



Field Report



REGIONAL AUTONOMY AND THE BUSINESS CLIMATE: Three Kabupaten Case Studies from West Java

The SMERU Research Institute in association with The Partnership for Economic Growth (PEG) and The United States Agency for International Development (USAID)

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LIST OF ABBREVIATIONS

| | |
|----------|--|
| ABT | Ground water |
| APBD | Regional Government Budget |
| APBN | Central Government Budget |
| APT | Surface water |
| Asmindo | Association of Indonesian Furniture Makers |
| ASSR | Agriculture Sector Strategy Review |
| Bappeda | Regional Development Board |
| BBN-KB | Tax on change of ownership of motor vehicles |
| BPD | Village Board |
| BPN | National Land Agency |
| BPPC | Cloves Marketing Board |
| BPS | Statistics Indonesia |
| BULOG | State Logistics Agency |
| BUMN | State-owned Enterprises |
| CO | Certificate of Origin |
| CPIS | Center for Policy and Implementation Studies |
| DAU | General Allocation of Funds |
| Depdagri | Department of Home Affairs |
| Depkeu | Department of Finance |
| Dirjen | Director General |
| Dispenda | Local Treasury Office |
| Ditjen | Directorate General |
| DLLAJ | Regional Transportation Office |
| DPRD | Regional Peoples Representative Assembly |
| Gapensi | Association of Indonesian Construction Consultants |
| GPP | Association of Plantation Businesses |
| GT | Gross Ton |
| HDI | Human Development Index |
| HO | Hinder Ordonantie/Disturbance/Noise Levy |
| HGU | Leasehold Certificate |
| IHH | Retribution for Forest Products |
| IMB | Building Construction Permit |
| IMF | International Monetary Fund |
| IUI | Industry License |
| Kadinda | Local Chamber of Commerce and Industry |
| KCD | Branch Office of the Local Government Offices |
| Keppres | Presidential Decree |
| KK | Head of the Household |
| KK | Family Card |
| KKN | Corruption, Collusion, and Nepotism |
| KTP | Identity Card |
| KUD | Village Cooperatives |
| LoI | Letter of Intent |
| LSM | Non-Governmental Organization |

| | |
|-----------|---|
| Mendagri | Minister of Home Affairs |
| Menkeu | Ministry of Finance |
| MPR | Peoples Consultative Assembly |
| NTB | West Nusa Tenggara |
| NTT | East Nusa Tenggara |
| Otda | Regional Autonomy |
| PAD | Regional Revenues |
| PBB | Land and Building Tax |
| PBB-KB | Motor Vehicle Fuel Tax |
| PD | Local Government Owned Enterprises |
| PDAM | State-owned Drinking Water Company |
| PDRB | Regional Gross Domestic Product |
| Pemda | Local Government |
| Pemkab | Kabupaten Government |
| Pemkot | Kota Government |
| Pemprop | Provincial Government |
| Perda | Local Regulation |
| Perindag | Industry and Trade |
| Persepsi | Monitoring of Economic Structure and Deregulation Program Reforms |
| PKB | Motor Vehicle Tax |
| PP | Government Regulation |
| PPh | Income Tax |
| PPN | Value-added Tax |
| PT | Public Limited Company |
| Pungli | Illegal Levies |
| PUOD | Directorate General for General Administration and Regional Autonomy |
| Puskud | Center for Village Cooperatives |
| Puskesmas | Community Health Center |
| RAPBD | Draft Regional Government Budget |

| | |
|----------|---|
| Raperda | Draft Local Regulation |
| SDA | Natural Resources |
| SDM | Human Resources |
| SetJen | Secretariat General |
| Setwilda | Local/Regional Secretary |
| SIM | Drivers license |
| SIUI | Industrial Enterprise Permit |
| SIUP | Permit for Trade Enterprises |
| SK | Decree/Decision |
| SKAB | Origin of Goods Certificate |
| SKSHH | Legality of Forest Products Certificate |
| SMERU | The SMERU Research Institute |
| SOTK | Organizational and Administrative Structure |
| SPK | Third Party Contributions |
| SPM | Minimum Service Standard |
| STNK | Motor Vehicle License |
| TA | Budget Year |
| TDG | Proof of Warehouse Registration |
| TPI | Fish Auction Site |
| TPI | Proof of Industry Registration |
| TDP | Proof of Business Registration |
| Tupoksi | Primary Duties and Function |
| UPT | Technical Service Unit |
| UU | Laws |
| VCD | Video Compact Disk |

I. INTRODUCTION

1. Background

Under the previous New Order centralized administration, “local people” were often just treated as the implementers of the policies, decisions, as well as technical and implementation guidelines designed by the central government. At times the local governments have felt underestimated by the central government, which has compelled the regions to demand autonomous authority with increasing fervor. One clear way the local governments can achieve this autonomy is through the management of local revenue (*Pendapatan Asli Daerah – PAD*). As a result, the local governments have issued various local regulations (*peraturan daerah – perda*) on taxes, levies and other charges. By 1996, there were nearly 200 types of these charges in existence.¹ In addition, the local governments also released various policies on business activities, especially through trade and market regulations. These policies include the allocation of zones for the sale of tea in West Java, the citrus fruit trading monopoly in West Kalimantan, the marketing of local produce through Village Cooperatives (*Kooperasi Unit Desa - KUD*) in East Nusa Tenggara, and the prohibition on the export of raw cashew nuts from South Sulawesi. Similar policies have also been put in place by the central government. These include the establishment of a clove monopoly by the Clove Marketing Board (*Badan Penyangga dan Pemasaran Cengkeh – BPPC*), inter-island livestock trade quotas, a national vehicle assembly by the public company PT Timor, and the import of the nine basic commodities by the State Logistics Agency (*Badan Urusan Logistik Nasional – BULOG*).

The official aim of these local regulations and policies for the business sector was the protection of small farmers and producers. However in practice, many of these local regulations and policies have been aimed at raising local revenue and to either intentionally or unintentionally protect the interests of certain groups. This eventually created a “high cost economy” that distorted the business environment, weakened competitiveness, and impeded regional investment and economic development.

Furthermore, these policies then attracted extensive criticism from both national and international quarters. As a result, the central government attempted to rectify this situation by issuing the tax reform Law No. 18, 1997, which limited the kinds of taxes and levies which may be collected in the regions. As a result of the monetary crisis that occurred in mid 1997, the Government of Indonesia signed a Letter of Intent (LoI) with the IMF on the 15 January 1998. This promoted a program of deregulation through the correction of all central and regional government policies that had previously distorted the economy, including the abolition of inter-regional trade restrictions.

The economic crisis that followed the monetary crisis forced the central and regional governments to make every effort to implement both of the above measures. Various levies were abolished and those policies that had a negative impact on the market were abandoned. Both of these changes to government policies had a positive effect on the

¹ CPIS, *Hasil Kajian tentang Pungutan Daerah*, September 1996.

business climate, as well as improving farmers' incomes.² On the other hand, local governments subsequently viewed these policy changes as reducing their available sources of income. Consequently, many local governments have demanded that Law No. 18, 1997 be amended by the central government. These demands have been further strengthened by the existence of new policies on decentralization and regional autonomy as outlined in Law No.22, 1999 on Regional Government and Law No. 25, 1999 on the Fiscal Balance between the Central Government and the Regions. Subsequently, the central government accepted the complaints of the regions by approving Law No. 34, 2000 which amends Law No. 18, 1997. This new law provides wider opportunities for the regions to issue local regulations concerning taxes and levies, while (in theory) still setting certain limits through the application of various strict conditions.

The policy of decentralization and regional autonomy is intended to bring the government closer to the people so that government services can be delivered more effectively and efficiently. Consequently, local governments must prove that they are capable of implementing these policies in such a manner that brings significant benefits to the community. To achieve this, decentralization policies and regional autonomy should not only be in the form of delegated authority from the center to the regions. The local governments must also eventually hand over some of their newly gained authority to the local community. At present, the principle that is supposed to underlie decentralization policies and regional autonomy is community development, as this will empower the people in such a way that they are ready to be actively included in the democratic process, rather than only passive participants. However, in practice, this can only be achieved by open, responsible and fair governments. In other words, it is impossible for these policies to be implemented by local governments adhering to centralized and authoritarian practices.

As far as economic activities are concerned, local governments need to promote their region in order to attract investment and stimulate trade. However, there is no guarantee that local governments will make such an effort, since during the New Order period of centralized government, local government officials tended to wait for directives from the central government with little opportunity to exercise their own authority. These practices have trapped local government officials in a system of practical and pragmatic activities, where there is little room for regional government initiative and innovation. Consequently, now that the regions have gained greater authority, there is concern that they will imitate the models and practices established by the central government.³ Many observers are concerned that local governments will become absorbed in efforts to increase local revenue through various taxes and levies, eventually resulting in a high cost economy.

There is also concern about the possibility of local governments releasing policies that discriminate against individuals from outside the region for the sake of the local

² SMERU, "*Deregulasi Perdagangan Regional: Pengaruhnya terhadap Perekonomian Daerah dan Pelajaran yang Diperoleh*", December 1999.

³ This is evident in a number of areas: the way that the structure of local governments are being organized, the development of local sources of revenue, and the allocation of the funds that are received from the central government, as well as the decision-making processes involved in the creation of public policies.

community and its inhabitants (the *putra daerah* issue). This situation is a cause of real concern because it threatens national unity both politically and economically. For example, if the policy of free trade between regions is no longer effective, then Indonesia's existence as a single unified market entity will be threatened. The notion of Indonesia as a "single unified market" is one of the binding elements of the unitary state of the Republic of Indonesia.

