

ΔCTIO

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Punishment & Fine against Hoarder of Primary Materials

PERPRES (PRESIDENTIAL REGULATION) 71/2015:

Government's Guarantee on Availability of Primary Needs

MARKET OPERATIONS:

Attempt to Address Price Hikes



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We, Akasa Cipta Tama (ACT), was established in April 2015 as a response to the demand of highly qualified translators for business, legal, technical, and general documents; as well as interpreters and note takers for meetings, seminars, and conference. Our translators, interpreters and note takers have extensive experiences in their respective fields.

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Please do not hesitate to contact us if you have any question at marketing.akasa@gmail.com.
Looking forward to hearing from you.

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ACTIO

Editorial:

Supervisor:

Setyawati Fitri Anggraeni, S.H., LL.M., MCI Arb.

Editor-in-chief:

Agus Dwi Prasetyo, S.H.

Executive Director:

Tanya Widjaja Kusumah, S.H.

Writers:

Agus Dwi Prasetyo, S.H.

Tanya Widjaja Kusumah, S.H.

Sufi Mufarrid Fadhly, S.H.

Amalia Fajarina, S.H., M.Kn.

Manuel Simbolon, S.H., M.H.

Tubagus Syaqief Harizansyah, S.H.

Contributor:

Media Consultant:

Fifi Juliana Jelita

Script Editor:

Wahyu Hardjanto

Visual Stylist:

Riesma Pawestri

Illustration: **freepik.com**

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Begins in
Wonder”**
-Socrates-

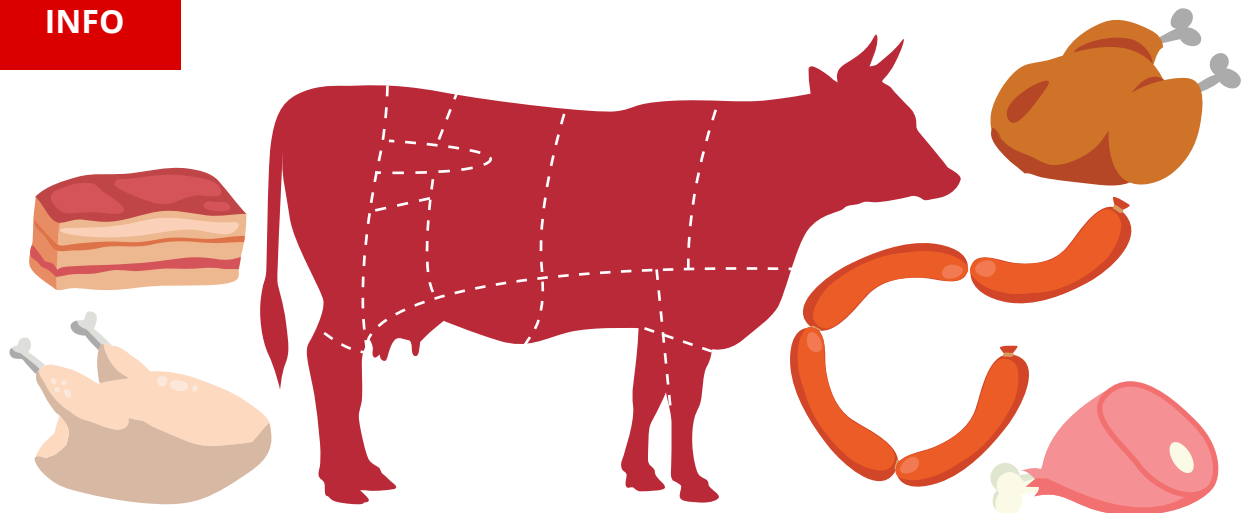
Every year we witness hysteria on increase of price on primary materials during the observance of religious celebrations in Indonesia. Upon approaching the festivities of celebration, the government works hard to neutralize problem of price increase on primary materials by carrying out various policies.

In this edition, Actio discusses the various information, regulations, and policies taken by the government in order to control the price of primary materials, starting from opening opportunity of import for businessmen, registration of Indonesian National Standard for primary materials, as well as criminal sanction against hoarders of primary materials.

Finally, enjoy the read and hopefully this is useful for us all.

