

LEGAL SERVICES COUNTRY PROFILE

INDONESIA

International Legal Services Advisory Council

Attorney-General's Department

Australia

September 2002

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Table of contents

1 General information.....	1
Official name.....	1
Population	1
Languages	1
Legal language	1
Form of government	1
Economic information.....	2
Per cent of GDP in services sector.....	2
2 Basic legal information	3
Legal system.....	3
Sources of law	3
Structure of the legal profession	3
Regulation of the legal profession	6
Law-making bodies	6
Law derived from Australia	7
Court structure	7
Professional legal education	8
Primarily trained	8
Qualifications for practice	8
Principal universities	8
Other domestic training institutions.....	9
Post-graduate legal courses	9
Other domestic legal qualifications	9
Practical legal training.....	9
Foreign legal training	10
Sources.....	10
Skills obtained.....	10
3 Legal services market	11
Professional associations (law societies/bar associations)	11
Local legal firms	11
Local legal firms.....	11
Local lawyers	12
Per cent in international commerce	12

Dollar value of legal services	12
Local legal firms involved in international work.....	12
Practice mix	12
Australian and other foreign legal firms.....	13
Foreign offices	14
Australian firms	14
Other international firms	14
Australian lawyers	15
Local lawyers	15
Foreign legal firms	15
Status of lawyers employed	15
Commercial arbitration	16
Firms/centres	17
Principal coverage	17
Foreign restrictions	18
International instruments	18
4 Market access requirements	19
Foreign lawyer/firm regulation	19
Body responsible	19
Laws & regulations.....	19
Foreign lawyer admission to practice requirements*	19
Citizenship	19
Educational qualifications	19
Experience	20
Pupillage period	20
Residency requirements	20
Government approvals	20
Other	20
Admission authority.....	20
Special admission	20
Additional requirements.....	20
Visa restrictions	20
Work permits	20
Regulation of foreign law firms*	21
Use of firm name	21
Employment of local lawyers	21

Local firm association	21
Government approvals	21
Other	21
Restrictions on practice*	21
Local law	21
Home law	21
Foreign law	21
International law	21
Other	22
Reforms in progress.....	22
Reforms in progress	22
5 Australian legal services.....	24
Australian law firms*	24
Prospects for Australian legal services.....	24
Legal assistance required by Australian businesses	24
Areas in which Australian legal services might be of value	24
Future prospects	26
Dispute resolution services	26
Centres/firms	26
Legal education and training.....	28
Overseas students studying law in Australia	28
Overseas students studying in Australia.....	28
Qualifications recognised.....	29
Australian Education Centre representation	29
Dollar value of educational services	30
6 References/sources.....	31

Introduction

The International Legal Services Advisory Council (ILSAC) was established in late 1990 by the Australian Government to assist in improving Australia's international performance in legal and related services. To help achieve this purpose profiles for seventeen countries and economies of the Asia Pacific region have been prepared. The Profiles, which are intended as a guide only, cover Australia, Cambodia, China, Fiji, Hong Kong, India, Indonesia, Japan, Laos, Malaysia, Papua New Guinea, The Philippines, Singapore, South Korea, Taiwan, Thailand and Vietnam.

ILSAC is chaired by the Hon Sir Laurence Street AC KCMG QC and comprises representation from private legal practice, commercial dispute resolution centres, education institutions and relevant Government departments and agencies.

This third edition of the Profiles is designed to provide an overview of the legal and related services sector in each country or economy. The information in the Profiles is organised under the following main headings:

1. General information:	key data, legal language, form of government and economic indicators.
2. Basic legal information:	system and sources of law, structure and regulation of the legal profession, law-making bodies and professional legal education.
3. Legal services market:	professional legal associations, local, Australian and foreign law firms, and commercial dispute resolution.
4. Market access requirements:	foreign lawyer admission requirements, regulation and restrictions on foreign lawyers/firms and recent regulatory changes.
5. Australian legal services:	prospects for Australian legal services; Australian dispute resolution services and Australian legal education and training services.
6. References/sources:	list of source material and date of information contained in the profile.

Comments, additional information or corrections, and suggestions for improvement of this Profile would be welcome.

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1 General information

Official name

Republic of Indonesia.

Population

In 2001 Indonesia's population was estimated at 211.2 million¹. Ninety-five percent of the population are of Malay origin and there are over 300 identifiable ethnic groups. The Javanese form more than 50 per cent of the population.

Languages

Bahasa Indonesia is the official language. English is common in business circles and some older Indonesians speak Dutch. In addition, most ethnic groups speak their own distinct language or dialect. There are over 500 languages and dialects spoken in Indonesia.²

Legal language

The official language of all legal proceedings is Bahasa Indonesia. Some regulations are still written in Dutch and Dutch terms may be used in court and in legal texts to explain legal concepts.

Form of government

The President is the Head of State and the Head of Government, as well as the supreme commander of the armed forces. The present Head of State and Head of Government is Her Excellency President Megawati Soekarnoputri. Indonesia's current form of government is based on the 1945 Constitution which gives the President wide powers, including the authority to appoint Ministers and members of Cabinet and govern by decree. The People's Consultative Assembly *Majelis Permusyawaratan Rakyat* (MPR) is the highest constitutional body. The MPR elects the President and Vice-President and meets once a year to call the President to account for his or her performance. There are eighteen political parties represented in the Indonesian parliament and no one party has a majority. The PDI-P (Indonesian Democratic Party of Struggle) holds the greatest number of seats in Parliament. Under political laws enacted in February 1999, the MPR consists of 700 members made up of all 500 members of the Peoples Representative Council *Dewan Perwakilan Rakyat* (DPR) and 200 additional members appointed by the Government and provincial parliaments. According to these laws, 462 members of the DPR will be elected at general elections held every five years. The TNI is to withdraw from the DPR in 2004. Its involvement in the MPR (People's Consultative Assembly) is less clear,

however, with some debate that TNI's representation should extend to 2009. The DPR meets regularly and debates legislation submitted to it by the Government.

Economic information

Basic indicators	2001
GDP (US\$)	141.7bn
GDP per capita (US\$)	670
Real GDP growth (%)	3.3%
Inflation	11.5%
Current A/c surplus (US\$)	8987m
Unemployment	9.5%

Sources: Compiled by Market Information and Analysis Unit, Department of Foreign Affairs and Trade, using various international sources, August 2001.

Per cent of GDP in services sector

The services sector continues to represent the largest share of the GDP in Indonesia. In 1999 it accounted for 45 % of GDP. The Indonesian economy grew by 4.8% in 2000 and 3.3% in 2001. Growth is forecast to weaken to 3.1% in 2002. Legal and regulatory uncertainty, exacerbated by decentralisation, continues to make Indonesia a difficult environment for Australian investors. While trade and investment opportunities are circumscribed by Indonesia's slow economic recovery, ongoing reform might offer commercial prospects in corporate and economic restructuring.