As part of our research into the initial phase of the implementation of decentralization and regional autonomy under Law No. 22, 1999 and Law No. 25, 1999, the SMERU team has carried out several field studies to specifically obtain information on the following issues:

1. Local government policy concerning the implementation of wider local authority, especially those policies related to local taxes, levies and other charges (both formal and informal) and other policies relevant to the business climate, such as licensing and the regulation of local trade and markets. Furthermore, the extent to which the process of formulating formal regulations takes into account the views and interests of various community groups.
2. The views of local government regarding the size of the General Allocation of Funds (*Dana Alokasi Umum*, DAU) from the central government, their strategies to increase local income through the available sources of local revenue (PAD) such as local taxes and levies, along with the policies and practicalities relating to the allocation of funds.
3. The views and opinions of various economic actors and other interest groups within society on the impact of local government policy on the business climate together with its implications for trade and investment, especially on the movement of goods and services.

This report is based on the results of SMERU fieldwork in the Province of West Java carried out between 22 October and 1 November 2001. The SMERU team visited two *kabupaten* in West Java (Kabupaten Cirebon and Kabupaten Garut) and collected documentation in Kabupaten Ciamis associated with the business climate. The Province of West Java is one of nine provinces investigated by SMERU within the overall framework of this study. One of the primary considerations for selecting the nine provinces was their geographic representation, with areas being chosen from Eastern Indonesia, Java and Western Indonesia.

Information was obtained from officials, including the Governor and the Bupati as well as their staff, the regional secretaries and their staff, the heads of various bureaus and sections within the regional secretariat (legal affairs, government administration, finance and economic affairs), and the Regional Development Planning Board (*Bappeda*). In addition, the team also interviewed the leaders of various government offices at the province and *kabupaten* level.⁴ For additional information, the team also

⁴ The local offices included in this study include the Office of Industry and Trade (*Dinas Perindustrian dan Perdagangan*), the Office of Plantations (*Dinas Perkebunan*), the Office of Agriculture (*Dinas Pertanian*), the Office of Animal Husbandry (*Dinas Peternakan*), the Office of Fisheries (*Dinas Perikanan*), the Office of Forestry Affairs (*Dinas Kehutanan*), the Office of Transportation and Communications (*Dinas Perhubungan*), the Office of Health Services (*Dinas Kesehatan*), the Office of Education (*Dinas Pendidikan*), and the Local Treasury (*Dinas Pendapatan Daerah*).

consulted the leadership of the local Peoples Representative Assembly (*Dewan Perwakilan Rakyat Daerah - DPRD*) and the Statistics Indonesia office (*Kantor Biro Pusat Statistik - BPS*). Also interviewed were officials from the Local Chamber of Commerce and Industry (*Kamar Dagang dan Industri Daerah - Kadinda*), the Indonesian Furniture Makers' Association (*Asosiasi Meubeler Indonesia - Asmindu*), businessmen in various sectors, traders at various levels, transport drivers, farmers and fishermen, editors and journalists of local newspapers, NGO leaders, and the teaching staff of local institutes of higher education.

2. Regional Overview

Following the formation of the Provincial Government of Banten based on Law No.23, 2000⁵ which includes four *kabupaten* and two *kota*⁶, the Province of West Java at present covers 16 *kabupaten* and 6 *kota*. Currently, the geographical coverage of West Java is approximately 34,597 km², which is 80% of its size prior to the division of the region into two provinces which at the time was recorded as covering 2.3% (43,240 km²) of the total area of Indonesia. In 2000, the total recorded population of West Java was approximately 32 million people. According to this figure, West Java is the province with the second largest population in Indonesia after East Java. Throughout 1999, West Java underwent the process of dividing the administration of the region between these two provinces, resulting in a significant number of new *desa* and *kelurahan* being formed (see Table 1).

Tabel 1. An overview of the research area

| Region (Propinsi/Kabupaten), Data by Year | Area (km ²) | Population (persons) | Population Density/ km ² | Number of Heads of the Household | Number of Kecamatan | Number of Desa/ Kelurahan |
|---|-------------------------|----------------------|-------------------------------------|----------------------------------|---------------------|---------------------------|
| Province of West Java (old), 1999 | 4,240.1 | - | - | 10,800,000 | 543 | 6,701/521 |
| Province of Banten, 2000 | 8,651.2 | 7,336,557 | 848 | n.a. | 96 | 1,331/144 |
| Province of West Java (new), 2000 | 34,597.0 | 31,773,000 | 918 | n.a. | 461 | 6,569/1,912 |
| -Kabupaten Cirebon, 1999 | 990.4 | 1,855,655 | 1,874 | 437,800 | 23 | 412/12 |
| -Kabupaten Garut, 2000 | 3,382.3 | 2,044,129 | 684 | 502,800 | 31 | 394/11 |
| -Kabupaten Ciamis, 1999 | 2,559.1 | 1,581,488 | 618 | 460,200 | 34 | 354/7 |

Source: - *Jawa Barat Dalam Angka* – West Java in Figures, 1999.

-*Kabupaten Cirebon Dalam Angka* – Kabupaten Cirebon in Figures, 1999.

-*Kabupaten Garut Dalam Angka* – Kabupaten Garut in Figures, 2000.

-*Kabupaten Ciamis Dalam Angka* – Kabupaten Ciamis in Figures, 1999.

-Website: www.otonomi.go.id.

⁵ Law No.23, 2000 on “The Formation of the Banten Province”.

⁶ The Province of Banten includes Kabupaten Tangerang, Kabupaten Serang, Kabupaten Pandeglang, Kabupaten Lebak, Kota Tangerang and Kota Cilegon.

The Province of West Java is strategically located within close proximity of the capital of Indonesia, Jakarta, which enjoys good communications and transportation services. However, apart from enjoying the same positive social and economic benefits as those living in Jakarta, this close proximity also means that West Java experiences the same negative impact of arising social and economic problems.

Furthermore, apart from having the same supporting infrastructure and facilities as Jakarta, West Java is also renowned for its fertile agricultural land, resulting from high levels of rainfall. Hence, West Java has been considered as the “national bread basket”. In 1999, the Province of West Java (including the Province of Banten) produced 21% of the total amount of rice produced nationally. However, according to the Human Development Index figures, in 1999 both of these provinces were still ranked 15th nationally, which is worse than their ranking in 1996. Consequently, while West Java has various strengths and is experiencing many benefits compared to other provinces, it is still fraught with the problems of poverty amongst its inhabitants.

In the Province of West Java, the SMERU team visited three *kabupaten*: Kabupaten Cirebon, Kabupaten Garut, and Kabupaten Ciamis. However, the research conducted in Kabupaten Ciamis was not as in-depth as was conducted in the other two *kabupaten*. In Kabupaten Ciamis, the team only collected various documents (secondary data) related to local rules and regulations in effect as well as those which are soon to be implemented.

Kabupaten Cirebon is located on the north coast of West Java, directly bordered by the Province of Central Java. A large proportion of the region is lowland terrain covering an area of approximately 990.4km². In 1999, the population was recorded at approximately 1.9 million persons. At present, Kabupaten Cirebon is the *kabupaten* occupying the smallest geographical area in the province following Kabupaten Purwakarta. At the same time it is the most densely populated region in the province with approximately 1,874 people/km².

Meanwhile, Kabupaten Garut and Kabupaten Ciamis are located in the southern part of the province. Kabupaten Tasikmalaya separates the two regions. A large proportion of these two regions is hilly highland terrain, including several mountains. In the south, the inclines are quite steep and are directly bordered by beautiful beaches and the Indian Ocean. The population density in Kabupaten Garut is higher than Kabupaten Ciamis, but both are classified as average, despite being below the average population density figures for the province.

Based on the main types of work available, a large number of people living in West Java are employed (in consecutive order) as farmers, farmhands, traders, and manual laborers. As such, in Kabupaten Garut and Ciamis a large proportion of the population are working in the agricultural sector, while in Kabupaten Cirebon more people are employed as manual laborers in the industrial sector rather than as farmers, or farmhands. In Kabupaten Cirebon, several types of large, medium and small-scale industries have developed, including the rattan, *batik* and snack food

industries, all employing a large number of manual laborers.⁷ There is also a seaport in Kabupaten Cirebon which provides employment for a large number of workers.

The potential of the agricultural sector in Kabupaten Garut seems to be greater if compared with other *kabupaten* in West Java. Apart from producing rice, this *kabupaten* also is the primary producer of various types of secondary crops such as corn, cassava, soybeans, peanuts, and different types of vegetables. In addition, Kabupaten Garut also produces plantation products (tree crop and estate crop products), such as rubber, tea, *akar wangi*⁸, and tobacco, as well as having the largest forest acreage in all of West Java. The leather handicrafts and snack food industries have also flourished in Kabupaten Garut. Meanwhile, the potential of the agricultural sector in Kabupaten Ciamis is also visible, especially as the largest coconut producer in all of West Java.

3. The Implementation of Regional Autonomy

This section is intended to provide a brief account of the steps taken by local governments in this region to implement decentralization and regional autonomy. These measures will either directly or indirectly affect the business climate in the region.

Regional autonomy: a process or an “immediate outcome”. The business environment tends to be viewed in terms of current conditions, whereas regional autonomy constitutes a long-term multi-dimensional process. In the field, this issue often manifests debates, even conflict between various quarters, for example between the business community and the central government, or between the provincial government and the *kabupaten* or *kota* governments. For example, one case involved an International Monetary Fund request which was addressed through a Letter of Intent (LoI) in which the central government promised it would take firm action concerning approximately 100 local regulations considered to be problematic. The IMF request that at the very latest, these regulations should be abolished by June 2002.⁹

The Province of West Java views regional autonomy as a process which can be used to develop a model, referred to as systematic targeting, which covers the following stages:

1. Initiating or making early preparations for regional autonomy. This was carried out until the end of 2001, and included identifying emerging problems and possible steps for the resolution of these problems, for example in terms of the conflict between the centre and the regions, between regions, and between community groups.
2. Implementing regional autonomy throughout 2002 and 2003, covering efforts to monitor all pioneered activities.

