

CHAPTER 4, MARKETING U.S. PRODUCTS AND SERVICES

A. Distribution Channels

In June 1998, the government of Indonesia eliminated many restrictions on foreign investment in retail operations. Foreign firms are now allowed to operate retail outlets in most major urban areas, although some restrictions remain in the provinces. In addition, many foreign firms use franchising, licensing, and technical service agreements to distribute their goods.

Indonesia also lifted many restrictions on foreign participation in wholesale distribution services. Under government regulations No. 15/1998 and No.16/1998, foreign companies may distribute both locally produced and imported goods at the wholesale level. These foreign companies may also conduct retail operations, but in order to do so must form a separate retail company.

B. Representatives and Agents

Foreign firms may open and maintain one local representative office in each of the 30 provinces, with permission of the Indonesian Department of Industry and Trade. The representative(s) may be an Indonesian company, individual, or a foreign national. Trade representatives may not engage in direct sales nor conclude deals, but they may engage in sales promotion and marketing, or do market research and provide technical advice. In many cases, foreign companies have established close connections with Indonesian importers, allowing the two companies to function as one. The Indonesian company acts as importer and distributor, and the foreign company promotes its products, sometimes seconding expatriate staff as employees to its Indonesian distributor/partner. A more active role for the foreign firm can be arranged through a management contract, which can take many forms.

The services of an aggressive, active Indonesian citizen agent or distributor can be an important means of expanding sales in Indonesia, because they know the cultural minefields and systemic processes that foreigners would need years to begin to master.

Appointment of an Indonesian agent (or distributor) requires care, since it is difficult to get out of a bad relationship. Indonesian law allows the severing of an agency agreement only by mutual consent or if a clause permitting the severance is contained in the original agency agreement. A trial agency period at least six months is generally written into agency contacts. As in many countries, Indonesia's network of contacts and personal power dictates what it costs to buy oneself out of a bad agency agreement.

For sales to the private sector, the appointment of an Indonesian sole agent is not required by law, although Indonesians agents prefer to have this kind of relationship. Since 1980, in order to spur the development of indigenous enterprise, particularly new, small, economically weak enterprises, the government began requiring the state-owned oil company, Pertamina, and other government agencies to deal through Indonesian agents when purchasing imported goods or services. The government also began to pressure foreign firms into dealing through an Indonesian agent, rather than third-country middlemen. The predilection of some foreigners for regional representatives, often based in Singapore, rather than Indonesian-based representatives, is particularly

unwelcome by the government although it is not prohibited by law. For these reasons, a foreign firm selling to government agencies would do well to appoint an Indonesian firm as its agent.

Many Indonesian importers do not specialize in particular product lines, and represent a multiplicity of foreign manufacturers and product lines. Generally, however, large conglomerates establish discrete company units that tend to specialize around a product range. Medium and smaller importers also specialize in a narrow range of goods, but no one is averse to adding a completely different product line if profit can be foreseen.

It is generally advisable to set up agency arrangements with firms that handle a complementary range of products. These are not essential, however, since substantial sales can often be made by firms active in quite different product lines. An increasing number of firms identifying themselves as suppliers of "technical goods" concentrate on general industrial machinery and equipment. These firms often have engineers on their staff and are prepared to provide engineering assistance and after-sales technical support.

Foreign principals often work out a management agreement that allows the foreign company in Indonesia to play a more active role in the marketing efforts of its Indonesian agent or distributor. In many cases, a separate agreement is signed between the expatriate personnel and the foreign employer to regulate this relationship. The tax liability of the foreign firm is limited to the income of the expatriates assigned to the representative office, while any other taxes are assessed to and borne by the agent. Types of management agreements include: (1) technical assistance agreements; (2) management agreements; and (3) management agreements coupled with financial agreements.

The technical assistance agreement limits the foreign firm's function to providing technical assistance to the Indonesian company. The management agreement allows the foreign firm to manage the company or a division within the company. In the management agreement coupled with a financial agreement, the foreign firm also finances the Indonesian operation, either under the name of the Indonesian company or a division thereof. Remuneration to the foreign company can be in one of the following forms: (1) fixed fee; (2) commission; or (3) profit-sharing. Whatever basis is used for remuneration, it must be formulated clearly in the agreement, and it must be applicable under the present Indonesian laws. To protect the foreign company's interests properly, a bona fide and comprehensive agreement should be drawn between the parties concerned.

C. Franchising

The entry of U.S. firms into Indonesia's franchise industry has largely ground to a halt due to the economic crisis that has affected Indonesia's economy since 1997. The depreciated and fluctuating Rupiah has made difficult the payment of franchise royalties in foreign exchange. Creative arrangements must be agreed at the current time, generally involving a deferred payment scheme until the Rupiah and the economy recover.

Franchises facilitate the transfer of know-how and managerial expertise to the franchisee companies while simultaneously allowing the franchiser to quickly establish a presence

in the country. Under a typical franchising agreement, the franchiser receives royalties and fees as stipulated in the contract. In exchange, the franchisee has the right to use (and manufacture) copyrighted, patented or service-marked materials identifying the enterprise. The franchiser typically provides training and organizational guidance in return for a guarantee that the franchisee will follow these operational directions.

With the release of the Government Regulation No.16 of 1997 dated June 18, 1997, the Indonesian franchise industry for the first time has a foundation in Indonesian law. This regulation, which was complemented by the issuance of a Decree of the Ministry of Industry and Trade No.259/MPP/Kep/7/1997, is designed to promote an orderly climate for the franchise business as well as to provide guidance and protection for both franchisers and franchisees.

The regulation, which contains a description of the franchiser - franchisee relationship, states that a franchise agreement between a franchiser and a franchisee must be written in Indonesian and be subject to Indonesia law. The GOI has limited the operation of large franchise businesses to provincial capitals. Only small and medium-scale enterprises, or licensed non-small-scale entrepreneurs, may operate franchise businesses in smaller cities or rural areas. This regulation was designed to insulate indigenous small and medium-size companies against competition from foreign franchisers, and to encourage local companies to develop their own franchise concepts.

