

WORLD TRADE ORGANIZATION

G/ADP/N/1/IDN/2
G/SCM/N/1/IDN/2
23 September 1996
(96-3628)

Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures

Original: English

NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

INDONESIA

The following communication, dated 22 August 1996, has been received from the Permanent Mission of Indonesia.

In order to fulfil the obligations under Article 18.5 of the Agreement on the Implementation of Article VI of the GATT 1994, and Article 32.6 of the Agreement on Subsidies and Countervailing Measures regarding notification procedures, I have the honour to submit copies of the regulations regarding Anti-Dumping Duties and Countervailing Duties contained in Government Regulation No. 34/1996 of 4 June 1996, Ministerial Decree No. 136/MPP/Kep/6/1996 of 4 June 1996 concerning the Indonesian Anti-Dumping Committee and Ministerial Decree No. 172/MPP/Kep/7/1996 concerning the Organization and Operation Procedure of the Operational Team of Anti-Dumping.

As we stated in the previous special meeting of the Committee on Anti-Dumping (*vide* document G/ADP/W/255-G/SCM/W/265, 10 January 1996), the above regulations are an integral part and an implementing regulation of Article 20 and Article 23, Part IV, of Customs Law No. 10/1995 of 30 December 1995, which is also attached.

Those regulations are made available in the original language with an unofficial translation in English.

THE CUSTOMS LAW OF THE REPUBLIC OF INDONESIA

LAW NUMBER 10, 1995

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

- Considering:
- (a) that the implementation of the national development has demonstrated a rapid progress of all aspects of national life particularly in the economy, including activities in international trade;
 - (b) that in efforts to keep the performance of the development in line with the national development policies as referred to in the Guidelines of State Policy and to establish legal certainty and administrative facilities concerning Customs aspects of international trade activities that have been continuously developing and also to anticipate economic globalization, reformation is considered necessary;
 - (c) that the provisions of the prevailing Customs Regulations are not in line with the national economic development related to international trade;
 - (d) that for the realization of the aforesaid matters, it is necessary to establish Customs Law, which meets the current situation and needs, based on Pancasila and the 1945 Constitution;
- In view of:** Article 5, paragraph (1), Article 20, paragraph (1), and Article 23, paragraph (2) of the 1945 Constitution.

With the approval of

**THE HOUSE OF REPRESENTATIVE OF
THE REPUBLIC OF INDONESIA**

HAS DECIDED:

To stipulate: CUSTOMS LAW

CHAPTER I

GENERAL PROVISIONS

Article 1

For the purposes of this law:

1. "Customs" means all activities pertaining to the supervision of incoming and outgoing traffic of goods into or from the Customs Territory and to the collection of the Import Duties. *Customs*

2. "The Customs Territory" means the territory of the Republic of Indonesia covering the land, waters, and air space over them and specified localities in the exclusive economic zone and the continental shelf in which this law applies in full. *Customs Territory*
3. "The Customs Area" means an area with certain boundaries at the sea ports, airports, or other places specified for traffic of goods that are fully supervised by the Directorate-General of Customs and Excise *Customs Area*
4. "The Customs Office" means an office of the Directorate-General of Customs and Excise where Customs formalities are fulfilled in accordance with this law. *Customs Office*
5. "The Customs Station" means a place used by Customs Officials to supervise the traffic of imported and exported goods. *Customs Station*
6. "The Customs Formalities" means activities which are mandatory to meet this law. *Customs Formalities*
7. "The Customs Declaration" means a statement made by Persons to meet the Customs formalities in accordance with the forms and requirements stipulated in this law. *Customs Declaration*
8. "The Minister" means the Minister of Finance of the Republic of Indonesia. *Minister*
9. "The Director-General" means the Director-General of Customs and Excise. *Director-General*
10. "The Directorate-General of Customs and Excise" means the operational unit under the Ministry of Finance that exercises the main duty and function of the Ministry of Finance in the field of Customs and Excise. *Directorate-General of Customs and Excise*
11. "The Customs Official" means an official of the Directorate-General of Customs and Excise appointed to a certain occupation to perform particular duties by virtue of this law. *Customs Official*
12. "Person" means both natural and legal person.
13. "Import" means activities to bring goods into the Customs Territory.
14. "Export" means activities to take goods out of the Customs Territory.
15. "Import Duty" means duty imposed by the Government by virtue of this law on imported goods.
16. "The Temporary Storage" means a building and/or an enclosed or unenclosed space in the Customs Area used to store goods temporarily pending their loading or release.
17. "The Bonded Storage" means a building, a place or an area that meets certain requirements used to store, to process, to display, and/or to provide for sale goods in which the Import Duties are deferred.

18. "The Customs Storage" means a building and/or an enclosed or unenclosed space in a customs office provided by the Government that is managed and supervised by the Directorate-General of Customs and Excise to store unclaimed goods, goods claimed by the State and goods that have become the State property by virtue of this law.

.

CHAPTER IV

ANTI-DUMPING AND COUNTERVAILING DUTIES

Part One

Anti-Dumping Duty

Article 18

Anti-dumping duty shall be applied to imported goods in case:

- (a) the export price is lower than the normal value of the goods, and
- (b) the importation of such goods:
 - (1) cause material injury to the domestic industry that produces similar goods;
 - (2) threaten the domestic industry that produces similar goods; or
 - (3) may materially retard the establishment of a domestic industry of similar goods.

*Anti-dumping
duty*

Article 19

- (1) Anti-dumping duties shall be imposed on the imported goods as referred to in Article 18 at the maximum amount of the margin between normal value and export price of such goods.
- (2) Anti-Dumping Duties as referred to in paragraph (1) shall be imposed as an addition to the Import Duty collected on the basis of Article 12 paragraph (1).

Article 20

The provisions on conditions and procedures of the imposition of Anti-Dumping Duties shall be further regulated with Government Regulations.

Part Two
Countervailing Duty

Article 21

Countervailing duties shall be applied on imported goods in case:

- (a) subsidy is proven to be borne on such goods produced in the exporting country; *Countervailing duties*
- (b) the importation of such goods:
 - (1) cause material injury to the domestic industry that produces similar goods;
 - (2) threaten the domestic industry that produces similar goods; or
 - (3) may materially retard the establishment of a domestic industry of similar goods.