⁷ The Social Monitoring and Qualitative Analysis Division of SMERU carried out a study on small-medium sized firms in Kabupaten Cirebon in August, 2001.

⁸ *Akar wangi* is the long fibrous roots of an Indian grass, *Vetiveria zizanioides*, which is often used to produce vetiver oil.

⁹ *Kompas*, 26 September, 2001.

3. Consolidating regional autonomy between 2004 and 2006 in order to synchronize the various agendas of regional autonomy, including economic development and other political agendas, for example the processes for carrying out the general election.
4. Stabilizing regional autonomy beginning 2007, which flows on from the previous stages and is directly related to the various changes which have occurred.

If the main considerations for each of the stages above are given the necessary attention and are actually implemented, then there should not be any fundamental differences between regional autonomy as a process and regional autonomy as an “immediate outcome”. The providers of public services need courage to take the initiative, as well as to be innovative and creative in order to generate the required conditions to implement regional autonomy properly, stage by stage with patience and planning.

The relationship between the different levels of government. Since the new policy on regional autonomy came into effect, there has been an evident lack of clarity regarding the relationships between the various levels of government, especially between the provinces and the *kabupaten* and *kota*. This is partly due to the content of Article 4, Clause 2 of Law No. 22, 1999, which states that each autonomous region (province, *kabupaten* or *kota*) “stands alone and does not have a hierarchical relationship with any other (level of government)”. In fact, the formulation of the authority of each level of government remains unclear. As a result, the following key issues have emerged: there has been a loss of power amongst the provincial governments, especially in the eyes of government officials at the *kabupaten* and *kota* level; there has been a loss of coordination in the creation of new local regulations; and, it has become difficult to implement the transfer of personnel because the provincial government does not have any of its own offices in the *kabupaten* and *kota* governments.

The system of local government, civil administration, and local government budgets. In order to improve the public service system in each local government agency, there is general agreement that a more streamlined system of local government is required to achieve greater efficiency and effectiveness. However, such good intentions may be defeated by the reality that many civil servants and officials need to be provided with formal employment and official duties. As a result, the newly formed local government administrations are larger in size than under the previous system, including the central and provincial levels of government which now have more limited government authority according to Law No. 22, 1999. In other words, when these service institutions were formed, both the central and regional governments did not fully consider their authority or capabilities.

Meanwhile, when organizing the civil and official administrations, apart from the *putra daerah*¹⁰ issue, there is an excess of civil servants caused by the transfer in their status from central government civil servants to regional government civil servants. The Province of West Java has taken on 5,459 officials from the central government,

¹⁰ *Putra Daerah* (local sons) refers to the preference to employ local community members in official positions, rather than those from outside the region, or from the central government.

which is a 45% increase if compared to the previous number of staff employed. Consequently, there has been a significant increase in the amount allocated for routine expenses in the Provincial Government Budget (*Anggaran Pendapatan dan Belanja Daerah* – APBD). In the 2001 budget year, the budget for routine expenses (69.5%) was higher than the development budget (30.5%) in the Province of West Java. What's more, for many years prior to the implementation of regional autonomy the development budget had always been higher than the amount allocated for routine expenses. A more direct result at present is the increasing levels of hidden unemployment occurring amongst civil servants, especially at the provincial level. Meanwhile, the *kabupaten* and *kota* governments have tended to refuse to accept transfers of civil servants from the provincial government.

Regional Government Budgets and Authority From a national perspective, the General Allocation of Funds (*Dana Alokasi Umum* – DAU) for the regions amounts to 25% of state revenue, while the remaining 75% is retained by the central government. The local governments hope that a proportion of this 75% will flow on to the regions. In order to prepare to benefit from these funds, the West Java Government Secretary has established the Staff Transfer and Activities Monitoring Bureau.

The Provincial Government of West Java believes that the provision of the General Allocation of Funds (amounting to 25% of national revenue) is not in accordance with Law No.22, 1999 which stipulates the decentralization of almost all public service sectors to the regional governments. In addition, efforts to correctly calculate the budget for routine expenses in the regions have been impeded by two issues. Firstly, as yet there is no Minimum Service Standard (*Standar Pelayanan Minimal* – SPM) which can be used as a base for calculating the costs of providing government services. Secondly, the central government has not yet been fully transparent regarding state revenue.

Public policy and Community Views and Opinions. There are different tendencies and a lack of coordination between regions in regards to the local regulations concerning public services, particularly in regards to licensing. Many people at the provincial level are concerned that this will have a negative impact on the business climate. For example, the license to establish factories which is issued by the Bandung *kota* government does not follow the procedures for waste disposal, and hence has had a negative impact on the Kabupaten Sumedang community.

Several respondents (non-government officials) are concerned that the recent decline in the implementation of public services is the result of ineffective and weak supervision by the local assemblies. At present, for example, members of the local assemblies are becoming more inclined to get involved in processes for project tender and the implementation of local government projects. This has led to opportunities to “embellish” corruption, collusion and nepotism (*Korupsi, Kolusi dan Nepotisme* – KKN) between the bureaucrats and members of the legislature. Several journalists in Bandung, through the following statement, depict the model of KKN which is more or less the case in the regions: “If the accountability report (*laporan pertanggungjawaban* – LPJ) provided by the local government (Governor and *Bupati*) is to be accepted, then members of the local assemblies require the opportunity to enjoy local government projects”.

II. LOCAL REGULATIONS

It is important that the regions are capable of driving regional economic development towards efficiency during the implementation of decentralization and regional autonomy. This can be achieved through both reviewing and not repeating the mistakes of the previous centralized New Order Administration which tended to intervene in the market mechanism to meet the interests of particular groups. Regional autonomy has created the opportunity to develop the potential of each region so that a positive competitive environment is created between regions by maximizing economic opportunities. Competition will enable the regions to develop a business environment which is conducive to investment. In order to do this, the regional government offices are required to have wider and more long-term perspectives which includes formulating local policies which aim to improve and sustain community prosperity rather than being merely focussed on short-term objectives.

However, the reality in the field demonstrates the regions' narrow interpretation of the implementation of decentralization and regional autonomy. The regions tend to use their present authority to seek out sources of local revenue by imposing various local taxes and levies. The SMERU team found that in the Provinces of North Sumatra, North Sulawesi, and Gorontalo the size of the General Allocation of Funds provided by the central government did not influence local government efforts to seek out sources of local revenue. In addition to the regulations governing changes to the system of local government administration, a large number of the local regulations already issued are concerned with increasing local revenue.

The SMERU team observed several ambiguous local government regulations in the field. On the one hand, these local regulations are viewed as the logical consequence of regional autonomy, because the regions require a new legal basis to carry out their autonomous rights. However, on the other hand, these local regulations have been proposed in order to increase the level of income for each region. This can be viewed as the negative consequences of misinterpreting the legislation when implementing regional autonomy. Local government officials are under the impression that the local governments have to cover the costs incurred in their own regions themselves. Yet others are aware that if the authority provided for the regions was only related to the capabilities of the regions to increase local revenue, then regional autonomy will never materialize as intended. It is possible that the various regulations related to these taxes and levies will become obstacles which distort market mechanisms, burden the business sector, and make conducting business more difficult. Representatives from the IMF and the business sector make up the bulk of the members of the Indonesian Chamber of Commerce and are concerned about this possibility. Considering the situation at present, the government has recommended that the Ministry of Home Affairs revoke 71 local regulations which are already effective in several provinces, *kabupaten* and *kota*,¹¹ through the Department of Finance which issued Minister of Finance Decision Letter No. S-486/MK.07/2001, 2

¹¹ Business News 6697, 5 December 2001, page 9B and 18B. This was also widely published in several other forms of media at the end of November, 2001.

November 2001 regarding the “Minister of Finance’s Evaluation of Local Regulations on Taxes and Levies”.

1. The Provincial Level of Government

In terms of the size of local revenue as a proportion of the local budget, the Province of West Java is considered to have adequate financial means. For the 1999/2000 budget year, local revenue amounted to 31% of the West Java provincial government budget. In the 2000 budget year (which began in April following the 1999/2000 budget year and ended 9 months later in December) local revenue constituted 48.1% of the provincial budget. This local revenue is mainly derived from local taxes (94%).¹² The contribution of local revenue to the 2001 budget is estimated to have reached 49.3% (Rp1.1 trillion), with 90% being derived from local taxes. Meanwhile, in 2001 the General Allocation of Funds received by the West Java Provincial Government amounted to Rp521.2 billion, and contingency funds amounted to Rp31.1 billion. Both of these sources of funding only contributed 24.4% of the funds available in the 2001 provincial budget. Thus, funds from local revenue greatly outweighed the funds provided for the 2001 West Java provincial government budget from the General Allocation of Funds and contingency funds. Furthermore, the allocation for routine expenses in the draft 2001 provincial budget amounted to 69.2% of the total funds, whereas the allocation for development amounted to 30.8%.

At the time this research was conducted it was estimated that the size of the General Allocation of Funds provided for the Province of West Java for the 2002 budget year would be reduced to Rp377 billion. This is attributed to the *fiscal gap* noted between the regions, as well as the quite large amount of local revenue previously obtained by the West Java provincial government. Consequently, the amount of local revenue obtained previously has directly led to a reduction in the General Allocation of Funds from the central government. The provincial government is opposed to this policy which includes the amount of local revenue obtained previously in the formula for calculating future central government funding because it reduces the incentive for the regions to be creative in seeking new sources of revenue. However, irrespective of this issue, the West Java provincial government has already either seriously considered or began planning various endeavors to develop sources of income for increasing local revenue, for example:

- 1) While still at the level of discussion, the provincial government desires state-owned enterprises (*Badan Usaha Milik Negara – BUMN*) make direct contributions to the region. State-owned enterprises are potential sources of local revenue because to date, they have had the benefit of using the local government’s assets without the burden of any taxes or levies.
- 2) The provincial government wants to have a direct role in the construction of toll roads. In order to do this, there must be local enterprises capable of handling the activities associated with the construction. Consequently, one of the draft regulations currently being discussed by the local parliament is concerned with the “Establishment of Limited Companies providing Goods and Services in West Java”.

