Indonesia

【Risk Warning】
The Indonesian government introduced a number of regulations concerning technical standards and products safety in 2009, including the Decree on Mandatory Implementation of National Standard for Refined Sugar; the Draft Decree on Mandatory Implementation of Indonesian National Standards for Glass Plate; the Decree on Mandatory Implementation of Indonesian National Standard for Coco Powder; the Draft Decree on Requirements of the Wooden Package of the Imported Material and Phytosanitary Measures; and the Indonesian Mandatory National Standards for Coco Beans. These regulations cover a lot of Chinese exports; related manufactures are thus required to stay informed of Indonesia’s policy changes, update their technologies, and make sure their products are in strict conformity with the new requirements.

In addition, Indonesia banned the imports of milk, dairy products, egg powder and ammonium carbonate products from China since March 2009. Related exporters should be aware of this change and make alternative plans.

1 An Overview of Bilateral Trade and Investment
According to China Customs, the bilateral trade volume between China and Indonesia totaled U.S.$ 28.38 billion in 2009, down by 9.9% over the previous year. China’s export to Indonesia was U.S.$ 14.72 billion, down by 14.4%, while China’s import from Indonesia reached U.S.$ 13.66 billion, down by 4.6%. China ran a surplus of U.S.$ 1.06 billion with Indonesia. Major exports from China to Indonesia include mechanical equipments, electric equipments, fossil fuels, steel products, organic chemicals, sophisticated instruments and equipments, vehicles, cotton, steel, inorganic chemicals and rare earth metals.

According to China’s Ministry of Commerce (MOFCOM), in 2009 the aggregate turnover of engineering contracts completed by Chinese companies in Indonesia reached U.S.$ 2.65 billion, and the aggregate volume of completed labor service cooperation contracts amounted to U.S.$ 1.61 million.

According to MOFCOM, China’s direct non-financial investment in Indonesia, approved by and
filed with MOFCOM in 2009, stood at U.S.$ 220 million. According to MOFCOM, Indonesia

2 An Overview of Indonesia’s Trade and Investment Administration Regime

2.1 Trade Administration Regime

2.1.1 Tariff Regime

2.1.1.1 Tariff Administration

Indonesia’s tariff policies are based on the Indonesian Customs Law promulgated in 1973. The
current import tariff rates were formulated by the Ministry of Finance in 1988. Since then, the
Department of Finance has released every year a policy package for industrial and economic
deregulation in the form of a ministerial decree, which includes the readjustment of import tariff
rates. There are two types of import duties in Indonesia: the MFN Tariff rate and the Preferential
Tariff Rate. The tariff policy of Indonesia is implemented by the Directorate-General of Customs
and Excise subordinate to the Department of Finance.

2.1.1.2 Tariff Rates and Their Adjustments

The simple average bound duty rate of Indonesia in 2008 was around 37%. And the simple
average MFN tariff rate was 6.9%, among which agricultural products and non-agricultural
products were respectively 8.5% and 6.7%. This is almost the same as that of 2007. No duties will
be imposed on automobiles, steel and some chemical products. Indonesia sets a bound duty of
around 40% for most products.

According to the Framework Agreement on Comprehensive Economic Cooperation between
ASEAN and the People’s Republic of China, Indonesia began to reduce its tariff for products
imported from China gradually in 2007. And before the end of 2012, Indonesia will gradually cut
their import tariffs on most products imported from China to zero based on The Indonesia’s
Agreement Tariff between 2009 and 2012.

Changes in 2009:
(1) Reimposing the Import Tariff on Diary Products
On June 19, 2009, the Department of Finance of Indonesia decided to reimpose the 5% import
tariff on 6 kinds of whole milk powder and one kind of skimmed diary products to support the
domestic diary industry.

(2) Reducing the Import Tariff on Sugar
In order to promote export, the Department of Finance of Indonesia stated that it will reduce the import tariff on white sugar from 790 Rupiah /kg to 400 Rupiah /kg, from 550 Rupiah /kg to 150 Rupiah /kg for raw sugar.

(3) Offering the Import Tariff Reduction and Exemption to 11 Industries
According to the economy stimulus package enacted by Indonesia government, in 2009, the government allocated 1.7 trillion Rupiah (about 140 million U.S. dollars) for import tariffs in the interests of industrial enterprises. The import tariff reduction or exemption were offered to the following 11 industries: aircraft maintenance and repair, motorcycle parts and components, electrical components, shipbuilding, heavy machinery, transfusion, generator components, sorbitol, information and communication, methyl mercaptan tin (plastic heat stabilizer) as well as ball-point pen manufacturing.

The tariff reduction and exemption can be realized only when the director of counseling department of related industries or the Minister of Industry applies to the Minister of Finance, and for the industrial raw materials that have not been produced domestically or those do not meet the standards or fail to meet the needs of certain industries. The regulation is effective from February 26, 2009 till December 31, 2009. And it will be reassessed within 12 months after its implementation.

(4) Maintaining Zero Export Tariff on Palm Oil
As the largest palm oil producing country in the world, the Indonesia government sets palm oil export tariff rate of next month on the basis of the monthly average price of Rotterdam palm oil. The government stipulates, USD 700 per ton of palm oil is the threshold of the export tariff, and no export tariff will be collected below this price. If the palm oil price is between USD 701-750 per ton, the export tariff rate is 1.5%; USD 751-800 per ton, 3%; USD 801-850 per ton, 4.5%; USD 851-900 per ton, 6%; USD 901-950 per ton, 7.5%; USD 951-1,000 per ton, 10%; USD 1,001-1,050 per ton, 12.5%; USD 1,051-1,100 per ton, 15%; USD 1,101-1,150 per ton, 17.5%; USD 1,151-1,200 per ton, 20%; USD 1,201-1,250 per ton, 22.5%; USD 1,251 per ton, 25%.