Regards,

Anggraeni & Partners



Government Opens Import on Offal

Government has opened the door for offal imports through Regulation of Minister of Agriculture Number 34 of 2016. The said regulation replaces previous regulation namely Regulation of Minister of Agriculture Number 58/Permentan/PK.210/11/2015 on Import of Carcass, Meat and/or

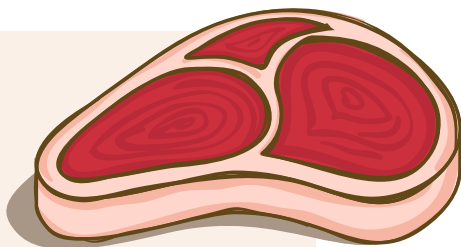
Its Processed Into the Territory of the Republic of Indonesia.

Such policy will not limit number of offal that may be imported. This is different with the previous regulation, which provides limitations and certain conditions on party applying for import of offal.

Although receiving numbers of critic, government considers that import is opened with the hope of providing cheap offal with good quality.

Nevertheless, until the end of August 2016, there is no realization on import of offal. **(ADP)**

PPSKI Files Material Review on Import of Meat



The Association of Cow and Buffalo Farmers (PPSKI) files material review on Law Number 41 of 2014 on Livestock and Animal's Health ("Livestock Law") before the Constitutional Court.

In the lawsuit, PPSKI objects on Article 36 of Livestock Law, which serves as basis for government to issue policy to open import of buffalo's meat based on zone (zone base) from India.

Concern of PPSKI, opening the zone base import of meat and not country base will cause plague of hoof-and-mouth disease (PMK) into the territory of the Republic of Indonesia.

Further, PPSKI also concerns that entry of meat from abroad will cause the price of local cow and buffalo to fall that can damage local stock-farmer. **(ADP)**

7 YEARS OF IMPRISONMENT AND RP. 100 BILLION FINE AGAINST HOARDERS OF PRIMARY MATERIALS

The government has obligation to realize the availability, affordability, and fulfillment on food consumption for society: in manners that is sufficient, safe, qualified, and nutritionally balanced. Unfortunately, the market is usually filled with restlessness of society as result of scarcity or fluctuation of food price. That is why; Public Company Bureau of Logistic (Perum Bulog), government, as well as private enterprise usually convene activity through market operation. The purpose is to help decreasing food price.

In fact, the cause of high price of food price is attributable to many factors. One of the factors is the high demand which caused the hoarding of primary materials (usually referred to as sembako), particularly prior to religious day of celebrations, such as fasting and the Lebaran festivities. In order to achieve a stable food price, law enforcement for hoarders is required. Head of the Police

Force (during the time of Police General Badrodin Haiti) has issued Edict of Head of the Police Force of the Republic of Indonesia Number: Mak/01/VII/2015 on Prohibition to Hoard or Store Food and Goods of Basic Needs. In the edict, it is expressly stated that business doers are prohibited to intentionally hoard or store exceeding the maximum number allowed or outside the reasonableness, with intention to gain profit, so that causing the price of primary food becomes expensive or skyrockets. Furthermore, business doers are also prohibited to store goods of basic needs and/or important goods in certain number or particular time when there is scarcity, price fluctuation, and/or constraints on traffic trade of certain foods.

Should there be a business doer that commit such activity, the police force will take serious action by imposing criminal sanction under Article 133 Law Number 18 of 2012 on Food, which contains the following:

"Food Business Doer that intentionally hoard or store exceeding maximum number as referred to Article 53 with intention to gain profit that causing price of Primary Food becomes expensive or skyrockets is punishable with imprisonment for maximum 7 (seven) years or fine for maximum Rp 100.000.000.000,00 (one hundred billion rupiah)."

Aside from the above, hoarders will also be charged with criminal punishment under Article 107 Law Number 7 of 2014 on Trade, which specifies that, *"Business Doer that store goods of basic needs and/or important goods in certain number or particular time when there is good's scarcity, price fluctuation, and/or constraints on traffic Trade as referred to Article 29 paragraph (1) is punishable with imprisonment for maximum 5 (five) years and/or fine for maximum Rp 50.000.000.000,00 (fifty billion rupiah)."* **(SFA)**



REMOVAL OF MINIMUM CAPITAL REQUIREMENT IN THE ESTABLISHMENT OF A LIMITED LIABILITY COMPANY: PROBLEM OR SOLUTION?