Total two-way trade with Australia (2000-2001 A\$ million)	7,129
as % of total Australian trade	2.7
rank in total Australian trade	11
Value of Australian exports (2000-2001 A\$ million)	3,219
as % of Australian exports	2.6
market ranking in Australian exports	10
% growth (five-year trend)	-1.4
Value of Australian imports (2000-2001 A\$ million)	3,910
as % of Australian imports	2.8
market ranking in Australian imports	11
% growth (five-year trend)	15.6

Source: Market Information and Analysis Unit, Department of Foreign Affairs and Trade, September 2001.

2 Basic legal information

Legal system

Indonesian law is characterised as a member of the civil law family. The law is based upon a set of broad principles detailed in a series of Codes. These general principles are supplemented by statutes and regulations. Customary law ('Adat') applies in non-western contexts, for example, village transactions, and much land remains subject to adat title. Adat law varies widely across Indonesia, as a result of the diversity of ethnic groups and cultures, most of which possess their own (unwritten) customary laws. There is a detailed and sophisticated body of rules dealing with choice of law in interpersonal conflicts. Islamic law may also apply to certain aspects of family and inheritance.³ The Government has announced its intention to allow the province of Aceh to be governed by Islamic Syariah law.

The legal system has been widely criticised within and outside Indonesia for corruption and efficiency problems. Many commentators have cautioned against an over-reliance on the legal system in commercial matters.

Sources of law

The main sources of law in Indonesia are:

- the State ideology of Pancasila;
- the 1945 Constitution;
- Governmental legislation;
- Presidential Decrees and Decisions;
- Surviving Dutch colonial law;
- *Adat*, inherited customary traditional law (limited); and
- Islamic law (applicable to Muslims and to be introduced in the province of Aceh).

Structure of the legal profession

The Indonesian legal sector is divided into the following:

- *Departemen Kehakiman dan Hak Asasi Manusia* - Ministry of Justice and Human Rights
 - Prof Dr Yusril Ihza Mahendra is the Minister for Justice and Human Rights. Prof. Mahendra was reappointed as Minister for Justice and Human

Rights by President Megawati Soekarnoputri on 9 August 2001, after having previously served in the position until February 2001.

- The Ministry is responsible for judicial appointments, corrections, drafting of legislation, corporate regulations. Law No.35/1999, however, establishes a five year period during which the Ministry's supervisory authority over the judiciary will be phased out.
 - The Ministry of Justice and Human Rights contains several subsidiary bodies such as the National Law Development Agency and the Research and Development Centre. The Directorate General for Copyrights, Patents and Trademarks is also a part of the Ministry of Justice and Human Rights.
-
- *Kejaksaan Agung* – Attorney General's Office
 - The current Attorney-General is Muhamad Abdul Rachman. He was appointed Attorney-General by President Megawati Soekarnoputri on 15 August 2001. The Attorney-General is a government official but attends cabinet meetings.
 - The Attorney-General's office has prosecutorial, investigative and intelligence responsibilities, as well as acting as the government solicitor and Attorney-General.
 - Officials of this department are known as *jaksa*. Their main role is to prosecute criminal offences on behalf of the state. They are public servants; are required to be university law graduates; and are required to take a State examination.
-
- Judges
 - are public servants and are required to be university law graduates and to take the state examination provided by the Ministry of Justice and Human Rights; and
 - commence their careers as candidate judges for two years, usually in a regional court in the outer islands.
-
- Government lawyers
 - are public servants;
 - are required to be university law graduates; and
 - are usually posted to legal offices of government departments.

- Advocates and legal consultants (*Pengacara*)
 - give advice and represent clients in court. Legal consultants are commercial lawyers who advise on and prepare business contracts, structuring business affairs and, to a lesser extent, property affairs;
 - they are not public servants and may establish their own offices; and
 - they are university law graduates. An advocates' short course for graduates is provided by the Advocates' Association (IKADIN). Advocates must pass an examination administered by the High Court.

- Legal consultants (*Penasehat hukum*)
 - are *pengacara* who specialise in commercial law. These are usually organised in large firms on international models and usually have foreign affiliated firms. Their practices rarely involve litigation.

- Notaries (*Notaris*)
 - are university law graduates who have studied in a special division of particular law faculties at public universities. The graduate must take an examination to enrol in this division;
 - do not represent clients in court and are not legal advisers;
 - are significantly involved in real property transactions and are essential to validate many commercial documents (eg Articles of Association); and
 - usually charge a fee based on a percentage of the value of the transaction notarised.⁴

Each section of the legal profession has its own organisation.⁵

Various non-government legal aid organisations have been established to provide a wide range of legal assistance/advice and advocacy services for the community. These include the Legal Aid Institute YLBHI (Indonesian Legal Aid Foundation) and LBH-APIK (Legal Aid Institute – Indonesian Women's Association for Justice) which take on civil, criminal and political cases as well advocating on behalf of lower income earners and women.

Regulation of the legal profession

The Ministry of Justice and Human Rights and the Attorney-General's Office regulate advocates and legal consultants in Indonesia. Under a draft bill currently being considered by parliament, a newly constituted Advocates Association would be responsible for regulating advocates and legal consultants. There are a number of professional associations for lawyers, but these tend to compete for membership and their rivalry has made it difficult to establish a united Bar. It is hoped the proposed Advocates' Association may resolve some of these problems.

Law-making bodies

The People's Consultative Assembly (MPR) is established by the Constitution and stipulates the broad outlines of State policy for the President to implement in running the Government. It is a form of parliament and it has legislative powers, as does the President. The legislature itself is the People's Representative Council (DPR) which passes statutes (*undang-undang*, known as State Laws). Presidential Decrees usually set the parameters for government regulations formulated by ministers, which are necessary to implement *undang-undang*.

To enforce the implementation of *undang-undang* and government regulations in each province, the governors and the regents (heads of the second level regional governments) may pass their own regulations, which are applicable only within their own region and must not conflict with higher ranking forms of law, although some often do.⁶

Under a 1993 ruling of the Supreme Court, the Court can only review decrees, decisions and regulations and not laws (*perundang-undangan*), ie. the legislation under which the regulations were made. This rule arises from Parliamentary Law No 14 of 1970. The Court very rarely exercises this power.

The People's Consultative Assembly recently determined (in Law No.3 of 2000) that Ministers may not independently issue regulations with the force of law. They can still, however, issue guidelines and decisions which are usually followed.

Court structure

The judicial system comprises the following:

- the Supreme Court in Jakarta which is the final court of appeal and is known as the *Mahkamah Agung*;

- the High Courts or *Pengadilan Tinggi*, which are located in most provincial capitals. They deal with appeals from the District Courts;
- the District or State Courts or *Pengadilan Negeri*, which deal with most civil and criminal matters at first instance. They are also empowered to hold pre-trial hearings in criminal cases;
- the Commercial Court or *Pengadilan Niaga*, which deals with insolvency matters, intellectual property and commercial matters;
- the State Administrative Courts or *Pengadilan Tata Usaha Negara* which deal with public and administrative law matters; and
- the Military courts, or *Peradilan Militer*;

There are also the *Pengadilan Agama* or Religious Courts, which deal with Syariah or Islamic Law. These courts are of lower status and are poorly funded. The jurisdiction of the *Pengadilan Agama*, is now relatively small, and is essentially limited to certain inheritance land disputes, and family law.⁷

Generally, there is a right to appeal in criminal matters where more than three months imprisonment is imposed or, in civil matters, where the claim is for more than a nominal sum. Most cases are appealed. The Supreme Court suffers a major case backlog problem.