Moreover, the regulation obligates every franchise business to obtain a registration certificate, namely STPUW (Surat Tanda Pendaftaran Usaha Waralaba or Franchise Business Registration Certificate), from the Ministry of Industry and Trade. The registration should be made at least 30 working days from the date when the franchising agreement, which shall be valid for at least 5 years, takes effect. The regulation further stipulates that priority should be given to the use of domestic goods and / or products as long as they meet the required quality standards.

For information, please contact:

Mr. Wawan Sukawan
Kepala Subdit Kemitraan Usaha
Department of Industry and Trade
Direktorat Bina Usaha Perdagangan
Jl. M.I. Ridwan Rais No. 5
Jakarta 10110
Tel.: 385-8189
Fax : 345-3114

D. Direct Marketing

Direct marketing is used in Indonesia to sell many kinds of products, from insurance to sewing machines. Companies such as Avon and Amway have built up large businesses by direct marketing through local distributors. Independent Indonesian companies have copied their methods with success.

E. Joint Ventures/Licensing

Since 1994 the government has removed most requirements for domestic equity and joint ventures. However, foreign investors who opt for 100 percent initial ownership are obligated to divest to Indonesians some share -- as little as one percent -- after 15 years. This can be accomplished through the stock market. This requirement is too new to have been tested yet.

As a practical matter a local joint venture partner is often essential for success in this market, for the same reason that an activist Indonesian agent or distributor has advantages over a foreign trade representative office. The choice of an Indonesian joint venture partner is critical for many reasons, especially for knowledge of the local scene and contacts, which are important for successful operations in Indonesia. A few experienced firms provide background, credit-type reports on Indonesian entrepreneurs and firms (See Chapter XI for list of Consultants and contact information).

A partnership in Indonesia is difficult to dissolve. Consequently, the first choice has to be the correct choice. Business sense is as crucial to any commercial endeavor in Indonesia as it is anywhere else; "contacts" alone, while important in Indonesia, cannot substitute for business skills in an Indonesian partner.

Because Indonesians place great importance on personal relationships and mutual understanding, partnerships tend to be based primarily on genuine accord, with the written contract playing a less significant role. It is therefore important that any agreement be well understood by both sides. A contract over which there are conflicting interpretations is certain to cause future problems. In any case, a soundly written legal agreement is strongly encouraged, despite the weakness of the Indonesian legal system to enforce such contracts.

In some cases, licensing arrangements for products/services are more cost-effective options for U.S. companies doing business in Indonesia, but firms should apply the same cautions recommended for joint venture partners.

F. Steps to Opening a Representative Office

The Indonesian Investment Bureau (BKPM), which is under the Board of Investment and State-Owned Enterprises (BPM-PBUMN), attempts to operate as a one-stop shop for investors and recent reforms have reduced the paperwork process and delays in applying for the necessary government permits for foreign investments in Indonesia. At present, a business permit issued by the appropriate government agency is required to establish an office in Indonesia. Several government agencies may be involved in issuing a business permit, depending on the nature of the business.

To open a foreign representative office in Indonesia, the firm must appoint a representative: the representative may be an Indonesian company, Indonesian national, or an expatriate. A foreign representative office in Indonesia is actually more of a liaison office. According to Indonesian law, a representative office is restricted in the types of activities that it can pursue. These offices are restricted from signing sales contracts, collecting payments, and participating in other related business activities. Prior to opening an office, however, the firm must establish itself as a legal entity by registering with the proper Indonesian government authorities. The process is as follows:

A letter of intent and a letter of appointment [indicating the appointed representative], both from company headquarters and on official letterhead, must be sent to the Indonesian Embassy or an Indonesian Consulate for notarization. A letter of reference from the embassy or consulate is also required (See Chapter XI for contact information).

The notarized letter of intent, the notarized letter of appointment, and the letter of reference, along with the resume of the appointed company representative and his or her Indonesian work permit (KIMS Card) needs to be submitted. If the appointed company representative is an Indonesian citizen, a copy of the Personal Identity Card (KTP) needs to be submitted instead. All the material is submitted to:

Ms. Eni Suhaeni Bakri
Director for Domestic Business Development
Director General of Domestic Trade
Ministry of Trade and Industry
Jl. M.I. Ridwan Rais 5, Jakarta 10110
Tel.: (62-21) 385-8189
Fax : (62-21) 345-3114

Regional representative offices, classified as serving two or more other ASEAN nations, can also be established in Indonesia. The regional representative office is limited to more of a liaison role and is restricted from participating in many business transactions. Interested firms should contact the Capital Investment Coordinating Board (BKPM) for procedure information:

Mr. Theo Toemion
Deputy Minister for International Cooperation and Investment Promotion
Capital Investment Coordinating Board (BKPM)
Jl. Jendral Gatot Subroto 44
Jakarta Selatan, Indonesia
Tel.: (62-21) 525-0679
Fax : (62-21) 525-4945

Representative offices that are involved in construction, engineering, or related consulting are required to register with the Ministry of Public Works. Foreign representative offices in these fields, in conjunction with Indonesian companies, are allowed to seek project opportunities, submit proposals, participate in tenders, and oversee projects at all levels. Foreign engineering firms with representative offices can participate in government projects. For procedure information, interested firms should contact the Ministry of Public Works.

Mr. Yanto
Secretary for the Minister of Settlement and Regional Infrastructure
Jl. Pattimura 20
Jakarta Selatan, Indonesia.
Tel.: (62-21) 739-5588
Fax : (62-21) 751-1843

Many foreign firms opt to have local consulting firms or their Indonesian representatives take care of the registration process. The application process time varies from two to four weeks. Representative offices are also required to submit reports of business

transactions and employee information on an annual basis to the Department or Ministry that it is registered with.