Article 22

- (1) Countervailing duty shall be applied on the imported goods as referred to in Article 21 at the maximum amount of the margin between the subsidy and: *Countervailing duties*
 - (a) application fee and other expenses incurred to obtain the subsidy; and/or
 - (b) charges levied on exported goods to offset the subsidy.
- (2) The Countervailing duty as referred to in paragraph (1) shall be imposed as an addition to the Import Duty that is collected on the basis of Article 12, paragraph (1).

Article 23

The provisions on the conditions and the procedure of the imposition of Countervailing duties shall be further regulated with Government Regulation.

EXPLANATORY
THE CUSTOMS LAW
OF THE REPUBLIC OF INDONESIA
NUMBER 10 OF 1995

GENERAL

1. The Republic of Indonesia, as a constitutional state, wishes to establish a firm national legal system that serves the national interests, based on Pancasila and the 1945 Constitution. However, there is no national customs law since the declaration of Indonesian independence; therefore the Indische Tarief Wet (Indonesian Tariff Law) Staatsblad Year 1873 No. 35, Rechten Ordonnantie (Duty Ordinance) Staatsblad Year 1892 No. 240 and Tarief Ordonnantie (Excise Ordinance) Year 1910 No. 628 are still in effect by virtue of Clause II of the Transitional Provisions of the 1945 Constitution.

In order to fulfil the demand of national development, the cited law and ordinances have been revised and supplemented. However, the revisions and supplementary are deemed unable to meet the demand since such revisions are made partially and not related to fundamental aspects as well as based on different philosophical backgrounds. Therefore a reformation of the law and ordinances should be conducted.

2. To establish a legislation based on Pancasila and the 1945 Constitution that contains the aspect of fairness, human rights and places customs formalities as the national obligation which reflects the participation of the people in collecting funds through Import Duties, this legislation which is regarded as a part of the fiscal law, shall ensure the security of the people interest, the expeditious flow of goods, persons, and documents, the optimality of Import Duties Revenue, and shall establish a business climate that induces the pace of the national development.

To that end, customs administration is urged to provide better, more effective and efficient services in accordance with its function and duty.

3. This Customs Law has considered the following aspects:
 - (a) fairness, in a sense that Customs formalities shall only be the obligation of any person being involved in customs activity and such a person shall be treated equally under the same terms and conditions;
 - (b) incentives provisions which will bring benefit for the national economic growth, such as facilities for Bonded Storage, Import Duty exemption on import of machinery and raw materials destined for export and approval for importing goods prior to Import Duty payment;
 - (c) neutrality in the imposition of the Import Duty to prevent distortion that may cause disturbances to the national economy;

- (d) administrative feasibility in which customs practices can be implemented in a better order, control, simpler and easily understood by the public to prevent duplication. Therefore, administrative costs can be kept to a minimum level;
 - (e) state revenues, in a sense that the provisions of this law have taken into account the aspects of stability, potentiality and flexibility of the revenue. Therefore, the law enables to ensure the increase of state revenue and to anticipate the need to increase funds for the national development;
 - (f) application of enforcement and sanction to ensure the compliance of this law;
 - (g) Indonesian Archipelago Outlook, in a sense that the provisions of this law shall be applied in the Customs Territory covering the area of the Republic of Indonesia in which Indonesia has its sovereignty and the rights to sovereign, that is in the inland waters, archipelagic waters, sea area, additional zone, exclusive economic zone, continental shelf and straits used for international navigation;
 - (h) international customs practices, as regulated in the international trade agreements.
4. This Customs Law also regulates new matters that are not covered under the previous legislation and ordinances, such as the provisions of Anti-Dumping and Countervailing Duties, control of import and export of goods which violate intellectual property rights, bookkeeping, administrative sanction, investigation and appeal institution.
5. In addition, to increase the effectiveness and efficiency of the customs service in expediting flow of goods, persons and documents, this law also regulates, among others:
- (a) application of selective examination;
 - (b) lodgement of a Customs Declaration via electronic media (inter computer connection);
 - (c) implementation of control of import or export activities which is mainly emphasized on the audit of company bookkeeping;
 - (d) participation of the people in taking responsibility upon assessment and payment of Import Duty due which is performed through a self assessment system, in which the provisions of export and import prohibition and restriction have been taken into account, such as: pornography, narcotics, counterfeit money and fire arms.
6. Considering points 1 to 5, Article 23, paragraph (2) of the 1945 Constitution, and those written and implied orders under the Guidelines of State Policy, this Customs law is a national product that should be able to respond to the demand of the development.

ARTICLE BY ARTICLE

Article 1

This Article covers the definition of the terms used in this law. Full understanding of these terms shall avoid any misunderstanding and misinterpretation that may occur in the implementation of the concerned articles. Therefore the people could easily understand this law.

.

Article 18

The term "export value" means price actually paid or payable for goods exported to the Customs Territory. In case there is a particular relationship between importer and exporter or a third party, or due to certain reasons the export price is doubtful, then it should be determined based on:

- (a) price of the imported goods concerned, re-sold for the first time to free buyer; or
- (b) normal value, in case (a) has not taken place or to be re-sold under a condition different to the condition at the time of importation.

The term "normal value" means the price actually paid or payable for similar goods for consumption purposes in common trade in the domestic market of the exporting country.

In case there are no similar goods traded in the domestic market of the exporting country or if the selling volume at the domestic market is relatively small so that it cannot be used as a comparison factor, then normal value is calculated based on:

- (a) the highest price of the similar goods exported to a third country; or
- (b) the price established by accumulating production cost, administrative cost, selling cost and normal profit (constructed value).

The term "domestic industry" means:

- (a) domestic producer of similar goods in general; or
- (b) domestic producer of similar goods whose products represent most of the entire production of the goods concerned.

The term "similar goods" means identical goods or goods entirely equal, or goods having similar physical, technical or chemical characteristics to the imported goods concerned.

Article 19

Self-explanatory.

Article 20

Self-explanatory.

Article 21

The term "subsidy" means:

- (a) any financial assistance given by the government or by government agencies, either directly or indirectly, to companies, industries, groups of industries, or exporters; or

- (b) any kind of support on earnings or prices, given directly or indirectly, to increase export or decrease import from or to a country concerned.

Article 22

Self-explanatory.

Article 23

Self-explanatory.