A judicial panel normally consists of three judges at the District Court. There is no jury system.⁸ The court procedure is inquisitorial rather than adversarial. In some cases, judges conduct the examinations of witnesses. Advocates assist the court, often by preparing hand-up briefs. Judges dominate the procedure during hearings.⁹

Law derived from Australia

There are no substantive legal provisions derived directly from Australian legislation. However, there is a growing trend toward legal cooperation in formulating and implementing law and policy development.¹⁰

For example, between 1994–2001 the Australian Government's overseas aid agency (AusAID) administered a project undertaken cooperatively with the Indonesian Land Administration Agency to establish a land registration system based on concepts underlying the Australian Torrens title system.

Professional legal education

Primarily trained

Indonesian lawyers are qualified locally. The basic degree for all Indonesian lawyers is the *Sarjana Hukum* (SH), which is similar to the Australian Bachelor of Laws degree (LLB).

Qualifications for practice

The normal progression of training is:

- a basic law degree, the *Sarjana Hukum* (SH);
- after completing their degree, in practice, most lawyers then complete a one year period as a trainee in a legal office which is similar to the Australian articulated clerkship;
- lawyers wishing to practise as advocates must undertake an examination conducted by the *Mahkamah Agung*, or Supreme Court;
- Judges, prosecutors and other government lawyers must undertake legal work experience through the Supreme Court and pass a special purpose state examination prepared by the relevant Ministry before admission to special training by the Government. Judges are appointed directly to the bench. Judges often serve an apprenticeship as a clerk to a senior judge before being confirmed.¹¹
- A draft bill to regulate the advocates' profession would require candidates for admission as an advocate to have: a Bachelor of Laws or a law degree from a recognised Indonesian University or from an accredited foreign university, Indonesian citizenship and residency; and a minimum age of twenty-five years. Additionally candidates would have to pass an exam set by the Advocates Organisation; work as an apprentice or clerk for an Advocates office for a minimum of two years, and must not have committed any crime for which the penalty is four or more years in prison.¹²

Principal universities

The major universities that offer law are:

- University of Indonesia, Jakarta;
- Universitas Gajah Mada, Yogyakarta;
- Universitas Padjadjaran, Bandung;
- Universitas Airlangga, Surabaya; and

- Tri Sakti, Jakarta (private university).

Most other State universities have law schools, including Universitas Andalas, Universitas Bengkulu, Universitas Brawijaya, Universitas Cenderawasih, Universitas Diponegoro, Universitas Hasanuddin, Universitas Jambi, Universitas Jember, Universitas Jendral Soedirman, Universitas Lambung Mangkurat, Universitas Lampung, Universitas Mataram, Universitas Nusa Cendana, Universitas Padjadjaran, Universitas Pattimura Ambon, Universitas Sam Ratulangi, Universitas Sebelas Maret, Universitas Sriwijaya, Universitas Sumatera Utara, Universitas Syah Kuala, Universitas Tadaluko, Universitas Tanjungpura and Universitas Udayana.

Private Universities also have law schools, including Universitas 17 Agustus 1945, Universitas Atma Jaya Ujungpandang, Universitas Atma Jaya Yogyakarta, Universitas HKBP Nomensen, Universitas IBN Khaldun Bogor, Universitas Islam Indonesia, Universitas Islam Jakarta, Universitas Islam Nusantara, Universitas Islam Riau, Universitas Islam Sumatera Utara, Universitas Jayabaya, Universitas Katolik Parahyangan, Universitas Katolik Widya Karya, Universitas Kristen Indonesia, Universitas Kristen Satya Wacana, Universitas Merdeka Malang, Universitas Muhammadiyah, Universitas Muhammadiyah Malang, Universitas Tarumanegara,

Other domestic training institutions

Indonesia Bar Association (IKADIN).

Post-graduate legal courses

Post-graduate legal courses are offered at Indonesian universities. Overseas Masters degrees in Law are increasingly popular.

Other domestic legal qualifications

Notaries complete a two to five year course and require approval from the Ministry of Justice and Human Rights. Additionally, see *Qualifications for practice* above.

Practical legal training

See *Qualifications for practice* above.

Foreign legal training

Sources

Foreign legal education is usually undertaken at post-graduate level in the United States, Europe (especially the Netherlands and England) and increasingly Australia.

Skills obtained

Overseas education is now undertaken both for postgraduate degrees, usually in international commercial law, and in short skills courses in a range of areas including negotiation, mediation, commercial law and highly specialised areas of legal practice such as maritime law. An increasing number of lawyers, especially government employees, such as the *jaksa* or members of the Attorney-General's Office (who also prosecute), are studying in Australia and the United States, often for higher degrees to obtain promotion.

3 Legal services market

Professional associations (law societies/bar associations)

**Indonesian Bar Association
IKADIN
c/o Otto Hasibuan & Associates
Komplek Duta Merlin, Blok B-30
Jl Gajah Mada 3-5
Jakarta Pusat**

**Indonesian Bar Association
Asosiasi Advokat Indonesai (AAI)
c/o Yan Apul & Rekan
Jl. H. Agus Salim 57, 2nd Floor
Jakarta 10340**

Other Associations

- Asosiasi Konsultan Hukum Indonesia (AKHI)—the Association of Indonesian Legal Consultants;
- Ikatan Pengacara Hukum Indonesia, (IPHI)—the Indonesian Lawyers' Association;
- Persatuan Sarjana Hukum Indonesia, (PERSAHI)—the Indonesian Law Graduates' Association;
- Ikatan Notaris Indonesia, (INI)—the Indonesian Notaries Association;
- Himpunan Konsultan Hukum Pasar Modal (HKHPM)—the Capital Market Legal Consultants Association;
- Ikatan Penasehat Hukum Indonesia (IPHI)—Indonesian Lawyers Association;
- Serikat Pengacara Indonesia (SPI)—Indonesian Lawyers Alliance; and
- The Jakarta Lawyers Club.¹³

Local legal firms

Local legal firms

In 2000 there were almost 400 Indonesian law firms (including partnerships and legal consultancies) operating in Jakarta alone.¹⁴

Local lawyers

Figures not available. However, informal estimates based on entries in the *Legal Directory of Indonesia* suggests that the number of Indonesian lawyers may be around 12,000 as at 1998.¹⁵

Percent in international commerce

There are a large number of Indonesian law firms that are typically comprised of a small number of lawyers, solely involved in domestic legal work. Another group of firms, which work in an English-speaking environment, concentrate mainly on international commercial issues. In 1999 there were approximately twenty of these firms which employed approximately 200 to 250 lawyers, known as “legal consultants.”¹⁶

Dollar value of legal services

Foreign clients are charged in US dollars at a rate of about \$200 to \$400 per hour for a partner and \$100 to \$150 per hour for an associate. Due to the impact of the recession many firms give concessions to local clients who pay in Rupiah at a discounted exchange rate against the dollar (sometimes saving them up to 20%).¹⁷

Local legal firms involved in international work

See *Practice mix* below.