G. Selling Techniques

Indonesian consumers, particularly from the middle and lower income groups, are sensitive both to price and to general economic trends (e.g. interest rates). Thus, importers of U.S. goods and services here will pay close attention to pricing, more than to product quality and promptness in delivery when making purchasing decisions. They will seek low interest financing, particularly in the coming year.

Other key success factors for doing business in Indonesia are patience and presence. Companies that have made a commitment to the country by establishing an office, or some other significant presence, will be more successful in marketing their products than those that attempt to sell their product on annual whirlwind trips. Brand loyalty and name recognition is highly valued by the Indonesian consumer.

To sum up, ways by which foreign interests can engage in business in Indonesia include:

- the appointment of agents and/or distributors
- representative office
- technical assistance or licensing agreements
- joint venture operations
- establishing a 100 percent foreign-owned subsidiary

A joint venture production operation can be a good option for products that have sales potential in both the domestic market and as exports throughout the rest of Asia.

H. Press Contacts

Personal contacts are important in Indonesia, and businesses should foster open communication with the press. The embassy Public Affairs Section (PAS) is available to help identify valuable local media contacts. PAS can give guidance to company representatives in working with Indonesian media for maximum commercial advantage. Please contact the Press Attaché or the Public Affairs Counselor at the American Embassy for further information (See Chapter XI for contact information).

I. Advertising

Advertising in local media and newspapers is recommended for introducing new products, particularly in areas of purchasing power concentration, such as Jakarta and West Java. However, advertising is currently restricted by government decree to 35 percent of a newspaper's content. In June 2001, the prices quoted for a full color 84 mm x 110 mm ad ranged from about US\$316 to about about US\$926 in five daily newspapers. In those same newspapers, the same black and white ad ranged from about US\$232 to about US\$558.

A listing of major, recommended newspapers and business journals (in Bahasa-Indonesia, except where noted) follows:

Newspapers (dailies):

Kompas
Bisnis Indonesia
Media Indonesia
Moneter Indonesia
Neraca Harian Ekonomi
Suara Pembaruan
Jakarta Post (English)
The Asian Wall Street Journal (English)
International Herald Tribune (English)

Newsmagazines:

Forum (Weekly)
Gatra (Weekly)
Tajuk (Weekly)
Tempo (Weekly, Indonesian or English)
GAMMA (Weekly)

Business Journals:

Business News (Twice a week, English or Indonesian)
Eksekutif (Monthly)
Indocommercial (Monthly, English and Indonesian)
Indochemical (Monthly, English and Indonesian)
Indonesian Commercial Newsletter (Monthly, English and Indonesian)
Info Bank (Monthly)
Info Bisnis (Monthly)
Kontan (Weekly)
Prospektif (Weekly)
Warta Ekonomi (Weekly)
Indonesian Business (Monthly)
Swasembada (Monthly)
Capital (Monthly - Indonesian/English)

In most cases, direct mail advertising is efficient and effective, if the mailing lists are properly prepared and updated. Local advertising agencies can also assist in arranging films, slides, and posters and signboards for bus exteriors, bus stop shelters, and bridges.

Television advertising has grown rapidly and surpassed newspaper advertising in dollars spent since 1992. Indonesia has five commercial television stations (TPI, RCTI, SCTV, Indosiar and An-Teve) and one state-owned outlet (TVRI). RCTI and SCTV are the most popular stations in major cities and are available in 19 and 20 major cities, respectively. The potential viewership for any station is approximately 150 million people.

Another advertising medium is the "Standard Trade and Industry Directory of Indonesia," an official publication of the Indonesian Chamber of Commerce and Industry (KADIN). Requests may be made to the publisher at Jl. Hayam Wuruk 4 SX, PO Box 4556, Jakarta Pusat.

J. Product Pricing

Given the competition that American suppliers face from products supplied by foreign competitors, product pricing must take into account the costs of delivery, distribution, advertising, and image. As product pricing is one critical factor in determining the product's success in the market, market research is a useful tool. This includes studies on both consumer preferences and competitive practices. Pricing is best developed with advice from local distributors, who are well attuned to the competitive factors at play in the specific market. U.S. companies may conduct their own market research, obtain information from the U.S. Commercial Service, or contract with private research firms (See Chapter XI for a list of consultants and contact information).

K. After-Sales Service and Customer Support

One critical aspect of a product's successful penetration into any market is customer support and after-sales service. Some American firms face difficulties in providing this support due to distance and the costs of maintaining product support facilities in a foreign country.

Although some local distributor partners normally establish such mechanisms, firms should be prepared to invest substantial amounts of capital and manpower into making their local partner a first-class service provider. Regardless of the reputation a company may have internationally, Indonesian consumers value a firm that has on-the-ground customer support. They expect not only to have their needs handled locally, but also quick turnaround times.

L. Selling to the Government

Although plans are underway to privatize large state-owned companies, the Government of Indonesia is still a major customer of a variety of products and services. These cover the full range of defense materials, items needed for infrastructure projects, research and development programs, and several of the pure industrial needs categorized under "Strategic Industries." Strategic industries are under the control of the Department for the Empowerment of State Enterprises. The department is currently working with Lehman Brothers and Goldman Sachs to set up ten holding companies to manage 144 state companies (BUMNs) as part of its BUMN reform program. The ten holding companies will be responsible for the management of the following sectors: financial services, agro-industry and consumer products, energy, tourism, telecom/media, strategic industries, logistics, mining, construction and building materials, and forestry, paper and wood-based products. In the process of forming the holding companies, there will be some liquidation's involved along with the establishment of new companies.