**PRESIDENT OF THE REPUBLIC OF INDONESIA
GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
NUMBER 34 YEAR 1996**

REGARDING

ANTI-DUMPING DUTIES AND COUNTERVAILING DUTIES

Considering: that based on Articles 20 and 23 of Law No. 10/1995 regarding Customs Affairs requirements and procedures for imposing anti-dumping and countervailing duties and for handling dumping charges need to be further laid down in Government Regulation.

In View of:

1. Article 5 paragraph (2) of the 1945 Constitution
2. Law No. 7 of 1994 regarding the Ratification of the Agreement on Establishing the World Trade Organization (Statute Gazette of 1994 No. 57, Supplement to Statute Gazette No. 3564);
3. Law No. 10 of 1995 regarding Customs Affairs (Statute Gazette of 1995 No. 75, Supplement to Statute Gazette No. 3612).

DECIDES

To Stipulate: **OTHER GOVERNMENT REGULATION REGARDING ANTI-DUMPING AND COUNTERVAILING DUTIES**

CHAPTER 1

GENERAL PROVISIONS

Article 1

Referred to in this Government Regulation as

1. Dumped goods shall be goods imported at export prices that are less than their normal value in exporting countries;
2. Export prices shall be the prices actually paid or that will be paid for goods exported to customs areas referred to in Law No. 10 of 1995 regarding Customs Affairs;
3. Normal value shall be the prices actually paid or that will be paid for goods in the ordinary course of trade, for the like product, when destined for consumption in the exporting country;
4. Dumping margin shall be the difference between normal value and the export price of dumped goods;
5. Subsidy shall be:
 - (a) any financial assistance directly or indirectly provided by the government or public body to companies industries, group of industries, or exporters; or
 - (b) any form of support on income or price directly or indirectly provided with a view to increasing export or decreasing import from or to the countries concerned, which would give benefit to the recipients.
6. Subsidized goods shall be goods imported at subsidized export price.
7. Net subsidies shall be the difference between subsidies and
 - (a) application fees, guarantees, or other levies spent to obtain subsidies; and/or
 - (b) levies imposed at the time goods are exported to compensate for subsidies granted to the export goods.
8. Domestic industry shall be:
 - (a) the domestic producers as a whole of like products; or
 - (b) domestic producers of the like products whose collective output of the products constitute a major proportion (more than 50 per cent) of the total domestic production of relevant products.
9. Like product shall be a product which is identical or alike in all aspects to the said imported goods that have physical, technical and chemical characteristics resembling those of the said imported goods.

10. Interested parties shall be:
 - (a) exporters, foreign producers or importers of a product subject to investigation, or a trade or business association a majority of the members of which are exporters, producers, or importers of such products;
 - (b) the governments of the exporting countries; and
 - (c) domestic producers of the like product, or associations of domestic producers a majority of the members of which produce the like product in the territory of the domestic country.
11. Injury shall be:
 - (a) injury suffered by domestic industries producing like product;
 - (b) threats of injury suffered by domestic industries producing like product; or
 - (c) impediment of the development of domestic industries producing like product.
12. Provisional measures shall be measures taken to prevent injury during the investigation period through the imposition of provisional anti-dumping duties or provisional countervailing duties.
13. Price Undertaking or Adjustment measures shall be measures taken to adjust prices or to cease the export of dumped goods or subsidized goods or to eliminate or restrict subsidies or other measures offered by exporters of dumped goods or governments of exporting countries and/or exporters of subsidized goods or suggested by the Committee to eliminate injury.
14. Import duties shall be state levies imposed on imported goods used in customs areas referred to in Law No. 10 of 1995 regarding Customs Affairs.
15. Anti-dumping duties shall be state levies imposed on dumped goods that cause injury.
16. Countervailing duties shall be state levies imposed on subsidized goods that cause injury.

Article 2

Imported goods may be subject to import duties in addition to anti-dumping duties if:

- (a) the export prices of the imported goods are less than its normal value; and
- (b) the imported goods cause injury.

Article 3

Imported goods may be subject to import duties in addition to countervailing duties if:

- (a) exporting countries give subsidies to the imported goods; and
- (b) the imported goods cause injury.

Article 4

- (1) The amount of anti-dumping duties referred to in Article 2 shall be as high as that of dumping margins;
- (2) The amount of countervailing duties referred to in Article 3 shall be as high as that of net subsidies.

Article 5

If imported goods are subject to anti-dumping duties while at the same time are also subject to countervailing duties, the imported goods shall only be subject to which of the duties are higher.

CHAPTER II

THE INDONESIAN ANTI-DUMPING COMMITTEE

Article 6

- (1) To carry out all activities relating to the prevention of the dumped imports and subsidized goods, the Minister of Industry and Trade shall set up the Indonesian Anti-Dumping Committee, hereinafter called the Committee;
- (2) The Committee shall be headed by a chairman and be made up of officials from:
 - (a) The Ministry of Industry and Trade;
 - (b) The Ministry of Finance; and
 - (c) Other relevant ministries or non-ministerial institutes.

Article 7

- (1) The Committee shall be tasked with:
 - (a) investigating dumped imports and subsidized goods;
 - (b) collecting, examining and processing pieces of evidence and information;
 - (c) proposing the imposition of anti-dumping and countervailing duties;
 - (d) carrying out other activities determined by the Minister of Industry and Trade; and
 - (e) preparing reports on the realization of the tasks.
- (2) All expenses arising from the realization of the tasks referred to in paragraph (1) shall be borne by the Minister of Industry and Trade.

CHAPTER III

INVESTIGATION

Article 8

- (1) Domestic industries may file an application with the Committee to conduct an investigation into imported goods alleged to be dumped and/or subsidized goods that cause injury;
- (2) No later than 30 (thirty) days after the application referred to in paragraph (1) is received, the Committee shall, by virtue of investigation results and evidence, issue a decision to:
 - (a) reject the application, if the application does not meet requirements; or
 - (b) accept the application and begin formal investigation, if the applications meet requirements.
- (3) The Minister of Industry and Trade shall stipulate the requirements as referred to in paragraph (2).

Article 9

The Committee may conduct investigations into imported goods alleged to be dumped goods and/or subsidized goods in spite of no applications from domestic industries.

Article 10

The decision of the Committee to begin investigations referred to in Article 8 paragraph (2) letter (b) or Article 9 shall be notified in advance to interested parties.

Article 11

- (1) The investigations referred to in Article 10 shall be completed within 12 (twelve) months after the decision to begin the investigation is issued;
- (2) In exceptional cases, the deadline for the completion of an investigation may be extended to 18 (eighteen) months at the maximum.

