesia No 11 Year 1974 regarding Water Resources (December 26, 1974)

REGULATION REVIEWED

Government Regulation of the Republic of Indonesia No 22/1982 regarding Water Management (August 12, 1982)

Legal Authority	<ol style="list-style-type: none"> 1 Law of the Republic of Indonesia No 11 Year 1974 regarding Water Resources 2 Government Regulation of the Republic of Indonesia No 22/1982 regarding Water Management 	
Preamble	The land water and natural resources contained therein shall be controlled by the State and used for the maximum prosperity of the People,	Law recital b, c
	<ol style="list-style-type: none"> 1 Water is all water and/or originating from watersprings either surface or ground water resources not including sea water, 2 Procedure of Water Management is the effort to arrange the establishment of ownership, possession, management, usage exertion, and control of water and its resources, including non-animal natural resources contained therein to attain the maximum profit for the people, 3 Water Management is used for public advantage, balance, and preservation 4 Rights of water is water use right i.e. the right to obtain and use the water for certain purposes 5 Water management area shall be determined based on river area 6 Water for the purpose of drinking constitutes the main priority of other necessities 	<p>Law art 1(3)</p> <p>Law art 1(6)</p> <p>Reg art 2</p> <p>Reg art 2, 1(g)</p> <p>Reg art 4</p> <p>Reg art 13</p>
Authority of Management	<ol style="list-style-type: none"> 1 The water and its resources, including the natural resources contained therein shall be controlled by the State 2 The State has the right to control and give authorization to the Government to 	Law art 3

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	<ul style="list-style-type: none"> - manage and develop water and/or its resources to the best advantage - arrange legalize, and/or give a permit based on the planning and technical planning of water and irrigation management - arrange, legalize and/or give a permit for the use, supplying and exertion of water and its resources - determine and arrange the legal actions and legal relationships of problems between person(s) or legal entities dealing with water and/or its resources <p>3 The said Government's authority, can be delegated to Government's Units, either central or regional and or certain legal entities which requirements and procedures thereof are stipulated by the Government Regulation</p>	Law art 4
Authority	The said Government's Authority on river areas or parts of river area in an area shall be delegated to the Regional Government which is responsible to the Minister Whereas, the authority on river area which constitutes more than one area lies with the Minister of Public Works	Reg art 5
Eligibility	<p>1 The advantage of exertion of water and its resources shall be dedicated to the welfare of people which is conducted by the Government, either central or regional</p> <p>2 Legal Entity, Social Entity, and/or private who perform the exertion of water and its resources, must obtain a license from the Government, guided by cooperative and family unity</p> <p>The usage of water and/or its sources which comprise of urban exertion need, agriculture, power, industry, mining, water traffic floating recreation health and other requirement according to the development, must obtain license from the authorized party with regards to the purpose</p>	<p>Law art 11</p> <p>Reg art 19</p>
Financing	The Community which will directly benefit from irrigation buildings, either for further exertion or for private purpose could participate in the financing as management service replacement, as well as Legal Entity, Social Entity, and/or private who are obligated to financing in the form of a contribution to the Government	Law art 14

LAWS AND REGULATIONS INDONESIA

REGULATION REVIEWED

Government Regulation No 23 of 1982 regarding Irrigation (August 12, 1982)

Legal Authority	Government Regulation No 23 of 1982	
Preamble	<ol style="list-style-type: none"> 1 Subak is a socio-agrarian-religious society which holds common/customary law which has historically grown and developed as an irrigation organization at an agricultural level 2 Irrigation is the effort to supply water to support agriculture 3 Irrigation network is drainages and buildings which constitute a unit arranging irrigation water beginning from the supply the taking the distribution, the provision and the utilization of water 4 Irrigation area is an areal unit which obtains water from one irrigation network 	Art 1 h 1 j, k
Competence to Manage Irrigation Water & Irrigation	<ol style="list-style-type: none"> 1 The management, arrangement of irrigation water and irrigation networks together with the existing complementary buildings in regions, is given to the regional administration concerned based on the provisions under this Government Regulation, unless otherwise stipulated under a Government Regulation or a Law 2 The management of the irrigation water and irrigation networks together with the complementary buildings in a tertiary plot village irrigation and Subik, is given to the farmers who consume the water or the Village of the Subik concerned, under the aegis of the Regional Administration by due consideration of the provisions under this Government Regulation 3 The management of the Irrigation water and the irrigation networks together with the complementary buildings constructed by a legal body social body or an individual for the business use, is given to the legal or social body or the individual concerned by due observance of the provisions under this Government Regulation 	Art 2

LAWS AND REGULATIONS INDONESIA

Inventory of Irrigation Networks	<ol style="list-style-type: none"> 1 The Irrigation network with the ancillary buildings under the management of Regional Administration, are registered by the Regional Administration concerned and legalized by the Minister 2 The list which has been legalized by the Minister is effective for a period of 5 years 	Art 3
Principles	Irrigation water in principle, is supplied for the irrigation of plants, but in the supply of the irrigation water, shall be observed requirements for settlement, livestock breeding, and/or fresh water fishery of an irrigation area	Art 4
Planning	<ol style="list-style-type: none"> 1 The supply of irrigation water to meet the requirements of a region shall be determined by the Minister on the proposal of the Governor/Head of Region concerned 2 Any legal bodies social bodies, villages Subaks and individuals that require irrigation water for their business use are required to apply for a permit with the plan to the Governor/Head of Region for approval and legalization 3 Procedures for obtaining the license to use the water as referred to in paragraph 2 of this article shall be based on the licensing provisions regulated in the Regional Regulation on Irrigation 	Art 5
Implementation	<ol style="list-style-type: none"> 1 The supply of irrigation water based on the plan already determined by the Minister is conducted by the Regional Administration concerned 2 A legal or social body, a village, a Subak or an individual can carry out the construction of an irrigation network for their business use after obtaining a water utilization license from the Governor/Head of Region 	Art 6
Procedures	<ol style="list-style-type: none"> 1 Irrigation water is supplied and utilized in order to acquire optimal production from all agricultural businesses which will benefit from irrigation water 2 Irrigation water is supplied in order to meet the requirements for agricultural business in the volume and period required in accordance with the requirements of all plants according to the planting system already determined 	Art 7

LAWS AND REGULATIONS INDONESIA

	<p>For the purpose of reaching the target as mentioned in paragraph 1 of this article, efforts shall be made to distribute the water required from other irrigation areas which have a water surplus to the irrigation areas which require additional water</p> <p>3 The Governor/Head of Region shall determine tertiary plots which will obtain water throughout the year. The tertiary plot which obtains water during the rainy season and the tertiary plot which only obtains water during the dry season, complete with information about the location, boundaries and area according to each village.</p> <p>4 The conversion of the land use to a new ricefield or the other way around in an irrigation area already determined, shall be licensed previously by the Regional Administration in accordance with the prevailing legislative regulations.</p> <p>5 The holder of a license to use the water from a water source for business use under certain conditions as determined by a competent party can distribute the required water through the existing irrigation drainages.</p> <p>6 In the framework of distributing and providing water efficiently, the Regional Administration shall determine an irrigation period for each irrigation area of at least one month before the planting season commences.</p> <p>7 The distribution and provision of water as referred to under paragraph 1 of this article do not curtail the obligation of the Regional Administration to provide irrigation water for daily household requirements in the settlement and fire fighting in accordance with the principles already stipulated in Article 4 of this Government Regulation.</p>	<p>Arts 8 9</p> <p>Art 12</p>
The Utilization of Irrigation Water	<p>1 The utilization of irrigation is permitted by taking the water from the territory and tertiary drainages at places which have been determined by a competent party.</p> <p>2 The utilization of irrigation water in tertiary plots is conducted by the farmers who consume their own water by following technical instruction and another policy determined by the Regional Administration concerned.</p>	Art 17

Water Supply

LAWS AND REGULATIONS INDONESIA

	<p>3 Any parties which consume irrigation water, either individuals or legal and social bodies shall become the members of the Association of farmers who consume water (Farmers Water Consumption Association)</p> <p>4 The consumption of underground water for irrigation purpose should be upon the permission of the Regional Administration after obtaining technical suggestions from the Minister who is responsible for underground water sources</p>	<p>Art 20</p> <p>Art 21</p>
<p>Irrigation Water & Irrigation Network for Other Purposes</p>	<p>1 Irrigation system with the network can be used without permission from the Regional Administration, in such cases as</p> <ul style="list-style-type: none"> a meeting the daily requirements, b fire fighting c non commercial water communication d providing drinking and washing water for cattle <p>2 The matters as mentioned in paragraph 1 of this article can only be utilized in a manner which does not block the course and does not change the quality of water and does not damage the network with the land</p> <p>3 The provisions as mentioned in paragraph 2 of this article are also in effect for removal of sand, pebbles, and stones in the area of irrigation networks</p>	<p>Art 22</p>
<p>Drainage</p>	<p>1 The construction of the principal irrigation network with complementary building shall be carried out by the Regional Administration concerned based on the water supply plan already stipulated by the Minister as mentioned in article 5 of this Government Regulation</p> <p>2 Based on the consideration on the capability of the Regional Administration, the Government can assist in the construction of the principal irrigation networks</p>	<p>Art 25</p>

LAWS AND REGULATIONS INDONESIA

Financing	1	The funds for the construction of the principal irrigation networks and complementary buildings shall be prepared by the Regional Administration	Art 33
	2	Legal bodies, social bodies or individuals that obtain licenses to construct irrigation networks and complementary buildings for business uses are obligated to seek the funding by themselves	Art 34
	3	The community that takes direct advantage due to the existence of the irrigation networks of this Government Regulation shall take part in bearing the funds for the exploitation and maintenance of irrigation networks and complementary buildings stated above in the form of a contribution	Art 35
Irrigation Management System	1	In the implementation guidelines to execute irrigation in each region, it is necessary to work out a Regional Regulation on Irrigation based on the provisions under this Government Regulation	Art 36
	2	Within the framework of meeting the requirements for irrigation water for various parties, the Governor/Head of Region shall establish discussion forums on both provincial and municipal level, each is called Provincial Irrigation Committee and Municipal Irrigation Committee	Art 37
	3	The Irrigation Committees have the functions to assist the Governor/Head of Region in the fields of supply, distribution and provision of irrigation water for plants and other purposes	
	4	Under this Government Regulation, the supervision of the implementation of these provisions shall be conducted by the Governor/Head of Region and the implementation shall be conducted by irrigation officials assigned by the Governor/Head of Region	Art 41
	5	Interests concerning Irrigation Area which involve more than one Region, can be organized jointly by the Regions concerned on a cooperation basis in accordance with Law No 5/1974 on Regional Administration Principles	Art 43

LAWS AND REGULATIONS INDONESIA

REGULATION REVIEW

Government Regulation of the Republic of Indonesia No 14/1987 regarding 'Transfer of Part of Government Affairs In Public Works Sector to the Regions (June 27, 1987)

Legal Authority	Government Regulation of the Republic of Indonesia No 14/1987 regarding "Transfer of Part of Government Affairs In Public Works Sector to the Regions (June 27, 1987)	
Preamble	In Development of Government's duties on Public Works, it needed to change Government Regulation No 18/1953 on Transfer of Part of Government Affairs on Public Works to Local Government because it's not appropriate with the situation development	Recitals a,b
	* Public Works is a part of the Government's function for irrigation, highway construction ("Bina Marga") and Human Settlement Construction ('Cipta Karya") sectors	Art 1(c)
	* Human & Settlement Construction is a sector of supervision for taking care of Urban and region space building structures, housing clean water and a healthy environment for human settlement	Art 1(f)
Irrigation Affairs	1 Part of the Irrigation sector transferred to Level I Region are executing and complying plans for irrigation water supply, issuing of license for use of irrigation water, determining priorities for all irrigation water distribution, executing of development, repair, and maintenance for an irrigation network, drainage, or its supplement building safeguards for securing irrigation functions and relevant complementary structures within the first level region concerned, the licenses for changing and/or removing structures and irrigation network channels	Art 3
	2 Part of Irrigation sector transferred to Level II Region are Determining the formation and/or developmental farmer organization which is using water and to submit duties and obligations on development rehabilitation, exploitation and maintenance of the irrigation network including supplement building	Art 4
Human Settlement Construction Affairs	1 Some of Human Settlement Construction Sector transferred to Level I Region are a supervision on planning development, maintenance and management of clean water with pipe system and water well	

LAWS AND REGULATIONS INDONESIA

	<ul style="list-style-type: none"> b planning, procurement and management of clean water c supervision and coordination of development, maintenance and management of instrument and infrastructure of clean water supply garbage disposal, and waste water, in an urban drainage infrastructure that services more than one <p>2 Some of Human Settlement Construction Sector transferred to Level II Region are</p> <ul style="list-style-type: none"> a development, maintenance and management infrastructure and instrument of clean water supply b development, maintenance and management for garbage disposal, waste water and drainage infrastructure in urban regions c development, maintenance and management infrastructure and instrument waste water disposal in urban regions 	Art 4
Highway Constructions Affairs	<p>Part of Highway Sector transferred to Level I Region are</p> <ul style="list-style-type: none"> 1 The drawing up of a long-term general scheme, a medium-term plan and a program for the realization of secondary highway network for the Special District of the Capital City of Jakarta 2 The technical planning and construction of <ul style="list-style-type: none"> a primary collecting highway linking the capital of first level regions with the capital of second level regions, b primary collecting highway linking the capitals of second level regions, c highways other than those referred to in points a and b having strategic significance to the interests of the first level regions d highways within the special district of the capital of Jakarta except highways belonging to the group of national level highways 3 The technical planning and highway construction of secondary highway networks in the Special District of the Capital of Jakarta 4 The maintenance of <ul style="list-style-type: none"> a primary collecting highway linking the capitals of first level regions with the capitals of second level regions, b the primary collecting highway linking the capitals of second level regions, c highways other than those belong to the group of highways as referred to in points a and b which are of strategic significance to the interests of first level regions, 	Art 3