Though it may be possible in some cases to sell directly to the government, there is good reason to use the services of an agent or distributor for the early stages of project development, delivery, installation and service needs. Traditionally, this is because most government procurement has been decided on the basis of established relationships.

This does not necessarily mean illegal payments are involved, but could exclude participants not well known in the market.

New-to-the-market U.S. firms need the careful advice of local representatives to avoid wasting time and money in participating in a competition whose outcome is not transparent. The value of a local representative in this case is to make sure the outcome is favorable to his/her client, not the reverse. U.S. firms also need to be sensitive to the difficulty some Indonesians have in declaring bad news to someone; if your agent knows a tender is "cooked" against you, he may be reluctant to disappoint you with the bad news in advance. A close relationship with the agent is the best way to ensure frankness.

The Government of Indonesia has made efforts to root out corruption, collusion and nepotism (KKN, in Indonesian initials) in the government procurement process. The current regulations which cover government procurement is Presidential Decree (Keppres) No. 18/2000, issued February 2000, which updated the Law on Government Procurement of 1994. In addition, Construction Law 14/1999 governs procurement of civil engineering services and related consulting services. U.S. companies should be aware that under Indonesia's new regional decentralization policy, local and provincial governments may begin to adopt their own procurement rules.

Indonesia grants special preferences to domestic sourcing and set-asides for small- and medium-sized enterprises as set out in the following table.

Size of Enterprise	Works	Goods	Consultants
Small Scale	< / = Rp 1 billion	< / = Rp 500 million	< / = Rp 200 million
Medium	Rp 1 to 10 bill.	Rp 500 mill. to 4 bill.	Rp 200 mill. to 1 bill.

Large firms are eligible for contracts greater than Rp 25 billion for works, Rp 10 billion for goods and Rp 2 billion for services but must tie up with a small or medium-sized enterprise based in the locality of the procurement. Foreign firms are limited to contracts above Rp 25 billion for works and Rp 2 billion for services and must form a joint venture or subcontract with domestic firms.

For other sales to the Government of Indonesia, American firms should become familiar with the "Blue Book", a listing of major projects identified by the Government of Indonesia as essential to national development priorities. The document is published annually by the National Planning Agency (BAPPENAS) and constitutes the official list of projects that are open to foreign official assistance and other sources of external financing. Most of the projects listed in this book require "soft loan" (low interest rate) financing. The U.S. government does not initiate soft loan financing, and although the U.S. Eximbank offers "matching" soft loans from its "war chest," Indonesia almost never has accepted offers that would displace other donor commitment made through the annual World Bank-sponsored Consultative Group on Indonesia (CGI). Rarely, some U.S. firms have been successful at convincing Indonesian authorities to accept Eximbank matching soft-loans as "add-on's" rather than displacements to another donor's offer. Ad-hoc soft loans offered outside the CGI may offer opportunities for using Eximbank matching loans.

Projects listed in the Blue Book are classified into three categories, A, B, and C, according to their stage of preparation (i.e. feasibility). A Category C project, for example, is one for which feasibility has yet to be established. With such projects, there may be opportunities for foreign firms (especially engineering firms, consultants, etc.) to assist in determining feasibility. Category A and B projects, on the other hand, are ones for which feasibility has been or will soon be established. U.S. firms should also familiarize themselves with opportunities available through ADB or World Bank-funded projects.

M. Counter Trade Policy

The Government of Indonesia has since 1982 nominally required winners of some large government tenders to undertake reciprocal purchase or sale of Indonesian non-oil/gas products. The government of Indonesia requires that any imports of goods by government institutions that exceed Rp. 500 million in value and are financed by the state budget must be partially paid under the counter purchase scheme, for example, by purchasing Indonesian non-oil and gas products. A foreign firm that wins this kind of government procurement is obligated to purchase Indonesian non-oil/gas commodities in an amount equal to a specified percentage of the value of goods and services bought by the government. Usually the foreign firm does not directly undertake this trade, but pays a fee to one of an approved list of Indonesian trading companies to undertake the trade on its behalf. In practice, we see little evidence that this requirement is enforced.

Procurement from the following is exempt from counter trade requirements: procurement funded by soft loans from multilateral banks; the domestic cost element of a foreign firm's supply contract; services used by the government provided by professional experts such as accountants, lawyers, consultants and the costs of patents, fees, and the like; and purchases undertaken within the framework of joint ventures between a foreign company and a state-owned company.

In 1997 the value of counter trade reached \$379 million; in 1998 it decreased to \$195 million (involving 67 countries) then increased to \$287 million in 1999. Since 1999, however, the level of counter trade has fallen off precipitously, as the Government of Indonesia nearly ceased all major tender activities. In 2000, total counter trade was only \$3.2 million involving two countries, while in 2001 the value increased to \$17 million. In early 2002 the government announced a multi-million dollar counter trade program with Thailand which was scuttled a few weeks later because the two sides could not agree on which products to include. Countertrading is again expected to pick up as the Indonesian Government's awarding of tenders increases.

The Department of Industry and Trade is the coordinating and regulatory agency for counter trade deals. Contact:

Ir. Gumilang Putri Heryati, MM
Head of Counter Trade Division, Directorate of Export and Import Facilitation
Directorate General of Foreign Trade
Ministry of Industry and Trade
Jl. M.I. Ridwan Rais, No. 5
Block 2, 8th Floor
Jakarta 10110, Indonesia
Tel.: (62-21) 345-0071, 385-8171 ext. 1164, Fax : (62-21) 385-8202

N. Selling to Specialized Sub-Markets

Pertamina: The national oil and gas monopoly oversees all oil and gas activities, although Production Sharing Contractors (PSC's) produce most of the hydrocarbons under contract. Purchases by either Pertamina or PSC's must be made through a local, Indonesian-owned limited liability company. Foreign suppliers have a choice of relationships they can establish, e.g. a temporary relationship for a specific sale or purpose; an agency relationship; or a joint venture, in which the Indonesian partner owns at least 5 percent of the venture. Only Indonesian companies can bid on most service contracts to Pertamina.