Article 12

- (1) No later than the end of the period of time referred to in Article 11, the Committee shall submit the final investigation results to the Minister of Industry and Trade and notify or inform interested parties of existence or non-existence of dumped goods and/or subsidized goods that cause injury;
- (2) If the final investigation results indicate existence of dumped goods and/or subsidized goods referred to in paragraph (1), the Committee shall notify the amount of dumping margins and/or

net subsidies and propose the imposition of anti-dumping duties or countervailing duties to the Minister of Industry and Trade;

- (3) If the final investigation results indicate non-existence of dumped goods and/or subsidized goods that cause injury referred to in paragraph (1), the Committee shall discontinue the investigations and report the non-existence, of dumped goods and/or subsidized goods to the Minister of Industry and Trade.

CHAPTER IV

EVIDENCE AND INFORMATION

Article 13

In conducting investigations into dumped goods and/or subsidized goods, the Committee shall;

- (a) inform interested parties the required information and give them the chance to present pieces of written evidence;
- (b) give exporters or foreign producers the chance to reply questionnaires within a maximum period of 30 (thirty) days;
- (c) give pieces of written evidence from one interest party to another by keeping the pieces of written evidence secret;
- (d) give complete applications referred to in Article 8 paragraph (1) to exporters and interested parties in the exporting countries and other interested parties;
- (e) give all the interested parties the chance to defend their interests and meet each other to give their arguments.

Article 14

- (1) In collecting and using information, the Committee:
- (a) may receive oral information with the provision that the parties giving the information must then present the information in writing to the Committee so that it can be made known to other interested parties;
 - (b) may give the opportunity to industries using products still under the process of investigation, and representatives of consumers associations in the case of the goods being sold at retail, to provide information relating to the investigations;
 - (c) may provide interested parties the opportunity to examine all pieces of relevant and unsecret information used in the investigations;

- (d) will not disclose any piece of secret information without consent from the parties providing the information and may ask the parties giving the secret information to make a summary of the information that is not secret in nature;
 - (e) may ignore secret information if the Committee considers requests for nondisclosure of the information unreasonable and the parties giving the information are not ready to change the status of information from being secret into non-secret, or to make a summary of information referred to in letter (d), except if there is an indication that the information is correct; and
 - (f) may inform interested parties of important evidence serving as the basis for making reports on final investigation results referred to in Article 11.
- (2) If interested parties refuse to give information or reject efforts to collect information or hamper investigations, the Committee may make reports on final investigation results based on available evidence.

Article 15

To ensure the truthfulness of information, the Committee may conduct investigations abroad with the stipulation that the Committee receive approval from the companies to be investigated and inform representatives of the relevant countries of the planned investigations, except if the relevant countries refuse them.

Article 16

- (1) In conducting investigations, the Committee shall collect information from each of the exporters or foreign producers of goods investigated;
- (2) If the number of exporters, producers, importers or types of goods is large, the Committee may restrict investigations;
- (3) The restriction of investigations referred to in paragraph (2) may be done by:
 - (a) selecting at random interested parties or types of goods believed to be dumping goods or subsidized goods by using a statistical method based on available information;
 - (b) using the largest percentage of the export volume of goods investigated in relevant countries.

CHAPTER V
PROVISIONAL MEASURES

Article 17

- (1) If during the investigations referred to in Article 11, the Committee finds preliminary evidence of existence of dumped goods and/or subsidized goods that cause injury, the Committee shall notify interested parties of the existence of dumped goods and/or subsidized goods and give them opportunity to provide information or responses no later than 30 (thirty) days starting the date of notification;
- (2) To prevent injury during the investigation referred to in paragraph (1), the Committee may propose the imposition of provisional measures to the Minister of Industry and Trade by presenting the amount of provisional dumping margins and/or provisional net subsidies;
- (3) Based on the proposal from the Committee referred to in paragraph (2), the Minister of Industry and Trade shall decide certain tariffs for the imposition of provisional measures which shall be equal to or less than the provisional dumping margins and/or provisional net subsidies.

Article 18

- (1) As far as dumped goods are concerned, the provisional measures referred to in Article 17 in the form of:
 - (a) payment of temporary anti-dumping duties; or
 - (b) handover of guarantees in the form of cash, bank guarantees or insurance company guarantees, having the same amount as that of temporary anti-dumping duties referred to in letter (a), shall be stipulated by the Minister of Finance by observing provisions in Article 4;
- (2) The provisional measures referred to in paragraph (1) shall be imposed 60 (sixty) days at the earliest starting the date the investigations begin, and shall be valid for 4 (four) months at the maximum;
- (3) Upon the request of an exporter representing the majority of exporters exporting goods investigated, the validity of the provisional measures referred to in paragraph (2) may be extended to 6 (six) months at the maximum;
- (4) If the amount of provisional anti-dumping duties is less than that of temporary dumping margins, the validity of the provisional measures referred to in paragraph (2) may cover 6 (six) months at the maximum;
- (5) Upon the request of an exporter representing the majority of exporters exporting goods investigated the validity of the provisional measures referred to in paragraph (4) may be extended to 9 (nine) months at the maximum.

Article 19

- (1) As far as subsidized goods are concerned, the temporary measures referred to in Article 17 in the form of:
 - (a) payment of temporary countervailing duties; or
 - (b) handover of guarantees in the form of cash, Bank Guarantees, or Insurance Company guarantees, having the same amount as that of temporary countervailing duties referred to in letter (a), shall be stipulated by the Minister of Finance in observance of the provisions in Article 4;
- (2) The provisional measures referred to in paragraph (1) shall be imposed no earlier than 60 (sixty) days from the starting date the investigations begin and shall be valid for 4 (four) months at the maximum.

Article 20

- (1) Provisional measures imposed under Article 18 and 19 shall be declared invalid if the investigations are terminated as referred to in Article 11;
- (2) Provisional measures shall be discontinued on the basis of decisions of the Minister of Finance and followed by:
 - (a) imposition of anti-dumping duties referred to in Article 2, or countervailing duties referred to in Article 3; or
 - (b) revocation of decisions on provisional measures and reimbursement of provisional anti-dumping duties or guarantees referred to in Article 18 paragraph (1) or Article 19 paragraph (1).