LAWS AND REGULATIONS INDONESIA

	<p>d highways within the Special District of the capital of Jakarta, except those belonging to national highways</p> <p>Part of Highway Construction Sector transferred to Level II Region are</p> <p>1 The drawing up of long-term plans, medium-term plans of programs for the materialization of secondary highway networks</p> <p>a in cities which are capitals of first level regions, to the second level regional administrations concerned with directives of the Governor Head of first level region,</p> <p>b in cities which are not second level regions and which are not capitals of first level regions, to the second level regional administration,</p> <p>c in cities which are second level regions and which are not first level regional capitals to second level regional administration</p> <p>2 The technical planning and construction of</p> <p>a primary collecting highways not included in the group of national highways and the group of provincial highways,</p> <p>b primary local highways,</p> <p>c secondary highways other than those included in the group of national and provincial highways,</p> <p>d highways other than those referred to in points a, b, and c, having strategic significance to the interests of second level regions,</p> <p>e secondary highway networks within second level regions</p> <p>3 The maintenance of</p> <p>a primary collecting highways not included in the group of national and provincial highways,</p> <p>b primary local highways</p> <p>c secondary highways other than those included in the group of national and provincial highways</p> <p>d highways other than those referred to in points a, b, and c having strategic significance to the interests of second level regions</p>	Art 4
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LAWS AND REGULATIONS INDONESIA

Water Supply

<p>Organization</p>	<ol style="list-style-type: none"> 1 Except for the Special District of the Capital of Jakarta, public works affairs will be left to first level regions, and first level regional administration concerned may form an irrigation public works service, a highway construction public works service and a Cipta Karya public works service 2 With due observance of paragraph (1), the Special District of the Capital of Jakarta, and second level regions, may establish services in public works affairs according to existing needs 3 A guide for the formation of an organization and work procedure of a public works service shall be determined by the Minister of Home Affairs pursuant to the existing relevant law 	<p>Art 6 (1)</p> <p>Art 6(2)</p> <p>Art 6 (3)</p>
<p>Report</p>	<p>In executing Public Works Affairs, Level I and Level II District Heads must submit a report occasionally to the Minister of Public Works and Minister of Home Affairs The Level II District Head must submit a report to the Governor of Level I District Head also</p>	<p>art 9</p>

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REGULATION REVIEWED

Government Regulation No 20 of 1994 regarding Share Ownership in Companies Established Within The Framework of Foreign Capital Investment (May 19 1994) ("GR 20 ")

Legal Authority	Government Regulation No 20 of 1994 regarding Share Ownership in Companies Established Within the Framework of Foreign Capital Investment (May 19 1994) (GR 20	
The form of implementation of foreign capital investment	Foreign capital investment can be executed in the form of a joint venture between foreign capital and capital owned by Indonesian citizens and/or Indonesian legal entities, or b directly meaning all of the capital is owned by foreign citizens and/or foreign legal entities	Art 2
Divestment Requirement	Foreign capital investment (PMA) companies can now be established with only 5 percent Indonesian equity or no Indonesian equity If a company is established with 5 percent Indonesian equity, no divestment by the foreign shareholder is required If the PMA company has 100 percent foreign ownership then the foreign shareholder must divest within 15 years after the PMA company starts commercial production	Arts 6 & 7
Authorizing of Certain Field of Activity	PMA companies established with at least 5% Indonesian equity may engage in any activity not listed on the Government's negative investment list including certain activities related to the "prosperity of the people", such as i ports b production c transmission and distribution of public electricity d telecommunications e shipping f aviation g drinking water h public railways i atomic power plants j mass media PMA companies with 100 percent foreign equity may not engage in the foregoing activities	Arts 6 & 7

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Location of Activities	A foreign investment company's activities can be located anywhere within the territory of Indonesia. The Elucidation suggests that the location must be zoned for the activity concerned. If in a certain region there is an industrial or a bonded zone, GR 20 provides that priority will be given to placing such activities in such zones.	Art 4 & its Elucidation
Business License	A company established within the framework of foreign capital investment shall be given a business license for a period of 30 (thirty) years starting as of the company's commercial production. The business license can be renewed by the State Minister of Mobilization of Investment Funds/Chairman of the Capital Investment Coordinating Board after hearing the opinions of the relevant Minister.	Art 3
Capital Requirement	There is no minimum capital requirement for foreign capital investment companies - This decision is now left to the investors, depending on the type of business activity.	Art 2(2)

LAWS AND REGULATIONS INDONESIA

REGULATION REVIEW

Presidential Decree No 16 of 1994 regarding the Implementation of State Revenue and Expenditures Budget (March 22, 1994)

Legal Authority	Presidential Decree No 16 of 1994 regarding the Implementation of State Revenues and Expenditures Budget (March 22, 1994)	
The forms of procurement of goods/services	<ol style="list-style-type: none"> 1 PD 16 provides that the procurement of goods/services can be carried out through <ol style="list-style-type: none"> a public tender b limited tender c direct selection, d direct procurement 	Article 21(1) & Attachment I
Public Tender	<ol style="list-style-type: none"> 1 Public tender is a tender conducted openly with extensive announcement through mass media, printed media and official announcement board, for public information, so that the general public/business world meeting the qualifications can participate therein 2 The public tender shall be conducted for the procurement of goods and/or services with a value of more than Rp 50,000 000 (Fifty Million Rupiah) and shall be conducted by way of a written bid 	Attachment I(1) & Article 21(2) Attachment I, Article II 1 a & b
Limited Tender	<ol style="list-style-type: none"> 1 A limited tender is a tender for certain works, involving a minimum of five partnerships included in the Registered Partnerships List ('DR1') selected among partnerships registered in the Capable Partnership List ('DRM') in accordance with the business sector or the scope thereof or the qualifications of their capabilities, with extensive publication through mass media printed media and official publication boards for public information, so that the world's business community at large will be informed about it 2 The limited tender shall be conducted for the procurement of goods and/or services with a value of more than Rp 50 000 000 (Fifty Million Rupiah) and shall be conducted by way of a written bid 	Attachment I, point I (2) Article 21 (7d)
Direct Selection	<ol style="list-style-type: none"> 1 A direct selection is the implementation of the procurement of goods/services, without going through the public tender or limited tender conducted by comparing at least three bidders and by conducting negotiations in the technical as well as price sector, so that a reasonable price can be obtained and which is technically justified by partnership listed in the DRM, according to the business sector, the scope thereof or the qualification of the capabilities 	Attachment I point I (3)

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	<p>2 The direct selection shall be conducted for the procurement of goods and/or services with a value of more than Rp 15,000,000 (Fifteen Million Rupiah) up to Rp 50,000,000 (Fifty Million Rupiah) and shall be conducted with a Work Order Letter (SPK) or an agreement letter/contract, by comparing at least three bidders of the economically weak group, registered in the DRM and by conducting negotiations, either for technical or prices, so that reasonable prices can be obtained and technically accounted for</p> <p>3 The kinds of procurement for certain goods/services of which the partnership can be directly designated, are as follows</p> <p>a work which can not be further postponed because of the occurrence of a natural disaster based on statement of the Governor/Head of Level I Region concerned</p> <p>b implementation of designation as referred to in Article 22, Paragraph (10) of which provides that exception of implementation of procurement of goods/services with a value of more than Rp 50,000,000 (Fifty Million Rupiah), can be given for</p> <ul style="list-style-type: none"> - cost of electricity installation by Perum Listrik Negara/Regional Electricity Company - telephone installations by P T Telekomunikasi Indonesia - gas installations by the State Gas Company - installation of drinking water supply by Regional Company for Drinking Water (PDAM) - construction of official houses by Perum Perumnas - printing by Perum Percetakan Negara - data research and processing conducted by State Universities and State Scientific Institutions as long as is they do the work themselves <p>This work abovementioned shall be done with a contract/agreement letter without tender and before signing the contract/agreement letter shall provide a performance bond of five percent of the contract/agreement value, constituting a performance bond letter from a commercial bank or as loss insurance company If the participant is domiciled abroad a performance bond letter shall be from a foreign exchange bank in Indonesia or a bank abroad recommended by Bank Indonesia</p>	<p>Article 21 (7d) & Attachment I Article IV 4 b</p> <p>Attachment I, Article IV 4 & Article 21 (7d)</p> <p>Attachment I Article IV 4 & Articles 21 & 22</p>
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Direct Procurement	<p>1 A direct procurement is the implementation of a procurement of goods/services conducted by a partnership of the economically weak group without going through a public tender limited tender or direct selection</p> <p>2 The direct procurement shall be conducted for the implementation of procurement of goods/services, as follows</p> <p>a up to Rp 5,000 000 (Five Million Rupiah) which shall be conducted without a Work Order Letter (SPK)</p> <p>b more than Rp 5 000,000 (Five Million Rupiah) up to Rp 15,000,000 (Fifteen Million Rupiah) which shall be conducted with a SPK from a bidder of the economically weak group of partnerships contained in the list of partnerships of economically weak group composed by the Regent/Head of Level II Region/Municipality Mayor</p> <p>c development maintenance and management infrastructure and instrument waste water disposal in urban regions</p>	Attachment I 1(4)
Requirements	The partnership which has obtained the work of procuring goods/services is prohibited to transfer (sub contract) the entire work or the main work to other partnerships and if this provision is violated, the goods/services procurement contract will be canceled as well as the partnership which has transferred the work (sub contracted) and which has received the transfer will be excluded from the DRM	Article 22(12)
Conclusion	It can be concluded from abovementioned, under PD16 the procurement of goods/services which is related with Purse Project of Chemomics regarding water supply provide that the installation of drinking water supply by PDAM shall be conducted by way of designating the partnership directly by PDAM with an agreement letter/contract without tender The implementation of this procurement may be conducted for a value of more than Rp 50 000,000 (Fifty Million Rupiah)	

LAWS AND REGULATIONS INDONESIA

REGULATION REVIEW

Government Regulation of the Republic of Indonesia No 14/1987 on "the Transfer of Part of Government Affairs on Public Works to Local Government"

Legal Authority	Government Regulation of the Republic of Indonesia No 14/1987 on "the Transfer of Part of Government Affairs on Public Works to Local Government"	
Preamble	In Development of Government's duties on Public Works, it needed to change Government Regulation No 18/1953 on Submission a Part of Government Affairs on Public Works to Local Government because it is not appropriate with the situation development	Recital a, b
	1 Public Works shall mean part of the Government functions in the fields of irrigation, road construction and Cipta Karya	Article 1 (c)
	2 Cipta Karya shall mean the taking care of urban and regional space, building structures, housing, clean water and healthy environment of human settlement	Article 1 (f)
Transfer of Part of Cipta Karya Affairs to First Level Regions	1 The guidance for the construction, maintenance and management of garbage disposal infrastructure and means, waste water disposal means and drainage at human settlements in second level regions	Article 3 (c 9)
	2 The coordination of the constructions, maintenance and management of garbage and waste water disposal used by more than one second level region	Article 3 (c 10)
Transfer of Part of Cipta Karya to Second Level Regions	1 The constructions maintenance and management of garbage disposal waste and human settlement drainage system	Article 4 (c 11)
	2 The construction maintenance and management of waste water disposal means and facilities in human settlement	Article 4 (c 12)

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Guidance and Technical Control	1	In handling the public works affair that have been transfered to the first level regions the first level regional head shall submit periodic reports to the Minister of Public Works and the Minister of Home Affairs	Article 9 (1)
	2	In handling the public works affairs that had been transfered to the second level regions, the second level regional head shall submit a periodic report to Governor Minister of Public Works and Minister of Home Affairs	Article 9 (2)

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REGULATION REVIEW

Government Regulation No 0/1990 on "Water Pollution Control"

Legal Authority	Government Regulation No 20/1990 on Water Pollution Control'	
Preamble	1 Water is type of natural resource that is needed by all people, so that it is necessary to maintain its quality to make it always useful to the life of human and other living creatures	Recital a
	2 Pursuant the water for its usage, it seems to be need for water pollution control	Recital b
Water Quality and Quantity Inventarization	1 The Governor shall designate a technical department in region to make an inventory of quality and quantity for water pollution control purpose	Article 2
	2 The Governor shall stipulate the priority for realization of the making of an inventory of quality and quantity of water	Article 3 (1)
	3 The data on the quality and quantity of water shall be arranged and put in documentation at the technical department responsible for the field of regional living environmental management	Article 4 (1)
	4 The Governor shall identify the water pollution sources	Article 5 (1)
Water Grouping	1 According to its allocation, the water shall be grouped in four categories a Category A drinking water without any required process b Category B raw water for drinking water c Category C water for fishery and farming activities d Category D water for agriculture, urban activities, industry and water power generation	Article 7 (1)
	2 By this Government Regulation on extensive use of water other than the water classification as referred to in paragraph (1) can be stipulated	Article 7 (2)

LAWS AND REGULATIONS INDONESIA

REGULATION REVIEW

Decree of the Minister of Public Work No 510/KPTS/1987 on 'the Establishment of Waste Water Management Agency in the Special Region of Jakarta Capital City