On 14 July 2016, the President of the Republic of Indonesia has issued Government Regulation Number 29 of 2016 on Adjustment of Authorized Capital of Limited Liability Company ("PP 29/2016"). PP 29/2016 essentially governs that the number of authorized capital of Limited Liability Company shall be determined by the agreement of founders of Limited Liability Company, and shall no longer be limited to Rp 50 million. The provisions of PP 26/2016 also revokes Government Regulation Number 7 of 2016 on Adjustment of Authorized Capital of Limited Liability Company.

However, PP 29/2016 was yet to be supported by the revision of Law on Limited Liability Company, particularly Article 32, which still regulates that the minimum authorized capital to establish limited liability company is Rp 50.000.000,- (fifty million rupiah). As a result, PP 29/2016 could not be implemented since it contradicts with higher provision namely Law of Limited Liability Company Number 40 of 2007.

The background for the issuance of PP 29/2016 is to provide legal certainty and to stimulate small and medium enterprises to start the business in the form of legal entity of PT (limited liability company).

With the enactment of PP 29/2016, people from lower and middle income class will have easier access to establish limited liability company without being restrained by the minimum capital requirement of Rp 50 million or issued capital of Rp 12,5 million. Nonetheless, the removal of minimum capital requirements of a Limited Liability Company does not reduce the price for the establishment of a Limited Liability Company (notary, agent etc.), which are still considered to be rather costly.

Another impact that may arise as a consequence of the enactment of PP 29/2016 is evident in the practice of guarantee law, namely the rise of prudential analysis of guarantee for the implementation of contract by the Limited Liability Company. Such impact will also cause a shift of the meaning of "limited" on Limited Liability Company, namely the responsibility of Company could shift to the assets of individual shareholder or the caretaker due to the Company's inability to provide guarantee in the fulfillment of obligation in the implementation of a contract.

During the period of Rp 50 million minimum capital requirement many parties still do not pay the capital. Therefore, it is predicted that the negative impact that may arise from the enactment of PP 26/2016 is the increase of shell Companies establishment. **(TSH)**

PRESIDENTIAL REGULATION 71/2015:

GOVERNMENT'S GUARANTEE ON AVAILABILITY OF PRIMARY NEEDS

Presidential Regulation Number 71 of 2015 on Stipulation of Price and Storing of Primary Needs and Important Goods ("Perpres 71/2015") sets out rules to guarantee the availability and stabilize the price of goods distributed in the market to deal with scarcity and price fluctuation.

Perpres 71/2015 also contains rules on prohibition to store primary materials and important goods in warehouse during scarcity of goods, price fluctuation, during the constraints of trade traffic.

The types of primary materials covered in the regulation are agricultural produce (rice, soybean as primary materials of fermented soybean cake and tofu, chili, and onion), industrial produce (sugar, cooking oil, and wheat flour), as well as farm and fisheries

produce (beef meat, chicken meat, chicken egg, and fresh fish, namely milkfish, mackerel, or swordfish/tuna/skipjack).

Primary goods shall meet the following standards, namely (i) in accordance to SNI (Indonesian National Standard) as necessary; (ii) safe to consume; (iii) hygiene and sanitized; (iv) not contaminated with hazardous and poisonous materials.

When there is scarcity of goods, price fluctuation, and/or constraints on trade traffic, primary goods and/or important goods are prohibited to be stored in warehouse in an unreasonable quantity, for instance exceeding the stock or supply of the distributed goods, to fulfill market with maximum period of 3 (three) months, based on average record on monthly sales under normal condition.



The central government shall guarantee supply and price stabilization of primary goods by stipulating a special price in the periods prior to, during and after national religious days, and/or during a price fluctuation situation, and when there is disruption of supply or when the price is higher or lower than the reference price stipulated by the government in certain condition that may disrupt national trade activity. The government, in this case the Minister of Trade, could determine highest retail price in the event of market operation be it partially or wholly for primary goods. (TWK)





QUESTION AND ANSWER RELATED TO IMPORT OF SUGAR

What is the regulation on importation of sugar in Indonesia?