Until December 2009, Indonesia government imposed zero export tariffs on palm oil.
2.1.2 Import Administration

The *Trade law of 1934* is the basic law for the regulation of Indonesia trade policies. Indonesia’s Department of Trade is in charge of trade affairs, whose responsibilities are to make foreign trade policies, participate in the formulation of trade-related regulations, classify management categories of imported and exported products, process applications for import licenses, and appoint importers and allocate quotas.

The Indonesian government subjects certain products to import licensing requirements, including automatic licensing and non-automatic licensing. The import licensing management contains two categories: quotas and licenses. Nine categories of goods are subject to automatic import licensing, namely, CFC, methyl bromide, hazardous goods, alcoholic beverages and their immediate raw materials containing alcoholic substance, industrial salts, ethylene and propylene, explosives and their immediate raw materials, waste and scraps, used clothing. While six categories of goods are subject to non-automatic import licensing, including clove, textiles, iron and steel, synthetic lubricants, sugar, and agricultural hand tools.

### 2.1.2.1 New Regulations on Importing Steel in 2009

On February 18, 2009, the *Ministerial Decree No.8/M-DAG/PER/2* was released by the Ministry of Trade of Indonesia. The decree took effect as from April 1, 2009 and would be valid till December 31, 2010. The regulation specifies that every importer of steel must register itself as production importer or registered importer, while the steel can only be imported by the production importers or registered importers. The examiner of the loading port will verify whether the importers are qualified or not. Since June of 2009, the Department of Trade have examined whether the import of the iron and steel meets the standards of the *Ministerial Decree No.8/M-DAG/PER/2* of 2009 or not. Currently, 202 kinds of steel products must undergo the import examination. The products will be examined by Indonesian Investigation Company and Sucofindo.

The steel products that will be exempted from the examination must meet the following standards: (1) the steel products must be imported by the production importers of motor vehicles and the components industry, electrical appliances and the components industry, and shipbuilding and its components industry; (2) steel products that have been examined for the purpose of the import tariff taken by the government; (3) the steel products that are particularly imported to meet the industrial need in free trade areas, free ports and bonded areas.
2.1.2.2 The Obligation to Verify the Origin of Textile Products was exempted

In July 2009, the Indonesia government announced that 23 kinds of textile products, including products with HS codes 59.06, 61.05 and 61.09, were exempted from the obligation of verification. Moreover, two kinds of textile products with HS codes 54.08 and 56.02 were also exempted from the requirement of production importer.

2.1.2.3 Import of Waste Plastics Was Allowed

On December 24, 2008, the Department of Trade of Indonesia released the *Ministerial Decree NO.58*, and revised the *Ministerial Decree NO.41* on the import of non-hazardous and non-toxic waste which was released on the October 31, 2008. The regulation specifies that the enterprises that have been approved to import waste plastics must be production importers. Moreover, only waste and used plastics for industrial purpose can be imported. On December 24, 2008, the Indonesia government allowed the plastic enterprises to look for companies to do the identification before June 24, 2009. After June, 24, 2009, importers have to do the identification through the Sucofindo Company and Indonesia Evaluation Company.

2.1.3 Export Administration Regime

The basic export administration regime of Indonesia is based on two decrees: *Ministerial Decree No. 558/MPP/Kep/12/1998* released by the Department of Industry and Trade in 1988 and *Ministerial Decree No.01/M-DAG/PER/1/2007* released by the Department of Trade in 2007. Indonesia exercises export control by dividing exports into four broad categories. Besides that, companies and individuals must, before exporting, obtain a certificate of trading business (Tanda Daftar Usaha Perdagangan or TDUP), a permanent business trading license (Surat Izin Usaha Perdagangan or SIUP) or an industrial business license issued by the Department of Technology based on relevant laws, together with a registration certificate (TDP).

2.1.3.1 The Indonesian Department of Trade Revised the Export Regulations of Raw Rattan

In March 2009, the Department of Trade revised the *Regulations on Exporting Raw Rattan* issued in 2005, so as to regulate the raw material supply of domestic rattan products more effectively. The revised regulation specified that the domestic rattan manufacturers have obligations to offer raw material for the domestic rattan industry, and the raw rattan exporters can only get the raw rattan from the domestic raw rattan stock center. At the same time, raw rattan export volume of every enterprise does not apply to the 30% of its local supply anymore. Each export application must be approved by the group discussion between government and industrial association.
2.1.3.2 Letter of Credit is Obligatory for Export Products Basing on Natural Resources

On January 5, 2009, the Indonesian Department of Trade released the first decree of the year, The Decree No.1/M-DAG/PER/1/2009. The regulation specifies that letter of credit is obligatory for export products based on natural resources, including unprocessed, or processed but not finished primary products such as coffee, palm oil (CPO), cocoa, rubber products, tin bars and minerals including coal, manganese ore sand, copper ore sand, nickel ore sand, aluminum ore sand, iron ore sand, zircon ore sand, galena, and zinc ore sand. Besides, it also specifies that the number of letter of credit must be attached to the export declaration (PEB), and the payment of letter of credit must be realized by domestic authorized banks for dealing in foreign exchange. The regulation took effect on March 3, 2009.

2.1.3.3 The Indonesian Government Decided to Cancel the Export Quota for Tin on April 20, 2009,

2.1.3.4 The National Single Window System Was Established

In May 2009, the Indonesian Minister of Trade announced that the National Single Window System (NSW) would be implemented at the end of December of 2009 to deal with export licensing. Currently, 4 ports and 8 institutions have joined this service system, including Tanjung Priok Port, Semarang Port, Medan Belawan Port and Soekarno-Hatta Airport. According to the statistics from the Indonesian Department of Trade, among 74 kinds of licenses having been issued by the import section of the bureau of foreign trade, 33 of them have enjoyed one-stop service.

Up to now, the licenses that have been dealt by NSW one-stop service system include special permit for importers (NPIK) of rice, sugar, soybeans, corn; production importers (IP) of textiles, garam beryodium, Ethylene, clove, Sacharin and Siklamat, etc. Moreover, although 15 kinds of licenses are handled by hand, they can also be sent to and handled by NSW organizations.