¹² The financial state of the Province of West Java in the 2001 budget year can be viewed from the income components in the 2001 draft budget after adjustments.

- 3) The provincial government has already developed several local enterprises (such as the West Java Bank, Local Agribusiness Enterprises, Local Industry Enterprises, and Local Tourism Enterprises).
- 4) One initiative undertaken by the provincial government has been to make efforts to ensure that the management of Motor Vehicle Fuel Tax is directly handled by the local government.
- 5) The Provincial Government Office of Fisheries is planning to create local regulations on various policies concerning public services which are considered to extend across the authority of more than one *kabupaten* and/or *kota* government, for example:
 - Licensing in the fisheries sub-sector, with reference to Government Regulation No.141, 2001. This regulation stipulates that fish catch licenses for boats measuring less than 10 gross tons are within the authority of the *kabupaten* and *kota* governments, but the provincial government has licensing authority for boats measuring 10-30 gross tons.
 - The certification of the quality of fingerlings to protect the cultivation of fish in Cirata Dam, and regulations providing guidance and supervision for fish hatchery farmers' groups producing fingerlings which are specific to the region, for example *gurame* fingerlings from Ciamis, as well as carp and *nila* fish from Majalaya. This certification process should become effective in 2002, and accordingly, there is already a registration process in place for training hatchery supervisors (one of the functional positions in the region).
 - The formation of a Fish Quarantine Centre in Cengkareng. In relation to this, the West Java Provincial Office of Fisheries will issue certificates ensuring the quality of the fishery produce (*Surat Keterangan Kesehatan Ikan*) for export.
- 6) In the transport and communications sector, the provincial government has considered imposing several forms of licenses and charges, for example, the proposed levies on quality inspections for businesses assembling motor vehicle bodies (*karoseri*) are determined as follows:
 - i) Rp50,000 for vehicles weighing less than 5 tons;
 - ii) Rp.75,000 for vehicles weighing between 5-10 tons; and
 - iii) Rp100,000 for vehicles weighing greater than 10 tons.

The provincial government estimates that 10,000 vehicles are inspected each year, creating a target revenue of between Rp500-Rp800 million per year. The provincial government must clarify their authority over city transport which crosses over the boundaries of more than one *kabupaten* and/or *kota* in the province. To date, the limits to authority remain unclear, making it difficult to stipulate which authority is the joint responsibility of more than one province and which is the full responsibility of the province.

At present, weigh bridges are being renovated in order to optimize usage and increase their capacity. Staff at the Office of Transport and Communications are

aware that there are still many problems to be overcome regarding weigh bridges because in reality, a large proportion of vehicles carry a load which exceeds their capacity. Based on the budgeted components of local revenue in the West Java Provincial Government Budget for 2001, in principle, as yet no basic changes have been made concerning efforts to seek out new sources of local revenue. Table 2 demonstrates the types of taxes and levies effectively being charged at present.

Meanwhile, the provincial government continues to defend its authority over some of its sources of local revenue. This includes maintaining their authority over the Motor Vehicle Road Worthiness Levy (*Retribusi Pengujian Kendaraan Bermotor*) which now falls within the authority of the *kabupaten* and *kota* government according to Government Regulation No. 25, 2000. Consequently, Provincial Government Regulation No. 6, 1999 which regulates these levies, was revoked through Provincial Government Regulation No. 15, 2001. However, the provincial government still determines this revenue target because the inspection materials such as the inspection books, aluminium, certification stamps, and other equipment are owned by the provincial government and the staff who conduct the inspections all have provincial government status. This indicates that there is a large incentive for the provincial government to defend its source of income, rather than passing the authority on to the *kabupaten* and *kota* governments as required.

Table 2. Types of taxes and levies effectively implemented in the Province of West Java^{*)}

| No. | Taxes and Levies | Perda No. |
|--------------------------|---|-----------|
| Provincial Taxes | | |
| 1. | Motor Vehicle Registration Tax (PKB) | 7/2001 |
| 2. | Change of Motor Vehicle Ownership Tax (BBN-KB) | 8/2001 |
| 3. | Fuel Tax (PBB-KB) | 9/2001 |
| Provincial Levies | | |
| 1. | Motor Vehicle Road Worthiness Levy | 6/1999 |
| 2. | Extraction of Local Resources Levy | 18/2000 |
| 3. | Retail and Wholesale Distribution Levy (including public fish markets -TPI) | 9/2000 |
| 4. | Sale of Local Produce Levy | - |
| 5. | Transport Route Permit | - |

Note: ^{*)} Based on the Provincial Budget Statement, 2001 budget year.

Source: West Java Provincial Bureau of Legal Affairs and the Provincial Bureau of Finance.

Representatives from the Provincial Government Office of Transport and Communications, one of the bodies which carries out these inspections have actually stated that they will pass the equipment on to the *kabupaten* and *kota*. However, there are only 8 units inspection units available to carry out the work in West Java, whereas there are 22 *kabupaten* and *kota* governments in the province, and one of the units has already been given to the Province of Banten. Consequently, in terms of their budget, the *kabupaten* and *kota* governments are considered not yet financially capable of carrying out their authority. This

situation is one example of disputes between the provincial and *kabupaten* and *kota* governments over authority. Other issues include managing the provision of services such as clean water and waste disposal.

Provincial Government Regulation No.9, 2000 on the “Retail and Wholesale Distribution Levy” basically only regulates levies imposed on public fish markets because apart from fish products, there are no other commodities which are sold through public auctions. This regulation stipulates in detail the exact amount of the levy as well as the allocation of the income derived from the levy. The levy is charged at 5% of the value of the transaction, with 3% paid by the purchaser and 2% paid by the supplier (fishermen). The income from this levy is allocated as follows:

- 1) Both levels of government receive a total allocation of 1.6% of the revenue, that is each local government receives 0.8%.
- 2) The operational costs and the maintenance of the wholesale markets are covered by 0.8% of the revenue received and are allocated as:
 - Guidance and supervision funds (0.35%);
 - Local development funds for fisheries (0.30%); and
 - Operational funds for the Centre for Village Fishing Cooperative (*KUD Mina*) (0.15%).
- 3) The remaining 2.6% has been allocated for public fish auctions as follows:
 - Implementation and administration of public fish auctions (1.65%);
 - Savings for the Fisherman’s Village Cooperatives (0.35%);
 - Drought funds (0.25%);
 - Social funds for fishing accidents (0.25%); and
 - Security funds (0.10%).

The provincial government wants this regulation to become a point of reference for both managing and effectively charging levies on public fish auctions for all *kabupaten* and *kota* in West Java which have potentially viable ocean fishing industries. These levies will be administered jointly by the provincial, and the *kabupaten* and *kota* governments which have already agreed in principle to refer to the provincial regulation and not draft any new regulations. However, in reality several *kabupaten* want to draft their own regulations. For the 2001 budget year, revenue from the public fish auctions levy was estimated at Rp1.1 billion, after deducting the allocation for public fish auctions.

Apart from the management of public fish auction locations, other services handled by the provincial Office of Fisheries include issuing certificates of quality assurance for export commodities. However, this service has not yet been fully implemented because the Technical Service Unit Laboratories are still managed directly by the central government and have not yet officially been transferred to the provincial government.

For the 2000 budget year the provincial government has already ratified two provincial regulations stipulating government charges in the plantations sector¹³: 1) Provincial Regulation No.23, 2000 on “Tree Felling in Large Plantations in West Java”; and 2) Provincial Regulation No.24, 2000 on “Tea Processing Enterprises”. The two types of charges outlined in these regulations have not yet been effectively imposed because they were not detailed as potential income components in the 2001 provincial budget. These regulations were created because the provincial government has authority over those areas effecting the arrangements and interests of more than one *kabupaten* and/or *kota*. In the first stage of their implementation, conflict occurred between the *kabupaten* and *kota* and provincial governments concerning these regulations. The *kabupaten* and *kota* governments have stated that the authority regulated by these two provincial government regulations is within the limits of their authority. The Cianjur and Tasikmalaya Kabupaten governments, for example, have both created *kabupaten* regulations with similar contents to the provincial regulations. They believe that the *kabupaten* government has control over the region, not the provincial government. However, these two local government regulations have been included amongst the 71 regulations recommended to be revoked based on Minister of Finance Decision Letter No. S-486/MK.07/2001 on “Minister of Finance Evaluation of Local Regulations on Taxes and Levies” which was directed to the Minister of Home Affairs. Table 3 below contains a list of the contents and reasons put forward for revoking these two *kabupaten* regulations.

Following this, in 2001 the provincial government ratified Provincial Government Regulation No.6, 2001 on “The Use and Extraction of Ground Water and Surface Water Tax” which as yet has not been implemented effectively. Both the regulatory authority and the authority to collect this tax has been returned to the provincial government as stipulated in Law No.34, 2000. Previously, the *kabupaten* and *kota* governments had authority over this tax based on Law No.18, 1997.

¹³ Various licensing services in the plantations sector still provide guidelines through a number of Minister of Forestry and Plantations Decision Letters, even though at present the department handling these affairs has already changed.