Answer:

The importation of sugar is regulated under Regulation of Minister of Trade Number 117/M-DAG/PER/12/2015 on Provision on Import of Sugar. Import of sugar based on the regulation is basically limited and conducted in accordance to domestic demand of sugar that is determined and agreed in coordination meeting between ministries. This particularly applies for import of plantation white sugar, which shall only be carried out in order to control the supply and stability of the price.

In addition, sugar that can be imported are divided into:

- a. raw sugar with Tariff of Post/hS 1701..12.00.00, ex 1701.13.00.00, and ex 1701.14.00.00 that have ICUMSA (International Commission for Uniform of Sugar Analysis) number minimum 1200 IU (ICUMSA Color);
- b. refined sugar with Tariff of Post/hS 1701.99.11.00 and 1701.99.19.00 that have ICUMSA number maximum 45 IU; and
- c. plantation white sugar with Tariff of Post/hS 1701.91.00.00 and 1701.99.90.00 that have ICUMSA number between 70 IU to 200 IU. **(TWK)**

Who can import sugar?

Answer:

- a. Company holding API-P permit (Producer Identification Number of Importer) that can only import raw sugar and refined sugar; and
- b. BUMN (State-Owned Company) with API-U (General Identification Number of Importer) that can only import plantation white sugar. **(TWK)**

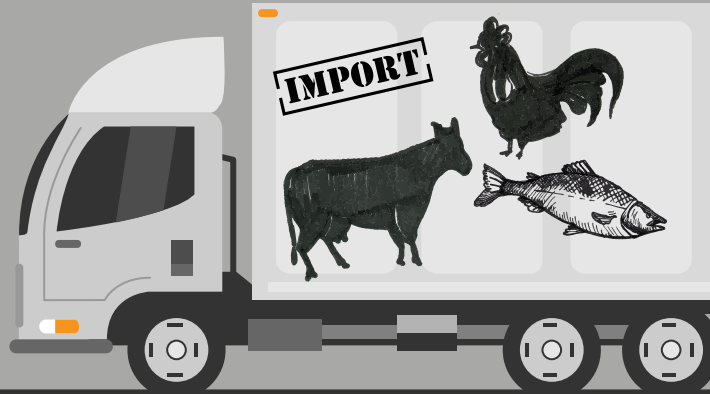
What will cause the Ministry of Trade to revoke the approval to import of a company organizing import of sugar?

Answer:

Pursuant to Article 20 of Permendag Number 117 of 2015, approval to import of company is revoked if:

- a. proven to trade and/or hand over imported raw sugar and refined sugar to direct consumer, to distributor, and/or to retailer;
- b. proven to trade imported refined sugar into domestic market;
- c. proven to alter data and/or information contained in approval to import;
- d. proven to submit data and/or information that are not true as requirement to obtain approval to import, after the approval to import has been issued;
- e. proven to commit violation based on assessment and recommendation of relevant technical institution; and/or
- f. declared guilty based on court's judgment which has obtained permanent legal force or crime related to misuse of approval to import. **(TWK)**

GOVERNMENT AMENDS REGULATION ON IMPORT OF ANIMAL AND ANIMAL PRODUCT



Provision on export and import of animal as well as animal product is regulated under Regulation of Ministry of Trade Number 05/M-DAG/PER/1/2016 on Provision on Export and Import of Animal and Animal Product ("Permendag No. 5/2016"). On 23 May 2016, government has amended Permendag No. 5/2016 with Regulation of Ministry of Trade Number 27 of 2016 ("Permendag No. 37/2016"). This edition of Regulation In-Depth will focus on several changes on provision of import regulated under Permendag No. 37/2016.

The first difference between Permendag No. 5/2016 and Permendag No. 37/2016 is on the objective of utilization and distribution. On Permendag No. 5/2016, the objective of utilization and distribution are designated for industry, hotel, restaurant, catering, and/or any other special needs, while Permendag No. 37/2016 adds the objective of utilization and distribution for market that has cold-chain facility, and/or any other special needs.