2.1.3.5 Export Credit Incentives

At the end of 2008, the Central Bank of Indonesia issued new measures for export credit: the commercial banks may sell export notes receivable to the central bank and pay the exporters after receiving the payment. It will greatly shorten the settlement circle which is usually 6 months.

2.1.4 Adjustments in Certain Institutions
On August 27, 2009, Market Arbitration Institution was set up to implement the *Order No. 53* released by the Department of Trade in 2008. The institution has the following functions: to offer suggestions on market competitiveness; establish partnership module for retail industry and so on, as the Department’s advising body for market-related policy-making in Department of Trade; to offer promotion measures and protect consumers rights and interests; to supplement regulations for the market participants and solve the disputes quickly and professionally. The Institution consists of two teams: one is in charge of regional regulations, the other is committed to solve the preconditions for the enterprises to do business.

### 2.2 Investment Administration Regime and Its Developments

The Indonesia Government enacted *Investment Law No.25* in 2007, a basic unifying law on investment to replace the *Law on Foreign Investment of 1967* and the *Law on Domestic Investment of 1968*. The *Presidential Decree No. 76 on the Standards and Conditions of the Conditional Closed and Open Investment Industry in 2007* and Presidential Decree No.77 on the List of the Conditional Closed and Open Investment Industry in 2007 are important separate regulations.

The Indonesian Investment Coordinating Board (Badan Koordinasi Penanaman Modal or BKPM) is directly responsible for the president of the Republic of Indonesia. Its main responsibility is to evaluate and formulate national investment policies, to coordinate and promote foreign investment (excluding financial sectors) in Indonesia. The Department of Finance is responsible for regulating investment in the financial service sectors, including banking and insurance. The Department of Mines and Energy is responsible for the approval of energy projects. And mining projects are licensed by its various agencies. The quarantine agency of agricultural products subordinated to the Department of Agriculture is responsible for the quarantine of animals, fishes and plants.

According to the *Investment Law of 2007*, domestic and foreign investors may invest in any business sectors except in the field of transportation, mining, communication and weapons. These 4 fields are in close relation with the national stability and state secrets, so they are exclusive to the investors. Moreover, foreign investors can only hold at most 45% of shares in transportation-related companies and projects, and at most 20% of shares in the communication sector.

### 2.3 Trade and Investment Related Administration and Its Developments

#### 2.3.1 Foreign Exchange Administration
In accordance with the *Law on Monitoring Foreign Exchange Flow of Banks and Non-bank Financial Institutions* drafted and enacted in 1999 by Bank Indonesia (BI), the central bank of country, Indonesia has no foreign exchange controls. The currencies are freely convertible and foreign companies are free to remit their profits back to their home countries.

### 2.3.2 A New Regulation on Electronic Currency and Cards Payment

In April 2009, the new regulation issued by the Central Bank of Indonesia separates electronic currency regulations from the *Regulations on Cards Payment No.11/11/PBI/2009*. As part of the *Regulation No. 11/12/PBI/2009* issued by the Central Bank, it took effect as from April 13, 2009.

The regulation specifies that both banks and non-banker institutions must apply to the central bank for licenses to issue electronic currency. As for the non-bank institutions, license is needed only when the amount of the fund reaches or is expected to reach certain level. The minimal of the bond is recorded in the notification of the central bank. The transition of license concerning combination, destruction or separation can only be conducted by the approval of the central bank. The notification of the central bank specifies the electronic currency value limits that can be deposited into electronic currency media: 1 million Rupiah for the unregistered electronic currencies, 5 million Rupiah for registered ones.

Moreover, the notification also specifies the transaction value limits of the above electronic currencies within a month. a maximum of 2 million Rupiah for each electronic currency, including payment, fund transfer, and other convenience means offered by the issuer. Limited companies must be founded so that non-bank institutions can conduct its business as leaders, issuers, receivers, transmitters and settlers in terms of electronic currency. The electronic currency used in the Indonesia territory must be settled in Rupiah.

At the beginning of 2009, *Regulations on the Cards Payment Instruments (APMK)* was released by the Central Bank of Indonesia. The payment instruments include ATM cards, debit cards and credit cards. The new regulation has replaced the *Regulations on the Cards Payment Instruments (APMK)* No.7/52/PBI/2005 issued on December 28, 2005 and Amendments to Regulations No.7/52/PBI/2005 issued on December 28, 2005 No.10/8/PBI/2008.

### 2.3.3 New Rules for Implementation of the Anti-monopoly Law

In May 2009, Indonesian Supervision Committee on Commercial Competition (KPPU) issued the new rules for implementation of the *Anti-monopoly Law of 1999*, and authorized the persons who
are in charge of the anti-monopoly activity the right to supervise the illegal activity in IP area. The new regulation specifies that once the IP leads to the abuse of the market power, the committee has the right to supervise those cases. The following behaviors are regarded as “the abuse of market power” : right holders bundle the main products and other type of products into one package, and the sellers monopolize the raw material selling –unless it is a way of maintaining quality or keeping product secrets, the sellers restrict the licensed people to make any improvement of the products. The sellers are not able to force consumers to buy the tied-in products.

2.3.4 Tax Management System

2.3.4.1 Applying Sales Tax and Value Added Tax Rebate System to the Domestic Luxuries Purchased by Foreign Tourists
On August 27, 2009, the Indonesian Working Committee on the Draft Decree of Luxury Sales Tax and Value Added Tax announced that agreement had been reached between the government and the Congress that the system of sales tax and value added tax rebate will be applied to the domestic luxuries purchased by foreign tourists. Detailed rebate regulations will be notified in 2010.

2.3.4.2 Value Added Tax for Daily Necessities Was Exempted
In June 2009, the Indonesian Working Committee on the Draft Decree of Luxury Sales Tax and Value Added Tax announced that the Indonesian government would exempt value added tax for daily necessities. According to the Resolutions No.115/MPP/KEP/2/1998 issued jointly by the Department of Commerce and the Department of Industry of Indonesia, the daily necessities are as follows: rice, granulated sugar, cooking oil, chicken, eggs, milk, maize, kerosene, and iodized salt.