Table 3. Reasons for revoking West Java Provincial Government Regulations No. 23 and No. 24, 2000

| Provincial Government Regulation | Target of the Regulation | Size of the Charge | Reasons for Revoking the Regulation |
|--|--|--|--|
| No. 23, 2000 on "Tree Felling in Large Plantations in West Java" | Tree Felling License | a. Non cash-crop trees - Cultivated in the plantation: Rp375/tree - Taken/sold outside of the plantation: Rp750/tree b. Cash-crop trees - cultivated in the plantation: Rp250/tree - taken/sold outside of the plantation: Rp500/tree | Felling trees in large plantations in West Java does not need guidance, regulations, control or supervision from the local government because this is already being carried out by the business itself. Consequently, it is not necessary to impose a licensing fee. |
| No. 24, 2000 on "Tea Processing Enterprises" | Each bushell of young tea leaves to be processed for green or black tea. | 2% of the income received from the tea processing | 1. Tea processing enterprise license fees are characterized as a tax, because they are determined based on the volume of production and there are no public services provided in relation to this by the local government. 2. It is not necessary to control tea processing activities through licensing because there is no obvious aspect of the public interest which needs to be protected. |

Sumber: - Business News 6697, 5 December 2001. Page 9B-18B.

- West Java Provincial Government Documents No. 23 and No. 24, 2000.

When creating local regulations, the West Java Provincial Government has differentiated between regulations which contain directives and those which govern charges, even though it is the same object being regulated. For example, apart from provincial government regulations on retail and wholesale distribution which stipulates the system used for imposing charges as well as the size of the charges on fish auctions, there are also separate special regulations on the management and implementation of fish auctions. The extraction and use of both surface and ground water is also regulated in the same manner. Several local regulations containing general directives and their key characteristics are outlined below (not including local regulations on charges reviewed previously):

- 1) Provincial Government Regulation No.8 2000 on "Conducting Fish Auctions" (amends Provincial Government Regulation No.10, 1998);
- 2) Provincial Government Regulation No.22, 2000 on "Administering Core Community Plantation Businesses";
- 3) Provincial Government Regulation No.10, 2000 on "Extracting and Using Surface Water";

- 4) Provincial Government Regulation No.16, 2001 on “Management of Ground Water”; and
- 5) Provincial Government Regulation No.17, 2001 on “Mining Management”.

The provincial government has already designed five new draft local regulations¹⁴ related to licensing regulations and fees. While still being debated at present by the local parliament, the following five draft regulations are aimed at increasing local revenue in the future, including:

- 1) Livestock Health and Animal Product Inspections between the Provinces, Food Rations, as well as Livestock Disease Inspections;
- 2) Forest Management;
- 3) Distribution of Forest Products in West Java;
- 4) Administration of Transport and Communications; and
- 5) Levies on Administering Transport and Communications.

Apart from the provincial government regulations governing services and regional taxes and levies, the West Java Provincial Government has not ratified any regulations creating non-tariff barriers. The existing local government regulations only stipulate the directives on the administration of services, taxes and levies in terms of the target of the tax and those obliged to pay the tax.

Government Regulation No.20, 2001 on “Guidance and Supervision of Local Government Administration”, which permits the provincial government to supervise the *kabupaten* and *kota* governments has not yet been implemented because as yet there are no implementation guidelines available. Consequently, the supervisory function of the provincial government in regards to local policies which may have some effect on the business climate, is not yet effective. Furthermore, the relevant provincial government offices are also deemed to be unprepared for the task. However, the provincial government has made efforts to provide guidance on the formulation of legislation for all *kabupaten* and *kota* in West Java through undertaking an initial evaluation of the formulation process by disseminating questionnaires and conducting interviews with the Heads of the respective Legal Affairs Divisions. The results of this evaluation, particularly in relation to local regulations on taxes and levies, have highlighted that the *kabupaten* and *kota* governments are making concerted efforts to find the easiest methods to increase local revenue, for example through creating local regulations on regional taxes and levies. The primary reason for creating these regulations has been that both the General Allocation of Funds and Special Allocation of Funds provided by the central government are insufficient to cover the costs of regional development activities.

¹⁴ The SMERU Research Team was not provided with copies of these draft regulations, thus their contents cannot be discussed further.

2. The *Kabupaten* Level of Government

Kabupaten Cirebon

To date, the contribution of local revenue to the Kabupaten Cirebon budget is less than 10%, where more than 75% of kabupaten finances relies on subsidies from the central government. For the 2001 budget year, in terms of the components in the modified *kabupaten* budget draft, the amount of funding outside of deposits and fees for civil servant employees has increased from Rp156 billion in the 1999/2000 budget year to Rp351 billion in the 2001 budget year. The local revenue target has increased from Rp12 billion to Rp18 billion, while local revenue contributions have decreased as a proportion of budget revenue.

In the 2001 budget year, the General Allocation of Funds received by the Kabupaten Cirebon government was approximately Rp300 billion, or 85% of the total budget (Rp351 billion). In terms of the budget allocation for expenses, a large proportion (77%) was used for routine requirements, while Rp79 billion (23%) was allocated for development. Funding allocated for development has increased significantly compared to previous budget years, but has decreased if compared to the size of the sectoral budget. It is estimated that these conditions will weaken the implementation of public services. At the time this research was carried out, the size of the General Allocation of Funds for Kabupaten Cirebon for the 2002 budget year was not clear because the formula used for the calculation was unavailable.

The Kabupaten Cirebon government has stated that when seeking sources of local revenue, they continually refer to the limitations stipulated in the current legislation. Even though at present the *kabupaten* government has more authority, this does not mean that the local government can seek out sources of local revenue by creating as many sources of revenue as possible. Thus, the Kabupaten Cirebon government feels that as yet, there has been no real changes resulting from the implementation of regional autonomy. The *kabupaten* government is more focussed on efforts to effectively implement and collect existing taxes and levies, which have not been carried out effectively in the past. The local revenue target for the 2001 budget year increased by nearly 50% if compared to the target for the 1999/2000 budget year. The types of taxes and levies effectively charged in the 2001 budget year were generally long-existing charges for which a significant number of local regulations have not been updated (see Table 4). For the 2002 budget year, the local government plans to impose several new types of taxes and levies, as well as update pre-existing charges.

The existing taxes and levies in Kabupaten Cirebon have not been optimally implemented or collected because community awareness of these charges is quite low, especially in terms of the obligatory nature of these charges. For example, a large proportion of hotel and restaurant owners are unwilling to pay tax and avoid paying their dues. They oppose increases in the sales price of goods to cover the cost of the tax because they are concerned that this will cause them to be less competitive with other businesses, and they also object if their profits are reduced by paying taxes. In addition, consumers generally do not want to be taxed. The sanctions for parties not fulfilling their tax obligations have not been fully implemented and this in itself is difficult to carry out because of the difficult circumstances created by the economic

crisis and the community “freedom” euphoria following the fall of Suharto which has resulted in a stronger, more vocal community.

A snapshot of the efforts being made and the problems faced by the Kabupaten Cirebon government in terms of maximizing tax revenue are evident in the following summary:

- 1) Hotel and Restaurant Tax. Tax payers have demanded a flat rate of tax charged Rp15,000/month, even though restaurant income is usually between Rp50,000 – Rp500,000 per day. A number of businesses are of the opinion that the percentage system is still a burden.
- 2) Entertainment Tax. The same problems have occurred with the entertainment tax as have occurred with the hotel and restaurant tax. Meanwhile, there is only one cinema still in operation in Kabupaten Cirebon.
- 3) Advertisement Tax. This tax provides a substantial amount of revenue, but the *kabupaten* government has to overcome those who try and avoid their obligation to pay the tax.
- 4) Street Light Tax. This tax is classified as the most efficient in terms of collection because it is collected in cooperation with the State Electricity Company (*Perusahaan Listrik Negara – PLN*). However, the local government needs to pay attention to community demands in those housing settlements with no street lights.
- 5) Group C Mining Tax. The Palimanan Cement Factory has provided a significant amount of local revenue for the *kabupaten* government, even though the calculation of the volume of materials excavated is only based on claims made by the enterprise involved. It seems that the *kabupaten* government does not yet have an adequate number of staff with technical skills, nor the technology to measure the volume of materials extracted.

The Ground and Surface Water Tax is mainly obtained from sugar processing factories. These factories always request tax reductions from the *kabupaten* government because they are old and no longer operate efficiently. Usually the sugar factories pay approximately Rp600 million in tax per year. However, at the beginning of 2002 the authority over these factories was withdrawn and returned to the provincial government in accordance with Law No.34, 2001.

Third party contributions continue to be collected in accordance with the long-standing Local Regulation No.7, 1987 on “Local Revenue from Third Party Contributions”. The revenue from these contributions is not included as a component of taxes or levies, but rather is included in other items in the budget. One third party contribution being imposed at present is a charge on exporting enterprises amounting to Rp10,000/container. The charges are imposed by the local Office of Industry and Trade when the enterprise owner obtains the Origin of Goods Certificate. Each month it is estimated that approximately 800 containers are sent from *Kabupaten Cirebon*.