Legal Authority	Decree of the Minister of Public Work No 510/KPTS/1987 on the Establishment of Waste Water Management Agency in the Special Region of Jakarta Capital City"	
Preamble	<p>1 By having completed part physical infrastructures construction of the Waste Water Pilot Project of the Special Region of Jakarta Capital City which development is conducted by the Directorate of Settlement Environmental Sanitation, Directorate General of Human Settlement the infrastructure of waste water disposal in the above area may be utilized by the community</p> <p>2 Up to this time there is no Agency which may accomodate and conduct the task to manage the infrastructures of waste water disposal in DKI Jakarta</p>	<p>Recital a</p> <p>Recital b</p>
Status and Domicile	<p>1 Part of the project which status is already stipulated shall be temporarily managed by the organization in the form of Waste Water Management Agency of DKI Jakarta</p> <p>2 Waste Water Management Agency in the Special Region of Jakarta Capital City, manage waste water infrastructure unit which located in Jakarta Sewerage and Sanitation Project</p>	<p>Article 1 (1)</p> <p>Article 1 (2)</p>
Task and Purposes	<p>1 Waste Water Management Agency in the Special Region of Jakarta Capital City has its task to conduct the activities in the matter of waste water infrastructure management</p> <p>2 Waste Water Management Agency in the Special Region of Jakarta Capital City has its purposes for waste water disposal services for the household public/commercial building, industry</p> <p>3 Waste Water Management Agency in the Special Region of Jakarta Capital City has been established with the objective to support the Government program in waste water management</p>	<p>Article 2 (1)</p> <p>Article 2 (2)</p> <p>Article 3 (1)</p>

LAWS AND REGULATIONS INDONESIA

Management Period	1	The period of management conducted by the Waste Water Management Agency shall expire if the Regional Company of Waste Water Management of Jakarta has been establish to receive the delivery of management of waste water disposal infrastructure	Article 8 (2)
	2	The maximum period of 2 (two) years has been installed	Article 8 (3)

LAWS AND REGULATIONS INDONESIA

REGULATION REVIEW

Regional Regulation of the Special Region of Jakarta Capital City No 15/1981 on "Organizational Structure and Procedure of Sanitation Department of the Special Region of Jakarta Capital City

Legal Authority	Regional Regulation of the Special Region of Jakarta Capital City No 15/1981 on "Organizational Structure and Procedure of Sanitation Department of the Special Region of Jakarta Capital City "	
Main Task and Function	<ol style="list-style-type: none"> 1 The main task of Sanitation Authority is to conduct the effort of making the city clean, beautiful and healthy 2 To conduct the main task Sanitation Authority has such function to control and to license for every kind of such sanitation activities 	<p>Article 4</p> <p>Article 5 (g)</p>

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LAWS AND REGULATIONS INDONESIA

REGULATION REVIEW

Regional Regulation of the Special Region of Jakarta Capital City No 10/1991 on Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City'

Legal Authority	Regional Regulation of the Special Region of Jakarta Capital City No 10/1991 on 'Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City ("P D PAL JAYA")	
Preamble	<p>1 Waste water originating from various urban activities is very influential to the degradation of the quality of physical environment of parts of the city</p> <p>2 The system of waste water disposal which is implemented with sewerage system is a system which must be developed in the Special Region of Jakarta Capital City</p>	<p>Recital a</p> <p>Recital c</p>
Establishment	<p>1 By this Regional Regulation P D PAL JAYA is established as a legal entity in the form of Regional Corporation which has been obtained with the going of this Regional Regulation</p> <p>2 By this Regional Regulation the Waste Water Management Agency (BPAL) of the Special Region of Jakarta Capital City which was established by the Decree of the Minister of Public Work No 510/KPTS/1987 and so far is managing waste water disposal service shall transfer its management to the P D PAL JAYA</p>	<p>Article 2 (1)</p> <p>Article 3</p>
Domicile and Working Territory	<p>1 The working territory is the operational territory of Regional Corporation in places where waste water piping system network have been installed and the places of development are determined by the Governor</p> <p>2 P D PAL JAYA shall reside and have all its head office in Jakarta and may have its branch offices and servicing offices in the region which may already installed waste water pipe network according to the limits attached in the situation map drawing</p>	<p>Article 1 (j)</p> <p>Article 4</p>
Objective and Activities	<p>1 P D PAL JAYA aims to assist and support the general policies of the Special Region of Jakarta Capital City Regional Government in the framework of increasing the environment quality to increase the people's welfare by serving the waste water channel and gathering through the piping system as well as its processing</p>	<p>Article 5 (1)</p>

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	<p>2 P D PAL JAYA has the duties of</p> <ul style="list-style-type: none"> a arranging plan and work program b arranging and implementing the survey program, data collection, analysis, technical guidelines of piping network system service c building the infrastructure d operating and inspecting the pipe network and processing installation e serving the application for waste water pipe installation f supervising the quality of customer s waste water g performing education for the community regarding the Regional Governments plan in waste water network building and its processing h organizing the collection of retributions for waste disposal services 	Article 5 (2)
	<p>3 In developing its business P D PAL JAYA can cooperate with State-Owned Company (BUMN), Regional-Owned Company (BUMD), cooperation and or third Party</p>	Article 7
Classification and Service Rate	The category and amount of tariff on business service performed by the P D PAL JAYA shall be stipulated by the Governor	Article 8
Capital	<p>1 Capital of P D PAL JAYA shall be the whole assets of the Regional Government which have already been separated</p> <p>2 The Capital of P D PAL JAYA shall not be divided into shares</p> <p>3 Additional Capital of P D PAL JAYA can be procured by</p> <ul style="list-style-type: none"> a accumulating the internal fund b the Regional Budget c assistance of Government on third party d onshore or offshore loan by the approval of the Governor of DKI Jakarta in line with the prevailing laws and regulations 	<p>Article 9 (1)</p> <p>Article 9 (3)</p> <p>Article 11</p>

LAWS AND REGULATIONS INDONESIA

REGULATION REVIEW

Regional Regulation of West Java Province No 3/1988 on "Control of Ground Water and Surface Water Removal and Waste Disposal"

Legal Authority	Regional Regulation of West Java Province No 3/1988 on Control of Ground Water and Surface Water Removal and Waste Disposal	
Preamble	<p>1 In the frame work of environment conservation, it seems necessary to control and supervise the ground water and surface water removal and waste disposal</p> <p>2 Waste is a side product from the production process which used water as a material or supporting material and cause pollution</p>	<p>Recital a</p> <p>Article 1 (0)</p>
Licensing	Every ground water, surface water removal and each disposal could be conducted by the Governor's licenses	Article 3 (1)
Ground Water Surface Water, Removal and Waste Disposal	The realization of building construction in the frame work of ground water removal and waste disposal should be conducted by the technical guidance from Public Work of Irrigation Authority exception the Working Territory of Perum Otorita Jatiluhur	Article 14 (2)

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REGULATION REVIEW

Regional Regulation of the First Level Region of East Java Province No 8 Year 1989 on "Water Pollution Control in the First Level Region of East Java Province"

Legal Authority	Regional Regulation of the First Level Region of East Java Province No 8 Year 1989 on Water Pollution Control in the First Level Region of East Java Province	
Preamble	<ol style="list-style-type: none"> 1 The condition of water resources in East Java tends to incline its quality caused by the pollution occurred either by human activities or natural process, so that the quality of water is changed up to certain level causing it cannot function as its allocation 2 Liquid waste is any liquid material and/or semi-solid liquid material and if it is included in the environment in an amount or content or certain way may cause the change of environment quality 3 Water pollution control covers the activities in the form of research, collecting data, investigating, controlling and preventing towards water pollution 	<p>Retical a</p> <p>Article 1(k)</p> <p>Article 2(1)</p>
Authority	<ol style="list-style-type: none"> 1 The Governor is authorized to control the water pollution which covers protection efforts to water resources, licensing on liquid waste disposal into water resources and control towards the implementation of water pollution control 2 In the framework of implementing the authority of water pollution control, the governor may form a control coordination team in the first level region 	<p>Article 3(1)</p> <p>Article 4(1)</p>
Protection	<ol style="list-style-type: none"> 1 The Governor shall stipulate decree on the inventorying of water resources and waste classification 	Article 6

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	2 The Governor shall stipulate the water classification and water quality standard according to the prevailing laws and regulations	Article 7
Waste Disposal into Water Resources	1 In the framework of regulating the liquid waste disposal into water resources in order not to cause pollution, it organizes the classification of liquid waste quality standard 2 The Governor shall conduct the inventory of water resources and water pollution resources	Article 10(1) Article 11(1)
Licensing	Legal Entity, Social Entity and Individual conducting liquid waste disposal into the water resources must obtain license from the Governor	Article 12(1)
Supervision	Supervision on the activities of water pollution control shall be conducted both directly or indirectly by the Governor or appointed official	Article 13

LAWS AND REGULATIONS INDONESIA

Waste Water

REGULATION REVIEW

Decree of the Governor Head of the Special Region of Jakarta Capital City No 313/1984 regarding the Procedures for Obtaining License in Sanitation Sector in the Special Region of Jakarta Capital City

Preamble	1	Whereas, the garbage and dirty water problem is a public problem, which is basically originated from the community, so that the remedying effort thereof is not the responsible of merely the government, but it is also the community's	Recital a
	2	Whereas to handle the garbage and dirty water problem, the community participation is needed in the framework of participating in resolving the sanitation problem	Recital b
Definition	1	Dirty water is a required in connection with human director	Article 1(f)
	2	Disposal water is liquid disposal after using process and originated from any use (households, industries and other)	Article 1(g)
License Requirement	1	Each effort in sanitation sector must obtain license from the Governor Head of Region or Head of Sanitation Authority	Article 2(1)
	2	The license as referred to in paragraph (1) of this article may be in the form of a Business License for Transportation Service on the Sanitation Sector, b Business License for Destroying/Exploiting Garbage and Dirty Water, c License to use the location for Garbage and Dirty Water Final Disposal	Article 2(2)
	3	The licenses as referred to in Article 2 can be given to an instance/institutions/ legal entity	Article 3

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Waste Water

	4	The application for the licenses shall be submitted in writing a for the exertion on the destroying/exploiting of garbage and dirty water, to the Governor Head of Region,	Article 4
		b for the exertion on transportation service in sanitation sector and using of final disposal location to the Head of Sanitation Authority	
	5	The application for the licenses as referred to in Article 2 must fulfill the following requirements a Technical requirements, b Administrative requirements	Article 5
Time Period and License Cost	1	The licenses as referred to in Article 2 shall be given for a period of 1 (one) year extendable	Article 8(1)
	2	The License cannot be transferred to other party in any ways without the permission of the Governor Head of Region or Head of Sanitation Authority	Article 8(2)

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REGULATION REVIEW

Decree of the Governor of the Special Region of Jakarta Capital City No 1346/1988 on "the Provisions on Waste Water Management in the Special Region of Jakarta Capital City"

Legal Authority	Decree of the Governor of the Special Region of Jakarta Capital City No 1346/1988 on "the Provisions on Waste Water Management in the Special Region of Jakarta Capital City"		
Preamble	1	Waste Water Management Agency hereinafter referred to as BPAL is the Waste Water Management Agency of the Special Region of Jakarta Capital City	Article 1 (b)
	2	Waste water is all disposed material in liquid from which comprise of the industrial and household waste	Article 1 (d)
	3	Waste water public channel is a disposal channel used by the public which has been built by the government to channel the waste water in unrevealed way	Article 1 (c)
Waste Water Disposal	1	Each owner/tenant/responsible parties of the building must dispose the waste water to the waste water disposal place according to the prevailing provisions	Article 2
	2	Each owner/tenant/responsible parties of the building existing in the area which shall already installed the waste water public channel shall be obliged to build the waste water plot infrastructures and to install them properly to the public waste water channel	Article 3
Waste Water Quality	Waste water which may be disposed into the waste water public channel is the waste water of which quality meets the standard stipulated by the prevailing provisions		Article 6
Connecting and Waste Water Disposal	Any installation of plot waste water disposal instruments and the waste water disposal into the waste water public channel shall obtain prior approval from the Governor		Article 8

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Retribution	Each owner/tenant/responsible parties of the building who has utilized the public waste water instrumentality is shall be imposed to retribution of which category and amount shall be stipulated further	Article 11
Waste Water Management	For the regions which have already installed the waste water public channel instruments and their surroundings, the Governor appoint BPAL as the institution which has responsibilities in waste water management	Article 12 (1)

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REGULATION REVIEW

Decree of the Governor of the Special Region of Jakarta Capital City No 45/1992 on 'Stipulation on the Management of Piping System Waste Water in the Territory of the Special Region of Jakarta Capital City'

Legal Authority	Decree of the Governor of the Special Region of Jakarta Capital City No 45/1992 on "Stipulation on the Management of Piping System Waste Water in the Territory of the Special Region of Jakarta Capital City"	
Preamble	<ol style="list-style-type: none"> 1 The treatment of waste water with a piping system is one of the efforts to overcome environmental pollution 2 P D PAL JAYA is a Regional Company which is assigned and authorized to manage the waste water with piping system in the Special Region of Jakarta Capital City 3 Public waste water pipe is a piping system managed by P D PAL JAYA from the inspection vessel to the waste water management installation 4 Housing pipes are waste water pipes channeling the waste water from houses/buildings to the public waste water piping system 	<p>Recital a</p> <p>Article 1 (c)</p> <p>Article 1 (g)</p> <p>Article 1 (h)</p>
Waste Water Disposal	<ol style="list-style-type: none"> 1 Each one in charge of the building existing in the area which has already installed the waste water pipe including the inspection vessel equipment shall be obligated to dispose the waste water into such pipe through the plot connection pipe 2 Installation fee for the plot pipe of such waste water shall be borne to person in charge of the building 	<p>Article 2 (1)</p> <p>Article 2 (3)</p>
Management Authority	<p>P D PAL JAYA has the duties and responsibilities in developing operating and maintaining the infrastructures of waste water which cover</p> <ol style="list-style-type: none"> a plot installation b public waste water piping network and the equipment, c waste water processing installation 	Article 3 (1)