The Department of Finance specifies that rice, corn, maize, sweet potato powder, soybeans, and edible salt have been added to the above draft decree. And no value added tax would be levied on such items since the end of 2008.

2.3.4.3 Tax on Going Aboard
In January 2009, the General Department of Taxation of Indonesia specified that the citizen who has no Registered Tax Payer ID (NPWP) need to pay FISKAL 2.5 million Rupiah each time when going aboard by plane, and one million Rupiah by ship. After the tax payer gets Registered Tax Payer ID (NPWP), the paid amount shall be deducted from the income tax as part of PPH at the
end of the year. The new tax on going aboard by air was up by 150%, an increase from one million Rupiah to 1.5 million Rupiah. And that of going by ship was up by 100%, an increase from 500 thousand to one million Rupiah.

The above new regulations are valid for citizens over 21 years old from January 1, 2010, to December 31, 2010. The taxpayers who have the exemption certification on those taxes (SKBFLN) do not have to pay the tax for going aboard. Those taxpayers are as follows: (1) individual taxpayer under 21 years old (WPOP); (2) foreigners who planned to live in Indonesia for one year but actually stayed less than 183 days; (3) diplomatic envoys; (4) representative officials of the international institutions; (5) Indonesian citizens with foreign residential certificates; (6) Muslin pilgrims; (7) land transit passengers; and (8) Indonesian workers with certificate of overseas workers. The following people do not need SKBFLN certificate: (1) foreign college students with recommendation letters from higher education institutions; (2) foreigners doing research work in Indonesia; (3) foreigners who are working in the islands of Batam, Bintan and Karimun; (4) the disabled or patients who have been funded by charitable institutions to receive medical treatment abroad and with one companion; (5) members of the artist, cultural, sport and religious delegations; (6) exchange students or members of students groups; (7) Indonesian labor force except for the overseas labors (Tenaga Kerja IND).

2.3.4.4 The Luxury Sales Tax
In accordance with the Notification of Amendment to Sales Tax on Luxuries except Automobiles issued by the Indonesian Department of Finance on December 31, 2004, the tax rates for luxuries can be divided into 10%, 20%, 30%, 40%, 50% and 75%, among these rates The tax rate for electric home appliances, sporting goods, air conditioning equipment, audio-visual equipment and photographic equipment is 10%; the tax rate for other electric home appliances, house and apartment, film and television equipment, electromagnetic equipments (such as dish drier and microwave oven, etc.) and perfume is 20%; the tax rate for marine equipment, sporting goods (such as golf, diving and water-skiing, etc.) is 30%; the tax rate for alcoholic beverages, leather goods, silk-woven or wool carpet, crystal and precious metal products, recreational motorboat, dirigible bullets, special shoes, expensive stationary, ceramics and exquisite stoneware is 40%; the tax rate for fine fur blanket, other aircraft, sports equipment such as brassier, etc., and pistol is 50%; the tax rate for other liquor, other precious metal products, natural pearl products and luxury cruise is 75%.

Moreover, in Indonesia, luxury sales tax is levied on automobile sales. The luxury sales tax rate
for 4000cc sedans and 4×4 Jeeps or vans is 75 percent; and the luxury sales tax rates for automobiles with engine capacity under 1500cc range from 10% to 30%; the luxury sales tax rates for automobiles with engine capacity between 1500cc and 3000cc ranges from 20% to 40% respectively, depending on the sizes of the engines and the automobile.

2.3.4.5 Personnel in the Sectors of Agriculture, Fishery and Manufacturing Will Enjoy Tax Stimulation Measures Issued by the Government

In the economic stimulus package of 2009 issued by the Indonesian government, 6.5 trillion Rupiah (540 million U.S. dollars) was applied to the income tax cutting or exemption. The Taxation Bureau subordinated to the Department of Finance in Indonesia stated that those stimulation measures are mostly applied to the export-oriented sectors such as agriculture, fishery and manufacturing, which have been seriously impacted by the global financial crisis, including grain cultivation, livestock breeding and hunting in the sector of agriculture; marine fishing, marine culture and fishing services in the sector of fishery; food and beverage, sugar-making, textile processing, dairy and print publications in the sector of manufacture. Workers of these sectors with monthly income less than 5 million rupiah (about 410 U.S. dollars) can be exempt from income tax. Before then, for workers whose annual income is below 50 million rupiah (4100 U.S. dollars) or monthly income below 4.8 million rupiah (400 U.S. dollars) , the income tax rate is 5%.

2.4 Trade-related Technical Measures Adopted in 2009

2.4.1 Technical Regulations

(1) On February 6, 2009, the Section of Chemical Industry of the Department of Industry in Indonesia issued the Decree on Mandatory Implementation of National Standard for Refined Sugar. The decree states that all the refined sugar that are produced domestically or imported and sold domestically must meet the national standards of Indonesia. Producers and importers must obtain the marks of products certification of the Indonesian standards and meet the national standards of Indonesia. The refined sugar products sold in the domestic market, either produced domestically or imported, must meet Standard of SN I01 3140.2-2006, and HS numbers are 1701.99.11.00 and 1701.99.19.00. The decree will take effect in 3 months after its approval.

(2) On February 23, 2009, Directorate General of Metal, Machinery, Textile & Multifarious Industries of Indonesian Ministry of Industry issued the Decree on Mandatory Implementation of Indonesian Standards of SNI 07-0601-2006 and SNI 07-3018-2006. The decree states that that all
the hot-rolled steel plates and roll that are produced domestically or imported and sold domestically must meet the Standards of SNI 07-0601-2006 and SNI 07-3018-2006. The decree will take effect in 4 months after its approval.

