

# Newsletter

INDONESIA

## Issues Related to Competition Laws

In addition to the Law No. 5/1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, there are legal provisions in a score of laws, which are relevant to the promotion of fair competition.

### **1. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), including Trade in Counterfeit Goods**

On 7 May 1997 Indonesia promulgated Presidential Decrees ratifying three WIPO treaties. They are:

- a. Presidential Decree No. 16/1997 regarding the Ratification of the Patent Cooperation Treaty (PCT) and Regulations under the PCT
- b. Presidential Decree No. 17/1997 regarding the Ratification of the WIPO Trademark Law Treaty of October 28, 1995;
- c. Presidential Decree No. 19/1997 regarding the Ratification of the WIPO Copyrights Treaty of December 20, 1996

On the same date, the Government of Indonesia also amended the Presidential Decree No. 24/1979 regarding the ratification of Paris Convention for the Protection of Industrial Property and the Convention Establishing the World Intellectual Property Organization. Based on the new decree-the Presidential Decree No. 15/1997-Indonesia withdrew its reservation previously applied to Article 1 through Article 12 of the Paris Convention.

### **2. Trademark Law**

The Law No. 15/2001 governs issues on trademark. The Law is a Revised version of the Law No. 14/1997 which was amended on 1 August 2001 to put it in conformity with the WIPO Trademark Law Treaty 1995.

### **3. Patent Law**

Issues on patent are subject to legal provisions of the Law No. 14/2001. The Patent Law is a revised version of the Law No. 13/1997, which was amended on 1 August 2001.

### **4. Copyright Law**

On 29 July 2002 Indonesia also amended the Law No. 12/1997 concerning Copyright. The new Law No. 19/2002 is the fourth version of its kind, the first one being Law No. 6/1982. The latest amendment was intended to bring the Law into conformity with the WIPO Copyrights Treaty of 1996.

### **5. Anti Dumping**

As part of its efforts to ensure fair competition in the market place, Indonesia promulgated on 4 June 1996 the Government regulation No. 34/1996 on Anti Dumping and Countervailing Duties. The Indonesia Anti Dumping Committee was subsequently set up based on the Decree of the Minister of Industry and Trade No. 136/MPP/Kep/6/1996.

## **6. The Criminal Code**

Article 382 of the Code stipulates that "[t] hose who, with the aim of gaining, conducting, or expanding the results of trade or their own companies of companies of other persons, undertake unfair actions by misleading the public or certain persons, shall be liable, due to unfair competition, to imprisonment for one year and four months;K or to a fine of thirteen thousand five hundred rupiahs at the most, if such actions cause damage to competitors of such persons or competitors of such other persons.

## **7. The Civil Code**

Once a court determines that an individual is guilty under the Article 382 of the Criminal Code, parties injured by the unfair practice are entitled by Article 1365 of the Civil Code compensation for their losses.

## **8. Basic Law on Industry No. 5/1984**

Article 7 of the Law maintains that the Government shall provide necessary regulations and guidance to industry in order to (a) achieve better, healthier and purposeful industrial development; (b) develop fair and healthier competition and prevent unfair competition; and (c) prevent industrial concentration or control by one group or individuals in the form of monopoly which is detrimental to the public at large.

## **9. Company Law No. 40/2007**

The Law contains provisions regulating mergers, consolidations, or acquisitions of companies in Indonesia. Article 126 (1) of the Law stipulates that mergers, consolidations or acquisitions of companies must observe not only the interest of the companies concerned, but also the interests of the public and fair competition in doing business.

## **10. Capital Market Law No. 8/1995**

The Law provides several provisions, which--in effect-prohibit unfair business practices. Article 10 prohibits the stock exchange to issue policies, which may form barriers to entry and restrain competition. With respect to exchange conduct, the Law strictly prohibits false and misleading statements, fraud deception in selling and buying stock (Articles 90 and 93), exchange misrepresentation (Article 91), collusive intervention in order to disrupt the market for speculative purposes (Article 92), and insider trading (Article 95, 96, and 97).

## **11. Small Business Law No. 9/1995**

Article 6 and 8 of this Law authorize the Government to prevent the formation of market structures which create unfair competition in the form of monopsony, oligopoly and monopoly that are detrimental to small-scale business, as well as to encourage the establishment of partnership among small-scale business and cooperatives.

## **12. Consumer Protection Law No. 8/1999**

The Law, which was promulgated on 20 April 1999 and has been effective on April 2000, recognizes such consumer rights as the right to obtain safety and comfort when consuming or using products and services, the right to choose and obtain goods and services, the right to correct and honest information on products and services, and the right to compensation.

Furthermore, in the year 2000, the Government of Indonesia has also enacted the Law concerning Trade Secret, Industrial Design, Layout of the Design of Integrated Circuits and New Plant Varieties.

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