Table 4. Types of taxes and levies imposed in *Kabupaten Cirebon*

| No. | Name of the Tax or Levy | Latest Local Regulation Number and Explanation |
|---------------|--|--|
| Taxes | | |
| 1. | Hotel and Restaurant Tax | Local Regulation No.6, 1998 |
| 2. | Entertainment Tax | Local Regulation No.7, 1998 |
| 3. | Advertisement Tax | Local Regulation No.8, 1998 |
| 4. | Street Light Tax | Local Regulation No.9, 1998 |
| 5. | Exploitation and Processing of C Mining Activities | Local Regulation No.1, 1998 |
| 6 | Ground and Surface Water Tax | Local Regulation No.2, 1998. The draft local budget for the 2001 budget year did not budget for revenue from this source because the authority has been returned to the provincial government, but revenue is still received from this source. |
| Levies | | |
| 1. | Health Services Levies | Local Regulation No.20, 1997 |
| 2. | Sanitation and Cleaning Service Levies | Local Regulation No.17, 1997 |
| 3. | Issuing ID Cards and Civil Registration Documents Fees | Local Regulation No.18, 2000 on Administering Citizen Registration” contains two charges: - Issuing ID card fees - Civil Registration Document Fees |
| 4. | Parking and Public Roads Levies | Local Regulation No.13, 1996 |
| 5. | Market Levies | Local Regulation No.10, 1996 |
| 6. | Extraction of Local Resources Levies | Local Regulations No.19, 1993, No. 5, 1989, No.9, 1995 and Bupati Decision Letter No.028/SK/142.Um/86 |
| 7. | Terminal Levies | Local Regulation No.4, 1991 |
| 8. | Special Parking Permit Fees | Revoked, since the 2001 budget year this fee has not been included in the budget and has not provided any revenue |
| 9 | Septic Tank Waste Removal Levies | Local Regulation No.17, 1997 |
| 10. | Abattoir Levies | Local Regulation No.22, 1983 |
| 11. | Sports and Recreation Facility Levies | Local Regulation No.3, 1993 |
| 12. | Sale of Local Production Levies | Bupati Decision Letter No.187, 1986 |
| 13. | Use of Land Allocation Permit Fees | Local Regulation No. 15, 1993 |
| 14. | Building Permit Fees | Local Regulation No.3, 2000 |
| 15. | Noise/Disturbance License Fees | Local Regulation No.4, 2000 |
| 16. | Transport Route Permit Fees | Local Regulation No.14,1989 |
| 17. | Location License Fees (National Land Agency) | Local Regulation No.2, 2000, charged since the 2000 budget year |
| 18. | Motor Vehicle Road Worthiness Levies | Local Regulation No. 19, 2000, overlaps with provincial government authority |
| 19. | Third Party Contribution Fees | Local Regulation No.7, 1987, included in other items of income in the budget. |

Source: The Kabupaten Cirebon Government Financial and Legal Divisions

In the 1999/2000 and 2000 budget years, the Kabupaten Cirebon government still budgeted income from wholesale and retail distribution levies as part of a non-tax budget item in accordance with Provincial Government Regulation No.11, 1998. However, for the 2001 budget year income from these levies will no longer be accounted for in the budget because the authority for managing public fish markets remains unclear. To date, this authority is still being contested by the provincial, *kabupaten* and *kota* governments. In practice, the collection of public fish markets levies still refers to the stipulations determined in West Java Provincial Government Regulation No.9, 2000 on “Wholesale and Retail Distribution”.

The Kabupaten Cirebon government decided to create its own local regulations on the management of public fish markets: Kabupaten Cirebon Government Regulation No.53, 2001 on “Administering Public Fish Auctions” and Kabupaten Cirebon Government Regulation No. 54, 2001 on “Public Fish Market Levies”. The *kabupaten* government is convinced that the management of public fish markets must be handled by the *kabupaten* government itself. Consequently, they have ignored the provincial government regulations. This has already been discussed with the provincial government, but as yet no joint agreement has been made.

Kabupaten Cirebon Government Regulation No.53, 2001 stipulates that the levies on public fish markets should be charged based on the type of fish caught. In order to do this the fishermen would need to group their catch together according to the type of fish and then each set of fish could be provided with one levy receipt. This local regulation stipulates that the administration of fish auctions should be carried out by a fishing cooperative assigned through a Bupati Decision Letter. If a public fish market does not have a fishing cooperative which fulfills the requirements, then the Bupati can nominate another cooperative. These stipulations have given the impression of favoring the cooperatives and not facilitating free market practices. However, these stipulations are actually central government stipulations based on a Joint Decision by the Ministers of Home Affairs, Agriculture, Cooperatives and Small Business Empowerment Decision No.139, 1997. This Decision states that public fish auction administrators should be cooperatives. Furthermore, the aim of promoting cooperatives is intended to facilitate their empowerment.

Meanwhile, Kabupaten Cirebon Regulation No.54, 2000 stipulates the size of the public fish market levy at 3% of the value of the sale. In addition, there are also charges for the cost of administering public fish auctions, stipulated for the first time at Rp100,000, and Rp25,000 for re-registration. At the time this research was carried out, the *kabupaten* government had received Rp14 million from the public fish market levies. If a proportion of the revenue was not passed on to the provincial government the target revenue would have been Rp60 million. The public fish market levies are substantial sources of local revenue for the Kabupaten Cirebon government.

Furthermore, the Kabupaten Cirebon government has also created two local regulations which re-impose other charges, previously abolished in accordance with Law No.18, 1997. These include Kabupaten Cirebon Government Regulation No.51, 2001 on “Birds Nest Produce Taxes” and Law No.52, 2001 on “Public Auction Documentation Levies”. Both of these charges were ratified in September

2001, and the regulations were created in accordance with Law No.34, 2000. It is planned that these taxes and levies will become effective in the 2002 budget year. The tax on birds nest produce is charged at 10% of the sales price of the produce. The target revenue from this source is Rp155 million. Meanwhile, the public auction documentation levy is fixed at 0.1% of the value of the project, while for those projects carried out through direct appointment the levy imposed is 0.2% of the value of the project.

At present, the Kabupaten Cirebon Legal Affairs Division has prepared 18 new draft local regulations, including a regulation on "Local Information System Levies" which is related to supervision of video compact disk (VCDs) rentals and local radio broadcasts. During the discussion about the draft regulations with the local parliament, it seems that the legislature was strongly pushing the local government to increase local revenue through various types of local taxes and levies.

In addition, the Kabupaten Cirebon government is continuing to create an inventory of the different types of taxes and levies imposed, including charges imposed by those local government offices no longer in operation. These efforts have been carried out with continued reference to central government legislation (Law No.34, 2000 and Law No.22, 1999) and through taking into account the burden on the local community as well as the possibility of these charges overlapping with other taxes and levies. Consequently, the local government needs to carry out an in-depth study before imposing these charges. The local government also hopes that there is "willingness" on the part of the central government to provide the authority for the *kabupaten* government to impose charges on several taxes already in existence. This would make a significant contribution to local revenue, for example, taxes on value-adding in telecommunications (telephone services), ground and surface water taxes (preferably by not returning this authority to the provincial government), as well as motor vehicle taxes. It is sufficient that the central or provincial governments only regulate the mechanisms for sharing the revenue.

The Kabupaten Cirebon government is also in the process of considering the formulation of several forms of charges in different sectors, including:

- 1) The Food Crops Sub-Division of the Kabupaten Cirebon Office of Agriculture is considering imposing a levy on rice-milling. The size of the charge will be determined based on the capacity of the machine used. In addition, the office is also considering providing directives on the sale of production equipment entering the region, as a source of revenue. This office believes that there are actually many sources of local revenue which could be more profitable based on the principle that if agribusiness practices are soundly implemented and farmers secure genuine levels of output/produce, then the burden of taxes and levies would not seriously impact on farmers income. This would require an active role on the part of the provincial government in coordinating the *kabupaten* and *kota* governments to avoid a conflict of interest between regions, particularly in terms of the authority to collect the revenue from the charges.
- 2) The Kabupaten Cirebon Office of Fisheries and Maritime Affairs has already proposed the framework for a draft local regulation on Licenses for Fishing Enterprises (owning vessels under 10 gross tons).

- 3) The administration of activities and services at the Kabupaten Cirebon Office of Industry and Trade continues to refer to long-standing central government policies. This includes several laws such as: Law No.2, 1981 on “Calibration”, Law No.3, 1982 on “Obligatory Business Registration”, and Law No.5, 1984 on “Industry”. To date, the *kabupaten* government does not have any local regulations that are technical in nature. Consequently, this office has not yet made any contributions to local government revenue. The office plans to submit draft local regulations on industry and trade licenses, which are of a similar nature to those currently being imposed. These include: issuing Proof of Industry Registration (*Tanda Pendaftaran Industri – TPI*), Industry Licenses (*Surat Izin Usaha Industri – SIUI*), Proof of Business Registration (*Tanda Daftar Perusahaan – TDP*), Business Trading Licenses (*Surat Izin Usaha Perdagangan – SIUP*), and Proof of Warehouse Registration (*Tanda Daftar Gudang – TDG*). The concepts behind a large proportion of these local regulations are already in place but the formulation of the relevant local regulations has been delayed because the local government is preoccupied at present with the structure of its organizations and work systems, as well as the main tasks and functions of these offices.
- 4) Actually, the *kabupaten* government wishes to hold on to its authority in the field of callibration, but the local government also realizes that it does not yet have the means nor the qualified staff to carry out these activities.
- 5) The Kabupaten Cirebon Office of Transport and Communications has formulated regulations on levies on the loading and unloading of goods on public roads, which are to be paid every six months by businesses when their vehicles are inspected. The *kabupaten* government realizes that these efforts may burden the community, but they continue to impose the charges because the region badly requires additional funding.

The Kabupaten Cirebon government has not ratified any policies limiting trade because they do not see any need at present to create policies regulating regional trade activities. Similarly, the market structures are not characterized as monopolistic in nature and there are still many competitors in the market including large businesses making furniture and *batik* products in partnership with small businesses.

Kabupaten Garut

Before the implementation of Law No.22, 1999 on “Local Government” and Law No.34, 2000 on “Amendments to Law No.18, 1997 on Taxes and Levies” there were 21 local regulations on taxes and levies in Kabupaten Garut: six local tax regulations and 15 local levy regulations. These were all in accordance with Law No.18, 1997. Following the implementation of Law No.22, 1999, the Kabupaten Garut government re-instated a number of local regulations which were abolished through Law No.18, 1997. They also ratified new local regulations which now fall within the authority of the *kabupaten* and *kota* governments based on Law No.22, 1999 and Government Regulation No.25, 2000.