CHAPTER VI

PRICE UNDERTAKINGS

Article 21

- (1) During the investigation period, exporters of dumped goods or governments of exporting countries and/or exporters of subsidized goods make offers to the Committee to revise its price or to cease exports to the area in question at dumped price so that the Committee is satisfied that the injurious effect of the dumping is eliminated;
- (2) Price undertaking referred to in paragraph (1) may be in the form of:
 - (a) adjustment of prices or discontinuation of the export of dumping goods or subsidized goods; or
 - (b) abolition or restriction of subsidies, or other measures aimed to prevent injury due to the granting of subsidies;

- (3) The offers to take Price Undertaking referred to in paragraph (1) may be made as long as:
- (a) the amount of provisional dumping margins and/or provisional net subsidies as well as injury is already determined; and
 - (b) the Price Undertaking will be able to prevent injury.

Article 22

- (1) The Committee shall assess the offer referred to in Article 21 and report assessment results to the Minister of Industry and Trade;
- (2) Based on the assessment results referred to in paragraph (1) the Minister of Industry and Trade shall decide whether or not to accept the offers;
- (3) If the offers are accepted, the investigations referred to in Article 11 shall continue to be completed;
- (4) If final investigation results indicate existence of dumped goods and/or subsidized goods that cause injury, the Price Undertaking shall be continued.
- (5) If final investigation results do not indicate existence of dumped goods and/or subsidized goods that cause injury, the Price Undertaking shall be discontinued, except if the non-existence of injury is caused by the Price Undertaking.

Article 23

During the period Price Undertakings are undertaken, exporters and/or governments of exporting countries referred to in Article 21 paragraph (1) shall periodically inform the Committee of the Price Undertaking, and agree to have their data verified.

Article 24

In the case of violation of Price Undertaking referred to in Article 21 paragraph (2):

- (a) the next import of dumped goods after the violations may be subject to temporary anti-dumping duties;
- (b) the next import of subsidized goods after the violations may be subject to temporary countervailing duties;
- (c) the import of dumped goods or subsidized goods done no less than 90 (ninety) days before the imposition of provisional dumping duties or provisional countervailing duties referred to in letter (a) or (b), may be subject to anti-dumping duties or countervailing duties referred to in Article 2 or 3.

Article 25

The Committee may advise exporters or exporting countries to take the Price Undertaking referred to in Article 21.

CHAPTER VII
DETERMINATION OF THE AMOUNT OF ANTI-DUMPING DUTIES
AND COUNTERVAILING DUTIES

Article 26

- (1) Based on the final investigation result that indicates existence of dumped goods and/or subsidized goods that cause injury referred to in Article 12 paragraph (2), the Minister of Industry and Trade shall decide certain tariffs for the imposition of anti-dumping duties or countervailing duties that are equal to or less than dumping margins and/or net subsidies;
- (2) Certain tariffs referred to in paragraph (1) for goods exported by exporters or producers not investigated referred to in Article 16 paragraphs (2) and (3) shall be set at as high as:
 - (a) weighted average dumping margins set on the basis of evidence or information from the exporters or producers chosen to be investigated; or
 - (b) difference between the weighted average normal value of goods exported by exporters or producers investigated and the export prices of goods exported by exporters or producers not investigated;
- (3) In determining the certain tariffs referred to in paragraph (2), dumping margins will zero value or very small value (*de minimis*) shall be excluded from the calculation of the certain tariffs;

Article 27

Based on the decision of the Minister of Industry and Trade referred to in Article 26, the Minister of Finance shall decide the rate of anti-dumping duties or countervailing duties.

Article 28

- (1) The amount of anti-dumping duties or countervailing duties referred to in Article 27 shall apply to the import of dumped goods or subsidized goods from each exporter or producer or several exporters or producers;
- (2) If the number of exporters or producers referred to in paragraph (1) from the same country is large, anti-dumping duties or countervailing duties may be imposed on any import of dumped goods or subsidized goods from the exporting country;
- (3) If several exporters or producers referred to in paragraph (1) come from more than one country, anti-dumping duties or countervailing duties may be imposed on any import of dumped goods or subsidized goods from several exporters or producers or relevant exporting countries.

Article 29

- (1) Based on the decision of the Minister of Finance referred to in Article 27, importers of dumped goods or subsidized goods may request the Directorate General of Customs and Excise to decide and reimburse overpaid provisional anti-dumping duties or provisional countervailing duties on goods imported before the stipulation date of the decision of the Minister of Finance;

- (2) The reimbursement of the overpaid provisional anti-dumping duties or provisional countervailing duties referred to in paragraph (1) shall be done no later than 90 (ninety) days starting the date the Directorate General of Customs and Excise decides the overpaid provisional anti-dumping duties or provisional countervailing duties.

Article 30

- (1) Importers may file applications for reimbursement of overpaid anti-dumping duties or countervailing duties on goods they have imported after the Minister of Finance issues the decision referred to in Article 27 to the Director General of Customs and Excise;
- (2) The applications for reimbursement of the overpayment referred to in paragraph (1) may be approved if:
 - (a) there is evidence approved by the minister of Industry and Trade that the actual amount of dumping margins or net subsidies is less than that of the said anti-dumping duties or countervailing duties; or
 - (b) importers already pay anti-dumping duties or countervailing duties according to the decision of the Minister of Finance;
- (3) The reimbursement of the overpayment referred to in paragraph (1) shall be done no later than 90 (ninety) days after it is decided by the Director General of Customs and Excise.

Article 31

- (1) Anti-dumping duties or countervailing duties shall be imposed starting the date the Minister of Finance decides the rate of anti-dumping duties or countervailing duties referred to in Article 27 and be valid for a maximum of 5 (five) years after the stipulation date of the final decision on the imposition or review of anti-dumping duties or countervailing duties;
- (2) If provisional measures are already imposed referred to in Article 17, the imposition of anti-dumping duties or countervailing duties referred to in paragraph (1) may be made retroactive to the date the provisional measures are imposed;
- (3) Only the imposition of anti-dumping duties or countervailing duties based on the injury referred to in Article 1 point 11 letters (a) and (b) may be made retroactive referred to in paragraph (2) as long as potential injury turn into injury without provisional measures;
- (4) It is found that:
 - (a) relevant goods were once imported as dumped goods or exporters have so far exported dumped goods that may cause injury; and
 - (b) the injury is caused by dumped goods imported in huge quantities at a relatively short time that may have an impact on the effective imposition of anti-dumping duties to prevent the injury; the imposition of anti-dumping duties may be made retroactive to the date the anti-dumping duties begin to take effect not more than 90 (ninety) days before the provisional measures are imposed;
- (5) It is found that the injury is caused by subsidized goods imported in huge quantities at a relatively short time that may have an impact on the effective imposition of countervailing duties to prevent

the injury, the imposition of countervailing duties may be made retroactive to the date the countervailing duties begin to take effect not more than 90 (ninety) days before the provisional measures are imposed;

- (6) The imposition of anti-dumping duties or countervailing duties based on the injury referred to in Article 1 point 11 letters (b) and (c) may not be made retroactive referred to in paragraphs (4) and (5).