Practice mix

The local law firms involved in international work listed below are reported as possessing the following particular strengths:

- Ali Budiardjo Nugroho & Reksodiputro—foreign investment, financing transactions, intellectual property and shipping. The firm also has a Singapore office;
- Biro Oktroi Roosseno—intellectual property rights, foreign and domestic capital investment, banking and finance, environmental law, unfair competition, IP auditing and investigation and patents, trademarks and copyright litigation;
- Gani Djemat & Partners—general practice with a strong litigation department;
- Hadiputranto Hadinoto & Partners (the correspondent office of Baker & McKenzie)—banking and finance, intellectual property, capital markets and securities, commercial practice, telecommunications and construction;

- Hanafiah Ponggawa Bangun (which has a co-operative arrangement with Corrs Chambers Westgarth)—foreign investment, project finance, bankruptcy, dispute resolution and mining;
- Kartini Muljadi & Rekan—corporate and commercial, infrastructure projects, foreign investment, banking and finance;
- Kusnader & Co—corporate, finance and security financing, capital market, banking, merger and acquisition, tax law, land and trademark, patent and copyright;
- Lubis Ganie & Surowidjojo—capital markets, real estate, mining and mergers;
- Makarim & Taira S (which has a formal association with Minter Ellison)—capital markets, banking and finance, mining and resources, infrastructure projects, construction & engineering, IT & communications, foreign investment and commercial law;
- Makes & Partners—capital markets, corporate finance, merger and acquisitions, corporate and debt restructuring;
- Mochtar Karuwin & Komar—areas of corporate and commercial law, with emphasis on tax and labour law. The firm also has a Singapore office;
- Professor Mr Dr S Gautama & Associates—litigation practice, mostly in the area of intellectual property;
- Soebagio, Jatim, Djarot (with links to Blake Dawson Waldron)—foreign investment, international banking and finance, mergers and acquisitions and intellectual property;
- Soemadipradja & Taher (with links to Freehills)—foreign investment, energy and natural resources, intellectual property, banking and capital markets;
- Soewito, Suhardiman, Eddymurthy & Kardono—corporate commercial, banking and finance; and
- Wiriadinata & Widyawan (in association with Allens Arthur Robinson)—capital markets, banking and finance, mining and oil and gas, telecommunications, aircraft financing, foreign investment.¹⁸

Australian and other foreign legal firms

Foreign law firms are currently not permitted to open their own offices. However, alternative arrangements are possible, such

as the creation of an exclusive or non-exclusive correspondent relationship.

Foreign offices

See *Practice mix* above.

Australian firms

The following Australian law firms are represented in Indonesia:

- Allens Arthur Robinson is associated with the Indonesian law firm Wiriadinata & Widyawan. The contact partner in Australia is Mr Bruce Johnston in Melbourne and Adam Lunn in Singapore;
- Blake Dawson Waldron is associated with the Indonesian law firm Soebagjo, Jatim, Djarot. Mr Phillip Payne is the contact partner in Jakarta;
- Clayton Utz is associated in a non-exclusive arrangement with the Indonesian law firm of Hutabarat, Halim & Rekan. Mr Peter Fanning, formerly of Clayton Utz, is Of Counsel;
- Corrs Chambers Westgarth has a co-operative relationship with Hanafiah Ponggawa Bangun. The contact person in Australia is Mr Justin Fox;
- Deacons Consulting is associated with Dewi Suharto & Rekan. The resident partner in Jakarta is Mr Andrew Hilton;
- Freehills has a correspondent office relationship with Soemadipradja & Taher. Mr Haydn Dare is the contact partner; and
- Minter Ellison is associated with Makarim & Taira S., a corporate law and trade consultancy firm. Makarim & Taira S. is also associated with the American firm Milbank, Tweed, Hadley & McLoy. The contact partner in Jakarta for Minters is Mr John Cole and in Australia it is Mr Peter Monk.¹⁹

Other international firms

- Coudert Brothers have a presence in Jakarta through their associated firm P.T. CB Indonesia. The contacts in Jakarta are Mr Michael Horn and Mr William Sullivan.
- The firm Hadiputranto Hadinoto & Partners is a correspondent of Baker & McKenzie. Mr Mark Innis is their Australian legal consultant.

- Milbank, Tweed, Hadley & McCloy have an association with the law firm L Gunawan SH.
- Norton Rose is associated with Lubis Gaine Surowidjojo.²⁰
- Clifford Chance has established an office in Jakarta through an alliance with local firm Mochtar, Karuwin & Komar (MKK).²¹

There are a small number of Australian lawyers working in the private sector in Indonesia as in-house counsel to Indonesian and international companies. It is understood that there are no Australian lawyers working in the public sector in Indonesia.

Australian lawyers

See Australian firms above.

In February 1999, it was estimated that fourteen Australian lawyers were seconded by Australian firms as legal consultants in Indonesia. However, this number varies during the year.²²

Local lawyers

Not applicable.

Foreign legal firms

Not applicable. Foreign law firms are currently not permitted to open their own offices. However, alternative arrangements are possible, such as the creation of informal associations or correspondent relationships. Therefore, the following comments relate to Indonesian firms practising in the international arena.

Status of lawyers employed

Local lawyers

See Percent in international commerce above.

Foreign lawyers

Those local law firms practising in the international arena often have several foreign lawyers (who must be approved by the Ministry of Justice and Human Rights to practice) seconded to them. Other firms have foreign technical consultants attached to their staff.²³

Principal home countries

The principal home countries supplying licensed foreign lawyers are Singapore, Australia and the United States.²⁴

Practice mix

There is no reliable information on practice mix however it has been reported that a typical Indonesian law firm with international connections may spend:

- about 25 percent of their time advising local companies on local and home country law;
- about 40 percent with home country companies, advising almost totally on local law; and
- about 35 percent with third country clients almost exclusively on local law.

Principal areas of practice may include:

- international business investment;
- international sale of goods and services;
- intellectual property rights (which in the past was not a major area of practice, but could become a growing area of activity as new legislation is passed);
- general corporate and commercial especially joint ventures;
- bankruptcy law & debt recovery;
- natural resources including mining and petroleum;
- telecommunications;
- revenue law;
- dispute resolution (including arbitration & mediation);
- banking and finance, especially risk assessment advice; and
- capital markets.

Commercial arbitration

New arbitration legislation came into force in Indonesia in 1999.²⁵ Arbitration had been introduced in the colonial Dutch *Civil Procedure Code* for Europeans only, however its force within modern Indonesian law had been uncertain. *Law No. 30 Concerning Arbitration and Alternative Dispute Resolution* recognises both domestic and foreign arbitration, however the provisions relating to domestic arbitration apply to any

arbitration held in Indonesia (including arbitrations expressly governed by the law of another jurisdiction).²⁶

Where the debtor to an arbitration award is the Republic of Indonesia, an application to enforce the award must be made to the Supreme Court. In other cases enforcement applications may be heard by local courts (domestic awards only), or District Courts. Domestic Courts must determine applications for enforcement of arbitration awards within 30 days.²⁷ Enforcement of arbitration has, in the past, been uncertain due to the weakness of court enforcement and it is not yet clear whether the new legislation will merit greater confidence in the system.