(3) On April 23, 2009, the Indonesian Department of Mines and Energy issued the *Decree on Mandatory Implementation of Indonesian Standard for Light Control Equipment, Lamps, Circuit Breaker (RCCB)*. The decree specifies that:

① All the producers, importers and sellers of the light control equipments and AC electronic ballast for fluorescent purpose must meet the National Standards of SNI 04-6959.1-2003 and SNI 04-6959.2.3-2003, and have the certificates of conformity (COCs) issued by accreditation institutions or testing laboratories. Accreditation institutions or testing laboratories must be recognized by the Indonesian Accreditation Institution or Asia Pacific Laboratory Accreditation Cooperation (APLAC), International Laboratory Accreditation Cooperation (ILAC), Multilateral Accreditation (MLA) and…… (MRA). The domestically produced or imported light control equipments and AC electronic ballast for fluorescent purpose that are traded in the domestic market must meet the following national standards: *SNI 04-6959.1-2003: Part 1 of Light Control Equipments: General and Safety Requirements*; and *SNI 04-6959.2.3-2003: Part 2 and Part 3 of Light Control Equipments; Special Requirements for AC Electronic Ballast for Fluorescent Purpose*.

② All the enterprises that produce, import and trade lamps must meet the national standards of *SNI 04-6973.1-2005, SNI 04-6973.2.1-2005, SNI 04-6973.2.2-2005, SNI 04-6973.2.3-2005, SNI 04-6973.2.5-2005*, and have the qualification certificate issued by accreditation institutions or laboratories (COCs). The lamps that are sold in the domestic market must meet the following national standards: *SNI 4-6973.2.1-2005 (Part 1 of Lamps: General Requirements and Test)*; *SNI 4-6973.2.1-2005 (Part 2.1 of Lamps: Special Requirements: Fixed General Lamps)*; *SNI 4-6973.2.2-2005 (Part 2.2 of Lamps: Special Requirements of Embedded Lamps)*; *SNI 4-6973.2.3-2005 (Part 2.3 of Lamps: Special Requirements of Street Lightening)*; *SNI 4-6973.2.5-2005 (Part 2.5 of Lamps: Special Requirements of Floodlight)*.

③ All the enterprises that produce, import and trade circuit breakers (RCCB) must meet the national standards SNI 04-6956.1-2003 and SNI 04-6956.2.1-2003, and have the qualification certificate issued by accreditation institutions or laboratories (COCs). The circuit breakers without over-current protection for the domestic or similar usage, either domestically produced or
imported, must meet the following national standards to be traded in the domestic market: SNI 04-6956.1-2003 (Part 1 of Circuit Breakers without Over-current Protection (RCCBs) for the Domestic or Similar Usages: General Requirements); SNI 04-6956.2.1-2003 (Part 2.1 of Circuit Breakers without Over-current Protection (RCCBs) for the Domestic or Similar Usage: the Application of the General Requiements to Circuit Breakers (RCCBs) Unrelated with Line Voltage in Function.

The decree will take effect in 6 months after its approval.

(4) In accordance with the Ministerial Decree No.69 of the Ministry of Industry issued on July 28, 2009, the bottled drinking water must meet the Indonesian standards, have the certificate of national standards (SNI-SPPT), and the mark or label attached to it 6 months after its adoption or in the early 2010.


(6) On October 2, 2009, the Department of Agriculture and Chemical industry subordinated to the Department of Industry issued the Draft Decree on Mandatory Implementation of Indonesian National Standards for Glass Plate. The decree states that all the domestically produced and imported glass plates are obliged to meet the requirements of SNI when they are sold in the domestic market. Therefore, the glass plate producer and/or importer should possess the product certificate with SIN label, and meet the requirements of SNI 15-0047-2005. The decree will take effect in 6 months after its approval.

(7) On November 2, 2009, the Department of Agriculture and Chemical Industry subordinated to the Department of Industry issued the Decree No.45/M-IND/PER/5/2009 on Mandatory Implementation of Indonesian National Standards SNI 01-3747-1995 for Coco Powder. The decree states that all the domestically produced and imported coco powder are obliged to meet the requirements of SNI 01-3747-1995 when they are sold in the domestic market. The decree will take effect in 6 months after its approval.
(8) On November 4, 2009, the Directorate General of Metal, Machinery, Textile & Multifarious Industries of Indonesian Department of Industry issued the Draft Decree on Mandatory Implementation of Indonesian National Standards for 5 kinds of Cable Products: SNI 04-6629.2-2006, SNI 04-6629.3-2006, SNI 04-6629.4-2006, SNI 04-6629.5-2006, SNI 04-7183.1-2006 and SNI 04-7183.2-2006. The decree states that all the domestically produced and imported cable products are obliged to meet the requirements of SNI 04-6629.2-2006, SNI 04-6629.3-2006, SNI 04-6629.4-2006, SNI 04-6629.5-2006, SNI 04-7183.1-2006 and SNI 04-7183.2-2006 when they are sold in the domestic market. The decree will take effect in 6 months after its approval.

(9) In November 2009, Indonesian government issued the Safety Control Regulations of the Import and Export of Plant-derived Fresh Food. The regulations state that fresh plant-derived products that exported to Indonesia should have the relevant inspection and quarantine documents. These documents will be checked and approved by the department of quality inspection in Indonesia. The products must go through the tests of pesticide residues, heavy metal pollution, bacteria content that operated in the appointed labs. They can only enter the Indonesian market by appointed port after passing all the inspections. The regulation took effect on November 19, 2009.

2.4.2 Sanitary and Phytosanitary Measures

(1) On January 1, 2009, the Directorate General of Livestock of the Indonesian Department of Agriculture issued the Draft Decree on the Surveillance of the Import and Selling of the Overseas Animal, Meat and Visceral. The decree involves the main products such as: animal body, meat, visceral (Ruminant animals, pigs, poultry, bacon, processed meat), and stipulates the import and export requirements of import procedures, animal quarantine measures, sales monitoring of such products. Importers, original countries and regions, packaging, labeling and shipping. The draft decree is made with reference to the OIE 2008- Terrestrial Animal Health Code. The valid time has not been specified.

