

Indonesia Investments

'Foreign Workers Regulation'

- Widodo Signed Regulation 34/2021 on the Utilization of Foreign Employment; Derivative Regulation of the Omnibus Law on Job Creation
- Regulation 34/2021 Revokes Presidential Regulation 20/2018 on the Utilization of Foreign Employment
- Regulation 34/2021 Seems Specifically Aimed at Strengthening the Ecosystem for Indonesia's Special Economic Zones and Digital Economy
- Foreign Workers Remain a Sensitive Issue

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**Van Der Schaar Investments B.V.
CV Indonesia Investments**



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Preface

In addition to our reports, Indonesia Investments sends updates on key economic, political or social developments to our subscribers to make sure that our subscribers do not miss out on vital information. Topics in these updates will often be discussed in more detail (and in an updated form) in forthcoming monthly reports.

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Improving the Investment Environment Implies the Arrival of More Foreign Workers to Indonesia

The presence of ‘something foreign’ in Indonesia is often still a somewhat sensitive issue. And, we would not be surprised if it is the country’s prolonged colonial period – when foreign forces (particularly the Dutch) came to the Archipelago in search of commodities – that brings back traumatic memories from the past. This history may thus also explain why Indonesia – today – shows a relatively high degree of economic nationalism and resource nationalism.

For example, it was certainly no coincidence that in the year ahead of Indonesia’s 2019 presidential and legislative elections, the government did not extend a number of foreign oil and gas companies’ expiring contracts at blocks across the Archipelago; instead awarding these blocks to state-owned energy company Pertamina (despite ongoing concerns that Pertamina lacks the financial resources as well as technology to optimize output at these blocks).

Meanwhile, forced renegotiations with US mining giant Freeport-McMoran gave the Indonesian government the majority stake in the Grasberg mine in Papua, a vast and lucrative copper and gold mine, via Freeport Indonesia, in 2018.

Foreign investment, especially when it involves commodity-related sectors, clearly remains a sensitive issue, and quite often becomes a topic of discussion in times of

elections (with opponents of the government usually claiming that the government is allowing the nation's natural resources to be stolen by foreign companies). It is this (threat of) nationalization of natural resources that is a concern to prospective foreign investors. And even though the Indonesian government showed signs that it turned away from resource nationalism after the 2019 elections, it remains a major threat (especially in the context of elections) that undermines the inflow of capital intensive and long-term foreign investment commitments in the energy sector.

Similarly, Indonesia has always been a bit reluctant to sign free trade deals with foreign nations, or blocks of nations, with the main concern being that a flood of foreign products into Indonesia may occur (making life even more troublesome for domestic manufacturers). These concerns are certainly not exaggerated considering the competitiveness of Indonesian industries and businesses is relatively weak, with high logistics costs being, partly, to blame. Moreover, Indonesia is home to a massive population that – under normal circumstances – shows rising per capita GDP and purchasing power. So, there is indeed a threat that Indonesia will see more imports than exports as a result of free trade deals.

In this context, it is interesting that Indonesian President Joko Widodo made quite a controversial comment in early March 2021 when participating in a Trade Ministry meeting (also witnessed by trade attaches of foreign embassies). Widodo stated that "calls to love Indonesian products must continuously be echoed. Echo calls for hating foreign products as well."

The interesting matter is – and we have discussed this topic in a report last year – that Widodo is somewhat of a two-face in this respect. While he presents himself to the international environment as someone who encourages free trade and foreign direct investment (and not only presents himself as such, but indeed also takes firm action to allow a higher degree of free trade and foreign investment into Indonesia for example by engaging in free trade deals, cutting red tape, and widening room for foreign ownership in certain sectors), he shows a much more protectionist face at home (for example by trying to make Indonesia less reliant on imports from abroad, nationalizing natural resource projects, and by raising import tariffs on a wide range of consumer goods, as happened in 2018).