Most purchases of goods and services are through tender and generally only vendors with a registered vendor ID (Tanda Daftar Rekanan -- TDR) are considered qualified contractors (Daftar Rekanan Mampu - DRM) and able to bid. Sometimes direct purchasing is permitted, without competitive bidding. Under the new Presidential Decree (Keppres) No. 18/2000, the Indonesian government is establishing new Technical Guidelines for government procurement of goods and services. The decree establishes set-aside for SMEs according to the size of the procurement. Foreign suppliers are restricted to contracts worth over Rp. 10 billion (\$1 million) for goods/services and over Rp. 2 billion (\$200,000) for consulting services. Foreign supplier is required to cooperate with a small- or medium-sized company or cooperative in the implementation of the contract.

Tender awards by Pertamina are based on price, Indonesian content, technical advantage, and reputation. Domestic goods and services must be used, if available, even at higher cost. All equipment purchased by PSC's is considered Pertamina property upon arrival in Indonesia.

PT. Freeport Indonesia: As the largest American and foreign investor in Indonesia, producing copper and gold in Irian Jaya, Freeport is a major buyer of U.S. and other overseas goods and services for its work force of 16,000 and its production that was planned to reach 200,000 tons of ore per day with mining facilities worth more than \$4 billion. The company considers quality, price, delivery, and technical specifications of products needed. Under terms of its Contract of Work, Freeport Indonesia must allow local Indonesian suppliers to bid on all contracts, and the company follows a practice of attempting to increase procurements from Indonesia within the practical limitations of its selection criteria. Freeport Indonesia maintains purchasing offices in New Orleans (for U.S. and European suppliers), Singapore, Cairns (Australia) and Jakarta.

U.S. firms interested in contacting Pertamina, PT Freeport Indonesia, or other specialized sub-markets should contact the U.S. Commercial Service in Jakarta for further information.

O. Regional "Growth Nodes"

In order to reach an equitable distribution of national development projects, the government took steps to boost the economic growth in several regions in Indonesia, especially the eastern provinces, by the establishment of prospective zones as centers of economic growth. Under the Presidential Decree No.150/2000, 14 Integrated Economic Development Zones were selected. They include Sanggau (West Kalimantan), Batulicin (South Kalimantan), Sasamba (East Kalimantan), Manado and

Bitung (North Sulawesi), Mbay (East Nusa Tenggara), Bukari (South East Sulawesi), Batui (Central Sulawesi), Bima (West Nusa Tenggara), Seram (Central Maluku), Biak (West Irian), Sabang (Aceh), Pare-Pare (South Sulawesi), Natuna (Riau), and Kakab (Central Kalimantan).

Marketers and investors may also find advantage by establishing distribution or assembly/manufacturing operations in the above 14 "growth node" regions targeted for economic development via special tax incentives. Although the government has established the "growth nodes," it depends upon private initiatives to bring value to the idea.

The same is true concerning four "growth triangles" involving areas of Indonesia and neighboring ASEAN countries, and an "Australia Indonesia Development Area" -- all of which offer intra-regional incentives for regional distribution and assembly/manufacturing. The "Growth Triangles" include: Singapore/Riau Islands (Batam, Bintan and Karimun -- which are being developed as off-shore additions to Singapore's industrial base; an international airport exists on Batam, which is 12 km. from Singapore); the Indonesia/Thai/Malaysia Growth Triangle (IMT-GT) including the northern-most Sumatra provinces of Aceh, North Sumatra, West Sumatra and Riau; the Indonesia/Malaysia/Singapore Growth Triangle (IMS-GT) including the Central and Southern Sumatra provinces including and south of Riau; and the Brunei/Indonesia/Malaysia/Philippines East ASEAN Growth Area (BIMP-EAGA) that was expanded in 1996 to include all Indonesian provinces in Kalimantan and Sulawesi, plus Maluku and Irian Jaya.

Finally, the "Australia Indonesian Development Area (AIDA)" aims to focus development attention on all of Indonesia except the islands of Sumatra and Java. U.S. firms having strategic alliance with Indonesian or Australian entities can participate in AIDA projects.

P. Protecting Your Product from IPR Infringement

Protection of intellectual property rights (IPR) in Indonesia is hampered by inadequate enforcement of the relevant laws and regulations. Problems in IPR protection raised by industry include: rampant software, audio, and video disk piracy; pharmaceutical patent infringement; apparel trademark counterfeiting; an inconsistent and corrupt law enforcement regime, and an ineffective judicial system. The lack of effective IPR protections and enforcement serves as a considerable disincentive for foreign investment in high technology projects in Indonesia. The Indonesian court system can be frustrating and unpredictable, and effective punishment of pirates of intellectual property is rare. Foreign companies therefore must be vigilant and creative in building strategies to protect their products from infringement.

Foreign rightsholders often work with local law firms and security consultants to arrange for police raids on counterfeiters. Others conduct periodic seminars on the adverse effects of IPR infringement on the Indonesian economy, one of which is reduced investment by foreign companies.

Ultimately, the course taken by companies to protect their intellectual property rights will depend on their product. As an example, one U.S. company first identifies the counterfeiters of its products and then proceeds to work with them and sign them as legal licensees of its products. Some computer software companies provide free training

and/or sell their software at competitive prices, while warning that copies of their product may contain damaging viruses. Also, companies with well-known trademarks seek to defend them by registering them early or seeking a cancellation of an unauthorized registration through the Ministry of Justice. In general, acquiring a strong local partner or agent can help in defending trademarks and intellectual property, as long as the arrangement remains amicable. (See also Chapter VII - "Investment Climate" - for background on Indonesian laws and regulations regarding the protection of intellectual property rights.)