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Retribution	Customers are imposed to the retribution upon a waste water disposal services, b waste water pipe installation fees	Article 8 (1)
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REGULATION REVIEW

Decree of the Governor of the Special Region of Jakarta Capital City No 240/1992 on "Organizational Composition and Working System of Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City"

Legal Authority	Decree of the Governor of the Special Region of Jakarta Capital City No 240/1992 on Organizational Composition and Working System of Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City"	
Preamble	<ol style="list-style-type: none"> 1 By the Regional Regulation of the Special Region of Jakarta Capital City No 10/91 the Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City ("P D PAL JAYA") has been set up 2 In connection with what is mentioned in letter and in the framework of improving the service of channeling waste water and its collection through a piping system as well as its processing, it is necessary to stipulate the organizational composition and working system of P D PAL JAYA 	<p>Recital a</p> <p>Recital b</p>
Domicile	<ol style="list-style-type: none"> 1 P D PAL JAYA forms a regional corporation dealing in the services of channeling waste water and gathering through the piping system, as well as its processing 2 In implementing its tasks, P D PAL JAYA is under administrative co-ordination of the Regional Secretariat 	<p>Article 2 (1)</p> <p>Article 2 (3)</p>
Purposes	The purpose of P D PAL JAYA is to assist and to support the general policies of the Regional Government in the framework of increasing the environment quality and peoples welfare by serving the waste water tunneling and gathering through piping system and its processing	Article 3
Organization	One of the duties of Business Director is to organize the cooperative efforts with other party in the framework of business development	Article 7 (1)

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REGULATION REVIEW

Decree of the Governor of the Special Region of Jakarta Capital City No 240/1992 on Organizational Composition and Working System of Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City

Legal Authority	Decree of the Governor of the Special Region of Jakarta Capital City No 240/1992 on 'Organizational Composition and Working System of Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City	
Preamble	<ol style="list-style-type: none"> 1 By the Regional Regulation of the Special Region of Jakarta Capital City No 10/91 the Regional Corporation of Waste Water Management of the Special Region of Jakarta Capital City ('P D PAL JAYA') has been set up 2 In connection with what is mentioned in letter and in the framework of improving the service of channeling waste water and its collection through a piping system as well as its processing it is necessary to stipulate the organizational composition and working system of P D PAL JAYA 	<p>Recital a</p> <p>Recital b</p>
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REGULATION REVIEW

Government Regulation of the Republic of Indonesia No 14/1987 regarding "Transfer of Part of Government Affairs In Public Works Sector to the Regions (June 27 1987)

Legal Authority	Government Regulation of the Republic of Indonesia No 14/1987 regarding "Transfer of Part of Government Affairs In Public Works Sector to the Regions (June 27, 1987)	
Preamble	In Development of Government s duties on Public Works it needed to change Government Regulation No 18/1953 on Transfer of Part of Government Affairs on Public Works to Local Government because it's not appropriate with the situation development	Recitals a,b
	* Public Works is a part of the Government s function for irrigation highway construction ("Bina Marga"), and Human Settlement Construction (Cipta Karya") sectors	Art 1(c)
	* Human & Settlement Construction is a sector of supervision for taking care of Urban and region space, building structures, housing, clean water, and a healthy environment of human settlement	Art 1(f)
Irrigation Affairs	1 Part of the Irrigation sector transferred to Level I Region are executing and complying plans for irrigation water supply, issuing of license of using irrigation water determining priorities of all irrigation water distribution, executing of development, repair and maintenance for an irrigation network, drainage, or its supplement building, safeguards for securing the irrigation functions and relevant complementary structures within the first level region concerned the licenses for changing and or removing structures and irrigation network channels	Art 3
	2 Part of Irrigation sector transferred to Level II Region are Determining the formation and/or development farmer organization which is using water and able to submit duties and obligation on development rehabilitation exploitation and maintenance irrigation network including supplement building	Art 4
Human Settlement Construction Affairs	1 Some of Human Settlement Construction Sector transferred to Level I Region are a supervision on planning development maintenance and management of clean water with pipe system and artesian well b planning procurement and management of clean water	

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	<p>c supervision and coordination of development maintenance and management of instrument and infrastructure of clean water supply garbage disposal, and waste water urban drainage infrastructure that services more than one</p> <p>2 Some of Human Settlement Construction Sector transferred to Level II Region are</p> <p>a development, maintenance and management infrastructure and instrument of clean water supply</p> <p>b development maintenance and management for garbage disposal, waste water, and drainage infrastructure in urban regions</p> <p>c development maintenance and management infrastructure and instrument waste water disposal in urban regions</p>	Art 4
Highway Constructions Affairs	<p>Part of Highway Sector transferred to Level I Region are</p> <p>1 The drawing up a long-term general scheme a medium-term plan and the drawing up of a program for the realization of secondary highway network for the Special District of the Capital City of Jakarta</p> <p>2 The technical planning and construction of</p> <p>a primary collecting highway linking the capital of first level regions with the capital of second level regions</p> <p>b primary collecting highway linking the capitals of second level regions,</p> <p>c highways other than those referred to in points a and b having strategic significance to the interests of the first level regions,</p> <p>d highways within the special district of the capital of Jakarta except highways belonging to the group of national level highways</p> <p>3 The technical planning and highway construction on secondary highway networks in the Special District of the Capital of Jakarta</p> <p>4 The maintenance of</p> <p>a primary collecting highway linking the capitals of first level regions with the capitals of second level regions</p> <p>b the primary collecting highway linking the capitals of second level regions,</p> <p>c highways other than those belong to the group of highways as referred to in points a and b, which are the strategic significance to the interests of first level regions</p> <p>d highways within the Special District of the capital of Jakarta, except those belonging to national highways</p>	Art 3

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	<p>Part of Highway Construction Sector transferred to Level II Region are</p> <ol style="list-style-type: none"> 1 The drawing up of long-term plans medium-term plans and the drawing up of programs for the materialization of secondary highway networks <ol style="list-style-type: none"> a in cities which are capitals of first level regions, to the second level regional administrations concerned with directives of the Governor, Head of first level region, b in cities which are no second level regions and which are no capitals of first level regions, to the second level regional administration c in cities which are second level regions and which are no first level regional capitals to second level regional administration 2 The technical planning and construction of <ol style="list-style-type: none"> a primary collecting highways not included in the group of national highways and the group of provincial highways b primary local highways c secondary highways other than those included in the group of national and provincial highways, d highways other than those referred to in points a, b, and c having a strategic significance to the interests of second level regions, e secondary highway networks within second level regions 3 The maintenance of <ol style="list-style-type: none"> a primary collecting highways not included in the group of national and provincial highways, b primary local highways c secondary highways other than those included in the group of national and provincial highways d highways other than those referred to in points a, b, and c having a strategic significance to the interests of second level regions 	<p>Art 4</p>
<p>Organization</p>	<ol style="list-style-type: none"> 1 Except for the Special District of the Capital of Jakarta, public works affairs will be left to first level regions, and first level regional administration concerned may from an irrigation public works service a highway construction public works service and a Cipta Karya public works service 	<p>Art 6 (1)</p>

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	2 With due observance of paragraph (1), the Special District of the Capital of Jakarta and second level regions may establish services in public works affairs according to existing needs	Art 6(2)
	3 A guide for the formation of an organization and work procedure of public works services shall be determined by the Minister of Home Affairs pursuant to the existing relevant law	Art 6 (3)
Report	In executing Public Works Affairs, Level I and Level II District Heads must submit a report occasionally to the Minister of Public Works and Minister of Home Affairs. The Level II District Head must submit a report to the Governor of Level I District Head also	art 9

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LAW REVIEWED Government Regulation No 19/1994 regarding Management of the Waste of Hazardous and Toxic Materials		
Legal Authority	GR No 19 dated 30 04-1994	
Preamble	<ul style="list-style-type: none"> - The environment must be preserved so that it shall continue to support the implementation of sustainable development - The intensification of development in all areas, particularly in industry, has likewise increased the quantities of waste, including that which is hazardous and toxic, and which is capable of endangering the environment and human health - To prevent environmental pollution and hazardous to the health of human being and other living creatures the waste of hazardous and toxic materials must be managed in a special manner so that it shall be eliminated or have its hazardous nature be alleviated 	<p>Recital a</p> <p>Recital b</p> <p>Recital c</p>
Means	<ul style="list-style-type: none"> - Waste is the residue obtained from a production activity/process - The waste of a hazardous and toxic materials (B3) is any waste which contains a material which is hazardous and/or toxic and which owing to its nature and/or concentration and/or quantity may either directly or indirectly damage and/or pollute the environment and/or endanger human health - The management of B3 waste is a series of activities encompassing the storing, collecting, transporting, processing of B3 and the accumulation of what results from the processing 	<p>Art 1 (1)</p> <p>(2)</p> <p>(3)</p>
Purpose	The management of B3 waste is aimed at removing or reducing the hazardous and toxic properties of B3 waste so that human health shall not be endangered and environmental pollution and damage may be prevented	Art 2
Category	<p>Waste which belongs to the category of B3 waste is that which fulfills one or more of the following characteristics</p> <ul style="list-style-type: none"> a explosive b flammable, c reactive d toxic e causing infection f corrosive, and g other waste which may be proved to belong to the category of B3 waste if it is subjected to a test with a toxicology method 	Art 3
Prohibition	Everybody or every company is prohibited from disposing of B3 waste directly into water, onto land or in the sky	Art 5
Obligation	<ul style="list-style-type: none"> - A B3 waste producer is obligated to process B3 waste - A B3 producer unable to process the B3 waste produced is obligated to hand over the B3 waste to a party processing B3 waste 	<p>Art 6 (1)</p> <p>(2)</p>
Radioactive Management	The management of radioactive waste shall be conducted by a government agency responsible for the management of radioactive materials pursuant to the prevailing laws	Art 7
Storing	A B3 waste producer may store the B3 waste produced for a maximum period of 30 days in a storing place specially prepared for this prior to handing it over to a collector or party processing B3 waste	Art 8

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Report	<ul style="list-style-type: none"> - A B3 waste producer is obligated to make and keep records on <ul style="list-style-type: none"> a the type, characteristics and amount of B3 waste and the time when it is produced, b the type, characteristics and amount of B3 waste and the time when it is handed over to a collector or to a party processing B3 waste c the name of the B3 transporter which conducted the delivery to a collector or to a party processing B3 waste And submit it at least once in six months to the Agency for the Control of Environment Impacts (Bapedal) A B3 waste collector may be a business company with certain criteria conducting the activities of collecting B3 waste - A B3 waste producer may act as a B3 waste collector with obligation to fulfill all stipulations applied to B3 waste collector A B3 waste collector is also obligated to keep records and submit it at least once in six months to Bapedal 	<p>Art 9</p> <p>Art 10</p> <p>Art 12</p>
Transportation	<ul style="list-style-type: none"> - The transportation of B3 waste may be undertaken by a business company conducting the activities of B3 waste transportation - A B3 waste producer may act as a B3 waste-transporting party with obligation to fulfill all the stipulations applied to a B3 waste-transporting party 	<p>Art 14</p>
Processing	<p>A party processing B3 waste shall make an analysis of environmental impacts, an environment management plan and an environmental monitoring plan in carrying out its activities either separately or in integration with the main activities</p>	<p>Art 18</p>
Licenses	<ul style="list-style-type: none"> - Every business company undertaking the collection, transportation processing including the final accumulation of B3 waste is obligated to own the following licenses <ul style="list-style-type: none"> a a license from Bapedal for collection and processing including final accumulation, b a license from the Minister of Communications for transportation after consideration from Bapedal - The activities of processing B3 waste integrated with the main activities are obligated to obtain a license from the operation of processing equipment and the storing of B3 waste issued by Bapedal and such activities must be conducted pursuant to the stipulations in this Government Regulation - The license for the location of the processing of B3 waste shall be granted by the Head of the Office of Land Affairs at the level of District/Municipality pursuant to the special layout plan after recommendation has been from Bapedal 	<p>Art 21 (1)</p> <p>(2)</p> <p>Art 22 (1)</p>
	<ul style="list-style-type: none"> - The processing of B3 waste entails the drawing up of a compulsory analysis of environmental impacts, a plan for environmental management and a plan for environmental monitoring 	<p>Art 23 (1)</p>
Supervision	<p>Any person or business company is prohibited to import B3 waste from abroad into the territory of the Republic of Indonesia</p>	<p>Art 27 (1)</p>

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	- The despatch of B3 waste abroad can be conducted after a written approval has been obtained from respectively the government of the recipient country and the government of the Republic of Indonesia Any business company conducting the activities of storing, collecting, transporting, processing including accumulating B3 waste is prohibited to dilute the waste in order to reduce the toxicity of the B3 waste	(2) Art 28

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Solid Waste

REGULATION REVIEW

Regional Regulation of DKI No 15 of 1981 Regarding Organizational Structure and Procedure of Sanitation Authority of The Special Region of Jakarta Capital City