(2) In February 2009, the Indonesian Department of Agriculture issued the Draft Decree on Requirements of the Wooden Package of the Imported Material and Phytosanitary Measures. The decree states that they must be imported from the appointed entry points, reported to the Quarantine Officer there, and that no pest should be found by inspection, the imported wooden material must be peeled and with no soil, processed and marked. The decree took effect in September, 2009.
（3）On October 26, 2009, the Indonesian Department of Agriculture issued the *Indonesian Mandatory National Standards for Coco Beans*, it states that the producers, processors, importers and exporters of cocoa must comply with the mandatory national standards for cocoa beans, and should have certain product certificates of mandatory national standards for coco beans. The domestic or imported coco beans should meet the national mandatory standards (SNI 01-2323-2008). The valid time has not been specified.

3 Trade Barriers

3.1 Tariff and Tariff Administrative Measures

In 2008, Indonesia set a bound duty rate of around 40% for most products. The tariff rate of imported motorcycles is as high as 60% (the tariff rate of the imported spare parts is 25%). Meanwhile the Indonesian government also levies a 75% luxury tax and 10% of value added tax on imported motorcycles. Moreover, only domestically produced motorcycles are allowed on the viaduct.

In agricultural sector, the bound duty rate over 1300 taxable items exceeds 40%. For instance, the bound rate of fresh potatoes reaches 50%; while its simple average most-favored nation tariff rate is only 25%. Local agriculture interest groups in Indonesia continuously lobby the government to increase the duty rate of some sensitive agricultural products, such as sugar, soybean and corn, with the hope that the duty would exceed the bound tariff rate of WTO.

In March 2009, Indonesia raised the tariff rate of polyethylene (PE) and polypropylene (PP) imported from non-ASAN countries by 5%. Besides, Indonesian Olefin & Plastic Industry Association announced that it will raise the tariff rate of high-density polyethylene and polypropylene homopolymer imported from non-ASAN countries (excluding China, Korean, Japan) to 15%, and 10% on copolymer. According to the obligations of WTO members, as from January 1, 2009, Indonesia should have reduced the most-favored nation tariff rate on polyethylene and polypropylene from 10% to 7.5%, but the Indonesia raised the tariff rate to 15%. Instead, China is concerned about its violation of the obligation of the WTO members.

3.2 Import Restriction

3.2.1 Import Bans
3.2.1.1 The Import Ban on Four Categories of Food from China

On March 17, 2009, Food and Medicine Supervision Bureau of Indonesia announced the banning of milk, dairy, egg powder, and ammonium carbonate products imported from China. The announcement distributed to the manufacturers, importers and distributors includes ban on milk, dairy, egg powder, and ammonium carbonate products and the products with above mentioned products as raw materials imported from China; such products are not allowed to take safety assessment in food security institutions. Descriptions on the origin of raw materials from the government of exporting countries is a must for importing above products or the products with above mentioned products as raw material from other countries. The products imported from China are not allowed to be registered.

The notification states that measures are taken to safeguard food security, to comply with the announcement on food security issued by the Indonesian government on January 5, 2009, and to avoid the melamine-contaminated products on Indonesian market. Chinese side assumed that it has already adopted inspection and administration measures, and the sanitation and safety of the dairy products can be guaranteed. Chinese side expressed its concern about the discriminatory practices taken by Indonesia, and hoped that it would lift the ban as soon as possible.

3.2.1.2 Restrictions on the Import of Consumable Materials

In February 2009, the Indonesian government decided to restrict the import of consumable materials; especially those can be produced domestically. It is stipulated that the importers of the consumable goods must set up factories in Indonesia to produce the products they import from foreign countries. It is stipulated that the importers must be the sole agent of a brand, and the manufacturers of the goods in Indonesia. They must set up factories in Indonesia during a certain period (6 months to 2 years).

3.2.1.3 Restrictions on the Import of Rice

In April 2008, the Indonesian government announced that only National Logistics Agency of Indonesia has the right to import rice for the purpose of food security and price control. The Indonesian government used to ban import on rice during the harvest season. The private enterprise can only import rice for the purpose of seeds and special rice, on the condition that they hold the qualification number of special importers issued by the Indonesian Department of Agriculture.

3.2.2 Import license
The Indonesian Department of Maritime and Fisheries Affaires (MMAF) decided to restrict the licenses for procuring overseas fishing boats. And only 40% fishing boats were allowed to be imported.

The government decided to implement non-automatic licensing for textiles. And only approved local textile producers have the right to import textile materials, which can only be utilized in the local production instead of selling. According to Ministerial Decree No. 56 of 2008, as from the end of 2008, the imports such as garments and footwear can only be imported by 5 appointed ports. Until now, no new regulations have been made to suggest whether the above ministerial decree has replaced the relative regulations on textile importation. The Chinese side shows its concern about that and hopes that Indonesian government will specify the regulations on textile import in time in case of unnecessary loss.

3.2.3 Quantity Restriction
The Indonesian government stipulates that import of food that is based on animal as its raw material should apply for the import license from the Directorate General of Livestock Service. During the process, Indonesian government will change quantity of the imported food randomly. The Chinese side is concerned about it, and hopes that Indonesian government would specify the criteria for approving imports and lift its quantity restriction.

Indonesian government adopts quantity restriction on wine and distilled spirits. Only one registered state-owned enterprise in Indonesia has the right to import alcoholic beverage, and the quantity is decided by the Indonesian Department of Trade.

3.2.3 Barriers to Customs Clearance
Although Indonesian government promised to specify the import tariff tax rate on food in accordance with the Customs Valuation Agreement of WTO, the Indonesian customs sets the tariff rate on the basis of check prices rather than the actual transaction price of the goods in reality. The customs evaluation is done on the basis of import risk and the price of the identical or similar products in the past 90 days. The Chinese side is concerned about it, and hopes that the Indonesian government will fulfill its commitments as soon as possible.

3.2.4 Technical Barriers to Trade
All the imported medicines must be registered with the National Agency of Food and Drug Control (BPOM) before they are produced or sold in Indonesia. The medicine registration is of
two kinds: registration of traditional medicine and registration of chemical medicine. The procedures and requirements of those two kinds of registration are different.