Firms/centres

The main Indonesian commercial arbitration/dispute resolution centre is the *Badan Arbitrase Nasional Indonesia* (Indonesian National Arbitration Authority—BANI) established by *Kamar Dagang Indonesia* (KADIN, the Indonesia Chamber of Commerce and Industry) on 3 December 1977.

Indonesian Board of Arbitration (BANI)
C/o Indonesian Chamber of Commerce and Industry
Menara Kadin Indonesia 29th floor
Jalan H R Rasuna Said, X5, Kav2-3
Jakarta 12950 INDONESIA

The *Badan Arbitrasi Muamalat Indonesia* (Indonesian Muamalah Board of Arbitration—BAMUI) was established in 1993, primarily for the settlement of business disputes arising among Islamic parties.

Indonesian Muamalah Board of Arbitration
Arthaloqa Building 9th Floor
Jalan Jenderal Sudirman N2
Jakarta 10220 INDONESIA

The *Pusat Penyelesaian Perselisihan Bisnis Indonesia* (The Centre for Indonesian Business Dispute Settlement—P3BI) was established in 1996 to provide the business community with a fast and inexpensive institutionalised mode of dispute resolution.

The Centre for Indonesian Business Dispute Settlement
Jalan Sisingamaraja No. 33-35
Jakarta Selatan INDONESIA.²⁸

Principal coverage

The BANI was established to provide for the settlement of disputes both with a national and an international character, in

the field of trade, industry and finance. BAMUI provides an arbitration service based on the teachings of Islam, while P3BI aims to settle business disputes outside court through negotiation, mediation, consultation or arbitration.

Foreign restrictions

There are currently no specific rules that prevent foreign lawyers appearing before an Indonesian arbitration body. However, such an appearance would be most unusual, not least because proceedings are usually mainly in Indonesian language. There are also no special rules relating to the participation of foreign companies and foreign-owned subsidiaries in arbitral proceedings.²⁹

International instruments

Indonesia ratified the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States 1965 (ICSID)* on 28 September 1968. Indonesia has enacted *Law No. 5 of June 29, 1968*, pursuant to Article 69 of the ICSID Convention, to make its provisions effective in the territory.³⁰

Indonesia ratified the *New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)* on 7 October 1981. The ratification was made with the reservation that Indonesia would apply the convention on a basis of reciprocity, to the recognition and enforcement of awards made only in the territory of another Contracting State, and only to differences arising out of legal relationships that are considered as commercial under Indonesian law.³¹

Indonesia has not fully adopted the *UNCITRAL Model Law on International Commercial Arbitration (1985)*.

4 Market access requirements

Foreign law firms are prohibited from operating in Indonesia in their own right.

However, it is common for foreign law firms and Indonesian legal firms to enter into an association agreement or a technical assistance agreement and to second one or two of its lawyers to that firm. At present, foreign lawyers work in Indonesia either as foreign legal advisers with a work permit from the Ministry of Justice and Human Rights (the Government approved alternative) or informally as business consultants.³²

Foreign lawyer/firm regulation

Body responsible

Not applicable.

Laws & regulations

The regulations that govern the practice of law by Indonesian lawyers prohibit the formal practice of law by foreign lawyers, except where the foreign lawyers have obtained a work permit from the Minister of Justice and Human Rights. This is difficult to obtain.³³

The Indonesian Parliament is currently considering a bill to further regulate the legal profession, including the activities of foreign legal practitioners. The bill forbids foreign lawyers from appearing in court or opening a legal practice in Indonesia. If the bill is enacted, foreign lawyers would be permitted to work as employees or foreign experts for local firms after first obtaining a work permit from the government on the recommendation of the Advocates Association. Further regulations pertaining to the employment of foreign lawyers would be determined by Ministerial decision.³⁴

Foreign lawyer admission to practice requirements*

[It is usually not possible for foreign lawyers to be admitted to practice in Indonesia (see below)]

Citizenship

Indonesian citizenship is required.

Educational qualifications

Not applicable.

Experience

Not applicable.

Pupillage period

Not applicable.

Residency requirements

Not applicable.

Government approvals

Not applicable.

Other

Not applicable.

Admission authority

Not applicable.

Special admission

None known.

Additional requirements

Visa restrictions

Visas and work permits (both of which have time limits) for foreign lawyers are required from the Directorate General of Immigration in the Ministry of Justice and Human Rights.³⁵

Work permits

The Ministry of Justice and Human Rights presently regulates work permits for lawyers.³⁶ The Ministry of Justice and Human Rights will grant work permits to foreign lawyers to operate as ‘foreign legal advisers’ in limited circumstances. Foreign lawyers who are issued with these permits are required to devote ten hours per month to community service, usually in the form of coaching Indonesian attorneys.

Obtaining work permits to employ expatriates may take several months. The applicant employer is required to demonstrate that the position cannot be filled by an Indonesian. Work permits are valid for twelve months and may be renewed for up to four years. Only a limited number of work permits per firm may be issued by the Minister of Justice and Human Rights. At present regulations permit temporary one-month, extendable, work permits for employing foreigners on specific short-term projects.

Regulation of foreign law firms*

*(*It is not possible for foreign law firms to practise in their own right in Indonesia.)*

Use of firm name

Not applicable.

Employment of local lawyers

Not applicable.

Local firm association

Foreign law firms may not operate in Indonesia in their own right. However, alternative arrangements are possible, of which the most common is an informal association or the creation of a correspondent relationship. Under the current regime, foreign firms are able to establish a presence in Indonesia through informal arrangements such as the provision of management or technical assistance.

Government approvals

Not applicable.

Other

Not applicable.

Restrictions on practice*

*(*Foreign lawyers usually work as consultants. Formal legal advice must be provided by Indonesian lawyers, although foreign legal advisers with work permits from the Ministry of Justice and Human Rights may assist in framing such advice.³⁷)*

Local law

Not applicable.

Home law

Not applicable.

Foreign law

Not applicable.

International law

Not applicable.

Other

Generally, foreign lawyers have no right of audience in Indonesian courts.³⁸

Reforms in progress

Reforms in progress

The Indonesian government has recently undertaken reforms in the following areas:

Decentralisation – In January 2001, the Government introduced far-ranging decentralisation reforms which devolved significant fiscal and administrative responsibilities from the central government to district administrations or *kabupaten*. The government's decentralisation initiative is an ambitious effort at reforming governance in Indonesia but it has posed questions about the capacity of district administrations to fulfil their new, complex responsibilities effectively and efficiently. Early indications are that the performance of local administrations under decentralisation has been mixed. In the long term it is hoped that devolution may improve economic efficiency and community participation in government, and encourage competition between regional governments for foreign investment.³⁹ There are now proposals to 'roll back' the devolution process to the Province level.