In addition, Permendag No. 37/2016 obliges a company that has obtained approval to export and companies owner of API (Identification Number of Importer), BUMN (State-Owned Company), and BUMD (Local Government-Owned Company) that have obtained approval to import to convey report electronically for the implementation of export on animal and or animal product, or implementation of import on animal and or animal product either realized or not realized that are conducted electronically by attaching: (i) export or import realization control card that has been signed by the custom officer, for type of animal and animal product that have not been exposed with provision on record of export or import realization through electronic means and or port that has not been connected with Indonesian National Single Window (INSW); as well as (ii) notice of export on goods and notice of import on goods, for type of animal and animal's product that have been exposed with provision on record of export or import

realization through electronic means and or port that has been connected with INSW. Attachment of such documents are not required under Permendag No. 5/2016.

Permendag No. 5/2016 limits type of animal and animal product that may be imported as mentioned in the attachment. However, Permendag No. 37/2016 provides looseness on type of animal and animal's product that may be imported by not limiting import activity should the type of animal and animal product that have obtained approval to import from Directorate General of Foreign Trade of Ministry of Trade of the Republic of Indonesia by enclosing recommendation from Head of National Agency of Drugs and Food Controls or official appointed by Head of National Agency of Drugs and Food Controls for import of processed animal's product and recommendation from Minister of Agriculture or official appointed by Minister of Agriculture for import of processed animal's product that has risk of zoonosis. (AFJ)

MARKET OPERATION: AN ATTEMPT TO ADDRESS HIKE IN PRICES

In the beginning of this year, Commission for the Supervision of Business Competition (KPPU) rendered judgment for 32 feedloter companies, which have committed cartel practice and arranged price of beef meat in area of Jakarta, Bogor, Tangerang, Depok, and Bekasi (Jabodetabek). Such judgment is contained in Trial of KPPU Tribunal in Jakarta, on Friday (22/4/2016).

The issue of cartel is regulated under Law No. 5 of 1999 on Prohibition on Practice of Monopoly and Unfair Business Competition. By definition, cartel is an agreement drawn up by several companies intended to affect the price by managing production and/or distribution of goods and/or services, which may cause the occurrence of practice of monopoly and/or unfair business competition. Cartel practices is presumed to have caused the hike in market price which caused losses to the consumer. Many parties think that expensive price of primary materials on certain

period, for instance during religious days in Indonesia, is caused by the cartel practice.

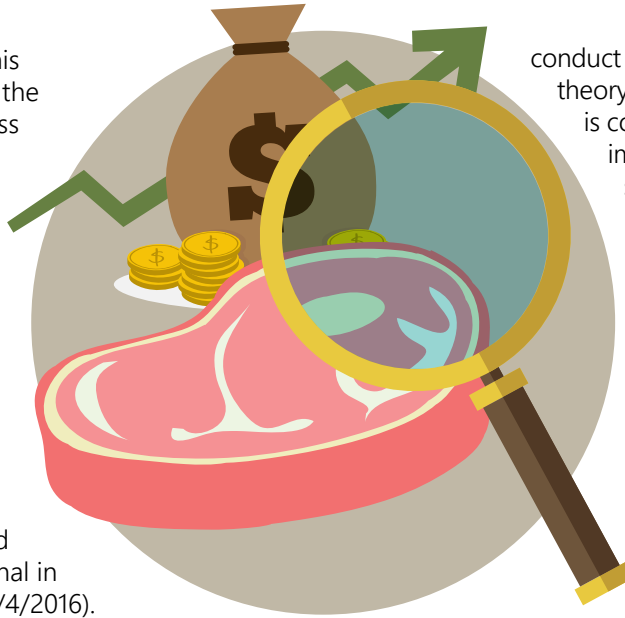
Throughout the years, price hikes on primary commodity of food in the market is dealt by carrying out market operation by the government. So far, government assesses that policy of market operation is the correct step to press the price of commodity in the market.

However, it is difficult to determine the right time to

conduct market operation. In theory, market operation is convened as result of imbalance between stock and demand that causes price hikes. Based on that, the government pours massive amount of supply for some commodities with cheaper price in hope that the commodities' price to be normal. Price hikes of commodities indeed can be constrained.

However, this will only happen in a short term. Therefore, there should be a preventive measure to tackle the price hikes in commodities.

From the above discussion, the government is suggested to fix the institutional aspect to control price. Other than supervising the price control, such institution could also create access for the public to report on abnormal price hikes. Such institution is also expected to be an institution that could provide consideration to government in carrying out market operation. **(MSB)**



HOW TO OBTAIN INDONESIAN NATIONAL STANDARD (SNI)

SNI is standard determined by Agency of National Standardization (BSN) on goods, services, system, process, and personnel in the territory of Indonesia.