By October 2001, the Kabupaten Garut government ratified 24 new local regulations, 17 of which concerned taxes and levies (one regulation on taxes and 15 on levies). Three of these new regulations on taxes and levies modify long-standing local

regulations already in effect: streetlight taxes, transport route permits, and sports and recreation facility levies. Meanwhile, the authority over one type of tax was passed on to the provincial government: the ground and surface water tax. Consequently, by October 2001, there were 33 local regulations¹⁵ on taxes and levies in effect in Kabupaten Garut (see Table 5).

Table 5. Local regulations on taxes and levies effective in Kabupaten Garut, beginning 2002

| No. | Local Regulation Number | Name of the Local Regulation | Office of the Local Government Administering the Charge |
|-----|-------------------------------|--|---|
| A | Tax | | |
| 1. | Local Regulation No.5, 1999 | Hotel and Restaurant Tax | Local Treasury Office |
| 2. | Local Regulation No.6, 1999 | Entertainment Tax | Local Treasury Office |
| 3. | Local Regulation No.4, 1999 | Advertisement Tax | Local Treasury Office |
| 4. | Local Regulation No.19, 2001* | Streetlight Tax | State Electricity Company |
| 5. | Local Regulation No.2, 1998 | Exploitation and Processing of C Mining Activities | Local Office of Natural Resources and Mining |
| | Levies | | |
| 1. | Local Regulation No.8, 1989 | Health Services Levies** | Public Hospitals, Local Office of Health Services |
| 2. | Local Regulation No.9, 1999 | Sanitation and Cleaning Service Levies | Local Office of Settlements and Infrastructure |
| 3. | Local Regulation No.12, 2001* | Fees for issuing ID Cards and Civil Registration Documents | Local Office of Manpower, Social Welfare and Citizenship |
| 4. | n.a. | Funeral and Burial Service Levies | Local Office of Settlements and Infrastructure |
| 5. | Local Regulation No.10, 1999 | Parking and Public Roads Levies | Local Office of Transport and Communications |
| 6. | Local Regulation No.8, 1999 | Market Levies | Local Office of Industry, Trade, Investment and Market Management |
| 7. | Local Regulation No.4, 2001 | Motor Vehicle Road Worthiness Levies | Local Office of Transport and Communications |
| 8. | Local Regulation No.3, 2000 | Extraction of Local Resources Levies | Equipment Section |
| 9. | Local Regulation No.1, 2000 | Terminal Levies | Local Office of Transport and Communications |
| 10. | Local Regulation No.5, 2000 | Septic Tank Waste Removal Levies | Local Office of Settlements and Infrastructure |
| 11. | Local Regulation No.2, 2000 | Abattoir Levies | Local Office of Agriculture and Food Crops |
| 12. | Local Regulation No.9, 2001 | Permits for the Management of Privately Owned Timber | Local Office of Forestry and Plantations |

¹⁵ Based on Law No. 34, 2000, ground and surface water tax falls within the authority of the provincial government, but for the 2001 budget year it was still being collected by the *kabupaten* government.

| No. | Local Regulation Number | Name of the Local Regulation | Office of the Local Government Administering the Charge |
|-----|-------------------------------|---|---|
| 13. | Local Regulation No.11, 2001* | Sports and Recreation Ground License Fees | Local Office of Tourism, Art and Culture |
| 14. | Local Regulation No.7, 1999 | Use of Land Allocation Permit Fees | Local Office of Land Affairs |
| 15. | Local Regulation No.6, 1987 | Building Permit Fees | Local Office of Settlements and Infrastructure |
| 16. | Local Regulation No.5, 2001* | Public Transport Route Permit Fees | Local Office of Transport and Communications |
| 17. | Local Regulation No.14, 2001 | Quality Inspection of Dairy Milk Fees | Local Office of Agriculture |
| 18. | Local Regulation No.17, 2001 | Printing Machinery Levies | |
| 19. | Local Regulation No.16, 2001 | Construction Business License Fees | |
| 20. | Local Regulation No.15, 2001 | Noise/Disturbance Licenses and Business Location Permit Fees | |
| 21. | Local Regulation No.13, 2001 | Industry and Trade Business License Fees | Local Office of Industry, Trade, Investment and Market Management |
| 22. | Local Regulation No.10, 2001 | Tourism Business License Fees | Local Office of Tourism, Art and Culture |
| 23. | Local Regulation No. 8, 2001 | Permits for the use of Public Roads for Purposes other than Traffic | Local Office of Transport and Communications |
| 24. | Local Regulation No.7, 2001 | Loading and Unloading Goods Permit Fees | Local Office of Transport and Communications |
| 25. | Local Regulation No.6, 2001 | Transport Business License Fees | Local Office of Transport and Communications |
| 26. | Local Regulation No.18, 2001 | Licenses for Setting up Cooperatives | Local Office of Cooperatives, and Small to Medium Sized Enterprises |
| 27. | Local Regulation No.22, 2001 | Fees for the Inspection of Fire Extinguishers | |

Note: *new local regulation which amends the relevant long-standing local regulation

**Based on the most recent information available (January 2002), there are already new local regulations prepared to modify the local regulations on the health services levies (Local Regulation No.29, 2001 for public hospitals, and Local Regulation No.30, 2001 for community health centers) which were issued to increase the levy.

Source: Kabupaten Garut Legal Affairs Division.

Even though 17 new local regulations were ratified by mid-2001, not all revenue from these local regulations were estimated in the revised Kabupaten Garut budget for 2001. The revenue from only three of these regulations was targeted in the 2001 budget:

- 1) Motor Vehicle Road Worthiness Levies with a target of Rp68.8 million;
- 2) Permits for the Management of Privately Owned Timber with a target of Rp12 million; and,
- 3) Fees for the Quality Inspections of Dairy Milk with a target of Rp33 million.

The implementation of Law No.18, 1997 on “Local Taxes and Levies” abolished 15 types of levies in Kabupaten Garut, resulting in a loss of Rp800 million in revenue. The ratification of Law No.34, 2000 which revised Law No. 18, 1997, created the opportunity for the Kabupaten Garut Government to reinstate the local regulations on taxes and levies which had been abolished. The new local taxes and levies, as well as plans to increase the taxes and levies already in place, have resulted in the Kabupaten Garut local revenue targets being increased by 70% from the 2000 budget year. In 2000, the actual revenue collected amounted to Rp9.3 billion (for the nine month budget year), whereas for 2001 the targeted revenue is Rp15.9 billion.¹⁶ For 2002, it was estimated at the time this research was carried out that the local revenue targets will be even higher because 17 types of new taxes and levies are now effective and another 10 draft regulations on taxes and levies are waiting to be ratified. The 2002 Kabupaten Garut Government budget was not available at the time this research was conducted because it was still being proposed by the local parliament.

In the 2001 budget year, local revenue constituted 4% of all income for the Kabupaten Garut Government budget, while the General Allocation of Funds constituted 92% (Rp370 billion). Under these financial conditions, the respondents from the Local Treasury Office believe that Kabupaten Garut will continue to be financially dependant on the central government, even if it is given full fiscal authority.

In terms of expenditure, the proportion of funds allocated for routine expenses and development expenditure has not changed between the 2000 and the 2001 budget years. However, nominally the amount allocated for routine expenses has increased two fold, from Rp131 billion (revenue collected in the nine month financial year) to Rp317 billion (targeted revenue for the 2001 budget year). The increase in routine expenditure has mainly been allocated for civil servants salaries, amounting to 84% of the Kabupaten Garut Government budget. Back pay for civil servants salaries cannot be taken from the development budget because it has already been allocated for the sectors considered to be of high priority, such as projects which have already gone to tender that cannot be cancelled. In addition, the local government has to provide matching funds for central government projects, such as the Community Empowerment and Local Government Support Program (*Pendukung Pemberdayaan Masyarakat dan Pemerintah Daerah – P2MPD*) and the Kecamatan Development Program (*Program Pembangunan Kecamatan – PPK*). At the end of 2001, the Kabupaten Garut Government was still responsible for the shortfall in civil servant salary back pay which amounted to Rp37 billion.

For the Kabupaten Garut government, drafting local regulations on taxes and levies has created a dilemma. On the one hand, in the present era of trade globalization, it is inappropriate for the *kabupaten* governments to issue regulations which limit community economic activities. However, on the other hand, they are forced to seek out local revenue through increasing taxes and levies which are similarly placing a larger burden on the community, because they have no other avenues available to increase this revenue. Meanwhile, the local assemblies also tend to push for increases in local revenue, because the size of funds provided for the assembly depends on local revenue.

¹⁶ Data available at the time the research was conducted.

Minister of Finance Letter No. S-486/MK.07/2001, November 2, 2001 reiterates the local regulations which are under consideration to be revoked. However, the local regulations issued by the Kabupaten Garut government are not included in this list. At the same time, several things need to be highlighted about the local regulations in Kabupaten Garut, including¹⁷:

- 1) Levies and definition of services. The types of services provided in return for several new levies are not clear, particularly for the levies categorized in terms of special licensing. For example, the Loading and Unloading Goods Permit Fees¹⁸ and the Management of Privately Owned Timber Permit Fees.
- 2) Levies for the inspection of the quality of dairy milk (Local Regulation No.14, 2001). Even though the local regulation on these levies was ratified in July 2001, livestock owners requested that the implementation be delayed until January, 2002. However, based on the Financial Status Report for Kabupaten Garut in October 2001, this source of revenue was already targeted at Rp33 million. In spite of this, in October 2001, no revenue had been collected based on this regulation.