Article 32

At the initiative of the Committee or upon the request of interested parties, the imposition of anti-dumping duties or countervailing duties referred to in Article 27 may be reviewed 12 (twelve) months at the earliest after the stipulation date of the decision of the Minister of Finance.

Article 33

Based on the result of the review referred to in Article 32, the Committee may advise the Minister of Industry and Trade to:

- (a) discontinue the imposition of anti-dumping duties or countervailing duties in the case of evidence that the injury caused by dumped goods or subsidized goods are already eliminated; or
- (b) continue the imposition of anti-dumping duties or countervailing duties in the case of evidence that the injury caused by dumped goods or subsidized goods still can not be eliminated.

CHAPTER VIII

OTHER PROVISIONS

Article 34

Investigations conducted in conjunction with the imposition of anti-dumping duties or countervailing duties shall not impede the settlement of customs obligations as a result of the import of relevant goods.

Article 35

Objections to anti-dumping duties or countervailing duties can be filed to the Appeal Institute referred to in Article 97 of Law No. 10 of 1995 regarding Customs Affairs.

CHAPTER IX
CLOSING PROVISIONS

Article 36

Further provisions required for the implementation of this Government Regulation shall be laid down by the Minister of Industry and Trade and the Minister of Finance according to their respective fields of task.

Article 37

This Government Regulation shall enter into force on the date of stipulation. For public cognizance, this Government Regulation shall be promulgated by placing it in the Statute Gazette of the Republic of Indonesia.

Promulgated in Jakarta

On 4 June 1996

The MINISTER/STATE SECRETARY

Signed by

M o e r d i o n o

Stipulated in Jakarta

On 4 June 1996

THE PRESIDENT OF REPUBLIC

OF INDONESIA

STATUTE GAZETTE OF THE REPUBLIC OF INDONESIA 1996 NO. 51

MINISTER OF INDUSTRY AND TRADE

**THE DECREE OF MINISTER OF INDUSTRY AND TRADE
OF THE REPUBLIC OF INDONESIA**

NUMBER: 136/MPP/Kep/6/1996

REGARDING

THE INDONESIAN ANTI-DUMPING COMMITTEE

MINISTER OF INDUSTRY AND TRADE

- Considering: (a) that in implementing the Government Regulation Number 34 of 1996 regarding Anti-Dumping and Countervailing Duties, it is needed to establish The Indonesian Anti-Dumping Committee;
- (b) that based on the reason mentioned above, it is needed to enact the Decree of Minister of Industry and Trade.
- In view of: 1. Law No. 7 of 1994 regarding the Ratification of the Agreement on Establishing the World Trade Organization (Statute Gazette of 1994 No. 57, Supplement to Statute Gazette No. 3564);
2. Law No. 10 of 1995 regarding Customs Affairs (Statute Gazette of 1995 No. 75, Supplement to Statute Gazette No. 3612);
3. Government Regulation No. 34 of 1996 regarding Anti-Dumping and Countervailing Duties (Statute Gazette of 1996 No. 51, Supplement to Statute Gazette No. 3629);
4. Presidential Decree No. 96/M of 1993 regarding Creating the Sixth Development Cabinet which was amended by the Presidential Decree No. 388/M of 1995;
5. Presidential Decree No. 2 of 1996 regarding the Amendment of the Presidential Decree No. 15 of 1984 on the Organization Structure which has been amended twenty-five times recently by the Presidential Decree No. 61 of 1995;
6. The Decree of the Minister of Industry and Trade No. 29/MPP/SK/2/1996 vis which of No. 92/MPP/Kep/4/1996 regarding Organization Structure and Its Mechanism of the Ministry of Industry and Trade.

DECIDES

To stipulate: **THE DECREE OF THE MINISTER OF INDUSTRY AND TRADE
OF THE REPUBLIC OF INDONESIA REGARDING THE INDONESIAN
ANTI-DUMPING COMMITTEE**

CHAPTER I

POSITION, TASK AND FUNCTION

Article 1

The Indonesian Anti-Dumping Committee hereinafter called the Committee is a government institute having task to handle the dumped import and subsidized goods referred to in Article VI and XVI of the General Agreement on Tariffs and Trade.

Article 2

The Committee shall be tasked with:

- (a) investigating dumped goods and subsidized goods;
- (b) collecting, examining and processing pieces of evidence and information;
- (c) proposing the imposition of anti-dumping and countervailing duties;
- (d) carrying out other activities determined by the Minister of Industry and Trade;
- (e) making reports on the realization of tasks.

Article 3

Besides the main tasks referred to in Article 2, the Committee shall handle problems over Indonesian exported goods which are alleged to be dumped goods by a foreign country.

Article 4

In executing the tasks referred to in Article 2, the Committee shall have functions:

- (a) formulating policies to cope with dumped imports and subsidized goods;
- (b) examining, consulting and handling all problems relating to dumped imports and subsidized goods;
- (c) controlling and directing other activities to cope with dumped imports and subsidized goods; and
- (d) formulating policies to cope with Indonesian exported goods which are alleged to be dumped goods.

CHAPTER II STRUCTURE OF ORGANIZATION

Article 5

The Indonesian Anti-Dumping Committee shall be made up and it consists of:

- | | | |
|------------------|---|---|
| Chairman | : | Minister of Industry and Trade |
| Vice-Chairman | : | Minister of Finance |
| Secretary/Member | : | Secretary-General of the Ministry of Industry and Trade |
| Members | : | <ol style="list-style-type: none">1. Director-General of International Trade, Ministry of Industry and Trade2. Director-General of Customs and Duties Affairs, Ministry of Finance3. Representative Official from the Ministry of Agriculture4. The Chairman of Operational Team of Anti-Dumping referred to in Article 7 (2). |

Article 6

- (1) The Committee shall make a meeting at any required time;
- (2) The Chairman of the Committee shall invite other Ministries or related officials to attend the meeting;
- (3) The implementation of the Committee's tasks shall be further decided by the Chairman of the Committee.