The following are procedural steps to obtain certificate of SNI, as regulated under Decree of Head of Agency of Industrial Research and Development (BPPI) No. 247/BPPI/X/2008 on Standard Operational Procedure on Issuance of Product Certificate on Usage of Mark of Indonesian National Standard (SPPT SNI):

- 1 Ensure the SMM Certificate**
Ensure that your company or enterprise have obtained Certificate on Quality Management System (SMM) issued by Agency of Quality Management System (LSMM) accredited by Committee of National Accreditation (KAN).
- 2 Visit the office of LSPro**
Visit the office of Body of Product Certification (LSPro) by bringing copy of company documents, for instance article of association, documents of permit, as well as ownership of brand, if any.
- 3 Fill the application form of SPPT SNI by enclosing:**
 - a. copy of SMM Certificate
 - b. accompanied with certificate from LSMM of originating country and mutual recognition arrangement (MRA) with KAN.
- 4 Verification of application document**
Verification is conducted on application document that has been received by LSPro. This process take up one day.
- 5 Audit on correctness of document and audit of sufficiency**
Audit on correctness of document and audit of sufficiency are conducted by appointed assessor. This process will take up to 5 days (for imported product). Process on this first phase usually takes up one day.
- 6 Scheduling the audit of compliance**
Should audit on correctness of document and audit of sufficiency have been carried out, then LSPro will schedule audit of compliance which comprised of audit of quality management system and collection of product sample that will take up to 20 days.
- 7 Audit on system and collection of sample**
In the stage of audit of compliance, there will be audit on system that is conducted by assessor and collection of sample by officer of product sample collector. The audit process usually takes minimum 5 days. In this stage, test on product sample in order to obtain certification of test result that is a valuation on product sample, will also be conducted. In the event, the result of test does not fulfill the SNI's requirements, then the applicant is asked to conduct re-test. Should the re-test result does not meet the SNI's requirement, then the application of SPPT SNI is rejected. Duration of test on product sample does not included into the calculation of SPPT SNI.
- 8 Materials of panel meeting**
Officer of Pantek (Technical Committee) prepares materials of panel meeting for company that has fulfilled requirements (result of audit on system without major discovery or there is major discovery but has been covered and result of laboratory test that has met the product standard).
- 9 Decision of certification**
Materials for panel meeting composed from all documents of audit and result of test. Preparation on materials for panel meeting could take 1 to 7 working days, while the panel meeting requires 1 working day.
- 10 Granting of SPPT SNI**
Should all requirements are fulfilled; LSPro will issue SPPT SNI for the applicant product in the next day.
- 11 Cost for obtaining SNI**
Cost to obtain applied in the Ministry of Industry are regulated in the Government Regulation of the Republic of Indonesia No. 47 of 2001 on Type and Tariff on Type of Non-Tax State Revenue which applies in the Ministry of Industry.

The above are procedure to obtain SNI in accordance to prevailing laws. Hopefully it could help the reader in carrying out business. (SMF)

"We are worthy of your trust"



CONTACT

Please do not hesitate to contact us If there is any further question or discussion.

TENDEAN SQUARE KAV. 17 -18
Jl. Wolter Monginsidi No. 122-124
Kebayoran Baru, South Jakarta
Indonesia - 12170

Email: contact@ap-lawsolution.com
Website: www.ap-lawsolution.com

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- Consistently establishing and developing the quality of human resources through scientific researches, trainings and innovations based on the organizational and cultural values of Indonesia;
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- ACTING AS AN ATTORNEY for an Indonesian company in an International Arbitration proceeding at the Kuala Lumpur Regional Centre for Arbitration (KLRC) in relation to a dispute on a Shareholders Agreement of a joint venture company;
- PROVIDING LEGAL ADVICE to a foreign insurance company in relation to the purchase

of bonds issued under Indonesia laws and regulations governing the purchase of bonds by a company;

2014

- DRAFTING AND ANALYZING shipping contracts for a palm oil plantation company;

2013

- REPRESENTING a Japanese private company as a foreign shareholder in a joint venture in the transfer of shares to a domestic shareholder, in a manpower outsourcing joint venture.