The applicants of the chemical medicine registration should be Indonesian sales agents or wholesalers of the original exporters. If the medicine will be produced in Indonesia, the application will be raised by the appointed Indonesian pharmacies. The producer of the export country has no right to apply for the medicine registration. This regulation leaves the exporters no right of medicine registration. And it is unbeneficial to protect the interests of the exporters.

The Indonesian government requires that the food additives of the processed food, its raw materials and other food-related products must go through the National Agency of Food and Drug Control (BPOM)'s vetting process. This measure will inevitably increase the burden for the export-oriented companies in China.

### 3.2.5 Sanitary and Phytosanitary Measures

Indonesia requires that the food importers must register with the National Agency of Food and Drug Control (BPOM) for a registration number. This procedure is very superfluous, which increases the burdens of the enterprises. The food importers have to offer a too detailed description of the food ingredients and processing techniques, which may possibly disclose trade secrets and confidential information.

The Indonesian import inspection and quarantine procedures of animals and plants and their products are not in line with the SPS’s regional principles and it differentiates pest-inflicted areas and non-inflicted areas on the basis of administrative divisions, instead of scientific evidence.

On October 21, 2009, the Indonesian government returned 41 containers of Chinese white garlic assuming that they were not in line with the quarantine standards. The Indonesian Association of Importers of Garlic and Onion claimed that the main reason for the returning was that the fumigation certificate is not qualified. It is said that the Indonesian Department of Agriculture reset the garlic fumigation standards so that Chinese garlic would not meet the new standards. According to the Indonesian Requirements and Measures for Quarantine of Imported Live Plants in the Form of Fresh Bulb, the straw of the imported bulb and rhizome products must be below 1cm and with no soil and other impurity substance. Besides, the words “There are no such insect pests in this area, or there are such insect pests but it has been fumigated” should be notified on the export documents. Therefore, since the end of April in 2008, China’s garlic export to Indonesia
was almost at a standstill, and the problem was finally resolved by consultation between two sides. On June 5, 2008, the Indonesian Department of Agriculture announced that these quarantine standards did not apply for the garlic, and the garlic imported from China can enter the Indonesian market as usual. However, the Indonesian government emphasized the regulation again in June 2009 and it lead to the export problems between two countries. Since the quantity of garlic imported from China is large, it is unreasonable to fumigate all garlic. And the fumigated garlic will corrupt soon. This measure will increase the cost of the products.

The Chinese side is concerned about such practices, and warns the garlic-exported enterprises to pay attention to the policy changes made by Indonesia. Moreover, they should keep in touch with the commercial consultation association and react positively to avoid unnecessary loss.

On October 2009, the Indonesian Department of Trade stipulated that all the production and import of livestock products should have health certification and Halal certification issued by veterinary. The Indonesian government stated that apart from having the Halal certification, importers should also have import license issued by the Department of Trade. In the past, the importers only had to hold the recommendation letter issued by the Minister of agriculture or director of the National Agency of Food and Drug Control (BPOM). However, no regulation has been made about the import of Non-Halal meat such as pork.

### 3.6 Trade Remedy Measures

By December 2009, Indonesia has initiated a total of 18 trade remedy investigations against Chinese products, including 13 anti-dumping investigations and 5 safeguard measures investigations. These contingency measures mainly involve light industrial products, chemicals and minerals from China. In 2009, Indonesia initiated 2 anti-dumping investigations against imports from China.

### Fig 1: Anti-dumping Investigations against Imports from China in 2009

<table>
<thead>
<tr>
<th>No.</th>
<th>Date of registration</th>
<th>Products covered</th>
<th>HS code of the products</th>
<th>Progress of the case</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>April 20</td>
<td>Polyester fiber raw materials</td>
<td>5503.20.90</td>
<td>Under investigation</td>
</tr>
<tr>
<td>2</td>
<td>June 30</td>
<td>Type H and Type A</td>
<td>7216.33.0000, 7216.32.0000</td>
<td>Under investigation</td>
</tr>
</tbody>
</table>
3.7 Government Procurement

Indonesia is not a member state of *WTO Agreement on Government Procurement (GPA)*.

The Indonesian government tends to procure Indonesian goods. The foreign enterprise can participate in the tendering only as a partner with the local enterprise and with the joint fund below 5 million U.S. dollars. The government also stipulated that state-owned listed companies are not subject to the government procurement regulations. Moreover, when the foreign enterprises bidding in the government procurement projects sponsored by the Indonesian government, these enterprises should procure or export the Indonesian products with the same value according to the Indonesian government.

3.8 Export Restrictions

According to the *Mineral Law* issued in April 2008, the unprocessed ore can not be exported. It also stipulated that all the ores should be processed domestically before shipping aboard. The Chinese side is concerned about such practices and hopes that Indonesian government will lift the export restriction on raw materials as soon as possible.

3.9 Barriers to Trade in Services

3.9.1 Legal Services

Only Indonesian citizens can be certified lawyers. Foreign lawyers can only conduct legal counsel services in Indonesia when approved by the Indonesian Department of Justice and Human Rights. Foreign law firms have to conduct cooperative relationship with the local law firms before entering the Indonesian market.

3.9.2 Hygiene and Health Services

According to the list of the banned foreign investment sectors, Indonesian medical services are not open to the foreign investors. However, the foreign investors can hold a maximum of 65% of shares in Medan and Surabaya cities in terms of medical services. Moreover, foreign health care experts are restricted to conduct practice in Indonesia. The doctors who were trained in foreign countries are only allowed to guide and demonstrate related procedures in the doctor training courses in Indonesia.

According to the ministerial decree of the Indonesian Department of Health issued in 2008, foreign pharmaceutical companies should produce in Indonesia in order to obtain the medicine
licenses. The National Agency of Food and Drug Control (BPOM) of Indonesia often dismisses or delays the new drug license applications from foreign companies, particularly those wholesalers and distributors who have not produced medicines locally. The medicine license is valid for 2 years. And if no modification is made for the decree, many foreign pharmaceutical enterprises will hardly survive and have to withdraw from Indonesian market.