Article 7

- (1) In implementing its tasks, the Committee shall be supported by the operational Team of Anti-Dumping which shall be made up and it consists of:
 - (a) Secretariat
 - (b) Division of Anti-Dumping
 - (c) Division of Dumping Prosecution
- (2) The Operational Team of Anti-Dumping shall be headed by a chairman and be supported by a vice-chairman.

Article 8

- (1) Secretariat, Division of Anti-Dumping and Division of Dumping Prosecution shall be headed by a chairman respectively who will be responsible to the chairman of the Operational Team of Anti-Dumping;
- (2) The organization and the operation procedure of the Operational Team of Anti-Dumping shall be further decided by the Minister of Industry and Trade.

Article 9

The Chairman and the Vice-Chairman of the Operational Team of Anti-Dumping, the Chairman of Secretariat, the Chairman of Anti-Dumping Division and the Chairman of Dumping Prosecution as well as all supporting staff shall be appointed by the Minister of Industry and Trade.

CHAPTER III EXPENSES

Article 10

All expenses arising from the realization of the tasks of the Committee and the Operational Team of Anti-Dumping shall be borne by the budget of the Ministry of Industry and Trade.

CHAPTER IV CLOSING PROVISIONS

Article 11

The Decree shall enter into force on the day it is enacted.

For public cognizance, this Decree shall be promulgated by placing it in the Statute Gazette of the Republic of Indonesia.

Stipulated in: J a k a r t a
On 4 June 1996

Signed by
Minister of Industry and Trade

T. Ariwibowo

MINISTER OF INDUSTRY AND TRADE
THE DECREE OF MINISTER OF INDUSTRY AND TRADE
OF THE REPUBLIC OF INDONESIA
NUMBER: 172/MPP/Kep/7/1996

REGARDING
ORGANIZATION AND OPERATION PROCEDURE
OF THE OPERATIONAL TEAM OF ANTI-DUMPING

MINISTER OF INDUSTRY AND TRADE

- Considering: (a) that in supporting the tasks of The Indonesian Anti-Dumping Committee, it is necessary to establish the organization and operation procedure of the Operational Team of Anti-Dumping;
- (b) that based on the reason mentioned above, it is needed to enact the Decree of Minister of Industry and Trade.
- In View of: 1. Law No. 7 of 1994 regarding the Ratification of the Agreement on Establishing the World Trade Organization (Statute Gazette of 1994 No. 57, Supplement to Statute Gazette No. 3564);
2. Law No. 10 of 1995 regarding Customs Affairs (Statute Gazette of 1995 No. 75, Supplement to Statute Gazette No. 3612);
3. Government Regulation No. 34 of 1986 regarding Anti-Dumping and Countervailing Duties (Statute Gazette of 1996 No. 51, Supplement to Statute Gazette No. 3269);
4. Presidential Decree No. 44 of 1974 regarding the Organization of the Ministries.
5. Presidential Decree No. 15 of 1984 regarding the Organization Structure of Ministries which has been amended twenty five times recently by the Presidential Decree No. 2 of 1996;
6. Presidential Decree No. 96/M of 1993 regarding Creating the Sixth Development Cabinet which was amended by the Presidential Decree No. 388/M of 1995;
7. The Decree of the Minister of Industry and Trade No. 29/MPP/SK/2/1996 vis which of No. 92/MPP/Kep/4/1996 regarding Organization Structure and Its Mechanism of the Ministry of Industry and Trade;
8. The Decree of the Minister of Industry and Trade No. 136/MPP/Kep/6/1996 regarding The Indonesian Anti-Dumping Committee.

DECIDES

To stipulate: **THE DECREE OF THE MINISTER OF INDUSTRY AND TRADE REGARDING ORGANIZATION AND OPERATION PROCEDURE OF THE OPERATIONAL TEAM OF ANTI-DUMPING.**

Article 1

- (1) Organization structure of the Operational Team of Anti-Dumping shall be made up and it consists of;
 - (a) Secretariat
 - (b) Division of Anti-Dumping
 - (c) Division of Dumping Prosecution
 - (d) Expert Group
- (2) Secretariat shall be headed by a chairman that shall be supported by some staffs. It acts both as the secretariat of the Operational Team of Anti-Dumping and the Indonesian Anti-Dumping Committee.
- (3) Division of Anti-Dumping and Division of Dumping Prosecution shall be headed by a chairman respectively and shall be supported by a vice chairman and some members.
- (4) Expert Group shall be headed by a chairman and shall be supported by some experts who represent related Institutes and Enterprises.
- (5) The scheme of the organization of the Operational Team of Anti-Dumping is described in Annex 1 of this Decree.

Article 2

The Operational Team of Anti-Dumping supports The Indonesian Anti-Dumping Committee in coping with dumped import and subsidized goods as well as dumping prosecution for the Indonesian exported goods.

Article 3

- (1) Chairman and Vice Chairman of the Operational Team of Anti-Dumping, Chairman of the Secretariat, Chairman of Division of Anti-Dumping, Chairman of Division of Dumping Prosecution and Chairman of Expert Group are described in Annex II of the Decree.
- (2) Chairman of the Operational Team of Anti-Dumping shall appoint the required members coming from both government institutes and private sectors.

Article 4

In realizing the tasks, the Chairman of the Operational Team of Anti-Dumping shall be responsible to and shall submit in writing the report to the Chairman of Indonesian Anti-Dumping Committee.