Intellectual Property – In December 2000, the Government enacted new laws on intellectual property (covering trade secrets, industrial designs and layout of integrated circuits) to fulfil its commitment under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs).⁴⁰ The stated purpose of the new law is to enhance trade and investment in technologies and industry that involve industrial design.⁴¹

Foreign Investment – New laws permit foreigners to establish wholly-owned subsidiaries to facilitate debt restructuring.⁴² Foreigners may also now enter joint ventures with local partners for medical services and telecommunications and licensing procedures for foreign investment have been streamlined. A new draft foreign investment law would allow wholly foreign owned enterprises to invest in most sectors of the economy and proposes to remove all regulations that discriminate against foreign firms.⁴³

Competition – Anti-monopoly laws have been passed which establish a form of Competition Commission but to date little has been done to implement these laws⁴⁴

Resources – significant reforms have been made in the Oil and Gas and Mining sectors, offering substantial opportunities for Australia.⁴⁵

Banking Laws—In the years since the 1997 Asian financial crisis, Bank Indonesia has introduced a range of regulations, decrees and decisions, which liberalised prudential, reporting, capitalisation, lending and liquidity requirements applicable to Indonesian commercial banks. The Government has also regulated the ownership of banks and the qualifying criteria applicable to directors and commissioners of banks.⁴⁶

Legal Profession Regulation – a draft bill has been prepared to regulate the advocates profession. It would impose stricter requirements on admission of advocates, as well as introducing a code of ethics, a regulatory body, and new disciplinary provisions for professional misconduct.⁴⁷

5 Australian legal services

Australian law firms*

(*Australian law firms and lawyers providing services see 3–Legal services market above.)

Prospects for Australian legal services

Legal assistance required by Australian businesses

Legal assistance required by Australian businesses setting up and doing business in Indonesia generally involves the provision of advice on local legislation and general business practices.

- Australian companies wishing to invest in Indonesia require advice on foreign investment laws and regulations that are applicable in Indonesia.
- For practical reasons, direct foreign investment in Indonesia usually occurs in the form of a joint venture. Therefore, companies need advice on how to establish a joint venture company and how to document the joint venture arrangement. All issues affecting joint ventures must be addressed and documented, as it is usually difficult for foreign companies to enforce their legal rights in Indonesia.
- Australian companies also usually require advice on banking and finance issues, distribution arrangements, and general corporate and bureaucratic practises in Indonesia.

Note: Expert and up-to-date advice as well as access to local know-how in Indonesia is strongly advised.

Areas in which Australian legal services might be of value

The World Bank has stated that legal and judicial reform in Indonesia will be critical to winning back investor confidence and achieving long term stability in Indonesia.⁴⁸ The large infrastructure and economic reforms that Indonesia is currently undertaking provides an unprecedented opportunity for Australia to engage in the reform process by offering technical assistance. This involvement could profile Australia's own legal competency in areas such as international business law, taxation law, environmental law and regulatory frameworks.⁴⁹

There is scope for Australian law firms (primarily through government-to-government and university-to-university contacts) to advise the Indonesian Government on the drafting and introduction of new legislation. New capital markets and Corporations laws (based upon European models) covering limited liability companies (*Persero Terbatas*, PT) have been passed.⁵⁰ Laws on competition regulation (the Monopoly Law) have also been enacted. However, these laws have not yet been tested before the Indonesian courts to any meaningful extent and it remains to be seen how competition and trade practices regulation will be applied in practice.⁵¹

Indonesia has commenced the process to reform its land administration scheme based on concepts underlying the Australian Torrens-title system. However, the bulk of Indonesian land, particularly outside of the major cities, remains uncertificated and, irrespective of the Government's resolve to update land administration in Indonesia, it is likely to be some time before certainty exists in such matters.⁵²

The Government has also embarked on a program to review and update laws still in use which date from the colonial period. The intention of the program is both to fully translate the laws into Indonesian (removing as far as possible remaining Dutch terminology) and to update them to make the concepts relevant to the late 20th Century and early 21st Century. This program of review is an ongoing one.⁵³

Furthermore, Australian legal services might be of value with regards to:

- commercial arbitration and alternative dispute resolution. New laws have recently been passed in Indonesia in this area and there is a growing interest in extra-judicial avenues for resolving disputes;
- implementing new Indonesian intellectual property regulations;
- reforms to the financial management laws, particularly those dealing with the management of superannuation and pension funds;
- reforms in the general area of corporate and commercial law, corporate governance, registration systems for corporations and for land transactions;
- bilateral agreements with Australia;
- skills transfers in the general area of the application of technology to legal practice.

Under the auspices of the Australia-Indonesia Ministerial Forum, Australia has already made a significant contribution to both the Indonesian Government and private sector with

respect to helping Indonesia strengthen its framework for the regulation and enforcement of industrial and intellectual property rights. This assistance was funded by AusAID. In the years in the economic crisis in Indonesia, AusAID has given a high priority to the support of legal, law enforcement, and human rights cooperation projects both under the umbrella of the AIMF (Australia-Indonesia Ministerial Forum) and in their own right. A Working Group on Legal Cooperation was established by Ministers at the AIMF/IAMF held in Bali in February 1999 and a Memorandum of Understanding between the Government of Australia and the Government of Indonesia on Legal Cooperation was signed on 25 October 2000.

Future prospects

As Indonesia rebuilds after recession, there is a significant demand for Australian legal services, particularly in the area of corporate debt restructuring. Australian firms are at the forefront of debtor/creditor negotiations. Australia's legal professionals can also contribute to developing Indonesia's judicial and corporate governance systems.⁵⁴

Australian bilateral aid to Indonesia is expected to total \$A120.5 million in 2000-2001, and there will be significant opportunities for the Australian private sector to provide services for aid-related activities. For example, the second phase of the Technical Assistance Management Facility (TAMFII), which commenced in June 2001, will deliver \$8 million of assistance in the area of economic governance.⁵⁵ There is also a two year Legal Reform Program facility of \$5m, to assist Indonesia to reform its legal system.

New areas of regulation such as intellectual property law reform augur well for both international and domestic legal services. If Australian legal firms are to maximise their activities in Indonesia, they need to enter into suitable arrangements with a local law firm.

So far, however, Australian/Indonesian legal interaction has been limited and slow in developing, probably because of cultural differences. Australian firms that are serious about Indonesian operations must be prepared to invest in cultural education for their operatives and in carefully cultivating their relationships with Indonesian law firms, over a long period, before results are obtained.

Dispute resolution services

Centres/firms

The Australian Centre for International Commercial Arbitration (ACICA) provides services on the settlement of international commercial disputes of all kinds to the region.

Professor Malcolm Smith
Secretary General of ACICA
Level 10, 22 William Street
Melbourne Vic. 3000 AUSTRALIA
Telephone: 61-3 9629 6799
Facsimile: 61-3 9629 5250

The Australian Commercial Disputes Centre (ACDC) provides consulting, training and dispute resolution services both domestically and internationally.