Definition	Sanitation Authority is the implementing element of Regional Government in sanitation services sector	Art 3(1)
Position	Sanitation Authority is led by a Head of Agency under and responsible to the Governor	Art 3(2)
Main Task and Function	<ol style="list-style-type: none"> 1 The principal duty of the Sanitation Authority is to conduct the undertaking to create clean, order, beautiful and healthy city 2 The functions of the Sanitation Authority are <ol style="list-style-type: none"> a preparing work program in city sanitation sector, b organizing public prevention and dirty water system which cover collection transportation disposal and destruction or recycling and exploitation, c giving guidance and information to the community in order to participate in maintaining and preserving environment sanitation d supervising planning and implementation garbage and dirty water disposal system from public building and business location which cause environment polluting e doing observation on environment pollution which caused by garbage and dirty water, f giving sanitation services to the community, Government instance or private g supervising and giving license to any form of business which having its line of business in sanitation department, h organizing sanitation contribution collection i supervising community obedience in implementing sanitation rule j working with other instances in preventing the environmental pollution caused by garbage dirty water, gas or smoke 	<p>Art 4</p> <p>Art 5</p>

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REGULATION REVIEW

Decree of the Governor Head of the Special Region of Jakarta Capital City No 313/1984 regarding the Procedures for Obtaining License in Sanitation Sector in the Special Region of Jakarta Capital City

Preamble	1	Whereas, the garbage and dirty water problem is a public problem, which is basically originated from the community, so that the remedying effort thereof is not the responsible of merely the government, but it is also the community's	Recital a
	2	Whereas, to handle the garbage and dirty water problem, the community participation is needed in the framework of participating in resolving the sanitation problem	Recital b
Definition	1	Dirty water is a required in connection with human director	Article 1(f)
	2	Disposal water is liquid disposal after using process and originated from any use (households, industries and other)	Article 1(g)
License Requirement	1	Each effort in sanitation sector must obtain license from the Governor Head of Region or Head of Sanitation Authority	Article 2(1)
	2	The license as referred to in paragraph (1) of this article may be in the form of a Business License for Transportation Service on the Sanitation Sector, b Business License for Destroying/Exploiting Garbage and Dirty Water, c License to use the location for Garbage and Dirty Water Final Disposal	Article 2(2)
	3	The licenses as referred to in Article 2 can be given to an institute/institutions/ legal entity	Article 3

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Solid Waste

REGULATION REVIEWED

Decree of Governor of the Special Region of Jakarta Capital City No 179/1991 regarding Cooperation of Production Contract Between the Special Region of Jakarta Capital City and P T Trinaga Terra regarding the Waste Processing and the advantage with Worm Cultivation in Special Region of Jakarta Capital City

Legal Authority	Decree of Governor of the Special Region of Jakarta Capital City No 179/1991	
Preamble	1 It is necessary to include private involvement in increasing the environment cleanliness within the territory of DKI Jakarta particularly city garbage along with the exploitation	recital a
	2 In the framework of such an intention, it is necessary that the Regional capital participation to the Third Party conducted in the form of a production contract to exploit the city garbage with worm cultivation in Srengseng, Kelapa Dua West Jakarta Region	recital b
	3 P T Trinaga Terra is considered capable and has fulfilled the requirements for the Regional Capital Participation in the form of a production contract	recital c
Implementation	<p>1 The implementation of the production contract should be regulated in a Letter of Agreement dated January 22, 1991 on the Cooperation between DKI Jakarta Government with P T Trinaga Terra regarding garbage processing and its exploitation with worm cultivation within the territory of DKI Jakarta</p> <p>2 This decree should be enforced on the date of stipulation and should be implemented after the Minister of Home Affairs ratification/consent No 3/1986</p>	

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APPENDIX D

SCOPE OF WORK

**APPENDIX D
SCOPE OF WORK**

A RELATIONSHIPS

A1 Technical Directions

Performance of work hereunder shall be subject to the technical direction of the Chemonics Chief of Party or his designee. As used herein, "Technical Directions" is direction to the Sub-contractor which fills in details, suggest possible lines of inquiry, or otherwise completes the general scope of work. "Technical Directions" must be within the terms of this subcontract, shall not change or modify the terms in any way, and shall not constitute changes which may only be accomplished by the Prime Contractor. The Sub-contractor shall notify the Prime Contractor in writing of any Technical Direction which it considers to constitute changes prior to proceeding therewith.

A2 Administrative/Management Directions

The Sub-contractor and its personnel shall be subject to the direction of the Prime Contractor Chief of Party or his designee with regard to administrative/ management directions within the scope of this contract. All communications regarding the PURSE project should be made through the Prime Contractor Chief of Party who in turn will relay such communications to the relevant GOI agency, USAID/Jakarta, or the Chemonics International Home Office, as appropriate.

A3 Scope of Work Legal & Regulatory Review of Private Sector Participation

Background

A preliminary review of public private partnerships (PPP) and private sector participation (PSP) related laws and regulations was initiated and completed by PURSE Project staff in the fourth quarter of 1993. That effort identified 20 decrees, laws and regulations that pertain to PPP/PSP activities. A list of those decrees, laws and regulations identified thus far is provided in Exhibit II (attached).

The PURSE review and a previous USAID analysis of laws and regulations have indicated that many current laws and regulations are often complex, vague, contradictory and lack definition. In some sectors, particularly waste water and solid waste, laws and regulations simply do not exist.

The PURSE review also identified the need for a PURSE Project legal advisor that could provide the necessary assistance in developing the baseline inventory of PPP/PSP laws and regulations, identifying the need for new laws and regulations for PPP/PSP projects, developing academic drafts of proposed or amended legislation, and translations of documents where necessary

Existing laws and regulations do not clearly define or state on what basis the private sector may participate, what standards the Government of Indonesia will apply in evaluating any application by the private sector to participate, and how the Government will assure that its public policy aims in a particular sector will be facilitated as a result of any PPP/PSP activity

In the water supply sector, some laws and regulations regarding PSP activities are clear in their statement of policy that such participation is encouraged, but these laws may conflict with Article 33 of the Basic Law of 1945, while other laws may restrict cooperation with PDAM/PDAB's or prohibit management by foreign participants. The 1945 law states that production branches which are important to the state and provide for the needs of the people must be under the control of the State, and Earth, Water and other ground resources have to be managed by the government

The water supply field has also been treated in part as though it were directly analogous to the exploitation of petroleum and natural gas. This analogy is flawed because it fails to take into account the social policy concerns of the government which are applicable to water supply as well as the essential differences in the economic dynamics of petroleum production and water supply activities

In addition, there are no laws or regulations in Indonesia which are specifically applicable to Build, Operate, Leasehold Transfer (BOT's) in the solid waste, water and waste water sectors. Definitions for BOT's/BOO's and other PURSE Project terminology are provided in Exhibit III. The regulation of the Minister of Home Affairs No. 4 of 1990 makes no reference to BOT's. The only laws and regulations of Indonesia governing BOT's that were identified by PURSE and USAID are related to the mining and energy sectors and refineries in the petroleum industry

The current laws and regulations regarding PSP activities in water supply activities, solid waste management and waste water treatment also create perceived risks for the private sector because of the lack of clarity and uncertain application. Where financing or capital costs are incurred in currencies other than Rupiah, the lack of a structural and fully functioning legal system for dispute resolution adds to this perceived risk.

A legally mandated methodology for rate-making and setting of tariffs for the sale of water, disposal of solid wastes and treating waste waters is also lacking. Tariff schedules need to be legally defined and established by independent bodies which must act in accordance with precise and clearly articulated standards. Similarly, a legally mandated system for arbitrating disputes between parties over contractual issues needs to be created and administered

The private sector requires clear direction in any legal description of its rights and standards under which its activities will be regulated by the Indonesian Government. It also requires the consistent and predictable administration by the Government of Indonesia of the existing laws and regulations applicable to its investments.

In order to promote private sector investment in urban services, it is essential to establish a comprehensive understanding of existing laws and regulations which impede PPP/PSP activities in order to develop new laws and regulations which establish the authority of PPP/PSP to evolve within an institutional framework.

The existing legal structure of Indonesia is complex, and the evolution of legal doctrines which will permit and endorse PPP/PSP in the environmental services sector will require changes to existing laws or new laws or decrees in multiple ministries, including the Ministry of Home Affairs and the Ministry of Public Works. Authority for PPP/PSP will also have to conform with existing environmental laws and may require modifications to the laws or decrees of the Ministry of Finance regarding financial performance guarantees.

Clear and concise regulations authorizing the implementation of PPP/PSP in urban environmental projects are not in place to satisfy the complex requirements of private sector involvement and need to be developed and/or extensively modified.

Purpose

The purpose of the legal and regulatory review is to first establish a baseline survey of existing Indonesian laws and regulations which impede and/or promote PPP/PSP in urban environmental infrastructure for Provincial (TK I) and Local (TK II) levels of government. This review will establish a basic understanding of those laws, and serve as foundation for the second description of this scope of work, namely, the development of a framework for the enactment of new laws and regulations that facilitate PPP and PSP in urban environmental infrastructure by local government entities.

The primary urban environmental infrastructure areas that PURSE is concerned with are water supply, waste water and solid waste management.

Objectives

The ultimate objective of this legal review and analysis is the establishment of a legal and regulatory framework enabling and encouraging private sector participation in the production and financing of urban services for water supply, waste water treatment and solid waste management.

This objective shall be achieved through amended and/or new laws/decrees and regulations issued for water, waste water and solid waste services that

- (a) make explicit the Government of Indonesia's interest in private sector participation in the production and financing of those services.

- (b) formalize the legal basis for private investment of capital and other resources to build and operate facilities and to contract with local governments and regional government enterprises to provide services to public operators of facilities,
- (c) define the nature and extent of Government of Indonesian guarantees or assurances of the performance of regional government institutions in fulfilling contract obligations with private sector firms for services including the provision of contracts with extended terms of up to 15 years or more, and
- (d) enable the private sector to operate with an appropriate balance of autonomy from and oversight by public agencies

Strategy

The review will focus on existing regulations which impact on every aspect of PSP in order to assess their deficiencies or their adequacies to support full scale PPP/PSP

- It will be necessary to evaluate legal and regulatory needs against laws or regulations which may preclude certain activities that could impact upon PPP/PSP concepts being advocated by PURSE
- Included in this evaluation will be a study of the law(s) that prohibits the ownership of land and natural resources (water for example) by any party other than the GOI
- In the case of water, it will be necessary to establish that PSP embraces the process of source, source development and source protection treatment, and distribution and transportation of water to residential, commercial, industrial and governmental users
- In addition, the prominent role of PDAM's in the financing, development and ownership of environmental infrastructure will need to be closely examined

To date, PURSE has identified and compiled a list of 20 laws and regulations governing PPP/PSP in one form or another. The legal team will have to insure that this compilation is complete. The ultimate goal of this exercise is to review and draft Amendments for existing laws and regulations and/or draft enabling legislation that encourages and supports PPP/PSP efforts at Tk I and Tk II levels.

The PURSE liaison member's coordinating GOI contact is Bappenas and the Ministry of Home Affairs, PUOD Regional Finance Unit.

Tasks

The legal team shall perform the following project work related activities in accordance with the schedule of work identified in Exhibit IV. Specific tasks include the following:

1 Draft Narrative Description of PPP/PSP Laws and Regulations

The Sub-contractor shall research and inventory decrees, laws, and regulations pertaining to PPP/PSP, including the concepts of Build, Own and Operate (BOO), and Build, Own and Transfer (BOT), management contracts and service agreements. The Sub-contractor will draft a narrative description of PPP/PSP laws and regulations that specify the regional governmental agencies at Tk I and Tk II levels that are authorized to enter into contracts with private organizations to provide all or some portion of the respective services.

The draft shall also identify the respective services, the specific types of facilities, activities that may be contracted between regional governments and the private sector, and the term or length of time for which local government contracting to the private sector is permitted.

The Sub-contractor shall submit a draft to Chemonics for review and schedule a meeting with Chemonics to discuss the draft narrative description of laws and regulations.

2 Draft Analysis of Legal Constraints and Deficiencies in Laws and Regulations

The Sub-contractor shall prepare a draft analysis of legal constraints and deficiencies in laws and regulations. Constraints to development such as regulations which limit the term of government-business contractual agreements to unreasonably short periods shall also be reviewed and appropriate recommendations made to lengthen contract periods. The analysis shall include a matrix of legal and regulatory issues impacting PPP/PSP activities by sector (water, wastewater, and solid waste). The format shall identify each decree, law or regulation that pertains to PPP/PSP activities, identify whether it is supportive or not supportive of PPP/PSP activities, and identify the particular sector(s) where the regulations apply. Examples of applicable formats are provided in Exhibit V. Areas not yet subject to law or regulation that would benefit from the protection and certainty of clear laws and regulations should also be identified. The analysis shall conclude with general recommendations for amending existing laws and regulations or adapting new laws or regulations for each sector to authorize local and regional governments to engage in PPP/PSP activities, specifically BOO-BOT facilities or operations, service contracts and/or maintenance agreements. The recommendations shall also identify the legal mechanism and appropriate ministry for adopting any proposed amendments or new legislation.

A draft of the analysis of legal constraints and deficiencies will be submitted to Chemonics and, a meeting will be scheduled with Chemonics to discuss the draft.

3 Final Report, including Revised Versions of Task 1 and 2 Reports, Specific Recommendations and Drafts for New Laws and Regulations or Amendments, Academic drafts of new laws and/or regulations, and a Compendium of Relevant Laws and Regulations

The Sub-contractor shall prepare and submit a final report to Chemonics that will revise the draft narrative description and analysis of constraints by incorporating comments given by Chemonics or other interested parties such as the GOI and USAID. The final report will include a new section containing draft language for amendments to existing laws and regulations or new laws and regulations supporting PPP/PSP. The final report will also include an annex that presents a compendium consisting of a summary of all decrees, laws and regulations relevant to PPP/PSP, and an analysis of all laws and regulations that pertain to PPP/PSP activities in urban services for water supply, waste water treatment and solid waste.