Article 5

(1) The tasks of Secretariat, Divisions and Expert Group referred to in Article 1 (1) as stated below

(a) The Secretariat shall be tasked with:

1. carrying out the daily administration of both the Operational Team of Anti-Dumping and the Indonesian Anti-Dumping Committee;
2. Delivering the administration and technical service to support the tasks of both the Operational Team of Anti-Dumping and the Indonesian Anti-Dumping Committee;
3. Preparing the required data for formulating policy to handle dumped import and subsidized goods;
4. Receiving the petition of domestic industry to investigate dumped import and/or subsidized goods;
5. Supporting the tasks of the Division of Anti-Dumping and the Division of Dumping Prosecution;
6. Collecting proposals resulting from the study which was done by the Division and sending them to the Chairman of the Operational Team of Anti-Dumping;
7. Receiving and/or giving information and evidence to interested parties in conducting investigation of dumped import and subsidized goods;
8. Organizing the administration of decisions relating to provisional measures, price undertakings, determination of the amount of Anti-Dumping Duties and Countervailing Duties;
9. Carrying out the public notice of the Committee relating to investigation;

(b) The Division of Anti-Dumping shall be tasked with:

1. Conducting investigation into imported goods alleged to be dumped goods and/or subsidized goods either based on the Committee's initiative or the request of domestic industries;

2. Conducting investigation in the territory of other foreign countries in order to collect evidence for determining whether the imported goods alleged to be dumped goods and/or subsidized goods are affirmative or not;
 3. Evaluating the evidence to determine the provisional amount of dumping margin and/or net subsidy;
 4. Evaluating the offer of price undertakings;
 5. Evaluating the data to prove the existence of dumped goods and/or subsidized goods;
 6. Evaluating the data to review the imposition of Anti-Dumping Duties or Countervailing Duties;
 7. Proposing all activities relating to the prevention of dumped import and subsidized goods to the Chairman of the Operational Team of Anti-Dumping.
- (c) The Division of Dumping Prosecution shall be tasked with:
1. Monitoring and inventarizing Indonesian exported goods alleged to be dumped goods;
 2. Preparing all requested information or data to handle Indonesian exported goods alleged to be dumped goods;
 3. Proposing all activities relating to the prevention of Indonesian exported goods alleged to be dumped goods;
 4. Lobbying other foreign countries;
 5. Facilitating the lobby or meeting between domestic industry alleged to do dumped goods;
 6. Giving information relating to lawyer or dumped export either from Indonesia or from other countries which can be hired by domestic industry to cope with dumping cases;
- (d) Expert group shall be tasked with supporting the Chairman of the Operational Team of Anti-Dumping.

Article 6

The Chairman of Divisions and the Chairman of Expert Group referred to in Article 1 (1), in implementing their tasks, shall be responsible for their activities and shall submit the report to the Chairman of the Operational Team of Anti-Dumping.

Article 7

All expenses arising from the implementation of the tasks of the Operational Team of Anti-Dumping shall be borne by the budget of the Ministry of Industry and Trade.

Article 8

Further rules and operation procedures of the Operational Team of Anti-Dumping shall be stipulated by the Chairman of the Operational Team of Anti-Dumping.

Article 9

The decree shall enter into force on the day it is enacted.

Stipulated in: J a k a r t a

On 8 July 1996

Signed by

The Minister of Industry and Trade

T. Ariwibowo

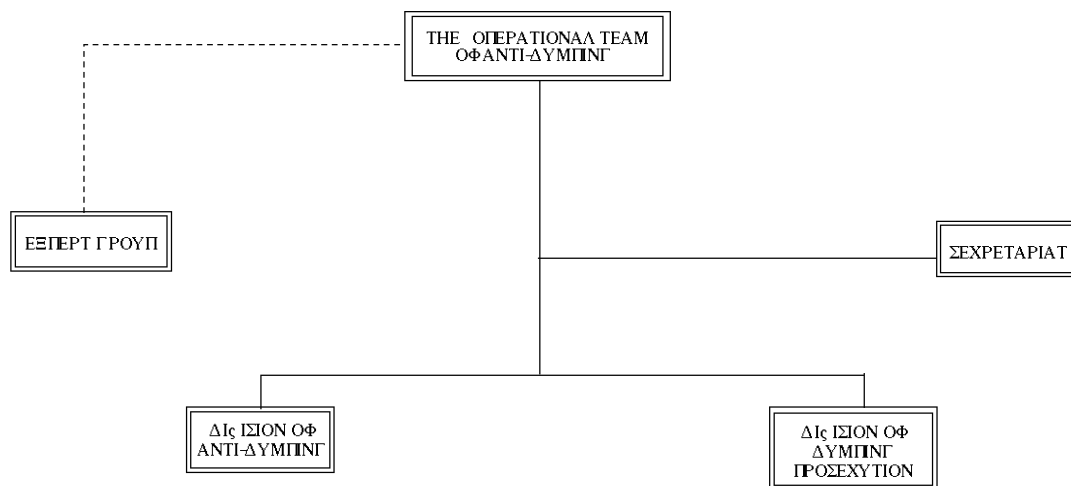
ANNEX 1

THE DECREE OF THE MINISTER OF INDUSTRY AND TRADE

NUMBER: 172/MPP/Kep/1996

DATE: 8 July 1996

THE ORGANIZATIONAL SCHEME OF THE OPERATION TEAM
OF ANTI-DUMPING



MINISTER OF INDUSTRY AND TRADE

SIGNED BY:
T. ARIWIBOWO

ANNEX II

THE DECREE OF MINISTER OF INDUSTRY AND TRADE

NUMBER: 172/MPP/Kep/1996

DATE: 8 July 1996

MEMBERS OF THE OPERATIONAL TEAM OF ANTI-DUMPING

- | | | |
|------|---|--|
| I. | Chairman of the Team: | T.L. YOUSUF
Expert Staff of the Minister of Finance |
| II. | Vice Chairman of the Team: | TAUFIK ABBAS
Expert Staff of the Minister
of Industry and Trade |
| III. | A. Secretary | BUDIYONO
Head of Legal and Organization Affairs,
the Ministry of Industry and Trade |
| | B. Chairman of the Division
of Anti-Dumping | DAENG M. NAZIER
Director of Tariffs and Price, the Ministry
of Finance |
| | Vice Chairman of the Division of
Dumping | AGUS TJAHAYANA
Director for Programme Development
Directorate General for Metal, Machine
and Chemical Industry, the Ministry of
Industry and Trade |
| | C. Chairman of the Division of
Dumping Prosecution | SUDAR, S.A.
Director of Export, Directorate General for
International Trade, the Ministry of Industry
and Trade |
| | Vice Chairman of the Division
of Dumping Pro- | CHAERUDDIN
Director for Programme Development,
Directorate-General for Multivarious Industry,
the Ministry of Industry and Trade |
| | D. Chairman of Expert Group | HASAN KARTADJUMENA
Bank of Indonesia |