Ms Suzanne Marks
Chief Executive Officer
Australian Commercial Disputes Centre
Level 4, 50 Park Street
Sydney NSW 2000 AUSTRALIA
Telephone: 61-2 9267 1000
Facsimile: 61-2 9267 3125

The Australasian Dispute Centre is an umbrella body of non-profit organisations involved in the Resolution of Disputes and provides access to a range of conflict resolution practitioners.

Ms Juliet Pegler
Executive Officer
Australasian Dispute Centre
PO Box 917
Spring Hill Qld 4004 AUSTRALIA
Telephone: 61-7 3832 4344
Facsimile: 61-7 3832 4221
Email: austdc@ozemail.com.au

The Institute of Arbitrators and Mediators Australia (IAMA) is Australia's largest mediation service. It aims to serve the community, commerce and industry by facilitating efficient dispute resolution methods including arbitration, mediation and conciliation.

IAMA National Headquarters
Level 1, 450 Little Bourke St
Melbourne Vic 8010 AUSTRALIA
Telephone: 61-3 9607 6908
Facsimile: 61-3 9602 2833
Email: national@iama.org.au
Website: <http://www.instarb.com.au>

LEADR is an Australasian, not-for-profit membership organisation formed to serve the community by promoting and facilitating the use of consensual dispute resolution processes.

**LEADR Head Office
National Dispute Centre
Level 4, 233 Macquarie St
Sydney NSW 2000 AUSTRALIA
Telephone: 61-2 9233 2255
Facsimile: 61-2 9232 3024
Email: leadr@leadr.com.au
Website: <http://www.leadr.com.au>**

Legal education and training

Overseas students studying law in Australia

Undergraduate/postgraduate

In 2000 there were 1108 overseas students studying law or legal studies in Australian university law schools, with most students coming from Malaysia, China and Indonesia. Of the 1108 overseas students, 709 (64%) are enrolled to undertake Bachelor of Laws (LLB) courses while the balance 399 (36%) were enrolled to undertake courses at postgraduate level. However, recent trends indicate that more students are enrolling to undertake postgraduate courses, primarily Master's by coursework, than LLB courses. In 2000, of the new overseas enrolments, 56% of students registered to undertake courses other than LLB courses at postgraduate level.⁵⁶

Short courses

Short courses, often specially designed to meet a specific group training need, are available from many Australian institutions. A list of Australian University Law Schools can be found at the Council of Australian Law Deans (CALD) web site at: <http://www.law.newcastle.edu.au/cle/cald/lawschools.html>

Overseas students studying in Australia

Commonwealth-funded and private higher education institutions

In 2000, there were 8,973 Indonesian students recorded as studying at Australian publicly funded tertiary institutions. Of these students, 61 studied Law or Legal Studies. Indonesia ranked as the 3rd highest source country providing approximately 6% of the students studying law and legal studies in Australian tertiary institutions.⁵⁷

Overall

The interest in studying in Australia continues to be substantial. Indonesia is Australia's largest source of overseas students with nearly 18,000 Indonesians studying in Australia

in 2000.⁵⁸ Student visas granted in Indonesia for the first half of 2001 increased significantly against the same period in 2000. This suggests that a recovery is taking place in the sector.⁵⁹

Most Indonesian students (approximately 80%) use education agents to organise their study arrangements - including visa applications, enrolments and study programs. There are currently more than 50 education consultants operating in Indonesia.⁶⁰

An increasing number of Australian institutions have entered into joint program arrangements with their Indonesian counterparts, offering diploma and degree courses. More than 20 joint programs are now on offer in Jakarta, with deregulation offering important in-country education delivery opportunities.⁶¹

Qualifications recognised

There are two views among the legal fraternity about whether a distinction is made between foreign and local law graduates for the purposes of practising in the legal profession. Where some legal practitioners acknowledge an important distinction does exist, it relates to an expectation about the type of work that may be carried out by legal graduates in the public legal arena, in the court system and to meet the requirements of the Bar examination.

Formal entry to the Government and judicial legal profession in Indonesia requires a tertiary law qualification accredited by the Directorate General of Higher Education. There does not appear to be any content specific criteria specified for a foreign law degree in this accreditation process. Australian legal qualifications would also be recognised in Indonesia, subject to the normal accreditation process. Given the need for a knowledge of local law and its practice, a foreign graduate would find the requisite Bar examination very challenging.

Indonesian are encouraged to take postgraduate diplomas or degrees overseas in areas such as international law, corporate law, bankruptcy law and environmental law in order to obtain a specialisation. Employers tend to prefer locally qualified graduates who have undertaken studies overseas.⁶²

Some formal recognition is given to Indonesian legal qualifications by Australian tertiary institutions, especially regarding admission to post-graduate studies.⁶³

Australian Education Centre representation

There are two Australian Education Centre (AEC) in Indonesia, one in Jakarta and one in Surabaya:

Australian Education Centre - Jakarta
5th Floor, Room 502
Wisma Budi Building Kav C6
J1 HR Rasuna Said
Kuningan, South Jakarta 12940
Indonesia

Telephone: 62-21-522 9675

Facsimile: 62-21-521 3745

Email: aecjakarta@aei.or.id

Australian Education Centre – Surabaya
The International Village – University of Surabaya
Raya Kalirungkut
Surabaya 620293

Telephone: 62-31-298 1324

Facsimile: 62-31-298 1325

Email: aecsurabaya@aei.or.id

**Dollar value of educational
services**

Information not available

6 References/sources

¹ *Indonesia Fact Sheet*, Department of Foreign Affairs and Trade, April 2001.
<http://www.dfat.gov.au/geo/fs/indonesia.pdf>.

² *Legal Directory of Indonesia* (1st Ed), CYBERconsult, Jakarta, 1998.

³ Information provided to ILSAC Secretariat, Attorney-General's Department, by an Australian Legal Practitioner, 6 September 2001.

⁴ *Legal Directory of Indonesia* (1st Ed), CYBERconsult, Jakarta, 1998, pp i-ii; Budiardjo, Nugroho, Reksodiputro (together with Mochtar, Karuwin & Komar), *Law Reform in Indonesia: Results of a research study undertaken for the World Bank*, CYBERconsult, Jakarta, 1997, pp 47-48.

⁵ See 'Professional associations', page 10.

⁶ *Indonesia, Doing Business in Asia*, CCH Asia Limited, 2002.

⁷ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 6 September 2001.

⁸ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 13 June 1994

⁹ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 19 December 1992

¹⁰ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 6 September 2001.

¹¹ Australian Education International, 'Professional Qualifications Recognition Project: Final Report', November 2000.

¹² *Rancangan Undang-Undang Republic Indonesia tentang Profesi Advokat [Draft Bill concerning the Advocates Profession]* as posted on the website of the General Secretariat of the Indonesian People's Representative Council, last updated 12 June 2001.
http://www.dpr.go.id/ruu/ruu_advokat.htm

¹³ *Legal Directory of Indonesia*, (First Ed), CYBERconsult, Jakarta; 1998; and Indonesian Law Directory Links – Legal Organisations, http://business.fortunecity.com/notebook/90/organization_association.htm, accessed 16/08/01.