The compendium of laws and regulations shall cover the legal status, structure and regulatory environment for PPP/PSP activities in urban services, and shall also include the legal framework for foreign investment in PPP/PSP activities for the three sectors previously identified. The compendium shall also include a narrative description of each law and identify the law as a central (Pusat level) GOI law, Ministerial decree, Presidential decree or KEPPRES.

The draft language of new laws, Ministerial decrees and/or regulations or amendments that institutionalize the process of developing PPP/PSP shall be based on formats similar to drafts developed by the ELIPS project for academic drafts. Said drafts may be in the form of enabling legislation that permit local and regional governments to enter into PPP/PSP activities for urban services.

- 4 Presentation of final report to Chemonics and the PURSE Steering Committee**
- 5 Review of academic draft of proposed legislation with Chemonics and the GOI**
- 6 Presentation of academic draft to PURSE Steering Committee**

The academic draft shall be presented to the PURSE Steering Committee for review and if appropriate, distributed throughout the legal community for review and comment for a period of four - six months. At the end of this period, the PURSE Project shall compile comments and recommendations and present findings to the Steering Committee. The Legal Advisor may be required to revise previous drafts based on comments received. Upon approval of the Steering Committee the draft language shall be submitted by PURSE Working Group to appropriate ministries of the Government of Indonesia for consideration for adoption into law.

APPENDIX E

FORMATION PROCEDURES OF FINANCIAL COMPANIES

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FORMATION PROCEDURES OF FINANCIAL COMPANIES

1 Specific Financial Institutions

a Joint Venture Banks

Joint venture banks are licensed pursuant to Minister of Finance Decree No 1068/KMK 00/1988 Regarding the Establishment of Consolidated Banks (October 27, 1988) ("MOF Decree No 1068"), MOF Decree 1068 provides that a joint venture bank may be formed by a foreign and Indonesian investors, if the foreign bank concerned (i) has a representative office in Indonesia and is a major financial institution in its country of domicile and (ii) the country in which the foreign bank is established allows Indonesian financial institutions to be established

The joint venture bank must be established primarily for export credits. Within 12 months after the joint venture bank is established, at least 50 percent of its total loan portfolio must consist of export credits

The authorized capital of the joint venture bank must be at least Rp 50 billion (approximately US\$24 million). The Indonesian partner, which itself must be a bank, must have a minimum equity of 15 percent. The maximum foreign equity is thus 85 percent. The Indonesian bank must also be certified as financially sound by Bank Indonesia, Indonesia's central bank.

The joint venture can only open office in seven of Indonesia's principal cities: Jakarta, Medan, Bandung, Semarang, Surabaya, Denpasar and Ujung Pandang.

MOF Decree 1068 does not specify any divestment requirements and provides that divestment is subject to agreement between the investors.

b Finance Companies

Indonesian joint venture finance companies are permitted by Presidential Decree No 61 of 1988 Regarding Financial Institutions (December 20, 1988) ("PD 61") and Minister of Finance Decree No 1251/KMK 013/1988 Regarding Stipulation on the Operation of Financial Institutions (December 20, 1988) ("MOF Decree 1251"), as amended by Minister of Finance Decree No 1256/KMK 00/1989 Regarding the Amendment of Stipulations on Securities Trading Companies in Minister of Finance Decree No 1251 of 1988 on the Realization of Financial Institutions (November 18, 1989) ("MOF Decree 1256"), as revoked by Minister of Finance Decree No 1548/KMK 013/1990 Regarding Capital Markets (December 4, 1990) ("MOF Decree 1548"). Finance companies may engage in five different types of activities: leasing, venture capital, factoring, credit card finance and consumer finance. Article 9 of MOF Decree 1251 provides that these activities may be carried out by three types of institutions: banks, non-bank financial institutions (i.e. merchant banks) and finance

companies, including joint ventures. If the joint venture finance company wishes to engage in only leasing or venture capital, the minimum paid-up capital must be not less than Rp 10 billion (approximately US\$4.8 million). If the joint venture company is to engage in only factoring, credit card finance or consumer finance, the paid-up capital must be at least Rp 8 billion (approximately US\$3.8 million). Finally, if the joint venture finance company is to engage in more than one kind of financing activity, for example, factoring and leasing, its paid-up must be not less than Rp 15 billion (approximately US\$7.1 million).

c Securities Companies

Joint venture securities companies are permitted to be formed by MOF Decree 1256 and MOF Decree 1548. Securities companies are permitted to engage in underwriting, securities trading and brokering and investment management. The minimum paid-up capital is Rp 10 billion (approximately US\$ 4.8 million) for a joint venture underwriting company, with a minimum net adjusted working capital of Rp 500 million (approximately US\$ 239,000). For securities trading and brokering joint venture companies, and for joint venture investment management companies, the minimum paid-up capital is Rp 1 billion (approximately US\$ 477,000), and the minimum net adjusted working capital is Rp 200 million (approximately US\$ 96,000). There are no divestment requirements for these companies, but the minimum Indonesian equity percentage on formation is 15 percent.

d Joint Venture Insurance Companies

The Department of Finance allows joint venture insurance companies to be established in Indonesia, pursuant to Law No. 2 of 1992 Regarding the Insurance Business (February 11, 1992) (the "Insurance Law"), as implemented by Government Regulation No. 73 of 1992 Regarding Insurance Business Operations (October 30, 1992) ("GR 73") and Minister of Finance Decree No. 223/KMK 017/1992 Regarding Licencing of Insurance Companies and Re-insurance Companies (February 26, 1992) ("MOF Decree 223"). Under the Insurance Law, GR 73 and MOF Decree No. 223, joint venture companies can be formed to engage in the insurance business and the insurance support business. The insurance business consists of casualty loss insurance, life insurance and re-insurance. The insurance support business is limited to insurance brokerage, re-insurance brokerage and insurance loss adjustment, actuarial consultancy and insurance agency. Article 6(3) of GR 73 provides that the total foreign equity of a joint venture insurance company may not exceed 80 percent of its paid-up capital. The minimum paid-up capital required for a joint venture life insurance company is Rp 4.5 billion (approximately US\$ 2.1 million), for a joint venture casualty loss insurance company, Rp 15 billion (approximately US\$ 7.2 million), for a joint venture reinsurance company, Rp 30 billion (approximately US\$ 14.2 million) and for a joint venture insurance brokerage company and a joint venture reinsurance brokerage company Rp 3 billion (approximately US\$ 1.5 million). While neither the Insurance Law nor GR 73 provides any divestment requirement, under MOF Decree 223, the foreign owner must divest to a minority position of not more than 49 percent within 20 years.

2 Application Procedures

The application procedures for each of the above types of companies are generally similar, yet each differ somewhat from the other. A description of the application procedures for finance companies will provide the reader with a general overview of how these types of companies are formed. MOF Decree 1251 provides that the formation process must begin with an application form specified by the Department of Finance. Attached to the application form must be seven separate documents, as follows:

- (i) The deed of establishment of the company
- (ii) A receipt of the company's paid-in capital issued by a bank in Indonesia
- (iii) An example of the financing contract to be used
- (iv) An indication of the Board members of the company (though not specified, this should include members of both the Board of Directors and Board of Commissioners)
- (v) The company's tax identification number
- (vi) The company's balance sheet
- (vii) A copy of the joint venture agreement between the foreign and Indonesian shareholders

Because the deed of establishment (i.e., articles of association) of the joint venture finance company must be enclosed with the application, the license application procedure varies substantially from the FIL. In the case of a FIL company, Government approval is first obtained for the investment and then the company is formed, in the case of a joint venture finance company, the company is formed first and then obtains an operating license. The investors must thus first form and fund the company without knowing whether their application will be approved, and the Indonesian Department of Justice must first approve the articles of association before it knows that the technical department concerned, in this case is the Department of Finance, will approve the company. If the Department of Finance does not issue an operating license, the company would have to be liquidated, a time-consuming process.

The operating license for a finance company remains in effect for as long as the company is operative. [See MOF Decree 1251, Article 14(2)] As will be noted from the discussion above, this differs from the FIL, which limits the foreign investment license to a renewable 30 years.

Article 13(1) (g) of MOF Decree 1251 addresses the divestment issue. It indicates that the joint venture agreement must reflect the "direction toward Indonesianization" to be taken by the company. Unlike divestment procedures under the FIL, there is neither a time limit nor a requirement that majority control be surrendered to Indonesian shareholders.

APPENDIX F

**PRESIDENTIAL DECREE NO 54 OF 1993 REGARDING
THE LIST OF BUSINESS SECTOR CLOSED FOR CAPITAL INVESTMENT**

OFFICIAL ANNOUNCEMENT

GENERAL

PRESIDENT OF REPUBLIC OF INDONESIA

PRESIDENTIAL DECREE OF THE REPUBLIC OF INDONESIA
NUMBER 54 OF 1993
DATED JUNE 10, 1993

R E

LIST OF BUSINESS SECTORS, CLOSED FOR CAPITAL INVESTMENT

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering that in the framework of increasing capital investments, it is deemed necessary to review the list of business sectors, closed for capital investment
- Bearing-in-mind
- 1 Article 4 paragraph (1) of the 1945 constitution,
 - 2 Law Number 1 of 1967 re Foreign Capital Investment (State Gazette of 1967 Number 1, Supplementary State Gazette Number 2818), as already amended by Law Number 11 of 1970 (State Gazette of 1970 Number 46, Supplementary State Gazette Number 2943)
 - 3 Law Number 6 of 1968 re Domestic Capital Investment (State Gazette of 1968 Number 33, Supplementary State Gazette Number 2853) as already amended by Law Number 12 of 1970 (State Gazette of 1970 Number 47, Supplementary State Gazette Number 2944),
 - 4 Presidential Decree Number 26 of 1980 re Establishment of the Regional Investment Coordinating Boards,
 - 5 Presidential Decree Number 33 of 1981 re Investment Coordinating Board (BKPM) as already amended by Presidential Decree Number 78 of 1982

- 6 Presidential Decree Number 25 of 1991 re Status, Tasks, Functions and Organizational Structure of the Investment Coordinating Board,
- 7 Presidential Decree Number 33 of 1992 re Capital Investment Procedures,

HAS DECIDED

By revoking Presidential Decree Number 32 of 1992 re List of Business Sectors, Closed for Capital Investment

To Stipulate **PRESIDENTIAL DECREE OF THE REPUBLIC OF INDONESIA
RE LIST OF BUSINESS SECTORS, CLOSED FOR CAPITAL
INVESTMENT**

Article 1

- (1) The List of business sectors, closed for capital investment, constituting an attachment to this Presidential Decree, consists of capital investment business sectors, which are closed for all capital investments (ATTACHMENT I), and business sectors, which are reserved for small scale industries/businesses, cooperating with medium - or large - scale businessman / entrepreneurs (ATTACHMENT II)
- (2) The list of business sectors as referred to in paragraph (1), shall be valid for 3 (three) years and if - deemed necessary, can be reviewed, in accordance with the requirement and development of the situation

Article 2

The list of business sectors, closed for capital investment, shall be valid for 3 (three) years and if - deemed necessary, can be reviewed in accordance with the requirement and development of the situation

Article 3

- (1) The settlement of capital investment licensing in the framework of the Foreign Capital Investment Law, based on Presidential approval on certain capital investment plans, shall be conducted by the State Minister of Investment Funds Mobilization/Chairman of the Investment Coordinating Board (BKPM), on behalf of

the Minister, subordinating/promoting the relative capital investment business sector in accordance with provisions of the effective legislative regulations

- (2) The settlement of capital investment licensing in the framework of the Domestic Capital Investment Law, shall be conducted by the state Minister of Investment Funds Mobilization/Chairman of BKPM, on behalf of the Minister, subordinating/promoting the relative capital investment business sectors, in accordance with the provisions of the effective legislative regulations
- (3) The settlement of capital investment licensing outside the Foreign Capital Investment Law and the Domestic Capital Investment law, shall be conducted by the Minister, subordinating/promoting the relative capital investment business sector, in accordance with the respective competencies, based on the provisions of the effective legislative regulations
- (4) Especially for Foreign Capital Investment in the general mining sector, in the form of a work contract, the procedure there - of shall be stipulated by the Minister of Mining and energy

Article 4

This Presidential Decree shall start to become effective on the date of stipulation

Stipulated at JAKARTA
On JUNE 10, 1993

THE PRESIDENT OF THE REPUBLIC
OF INDONESIA,

Signed

SOEHARTO

ATTACHMENT I TO PRESIDENTIAL DECREE OF THE REPUBLIC
INDONESIA
NUMBER 54 of 1993
DATED JUNE 10, 1993

No	BUSINESS SECTOR	I	II	III
I	BUSINESS SECTORS, CLOSED FOR CAPITAL INVESTMENT, EXCEPT OF MEETING CERTAIN CONDITION			
1	Milk Powder/Condensed Milk, Except Integrated with Livestock Breeding	X	X	X
2	Palm Oil Frying Oil Industry, Except if raw material guarantee is available	X	X	X
3	Block Board Industry, Except if the raw material originated from waste	X	X	X
4	Wood Saw mill, Except in the Provinces of East-Timor and Irian Jaya	X	X	X
5	Ordinary Plywood, Except in the Provinces of East Timor and Irian Jaya	X	X	X
6	Finished Goods/Semi-Finished Goods of Rattan, Except in Provinces outside the island of Java	X	X	X
7	Processing of Finished Goods/Semi-Finished Goods of mangrove Wood, Except integrated with cultivation	X	X	X
8	Printing of Valuable Papers 1 Stamps 2 Duty/Revenue Stamps 3 Bank Indonesia Securities 4 Passports 5 Stamped Postal Objects, Except for PERUM PERURI (Money Printing Public Corporation)	X	X	X
9	Ethyl Alcohol, Except technical grade	X	X	X
10	Explosive and the like Except for PT DAHANA (Persero)	X	X	X