However, this behavior is understandable too. Indonesia needs foreign investment (in terms of capital, technology, expertise, and the further integration into the global supply and value chains) in order to develop. So, it simply has to show a friendly face (both in terms of words and deeds) to the foreign investment community. However, in order to keep the support of the Indonesian population (or at least the majority), Widodo also needs to reaffirm his protectionist stance at home. It is a fine line, and sometimes a tough one to walk. In the Trade Ministry meeting – referred to above – he clearly slipped. However, his slip should not have any consequences.

And, another topic that also tends to be a sensitive one in Indonesia is the presence (or arrival) of foreign workers. Part of Indonesians fear that these foreign workers obtain positions or jobs that can actually be performed by Indonesians themselves.

So, foreign workers are sometimes portrayed as 'stealing' jobs from Indonesians, even though an analysis (or comparison with neighboring nations) shows that there are actually relatively few foreign workers in Indonesia.

Considering a total of 128.45 million people are employed in Indonesia (out of a total population that numbers 270 million people), while only around 100,000 workers in Indonesia are foreign nationals, Indonesia's foreign workers ratio is roughly 0.1 percent. Few countries have a lower ratio. For comparison, the ratios for Malaysia, Thailand, and Singapore range between 1.5 and 2.0 percent.

But it is certainly true that the number of foreign employees in Indonesia has been rising, especially as globalization is a process that seems to go increasingly fast. For comparison, in the early 2000s, there were only around 50,000 foreign employees in Indonesia. Today, it is China that delivers most foreign workers (roughly 35-37 percent of foreign workers in Indonesia are Chinese nationals), followed by Japan, South Korea, India and Malaysia.

Also the government's decision to allow China playing a bigger role in Indonesia's infrastructure development program, leads to further growth of foreign workers as China in particular seems eager to use its own people in these projects abroad. For example, in the Jakarta-Bandung high-speed train project that is currently underway some 2,000 temporary Chinese workers were brought to Indonesia.

Indonesian Manpower Minister Ida Fauziyah recently commented on this project stating that Chinese workers are required for this project because most of the tools and technology imported from China use instructions in the Chinese language.

So, the continuous increase in foreign direct investment (FDI), excluding disruptions related to the ongoing COVID-19 crisis, implies that a growing number of foreigners move (temporarily) to Indonesia. In fact, by making it easier for foreigners to work in Indonesia (in terms of bureaucratic matters) the Indonesian government can actually encourage the realization of more FDI (because in many – if not most – cases of FDI, investors want to bring people from their home country in order to safeguard the quality and efficiency of their business).

In 2018, Presidential Regulation No. 20 of Year 2018 on the Use of Foreign Workers in Indonesia was issued. This regulation aimed at simplifying the permit application process for foreign workers, hence making the process more efficient and faster. For example, the Expatriate Placement Plan (*Rencana Penempatan Tenaga Kerja Asing*, RPTKA) was removed for those foreign workers who only visit Indonesia for short periods, while the Limited Stay Visa (*Visa Tinggal Terbatas/VITAS*) and Limited Stay Permit (*Izin Tinggal Terbatas/ITAS*) were turned into one single process that can be arranged by the Indonesian Embassy in the foreign country.

However, this Presidential Regulation No. 20/2018 was recently revoked, when on 2 February 2021 President Joko Widodo signed Government Regulation No. 34 of

Year 2021 on the Utilization of Foreign Employment (henceforth Regulation No. 34/2021). The new regulation changes a few matters; seemingly specifically to improve the ecosystem for the Special Economic Zones (*Kawasan Ekonomi Khusus*, or KEK) and the digital economy.

It is important to mention that Regulation No. 34/2021 is a derivative regulation of Law 11 of Year 2020 on Job Creation (Indonesia's 'landmark' Omnibus Law on Job Creation). Regulation No. 34/2021 specifically arranges matters related to Article 81 and Article 185 (B) in the Omnibus Law on Job Creation.

Let's take a look at Regulation No. 34/2021, a regulation that consists of 48 articles.

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