¹⁴ *Legal Directory of Indonesia* (2000 Supplement), CYBERconsult, Jakarta.

¹⁵ *Legal Directory of Indonesia* (1st Ed), CYBERconsult, Jakarta, 1998. The Directory lists the Indonesian Lawyers Association (*Ikatan Penasehat Hukum Indonesia*) as having 10,000 members, the Indonesia Bar Association AAI (*Asosiasi Advokat Indonesia*) having 1,000 members, the Indonesia Bar Association IKADIN (*Ikatan Advokat Indonesia*) having 910 members, and the Indonesian Law Alliance (Serikat Pengacara Indonesia) having 270 members. Note both the AAI and the IKADIN are Jakarta based Bar Associations and there is presumably some overlap in membership. The legal profession is known to have grown since 1998. Consequently the figure is estimated at around 12,000.

¹⁶ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 9 February 1999.

¹⁷ *The International Financial Law Review 1000*, 2001 Edition, Euromoney Legal Media Group, 2001, p 127.

¹⁸ *The International Financial Law Review 1000*, 2001 Edition, Euromoney Legal Media Group, 2001; and information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 3 September 2001.

¹⁹ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 3 September 2001, and other sources.

²⁰ *The International Financial Law Review 1000*, 2001 Edition, Euromoney Legal Media Group, 2001.

²¹ *ibid.*

²² Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 9 February 1999.

²³ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 27 August 2002.

²⁴ *ibid.*

²⁵ *Law No.30 of 1999 Concerning Arbitration and Alternative Dispute Resolution.*

²⁶ A.A.de Fina, 'Recent Developments in Australasia', *Journal of International Arbitration*, 17(2) April 2000, p 77.

²⁷ *ibid.*; and *The International Financial Law Review*, 2001 Edition, Euromoney Legal Media Group, 2001.

²⁸ Further information on these bodies is available from the ILSAC, Attorney-General's Department publication, *Australia-Indonesia Contract Management: Dispute Resolution and Avoidance, A Handbook for Legal Practitioners and Business Managers*, Canberra, 1996.

²⁹ *Indonesia, Doing Business in Asia*, CCH Asia Limited, 2002.

³⁰ *Contracting States and Measures Taken by Them for the Purpose of the Convention*, International Centre for Settlement of Investment Disputes, November 1991.

³¹ *The International Financial Law Review*, 2001 Edition, Euromoney Legal Media Group, 2001.

³² Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 27 August 2002.

³³ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 27 August 2002

³⁴ *Rancangan Undang-Undang Republic Indonesia tentang Profesi Advokat [Draft Bill concerning the Advocates Profession]* as posted on the web site of the General Secretariat of the Indonesian People's Representative Council, last updated 12 June 2001.

http://www.dpr.go.id/ruu/ruu_advokat.htm

³⁵ *Indonesia, Doing Business in Asia*, CCH Asia Limited, 2002.

³⁶ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 27 August 2002.

³⁷ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 27 August 2002.

³⁸ *Indonesia Fact File, Asia Law Profiles 2001*,

<http://www.asialaw.com/directories/asialaw2001/indonesia/factfile.htm>

³⁹ Information provided by the Indonesia Desk, Department of Foreign Affairs and Trade, Canberra,

22 August 2001; *Law No. 22 /1999 and No. 25/1999*, World Bank Country Assistance Strategy for Indonesia, Report No.21580-IND, January 4, 2001, pp 1-2.

⁴⁰ *Asia Pacific Legal Developments*, Baker & McKenzie, April 2001 (Vol 15 Issue 1), pp 11-13. The law was stated to have taken effect on 1 January 2000 and was passed on 11 April 2000, Patrick Keyzer, 'Are you ready to take the TRIP(s)? A review of the reforms to the law of designs in Indonesia', *Australian Intellectual Property Law Bulletin*, Vol 14(2) June 2001, p 16.

⁴¹ Keyzer, Patrick 'Are you ready to take the TRIP(s)? A review of the reforms to the law of designs in Indonesia', *Australian Intellectual Property Law Bulletin*, Vol 14(2) June 2001, p 22.

⁴² Oliver Wright (Partner, Denton Wilde Sapte) and Michael Pratanto, 'Good News for Foreign Investors and Creditors', <http://www.indonesianlaw.com/news/news07071999.htm>

⁴³ East Asia Analytical Unit, Department of Foreign Affairs and Trade, *Indonesia: Facing the Challenge*, December 2000, pp 38-39.

⁴⁴ *Undang-Undang No. 5 Tahun 1999 Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat* [Law No. 5 of 1999 concerning the Prohibition of Monopolies and Unhealthy Industry Competition].

⁴⁵ East Asia Analytical Unit, Department of Foreign Affairs and Trade, *Indonesia: Facing the Challenge*, December 2000, p 160.

⁴⁶ Information provided to ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 3 September 2001.

⁴⁷ *Bill Concerning the Advocates Profession*, as published on the Indonesian People's Representative Council (Dewan Perwakilan Rakyat) website, http://www.dpr.go.id/ruu/ruu_advokat.htm

⁴⁸ World Bank Country Assistance Strategy for Indonesia, Report No.21580-IND, January 4, 2001.

⁴⁹ Australian Education International, 'Professional Qualifications Recognition Project: Final Report', November 2000.

⁵⁰ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 27 August 2002.

⁵¹ Information provided to ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 3 September 2001.

⁵² Information provided to ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 3 September 2001; Australian Embassy Press Release No. 4, 23 March 2001. <http://www.austembjak.or.id/releases/release04.htm>

⁵³ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 13 June 1994 and from an Australian Legal Practitioner, 6 September 2001.

⁵⁴ East Asia Analytical Unit, Department of Foreign Affairs and Trade, *Indonesia: Facing the Challenge*, December 2000, p 99.

⁵⁵ Speech by Mr Sam Zappia, Counsellor from AusAID to the Indonesia-Australia Business Council, June 2001.

⁵⁶ Statistics compiled from Department of Education Training and Youth Affairs Statistics, 'Students 2000: Selected Higher Education Statistics', and information provided by Bond University, June 2001. DETYA website: <http://www.detya.gov.au/highered/statistics/tables/students2000.htm#summary>

⁵⁷ *Students 2000: Selected Higher Education Statistics (DETYA, 2001)*, Table 76, August 2001.

⁵⁸The Hon Mark Vaile, Minister for Trade, speech to Indonesia-Australia Business Council 'Indonesia and Australia: The Resurgence in Trade and Investment', Jakarta, 29 August 2000.

⁵⁹ Australian Education International, 'Report to Industry', January-June 2001, p 7.

⁶⁰ Information provided to the ILSAC Secretariat, Attorney-General's Department, by Australian Education International, Jakarta, 30 August 2001.

⁶¹ Australian Education International, 'Report to Industry', January-June 2001, p 7.

⁶² Australian Education International, 'Professional Qualifications Recognition Project: Final Report', November 2000.

⁶³ Information provided to the ILSAC Secretariat, Attorney-General's Department, from an Australian Legal Practitioner, 27 August 2002.