No	BUSINESS SECTOR	I	II	III
11	Utility Boiler, Except for manufacturing, at least equal to the manufacturing level, already conducted by similar domestic industries at present	X	X	X
12	Motor - Vehicles a Medium Truck, Light Truck, Pick-up, Bus and Minibus, b Multipurpose Vehicles/Jeep c Sedan Passenger Vehicles/Cars and Station Wagon, d Two Wheel Motor-Vehicles Except manufacturing, at least equal to the manufacturing level, already conducted by similar domestic industries at present	X	X	X
13	Aircraft a Jet engine or propeller for transport b Helicopter c Aircraft engines Combustion piston engine, turbo jet, pulse jet and turbo fan d Aircraft equipment and accessories aircraft/helicopter propellers and landing gear, Except for / cooperating with PT IPTN (Nusantara Aircraft Industry)	X	X	X
II	BUSINESS SECTORS, CLOSED FOR CAPITAL INVESTMENT, EXCEPT FOR NEW PROJECTS, OF WHICH 65% OF THE PRODUCTION IS FOR EXPORT OR EXPANSION			
14	Machine-Made white Cigarettes	X	X	X
15	Drug/Medicine Formulation a Formulation Pharmacy b Traditional (herbs)	X	-	-
III	BUSINESS SECTORS, CLOSED FOR NEW PROJECT AND EXPANSION CAPITAL INVESTMENT EXCEPT IF ITS ENTIRE PRODUCTION (100%) IS EXPORTED			
16	Synthetic Sweeteners (Cyclamate and saccharine) Expansion and new projects shall be in a Bonded Zone or Production Entrepport for Export Destination (EPTE)	X	X	X

No	BUSINESS SECTOR	I	II	III
17	Hard Liquor and other Alcoholic Drinks Expansion and new projects shall be in a Bonded Zone or Production Entrepot for Export Destination (EPTE)	X	X	X
18	Fireworks Expansion and new projects shall be in a Bonded Zone or Production Entrepot for Export Destination (EPTE)	X	X	X
19	Disposable Gas Lighters Expansion and new projects shall be in a Bonded Zone or Production Entrepot for Export Destination (EPTE)	X	X	X
IV	SERVICES BUSINESS SECTORS, CLOSED FOR FOREIGN CAPITAL INVESTMENT			
20	Taxi/Bus Transport	X	-	-
21	People's shipping (local)	X	-	-
22	Scheduled/Charter Flights	X	-	-
23	Aircraft workshop and components there-of, operating at airports	X	-	-
24	Retail trade	X	-	-
25	Trade Supporting Services-Advertising - Advertising	X	-	-
26	Private Television Broadcasting Station and Radio Broadcasting Services	X	-	-
27	Cinema Building Exploitation Services	X	-	-
V	BUSINESS SECTORS, ABSOLUTELY CLOSED FOR CAPITAL INVESTMENT			
28	Contractor Services in the field of Forest Clearing	X	X	X
29	Casino/Gambling	X	X	X
30	Sponge Utilization and Exploitation	X	X	X
31	"Ganja" (kind of marijuana) and the like	X	X	X
32	Veneer (Rotary)	X	X	X
33	Penta Chlorophenol, Dischloro Diphenil Trichloro Ethane (DDT), Dieldrin, Chlordane	X	X	X

Explanation of the columns

- I Business Sectors, closed in the framework of Foreign Capital Investment (PMA)
- II Business Sectors, closed in the framework of Domestic Capital Investment (PMDN)
- III Business Sectors, closed in the framework of Non-Foreign/Domestic Capital Investment (Non-PMA/PMDN)

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Signed

S O E H A R T O

ATTACHMENT II
TO BE CONTINUED

GENERAL

PRESIDENT OF THE REPUBLIC OF INDONESIA

PRESIDENTIAL DECREE OF THE REPUBLIC OF INDONESIA

NUMBER 54 OF 1993

DATED JUNE 10, 1993

R E

LIST OF BUSINESS SECTORS CLOSED FOR CAPITAL INVESTMENT

(Continued from Warta CAFI Number 77 Date July 1, 1993)

ATTACHMENT II TO
PRESIDENTIAL DECREE OF THE REPUBLIC OF INDONESIA
NUMBER 54 OF 1993
DATED JUNE 10, 1993

NO	BUSINESS SECTOR
1	Non-Pedigree chicken breeding
2	Milk cow-breeding
3	Shrimp seedling breeding
4	Catching of mackerels, flying fish, sea-fish and the like
5	Shrimp catching
6	Cultivation of escargoes/snails, eels, crocodiles, frogs, "sidad" (large eels)
7	Catching of cuttle fish/squid, sea-cucumber, jelly-fish and the like as well as catching of sweet-or seawater ornamental fish
8	Catching of cuttle fish/squish, sea-cucumber, jelly fish and the like as well as catching of sweet-or-seawater or namental fish
9	Estates/Plantations of clove, pepper, "melinjo", cassiavera, candlenut, vanilla, cardamom, nutmeg, fan-palm fruits (borassus flabellifer), sugar-palm/arenga and lontar (kind of fan-palm)
10	Herb plantations, except ginger
11	Fruits and vegetables canning industries (salted and sweetened)
12	Industries of Salting/Drying of fish and the like
13	Industries of smoked fish and the like
14	Industries of smoked fish and the like
	1) Rice flour (all kinds)
	2) Flour of all kinds of grains
	3) Flour of manioc
15	Palm sugar industry
16	Rough Soybean Sauce (Taoco)

- 17 Fine Soybean Sauce (Kecap)
- 18 Rough Soybean Cake
- 19 Fine Soybean Cake
- 20 "Petis" and "terasi" (paste made of shrimp) industries
- 21 Pastry industries
- 22 Other foodstuff industries
 - 1) Snacks of legumes (roasted peanuts with skin, salted peanuts, "Bogor" peas (kacang Bogor), fried peanuts with garlic)
 - 2) Salted/preserved eggs
 - 3) "Peyek" (fried rice chips with peanuts or soybean, or green beans)
 - 4) "Kerupuk" (large chips made of shrimps and flour)
 - 5) "Keripik" (Chips made of sliced young bananas or sliced soybean cake with rice-flour)
- 23 Yarn spinning industries
 - 1) Cocoon production business
 - 2) Filament production business
 - 3) Stam fibre decoration
 Except integrated silk textile industries
- 24 Yarn improvement industries
 - 1) Yarn bleaching
 - 2) Yarn dyeing
 - 3) Yarn patterned/dye binding
 Using manually operated equipment
- 25 Cloth Printing and Improvement industries Printing, using manually operated equipment, unless integrated with the upstream industry
- 26 Hand-made Batik Industries
- 27 Weaving industries
 - 1) the ATBM Weaving industries
 - 2) the "Gedogan" Weaving industries
- 28 Knitting industries, using manually operated means/equipment
- 29 Skull-cap and fez industries
- 30 Industries of lime and goods of lime
 - 1) Quick lime
 - 2) "Sirih" quid lime/white-washing lime
 - 3) Slaked lime/plaster lime
 - 4) Goods of lime
- 31 Industries of clay ceramics for household use
 - 1) Unglazed household utensils
 - 2) Unglazed household ornaments
 - 3) Unglazed flower vases of all kinds

- 32 Industries of Agricultural equipment/tool —
- 1) Broad hoes
 - 2) Spades
 - 3) Plows
 - 4) Harrows
 - 5) Pitchforks
 - 6) Crowbars
 - 7) Sickles/grass knives
 - 8) Curette
 - 9) Reaping knives
 - 10) Devices to smoke-out mice
 - 11) Sprayers
 - 12) Hand sprayers
 - 13) Manual rice threshers
 - 14) Manual maize/corn grain removers from the cob
 - 15) Manual rice hulling devices
- 33 Craftsmen tool industries
- 1) Chisels
 - 2) Hammers (small type)
 - 3) Planes/wood planes (manual)
 - 4) Cement trowel
- 34 Cutting tool industries
- 1) Chopping knife
 - 2) Axes
- 35 Indonesian Traditional Music Instrument industries
- 36 Handicraft industries, not included in any group
- 1) Handicraft goods, using raw materials from plants
 - 2) Handicraft goods, using raw materials from animals
 - 3) Artificial flowers and decoration ornaments
- 37 Raw Rattan Processing

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

sgd

SOEHARTO

APPENDIX G

MODEL I PMA INVESTMENT APPLICATION

175

APPENDIX G
INVESTMENT APPLICATION UNDER THE FOREIGN INVESTMENT LAW

An investment application under the Foreign Investment Law No 1, 1967 and No 11, 1970 is herewith submitted to the Republic of Indonesia through the Capital Investment Coordinating Board (Badan Koordinasi Penanaman Modal)

I DESCRIPTION OF THE PARTICIPANTS

A Foreign Participant(s)

- 1 Name of Company
- 2 Main line of business
- 3 Address (incl phone, telex and fax number)

B Indonesian Participant(s)

- 1 Name (company, cooperative or individual)
- 2 Tax registration Code (NPWP)
- 3 Address (incl phone, telex and fax number)

II DESCRIPTION OF THE PROPOSED PROJECT

- 1 Tentative name of the company
- 2 The proposed line of business
- 3 Location of the project
 - a Region/city
 - b Province
- 4 Annual Production (based on shift per day)

Type of Goods/Services	Unit	Designed Capacity	Remarks
------------------------	------	-------------------	---------

Note

For certain services business (c q toll roads, hotels) the capacity is rated on other than a time basis

5 Annual Sales

a Type of Goods Services	Unit	Internal used Quantity	Domestic market Quantity	%	Export Quantity	%
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b Estimated total export value US\$

6 Land are required m²/ha

7 Employment Foreign Indonesian

- a Board of Commissioners
- b Board of Directors
- c Management staff (excl directors)
- d Workers

Total

Note

For each management staff (foreigner) provide position title

8 Allocation of Investment Funds

a Fixed Capital

- Land & Land development US\$
 - Building & construction US\$
 - Machinery & equipment US\$
 - Spare parts (5% of machinery
equipment value) US\$
 - Other US\$
-

Sub Total US\$

b Working Capital (for one turnover) US\$

Total US\$

Note

For an investment project having more than one location/line of business
breakdown the Allocation of Investment Funds for each —

9 Source of Investment Fund

a equity		US\$
b loans	- local	US\$
	- offshore	US\$

Total US\$

10 Equity Capital

a authorized capital	US\$
b issued capital	US\$
c paid-up capital	US\$

The above issued capital will be fully paid-up not later than the commencement of commercial production/operation

11 Share Holdings

1 Foreign participant(s)

a	US\$	or	% equity
b	US\$	or	% equity

Sub Total US\$ or % equity

2 Indonesian participant(s)

a	US\$	or	% equity
b	US\$	or	% equity

Sub Total US\$ or % equity

Total US\$ or % equity

12 Project Time Schedule months,
 (from the date of issuance of the Notification Letter of Presidential Approval
 (SPPP) until the date of commencement of Commercial Production) —

13 Utilities

- | | |
|---------------|---------------------|
| a Electricity | KVA |
| b Water | M ³ /day |
| c Telephone | units |

III DECLARATION

- 1 It is declared that this application has been properly and duly made and that we (all of the participants) are responsible for its accuracy, correctness and completeness, including all data and documents attached hereto
- 2 We acknowledge that we are obliged to take preventive measures against any pollution resulting from the operation of our investment project, and our joint venture company's own expense, and in conformity with the applicable rules and regulations

19

Foreign Applicant(s)

Indonesian Applicant(s)

stamp duty Rp 1 000 -

()
Name signature and stamp

()
Name signature and stamp

FULFILLMENT OF THE DATA

a Indonesian Participant

- 1 A record of the Articles of Association of the company (Akta Notaris) for Limited Companies (PT), State Enterprises (BUMN/BUMD), CV or Fa
- 2 A record of Basic Rules of the Organization for Cooperatives (Koperasi)
- 3 A copy of identification Card for individuals
- 4 A copy of the Tax Registration Code Number (NPWP)

b Foreign Participant

A record of the Articles of Association of the Company (Akta Notaris) with English or Indonesian translation

- c 1 A flowchart of the production process with its explanation and kind of raw materials/supporting materials for manufacturing industry
- 2 Explanation of business activities of the services sector investment
- d Joint venture agreement with English or Indonesian translation, signed by all of the joint venture participants
- e Letter of Power of Attorney if the request has not been asked by the shareholders themselves

APPENDIX H

**REPRESENTATIVE OFFICE APPLICATION PROCEDURES FOR
THE DEPARTMENT OF TRADE AND THE DEPARTMENT OF PUBLIC WORKS**

APPENDIX H
REPRESENTATIVE OFFICE APPLICATION PROCEDURES FOR THE
DEPARTMENT OF TRADE AND THE DEPARTMENT OF PUBLIC WORKS

A Department of Trade Application Procedure

Among the most common type of representative office is that licensed by the Department of Trade. Although the licensing procedures of each of the various Departments differ, the Department of Trade's procedure is illustrative. In order to qualify for a Department of Trade representative office license the company must manufacture or trade products. The representative office, however, may only engage in market promotion and other activities in support of this business activity in Indonesia. It may not conclude contracts itself.