Q. Need for a Local Attorney

Because Indonesia's legal system is currently being overhauled and modernized, firms are strongly advised to locate and retain a local attorney early in the investment process. In the event of a commercial dispute, one should first attempt to reach consensus through negotiation, using a mediator acceptable to both parties if necessary. If deliberation fails to achieve consensus, then companies may enter into arbitration. To prepare for this eventuality, an arbitration clause should be included in any commercial contract with Indonesia chosen as the site of arbitration. This is recommended because foreign arbitral awards have proven difficult to enforce locally. Badan Arbitrase Nasional Indonesia (BANI) is the local arbitration board and companies may employ BANI or select their own arbitration vehicle and procedures (i.e. ICC or UNCITRAL). Only when arbitration fails should companies consider litigation. The Indonesian court system has proven to be an ineffective means of recourse for American companies.

Although foreign legal firms cannot yet open offices in Indonesia, a number of American attorneys consult with Indonesian firms, some having consulted locally for more than ten years. These attorneys are well placed to assist American firms in working their way through the Indonesian legal structure (See Chapter XI for a list of lawyers and contact information).

R. Sources of Assistance within the U.S. Embassy

U.S. Commercial Service

The U.S. Commercial Center, located at the World Trade Center complex in the heart of Jakarta's business and banking district, provides a convenient, immediate, and affordable presence for firms interested in the Indonesian market. With critical trade information, personalized counseling, state-of-the-art facilities, key contacts, and the access it takes to do business in Indonesia, the U.S. Commercial Service is a good place to begin for American exporters serious about selling to this major market.

Full information can be obtained from the Department of Commerce's web site at: <http://www.BuyUSA.gov/Indonesia>.

1. Facilities at the U.S. Commercial Center

The President's Room -- Located in the U.S. Commercial Center, the President's Room is an elegant conference room ideal for business meetings with economical catering options. Fully equipped with state-of-the-art video conferencing facilities and all forms of presentation/communications equipment and infrastructure, the President's Room has frequently been used for company promotions, video-conferences, company product

launches, meetings/seminars, official signing ceremonies, etc. Facilities and services are offered at reasonable prices, approximately half the cost of booking a similar facility at a hotel.

Office Space Rental -- The Commercial Center also has ready-to-move-in office suites for rent at very competitive market rates, providing a professional, flexible, and convenient environment for American companies looking for a temporary office space or a longer term arrangement.

Commercial Library -- Our comprehensive Commercial Library offers useful information for American companies looking for buyers, agents & distributors, as well as for Indonesians looking for American suppliers.

2. Market Research

The U.S. Commercial Center prepares a full range of sector specific research reports including short, topical Industry Market Insight (IMI) reports, and detailed Industry Sector Analysis (ISA) reports. In some sectors, ISA reports cover all ASEAN countries. All these can be easily accessed from <http://www.BuyUSA.com>.

Other more customized services are also offered for a small fee:

- ◆ International Partner Search -- American companies can find Indonesian partners and licensees without leaving home. The Commercial Service provides a report on up to five qualified agents, distributors, manufacturer's representatives, joint venture partners, licensees, franchises, or strategic partners who have examined a U.S. company's materials and have expressed an interest in the company's products. (\$600, 15 working days lead time)
- ◆ Enhanced International Company Profile -- A report containing thorough background information on local companies to help U.S. companies evaluate potential partners. (\$400, 10 working days lead time)
- ◆ Video Market Briefing -- Answer up to 5 key questions with analysis by industry experts via a 30-min video-conference. (\$150, plus telephone line cost)

3. Contact Building

The core of our contact building services - the Gold Key Service—offers an appointment service for business executives visiting Indonesia. Upon receiving company promotional material, our Commercial Specialists investigate the local market, select potential business contacts, communicate with them, and build an appointment schedule with firms that appear to best meet the interested business needs. When the U.S. company representative arrives in Indonesia, a full schedule of appointments is already established.

The full range of Gold Key Services is as follows:

Basic Gold Key Service: \$350 for research on one line of product and the scheduling of one day of appointments (generally at least four per day) in one city with \$250 more for

each additional day. Four weeks of lead time is required from the day the product literature is received.

Turbo Gold Key: An expedited Gold Key service with less than 2 weeks lead time. \$500 for a 6-appointment day and \$250 for any additional day.

Video Gold Key: Gold key service via video-conference. Meet your qualified international partners without the hassle of traveling time and expenses. Only \$350 for up to 4 appointments. Due to the time zone differences, appointments are generally scheduled over a 2-day period.

Other contact-building services designed to achieve U.S. company's objectives include:

Single Company Promotion: Assistance in promoting new-to-market U.S. companies' products by having your own mini trade show in the US Commercial Center (or other local venue) organized jointly with the American Embassy's Commercial Section in Jakarta. Fee includes one-day use of the conference facilities (the President's Room), assistance with event organization/invitations, plus two staff assistants. (\$300)

To request the Gold Key appointment service or any of the other services listed above, email jakarta.office.box@mail.doc.gov. More extensive contact information for the U.S. Commercial Center is available in Chapter XI.

4. Trade Shows

The U.S. Commercial Center maintains a presence at all the major trade shows in Indonesia and promotes U.S. goods and services through its U.S.A. Catalog Shows, 'On the Road' Outreach Program, and Catalog/USA Pavilion.

Catalog Shows/'On the Road' Outreach Program: Major annual catalog show in Jakarta plus in 4 to 6 provinces throughout Indonesia per year. Interested firms can partake in these shows in the form of corporate sponsors. Sponsoring companies' logos, banners and promotional literatures are distributed at the shows. Companies also receive after event reports and complete database of show visitors.