### 3.9.3 Distribution Services

Foreign investors should not invest in the direct selling industry of Indonesia. Although foreign investors can hold 100% of shares in the distribution industry, the foreign investors of the retail sector must sign a partnership agreement with small Indonesian businesses.

### 3.9.4 Financial Service

Foreign investors can hold 99% of bank shares in Indonesia, however, up till now; the Indonesian government has not modified its commitment to WTO Trade in Services. According to Indonesian Schedule of Concession of Trade in Services, foreign capital can only account for 52% in the financial services sector. Moreover, it stipulated that financial service providers can not establish branch offices. In the insurance industry, according to Investment Law of 2007, the new investors can only hold a maximum of 80% of shares.

### 3.9.5 Auditing and Accounting Services

Only by establishing cooperative partnership with Indonesian accounting firms can foreign accounting firms enter the Indonesian market. Besides, foreign accountants and auditors can only conduct consultation business, and can not sign the audit report. All the certificated accountants must be Indonesian citizens. The Ministerial Decree of Department of Finance stated that all the accounting firms that are engaged in auditing must have at least 5 years of relative experience. Auditors who are in the capital markets are prohibited from providing certain non-audit services, such as consulting, bookkeeping and information systems designing services.

### 3.9.6 Audiovisual Services

At the end of 2008, the Indonesian Department of Culture and Travel stipulated that all the Indonesian films and imported films (copies in the cinemas and DVDs at home) must be copied in Indonesia and the violation of the provision will be subject to fines. Foreign investment is excluded in the industry of broadcasting and media, including film and video production and distribution, as well as the construction and operation of cinemas. Moreover, foreign investment is not allowed in the service industry of radio and television broadcasting, radio and television
broadcasting subscription, and media information printing

3.9.7 Construction and Related Engineering Construction
The foreign companies can only join the construction project as subcontractors or consultants when the project can not be completed solely by Indonesian companies. Moreover, foreign companies can only participate in the government-invested projects by establishing joint ventures with Indonesian companies.

3.9.8 Telecommunication Services
Foreign investors can hold a maximum of 65% shares in the service sector of value-added and mobile communications, 49% in the fixed-line business.

The Ministerial Decree issued by the Department of Communication and Information in the early 2008 imposed restrictions on local enterprises to build, manage and own the telecommunications tower and demanded that the existing investors withdraw from the market.

3.9.9 Agreement on Trade in Service between China and ASEAN
According to Agreement on Trade in Services signed by china and the ASEAN on January 14, 2007, Indonesia’s commitment in service trade to China and barriers are as follows:

3.9.9.1 Commitment Level
(1) Commercial Presence
Market access: Foreign service suppliers can establish a joint venture or agency to realize their commercial presence unless regulated otherwise. The joint venture shall meet the following requirements: (i) it shall be a limited company (ii) the capital possessed by the foreign partner shall not exceed 49% in the limited company.

Citizen treatment: According to Indonesia’s Income Tax, the income of non-resident taxpayers in Indonesia from interest, royalties, dividends or supplying services shall be levied income tax at the rate of 20%. According to Land Law promulgated in 1960, all foreigners (including legal person and natural person) have no right to claim ownership of land in Indonesia. However, joint venture has the right to use land and construct building. They can also let or lease land and assets. All the legal persons and natural persons shall meet the requirements of vocational qualifications.

(2) Movement of Natural Persons
Market access: According to Indonesia’s laws and regulations of labor and immigration, unless otherwise regulated, only the members of the board, managers, and technical experts (advisors) can be allowed a two-year-term residence, which can be extended for two times upon expiration, and only two years for each extension. The entry of managers and technical experts (internal flow of staff) shall be subject to the result of economic needs tests. The short stay of business persons shall be between 60 to 120 days.

Citizen treatment: All foreign natural persons providing services in Indonesia are obliged to pay related fees levied by the Indonesia government. According to Labor Law, all foreigners who work for joint ventures (agencies), and/or legal persons of other kinds and individual service suppliers shall hold work permits issued by the Department of immigration.

3.9.9.2 Sector-specific Commitments

(1) Construction and Related Engineering Services
Chinese business shall be operated by establishing a corporate agency in Indonesia. The validity term of the license of the agency is 3 years, which can be extended upon expiration. The capital possessed by the Chinese partner shall not exceed 55% in the limited company.

Citizen treatment: The Chinese companies registered in Indonesia shall pay business license fees and operate with the local partnership enterprises which have been registered in and the construction development bureau and meet the qualifications as A/Big companies.

(2) Tourism and Related Tourist Services
Market access: In terms of commercial presence: foreign investors can own 100% capital share of hotels and tourist resorts in the eastern regions of Indonesia such as Bengkulu and Jambi. Foreign investors can own 49% capital share at most in catering services in Indonesia except some eastern regions (such as Sulawesi, Papua, Moroccan, Nusa Tenggara). Companies of travel consulting services shall register as an Indonesian company in the Indonesian Department of Justice and set their companies as joint ventures with the local companies, and those joint ventures shall be managed in the form of joint ventures, joint management and contract-based administration. International hotel must be registered with the Indonesian Department of Justice as an Indonesian company and must be managed jointly with a local company in the form of contract-management. The maximum number of travel service suppliers is 30.

Citizen treatment: In terms of the commercial presence, the capital of foreign suppliers shall
exceed that of its Indonesian counterpart. This regulation will expire in 2020. The tourist enterprises shall be travel agencies situated in Jakarta or Bali.

3.10 Intellectual Property Rights Protection

Violation of intellectual property rights such as piracy and rush registration against Chinese trademarks is pervasive in Indonesia. In the first half of 2008, China has won the case which dealt with the trademark of Dongfeng diesel engines made in Shanghai, but the enforcement of the sentence remains to be observed.

According to Indonesia’s Patent Law, the inventor of the new product can apply for patent provided that the new product has been produced in Indonesia. This regulation has placed the related inventor at a disadvantage.