The first step to form a representative office is to Foreign Investment Law a letter of intent with the Department of Trade. This letter informs the Department of Trade of the company's intent to establish a representative office in Indonesia, and encloses an application with a number of attachments:

- (i) a letter of appointment, specifying the name of the representative of the foreign company, his foreign address, his Indonesian address, his proposed activities and term of appointment. This letter must be legalized by the Chamber of Commerce in the country of the foreign company and addressed to the Department of Trade,
- (ii) a curriculum vitae of the proposed representative must be enclosed with the application, together with his statement addressed to the Department of Trade, confirming he will not engage in trading activities, and
- (iii) a reference letter from the local Indonesian Embassy or Consulate in the country of the foreign company concerned.

The licensing process takes approximately 2 months to complete and the license, when issued, has a renewable term of 2 years.

There are numerous further details and formalities beyond the scope of this paper that must be complied with in order to finalize the application process and to comply with immigration and work permit formalities.

B Department of Public Works Representative Office License

The license requirements for a public works representative office are set forth in the Decree of the Minister of Public Works No. 50/PRT/1991 (February 7, 1991) ("Decree 50"). The following is a brief description of these legal requirements:

Pursuant to Decree 50, a foreign construction service company providing construction services, including contracting and/or consulting, can open a representative office in Indonesia to carry out promotional work and/or participate in projects in Indonesia. Under Decree 50, there are thus two kinds of representative offices: a representative office for a construction company (contractor) and a representative office for a construction consulting service company. The office can be staffed by a representative and one or more other employees. The representative can be either a foreigner or Indonesian. The representative is responsible for all operations of the foreign company in Indonesia. To open a public works representative office in Indonesia, a permit from the Minister of Public Works is required. Such permit is issued only after applicant has met all the requirements discussed below.

The representative office is permitted to contact individuals/business companies with the intent of seeking a market for construction services. The representative office is also permitted to handle projects in Indonesia through a joint operation with an Indonesian partner. To enable the representative office to engage in construction activities, the Indonesian partner must be a member of the Association of Indonesian Contractors ("AKI") and the Association of the Indonesian Businessmen ("GAPENSI"), qualification "A". To enable the representative office to engage in construction consulting activities, the Indonesian partner must be a member of the National Association of Indonesian Consultant ("INKINDO"), qualification "A", and must be registered in Binbangkonsulindo (a book regarding guiding and developing of Indonesian Consultants). Qualification A can be obtained by any company which has the ability to finance a project of at least five hundred million rupiahs and is recognized as qualified by the government. The approval of qualification is given by Pemda (the Regional Government) by verification that the company is listed in the Daftar Rekanan Mampu (List of Capable Suppliers). A joint operation between the representative office and the Indonesian participant is allowed to participate in a tender and carry out construction work on government or private projects.

The application procedure for establishing a representative in most cases is straight forward. Public Works officials may exercise some discretion as to which supporting documents are acceptable. An application for a license permit for a representative office of a foreign construction service company must be filed with the Ministry of Public Works c/o Head of the Bureau of Construction Industry Development and should be accompanied by the following documents:

1. Copy of Deed of Settlement or Deed of Establishment or Articles of Association or Certificate of Registration or Certificate of Incorporation or other document(s) on the foreign company's establishment, which must be authenticated by the relevant authorities in the country where the foreign company is domiciled or the embassy/consulate of the relevant country in Indonesia and the relevant diplomatic Indonesian mission (embassy or consulate) in the country of the foreign company's domicile,
2. Details of the areas of business the foreign company may be involved in the form of a brochure or similar publication,

- 3 Certificate of the foreign company's data which must be authenticated by the relevant authorities in the country where the foreign company is domiciled or the embassy/consulate of the relevant country in Indonesia and the relevant diplomatic Indonesian mission (embassy/consulate) in the country of the foreign company's domicile. In most cases, the relevant authorities in the country of the foreign company's data. In essence, this certificate represents a Letter of Good Standing,
- 4 Curriculum Vitae ("CV") of the expatriate or local person appointed by the foreign company as its representative, together with copies of diplomas from institutions supporting the qualifications of the appointed representative. The CV should show the previous experience in the construction industry and be typed on the letterhead of the appointing company,
- 5 Letter of Appointment of the foreign or local representative in Indonesia or a Letter of Appointment of the Indonesian company if a foreign company is appointing this company as its representative,
- 6 Copy of the Taxpayer identification Number (NPWP) of the representative office

To obtain the NPWP the following documents are required

- Copy of the foreign company's Articles of Association
 - Copy of the representative's passport (for expatriates) or KTP (ID Card) (for Indonesians)
 - Letter of domicile (a letter from the landlord stating that the foreign company has its office in the building of the landlord), and
 - Special Power of Attorney if tax registration is done by another company or person
- 7 Details of construction services conducted by the foreign company. If a local company is appointed as the foreign company representative, the record of construction services of the local company must also be submitted,
 - 8 Details of the foreign company's joint operations with an Indonesian and/or foreign partner(s) in Indonesia or elsewhere (if any). In many cases, this will be at least a partial restatement of the record of construction services,
 - 9 Copy of the chief representative's passport (for an expatriate) or the KTP (for an Indonesian citizen),
 - 10 Company brochure

If the DOPW approves the application form and the attached documents, the applicant will be sent a letter requiring the payment of the Rupiah equivalent of either US\$5,000 for a construction consultancy license or US\$10,000 for a contracting license

This DOPW letters must be presented to Bank Indonesia (BI) with the applicants payment. Upon payment, the BI cashier shall issue a temporary receipt. One or two days later, an official receipt is issued in duplicate. One official receipt must be given to the Export-Import Division of Bank Indonesia, the other one must be submitted to the DOPW. The DOPW then issue the representative office license to the foreign company. Such license is valid for three years.

The representative office must also adhere to the following requirements

- Any subcontractor must be an Indonesian-owned company
- An annual report of the representative office activities for each calendar year must be submitted to the DOPW in January of the following year
- The foreign company must transfer its technical knowledge to its Indonesian partner(s)
- A name board identifying the joint-operation must be erected on each project site

After obtaining a license permit from the DOPW, the representative office must apply for a work permit for its foreign workers (if any) to the Department of Manpower, with the following documents

- Recommendation Letter from DOPW,
- Copy of the representative license permit the DOPW,
- Completed application form, and
- Copy of the foreign worker's passport

In addition to a work permit, the foreign worker must also apply for an appropriate stay permit from the Immigration Office

APPENDIX I

**THE DEPARTMENT OF PUBLIC WORKS AS THE CONTROLLING
GOVERNMENT AUTHORITY OF THE PUBLIC WORKS SECTOR**

APPENDIX I
THE DEPARTMENT OF PUBLIC WORKS ("DOPW") AS THE
CONTROLLING GOVERNMENT AUTHORITY OF
THE PUBLIC WORKS SECTOR

We believe it is useful to set out here in some detail the organizational structure of the DOPW, because it is this Department that is responsible for water supply, solid waste and waste water infrastructure development. Presidential Decree No 18 of 1994 Regarding Amendment of Presidential Decree No 15 of 1984 on the Organizational Structures of Departments as Already Twenty-Two Times Amended, the Latest by Presidential Decree No 14 of 1994 (March 26, 1994) ("PD 18") and its implementing decree, contained in Minister of Public Works Decree No 211/KPTS/1994 Regarding Organization and Work Procedures of Department of Public Works (July 28, 1994) ("MOPW Decree 211"), set forth the detailed organizational structure of the DOPW.

The DOPW is part of the state administration and is headed by a Minister, who is directly responsible to the President for administration and development of the public works sector. The DOPW is comprised of (i) the Minister, (ii) the Secretariat General, (iii) the Inspectorate General, (iv) the Directorate General of Irrigation, (v) the Directorate General of Road Construction (known in Indonesia as "Bina Marga"), (vi) the Directorate General of Housing, Construction Planning and Urban Development (known in Indonesia as "Cipta Karya"), (vii) the Board for Public Works Research and Development, and (viii) Centres. We note also that the DOPW has a regional office in each of the 27 provinces of Indonesia.

Of these various components of the DOPW, we believe many are potentially important to this project, including in particular the following: the Bureau of Finance and the Bureau of Legal Affairs, the Bureau of Corporate Facilities and the Bureau of Foreign Cooperation within the Secretariat General, the Directorate General of Irrigation and the Directorate General of Cipta Karya. As noted in the report, (see pages 24, many of the activities and responsibilities of the three Directorates General have been transferred to the Provincial and Municipal Government levels. A detailed discussion of the relevant component agencies of the Department of Public Works is set out below.

a The Secretariat General

The main tasks of the Secretariat General are to provide guidance in the administration, organization and management of all elements within the Department and the provision of technical and administrative services to the MOPW, the Inspectorate General and the Directorate Generals and other units in the DOPW to assist them in the implementation of their primary tasks. The Secretariat General is comprised of a number of Bureaus.

(1) The Bureau of Planning

The task of the Bureau of Planning is to conduct, supervise and coordinate the planning and coordination of infrastructural programs for public works

(2) The Bureau of Personnel

The task of this Bureau is to conduct management and supervision of personnel administration in the DOPW

(3) The Bureau of Finance

The Bureau of Finance's main task is to manage and supervise the financial administration of the Department

(4) The Bureau of Equipment Supplies

The Bureau of Equipment Supplies manages and supervises the equipment administration of the Department, as well as supervision of procurement of goods and services

(5) The Bureau of Legal Affairs

The Bureau of Legal Affairs supervises and provides legal services to the Department. In performing this task, the Bureau of Legal Affairs implements and supervises the preparation of draft laws and regulations, land and building rights, advises the DOPW regarding agreements and provides legal assistance in general to the DOPW. The Bureau of Legal Affairs is comprised of

(i) The Laws and Regulations I Division, which has the responsibility to prepare draft laws, government regulations and presidential decrees,

(ii) The Laws and Regulations II Division, which prepares draft ministerial regulations and decrees,

(iii) The Rights Supervision Division, which has the task of supervising land and building rights,

(iv) The Agreements Division, which provides legal advice on agreements, and

(v) The Legal Assistance Division, which advises on civil lawsuits, criminal lawsuits and state administrative court lawsuits

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(6) The Bureau of Corporate Facilities

The task of the Bureau of Corporate Facilities is to supervise Construction Services for the DOPW. In this connection, the Bureau of Corporate Facilities (i) recommends policy on the supervision of construction services, (ii) arranges development programs for construction services and, (iii) implements the supervision and management of those state-owned companies under the jurisdiction of the Department.

(7) The Bureau of Foreign Cooperation

The job of the Bureau of Foreign Cooperation is to perform, coordinate and develop foreign cooperation. To do so, the Bureau of Foreign Cooperation (i) arranges policy and implements and coordinates foreign loan programs, (ii) coordinates the administration and use of foreign loans (bilateral or multilateral), (iii) performs and coordinates the administration of international and regional technical cooperation and (iv) develops cooperation with Government agencies and foreign private parties in the public works sector.

(8) The Bureau of General Affairs

The Bureau of General Affairs manages the Department's housekeeping matters.

b The Inspectorate General

The main job of the Inspectorate General is to supervise the implementation of the other agencies and bureaus within the Department, to ensure they are run according to the DOPW's plans, policies and regulations.

The Inspectorate General is comprised of the Secretariat of the Inspectorate General, which gives technical and administrative services to the Inspectorate General and seven Regional Inspectors and the Inspector of Public Works Environmental Infrastructure. MOPW Decree 211 establishes the concept of Regional Inspectors to ensure that the delegation of responsibility to the Regional Government is properly implemented. They supervise the implementation of policy and legislation, the management and supervision of personnel, administration, finance, equipment, and construction services in the areas of Irrigation, Bina Marga and Cipta Karya, each within a specified territory. The Inspector of Public Works Environmental Infrastructure determines the impact of infrastructural development on such social matters as crime, politics, ethics, religion, race, ethnic groups and safety and public order.

c The Directorate General of Irrigation

The Directorate General of Irrigation is in charge of the irrigation sector, based on policies determined by the MOPW. The Directorate General of Irrigation has one Secretariat and a number of Directorates.

(1) the Secretariat of the Directorate General supervises and administers services to organizational units with the Directorate General of Irrigation. In implementing this task, the Secretariat of the Directorate General has the responsibility to (i) implement and supervise personnel administration matters, organization, department structure, financial administration matters, equipment administration matters and legal affairs and (ii) implement management and supervise general affairs.

(2) The Directorate of Program Development has the responsibility for the Directorate General of Irrigation's planning, supervision, arrangement and evaluation of its programs and budgets, as well as the implementation of irrigation development programs based on the technical policies adopted by the Directorate General of Irrigation.

(3) The Directorate of Technical Development supervises the implementation of irrigation technology based on the technical policies of the Directorate General of Irrigation by arranging development programs, preparing and distributing guidelines and construction standards and supervising activities and technical planning.

(4) The Directorate of Efficiency Enhancement and Maintenance of Water Resources implements water resource conservation, supervises and manages use of water resources, and participation of private parties and communities and irrigation institutions, and maintains water resources.

(5) There are three Directorates of Development of Project Realization for specified regions. Each of these supervises development projects, and the operation and maintenance of infrastructure, in the region concerned.

d Directorate General of Bina Marga

The main task of Bina Marga involves development of roads and bridges. Its activities are not relevant to the present discussion and there is no need to discuss its organizational structure here.

e The Directorate General of Housing, Construction Planning and Urban Development (Cipta Karya)

Cipta Karya is responsible for the housing, construction planning and urban development sectors, which includes human settlement planning and development in the regions, urban areas and rural areas such as and including planning, organization and development of highrise buildings, public and state buildings, housing, clean water supply, sanitation, prevention and extinguishment of fires, public cemeteries and parks.

The Directorate General of Cipta Karya is comprised of the following governmental units —

(1) The Secretariat of the Director General, which provides supervision and administration services to Cipta Karya.