Catalog/USA Pavilions: Companies can partake in selected Indonesian trade shows show for a small fee. The following will be offered: Company catalogs and promotional literatures are exhibited at the USA Pavilion at key Indonesian trade shows in a number of sectors. A record of trade leads from the Pavilion visitors who have reviewed promotional material and expressed interest is sent, along with bio-information on interested foreign companies, to the participating U.S. companies.

The Agricultural Affairs Office

The Agricultural Affairs Office (AAO) in Jakarta is the USDA office in Indonesia that works closely with U.S. exporters, Indonesian importers, trade associations and Indonesian government officials to increase sales of U.S. bulk and intermediate agricultural products. In addition, the AAO reports on a number of commodities and is responsible for agricultural trade policy and trade financing issues. The AAO is able to assist interested agricultural exporters in a variety of ways:

Product and Market Information: Commodity reports and Indonesian contact lists are available upon request.

Services and Facilities: Visiting exporters can take advantage of in-country briefings and five-star hotel recommendations.

Trade Shows: The AAO encourages participation by U.S. companies in appropriate trade shows for bulk and intermediate commodities.

Trade Financing: The AAO can provide information on how to use the GSM-102/103, Facilities Guarantee, Supplier Guarantee, and Collateral Account programs and contacts for eligible Indonesian banks.

Trade Leads, Buyer Alert, and AgExport Kit Services: The USDA Washington DC office provides a variety of services to U.S. companies. Please contact Export Services for more information, at phone (202) 690-3416 or fax (202) 690-4374.

The Foreign Agricultural Service's Home Page is <http://www.fas.usda.gov>. The FAS home page provides exporters, producers, processors, researchers, trade organizations, financial institutions, and other interested individuals and groups with access to data, analysis, trade policy developments and agricultural trade activities – around the clock and around the world.

To take advantage of the activities that the AAO offers, please contact Mr. Charles Alexander, Agricultural Counselor, at phone (62-21) 3435-9161, fax (62-21) 3435-9920, or email alexanderchuck@fas.usda.gov. For consumer-ready products, please refer to the Agricultural Trade Office.

U.S. Agricultural Trade Office (ATO)

The Agricultural Trade Office in Jakarta is the USDA office in Indonesia that works closely with U.S. exporters, Indonesian importers, trade associations, and Indonesian Government officials to increase sales of U.S. high value or consumer ready food products. The ATO is a branch of the Agricultural Affairs Office. The ATO is able to assist interested food exporters in a variety of ways:

1. Product and Market Information: Lists of importers and commodity reports for retail and consumer-ready products are available upon request.
2. Services and Facilities: Visiting exporters can take advantage of in-country briefings, five-star hotel recommendations, and temporary office space.
3. Promotion Activities: A multitude of promotion opportunities are offered by the ATO, including trade shows (every year the ATO stages one major food show and several category specific food shows in Jakarta), agent shows (an opportunity for regional agents to join ATO sponsored trade shows and seminar series in major cities outside of Jakarta), in-store promotions (3-4 in-store promotions are held each year), a monthly newsletter (sent to about 400 Indonesian traders featuring news about various products), and a library and showcase in our office that displays company information and products.

To take advantage of the activities that ATO offers, contact Mr. Chris Rittgers, Director, at fax (62-21) 571-1251, or phone at (62-21) 526-2850, or email at rittgersc@fas.usda.gov. Also, please refer to the U.S. Embassy Jakarta website: www.usembassyjakarta.org/fas/

Public Affairs Section Programs for Trade Development (PAS)

PAS organizes and supports programs designed to help promote trade and investment. In Indonesia, PAS speakers, PAS-organized press briefings and dissemination of information to the media, satellite television and teleconferencing programs help promote understanding of measures needed to promote Indonesia's commercial climate. PAS programs promote the reduction of trade barriers, protection of intellectual property rights, and encourage sustained Indonesian support for trade liberalization.

PAS operates the Information Resource Center (IRC), a state-of-the-art electronic research facility located in the PAS building on the U.S. Embassy compound. IRC resources include internet access and a variety of databases accessible on-line. These include the Public Diplomacy Query (PDQ) database, Dialog, Legi-Slate, and Westlaw.

The IRC's collection of CD-ROMs include the UMI/PROQUEST series, which indexes hundreds of periodicals, with over 200 available in full image text, the U.S. Code Annotated, Phonedisc, and North American Fax. IRC staff maintains the U.S. Embassy Jakarta home page, a website with current information about the U.S. Mission, with direct links to the U.S. Department of State Foreign Affairs Network, other U.S. government agencies, and additional sites related to foreign affairs, trade, and important bilateral issues.

PAS also recruits speakers for events such as the annual Economic Seminar, co-sponsored with the Indonesian Economists Association, and on topics including U.S. trade policy and trade promotion. For further information on the speakers program, please contact the Cultural Affairs Officer at (62-21) 3435-9526.

The PAS Press Section, through its Book Translation Program, communicates U.S. views on trade and investment issues to Indonesian policy makers and the public. Books which have been translated into the Indonesian language under the auspices of the program include Economics in One Lesson by Henry Hazlitt, Return to Depression Economics by Paul Krugman and The Lexus and the Olive Tree by Thomas Friedman.

United States Agency for International Development (USAID)

USAID promotes the adoption of open trade and investment regimes and creates opportunities for increased two-way trade between Indonesia and the United States centered on technology, equipment, and services. USAID supports Indonesia's commitments to the World Trade Organization with special emphasis on the agricultural sector (tariff and non-tariff barriers) through its technical assistance to the GOI. This assistance has expanded since last year's Ministerial Conference - "development" round - of the WTO in Doha, Qatar. USAID is also facilitating adoption of laws and regulations that facilitate commerce and economic development in Indonesia. This work has already assisted in the promulgation of laws for commodities futures trading, capital markets and corporate law. The current work is focus on competition law, bankruptcy, secured transactions, and arbitration legislation.

USAID's energy program supports efforts by the government of Indonesia to improve efficiency and attract private sector investment in the energy sector. The Critical reforms consist of rationalizing the pricing of energy, reducing energy subsidies, redefining the role of government in the sector, developing the regulatory framework for a competitive energy market, and promoting options for cleaner energy production and use. The program also provides assistance for improving the policy analysis capability of the Ministry of Energy and Mineral Resources (MEMR) in order to accelerate market-based reforms. This technical assistance to MEMR includes support for their subsidy reduction program, supply and demand, regional energy policy, and environmental issues related to energy.

In the oil and gas sector, USAID provides technical assistance for the development of a regulatory framework for a more market-based system. In October 2001, President Megawati Soekarnoputri signed the law no. 22/2001 on the mining of oil and natural gas, which initiates the reform in the oil and gas sector. This law will: (1) transfer the management of the production sharing contracts (PSCs) from Pertamina to the government; (2) open the down-stream oil sector, from refinery to retail, to competition; (3) set-up an independent regulatory body to regulate the down-stream sector, and (4) corporatize Pertamina. The opening-up of the down-stream oil sector, which was previously under Pertamina's monopoly, will further open up opportunities for private investment. USAID assistance will focus on the development of regulations and capacity building to implement the new law. In the electricity sector, USAID provides technical assistance to improve the capacity of MEMR's restructuring teams in supporting policy reforms.

USAID's energy program also supports measures to protect natural resources, reduce emissions and mitigate the negative environmental impacts of energy development. USAID is supporting efforts to eliminate lead from fuels and promote the use of unleaded gas. The energy program promotes the sustainable application of technologies that reduce local and global pollutants. These technologies include both grid-connected and off-grid renewable energy as well as supply and demand side energy efficiency. Activities include pilot projects, resource mapping, cost-sharing feasibility studies with developers, training, and transfer of technologies for cleaner generation from fossil fuels and renewable energy.

The interested U.S. renewable energy developers may request assistance through Yayasan Bina Usaha Lingkungan (YBUL), a USAID-supported Non-Government Organization specializing in the commercialization of renewable energy.

Yayasan Bina Usaha Lingkungan
Tel: (62-21) 720-6125
Fax: (62-21) 722-0905
Email: ybul@indo.net.id

The information on these activities may be obtained through the Energy Office, USAID/Indonesia (See Chapter XI for contact information regarding USAID/Indonesia).

Other small businesses may access “match-maker” service from:

Global Technology Network - Indonesia
Tel: (62-21) 791-82717
Fax: (62-21) 791-82716
E-mail: smedev@cbn.net.id

This is a part of the Agency’s worldwide Trade Capacity Building activities, which reflect that USAID is an important player in trade development worldwide. A copy of the Agency’s 2001 trade capacity survey can be found at: <http://www.qesdb.cdie.org/tcb/index.html>

United States-Asia Environmental Partnership (US-AEP)

US-AEP links Asia and the United States in cooperative environmental improvement efforts. US-AEP is a program of USAID, and through its development activities it strengthens institutions for environmental protection and creates access to US expertise, information and professional networks. These activities also create opportunities for applying US technology and services. US-AEP/Indonesia works closely with the Commercial Section on environmental projects and programs.

The US-AEP Policy Program in Indonesia supports the Government of Indonesia and non-governmental actors in strengthening policies and practices, particularly in the areas of urban air quality, vehicle emissions reduction, and the phase-out of leaded gasoline.

The Urban Infrastructure Program helps local governments and communities deal with the environmental problems brought on by rapid urbanization. US-AEP assists local authorities to improve the management and financial stability of municipal water enterprises. The program also addresses issues in wastewater treatment and solid waste management.

The Industry Program helps to improve the environmental management of industrial processes. In particular, the program promotes cleaner production, voluntary disclosure, and energy and material efficiency.

Grant Assistance

US-AEP administers grants in support of its Indonesian country programs:

1. Through the Institute of International Education (IIE), travel funds are available to provide private and public sector exchanges (i.e., workshops and site visits) in Asia and the United States. These exchanges are normally for one to two weeks, and they usually fit within larger ongoing US-AEP programs.
2. Through the Technical Services Support Contract agency, small grants are available which support the activities approved in the annual Indonesia Workplan.
3. Through a cooperative program between US-AEP and The Asia Foundation, small grants are available to support civil society initiatives.

4. Through the Council of State Governments (CSG), cooperative relationships between American and Indonesian institutions are established. These proposals are vetted once a year and might take two to three years to complete. The grants may be up to \$150,000 with cost-sharing.

The main point of contact for US-AEP/Indonesia is the Director for Program Coordination and Policy. The coordinates are as follows:

US Commercial Center
Wisma Metropolitan II, 3rd Floor
Jl. Jend. Sudirman, Kav. 29 - 31
Jakarta 12920 Indonesia
Tel: +62 21 526-2850 ext. 1004
Fax: +62 21 526-2849
General US-AEP Website: www.usaep.org

Office of the Military Attaché for Defense Cooperation (ODC)

ODC is the principal point of contact for most U.S. defense industry representatives for marketing defense systems, articles and training services in Indonesia. ODC's main function is to facilitate the flow of information about U.S. systems to help Indonesian buyers make acquisition decisions, either commercially or through Foreign Military Sales (FMS).

U.S. firms should be aware that FMS sales to Indonesia have been suspended since 1999, and the Leahy amendment restricts direct military-to-military cooperation. The suspension for commercial sales of non-lethal defense articles/spare parts and safety of used spares/sub-component for lethal end-items has been lifted.

ODC assists industry representatives by arranging appointments in the U.S. Embassy and with Indonesian military officer. ODC also, is a valuable source of information on the Indonesian military procurement system.

ODC offices may be reached by phone (62-21) 3435-9601 or fax (62-21) 384-3339 (additional contact information may be found in Chapter XI).