In a meeting with the Kabupaten Garut government and the Kabupaten Garut parliament, the Village Cooperatives requested that these levies be collected by only one party on behalf of the local government. This means that after paying these levies, they can not be charged again by other local government offices, institutions or at the village level of administration. Other government offices and administrations should be able to request access to a proportion of the funds from the Kabupaten Garut government. Before this regulation was ratified, it was discussed with factory representatives (for example Indomilk) in the hope that the factories would be willing to pay the levies. However, the factories rejected the proposal because they are already paying taxes to the central government.

The local regulations on animals, livestock, livestock produce, and other by-product inspection levies (including dairy milk) in other *kabupaten* are under consideration to be revoked based on the Letter from the Minister of Finance mentioned above. This is because, the inspection of animals/livestock and their by-products should not incur a levy because there are no real services prepared or provided by the local government for public interest or benefit.

3. Permits for the Management of Privately Owned Timber (Local Regulation No.9, 2001). This regulation was ratified in June 2001, and was imposed starting in September 2001. During September, the revenue collected from these levies amounted to Rp7.87 million and by the end of October the entire amount collected (September and October) amounted to Rp11.984 million.

¹⁷ These notes are also related to the local regulations in other regions which are under consideration to be revoked based on Minister of Finance Letter No. S-486/MK.07/2001.

¹⁸ This local regulation in Kabupaten Indramayu and those of a similar nature in other *kabupaten* are under consideration to be revoked. Firstly because loading and unloading activities can not be classified as levies for particular permits or licenses, because there is no public interest to be protected. Secondly, because the use of roads and/or particular places owned or administered by the local governments for loading and unloading activities can incur a parking fee or rent can be charged.

Privately owned timber refers to timber produced from land owned by the community, either land owned by individuals or organizations. The levies paid for permits to manage privately owned timber are as follows:

- Tree felling permits incur a charge of between Rp1,000-Rp2,500 per tree, depending on the type of tree.
- Transportation of wood incurs a charge of between Rp2,000-Rp3,500/m³, depending on the type of wood, and Rp350/m³ for firewood.
- Inspections of chainsaws incur a charge of between Rp15,000-Rp100,000/chainsaw, depending on the type of chainsaw.

Apart from issues surrounding levies, a large number of complex requirements for obtaining licenses must be fulfilled before the felling begins. Consequently, it has been difficult to implement this regulation. Even though these levies have been imposed with the good intention of supporting the conservation of natural resources, the complexity of the licensing process may result in the emergence of unofficial taxes, or levies may be charged without providing any supervisory services related to these levies.

The same type of local regulations on extracting forest products from land owned by the Kabupaten Bengkulu Selatan government include levies which are under consideration to be abolished in Minister of Finance Letter No. S-486/MK.07/2001. The reasons provided in this letter include:

- i) Extraction of forest wood products from private land in principle does not need to be controlled by the local governments because there is no aspect of the public interest which needs to be protected; and
- ii) In principle the regions can better optimize the revenue collected through the Land and Building Tax (*Pajak Bumi dan Bangunan – PBB*).

In addition, the levies on chainsaw inspections are not appropriate. The ownership of chainsaws should not require permits because once again there is no aspect of the public interest requiring protection.

4) Levies in the Transport and Communications Sector. The local government office which manages the largest number of local regulations on new taxes and levies is the Office of Transport and Communications. They manage the following local regulations:

1. Local Regulation No.4, 2001 on “Motor Vehicle Road Worthiness Levies” with a targeted revenue for July-December 2001 of Rp68 million. This target is only estimated for six months because the regulation was ratified in June 2001 after the beginning of the 2001 budget year.
2. Local Regulation No.5, 2001 on “Public Transport Route Permit Levies” with a targeted revenue for July-December 2001 of Rp60 million.
3. Local Regulation No.6, 2001 on “Transport Business License Fees” with a targeted revenue for July-December 2001 of Rp9 million.

4. Local Regulation No.7, 2001 on “Loading and Unloading Goods License Fees”, with a targeted revenue for July-December 2001 of Rp6 million.
5. Local Regulation No.8, 2001 on “Permits for the Use of Roads for Purposes other than Traffic” with a targeted revenue for July-December 2001 of Rp5 million.

Even though the Office of Transport and Communications has already targeted the size of the levies which can be collected through Local Regulations No.6, 7, and 8, 2001, based on the report of actual local revenue received by the Kabupaten Garut Government up until October 2001, no revenue has been collected from the levies stipulated in these three local regulations. In fact, these levies have not been included in the report.

Representatives from the Office of Transport and Communications have stated that the most difficult problem to overcome is the unofficial taxes charged by both local thugs (*preman*) and rogue police officials. In the Jonggol and Purwakarta regions, for example, the practice of *premanisme* continues, where unofficial charges as high as Rp300,000/truck/year are imposed. These people are organized into groups, each of which controls a certain region. As evidence that a truck has passed through one of these regions and paid the “charge”, the code of the name of group leader is usually stamped on the body of the truck. The trucks incur more charges when they enter the wholesale markets in Jakarta. The taxes and levies imposed at the terminals also tend to be more expensive than what is detailed in the regulations because they must cover the costs of honorarium fees for employees and volunteer workers.

At present, the cost for drivers license extensions has reached Rp150,000, although the official fee is only Rp52,000. It is also unclear where the money from these services is allocated. Previously, at the time the agreement was made with the PT. Citra Nusapala to computerize the issuing of drivers licenses, a large proportion of the revenue was possibly deposited with this enterprise.

This discussion of local regulations in Kabupaten Garut indicates that several of the local regulations ratified by the Kabupaten Garut government are similar to the local regulations in other regions which are under consideration to be revoked by the Ministry of Finance. However, these local regulations are not included in the list of local regulations which are being considered to be abolished. This is possibly because the local regulations in question were only ratified in mid-2001 and have not been reported to the central government, whereas the Minister of Finance Letter was issued in November 2001. The majority of local regulations in the list under consideration to be abolished by the Minister of Finance are those which were ratified in 2000.

The Legal Affairs Division of the Kabupaten Garut government is aware that there are many weaknesses in the process used to formulate local regulations. Consequently, they hope that they receive input from the central government so that any mistakes or irregularities can be corrected. They also hope that the government, particularly the Department of Home Affairs (*Departemen Dalam Negeri – Depdagri*), makes available staff who are able to provide consultation on the process of

formulating local regulations. The Kabupaten Garut government always sends the ratified local regulations to the Legal Bureau in the Department of Home Affairs hoping that they will receive a response, although to date the central government has given no such response. Hence, the local government is not certain whether mistakes have been made or not in the ratified local regulations. The provincial government only received these local regulations from the *kabupaten*, without providing any input or corrections. If this process continues, the local governments may continue to repeat the same mistakes.

In addition to the 17 local regulations on new taxes and levies which have already been ratified, the Kabupaten Garut government has also planned to create several new local regulations on other charges. At the time this research was carried out, these were still at the stage of discussion and initial planning, including:

- The plan to impose charges on birds nest producers. In several other *kabupaten* in the Province of West Java, similar charges have already been imposed.¹⁹
- According to the local Office of Plantations, tobacco farmers which are associated with the Village Cooperative are prepared to provide contributions to the *kabupaten* government, as are the *akar wangi* farmers. In relations to this, the local Office of Plantations plans to bring binding third party contributions into effect. Actually, this office has doubts about the proposed charges for plantation commodities as a source of local revenue. However, there continues to be demands to increase local revenue, particularly from local assembly members who are pushing for local regulations to be made in regards to this sector.

Based on the Minister of Finance Letter mentioned above, all types of third party contributions, no matter what the target of the charge is, are classified as a part of local regulations under consideration to be revoked. This is because regulations of this nature are in conflict with the public interest, where the contributions are meant to be voluntary, and under no circumstances may payment be forced.

- The Kabupaten Garut government is considering the possibility of creating a local regulation on vehicles exceeding load capacity, bearing in mind there are several classes of roads. However, this government still requires clarification on the existing classes of roads.

The local regulations on vehicles exceeding capacity in other *kabupaten*, such as those in Kabupaten Indramayu, Batang Hari, and Bekasi, are included in the local regulations which are being considered by the Minister of Finance to be revoked for the following reasons:

- i) they are in conflict with Law No.13, 1980 on “Roads” which states that roads are infrastructure for land transportation to be used by general traffic;

¹⁹ Most recent information (January 2002). The Kabupaten Garut Government has already ratified Local Regulation No.26, 2001 on “Birds Nest Taxes”. In addition,, at the end of 2001, the local government also ratified Local Regulations No.25, 2001 on “Parking Fees” and No. 27, 2001 on “Television Taxes”. By the end of 2001, eight types of taxes were in effect in Kabupaten Garut.

- ii) Law No.14, 1992 on “Road Transport Traffic” which mentions that public use of the roads must be in accordance with the use and classification of the road; and
- iii) the payment system for road infrastructure which is applied at present already charges people who use the road through Motor Vehicle Registration Tax and Motor Vehicle Fuel Tax.

In Kabupaten Garut no non-tariff regulations were found which regulated the trade of goods and services. However, recently, there have been complaints from the tea leaf processing factories that they have been experiencing problems with tea leaf supplies because many farmers are selling their tea to the factories in Kabupaten Tasikmalaya which borders Kabupaten Garut.

In light of this, the factories in Kabupaten Garut have requested that the local government issue prohibitions on farmers selling their tea leaves outside of the *kabupaten*. The local Office of Plantations has not yet responded to these demands. For the moment, this office is endeavoring to provide information with more appropriate objectives, appeal to factories in Kabupaten Garut so that they pay the farmers and trades more quickly, and to coordinate the Kabupaten Tasikmalaya Office of Plantations in terms of the quality of tea leaves being sold to the factories.

In 1990, the Province of West Java implemented a tea trading zone system. At the time, farmers from certain regions were compelled to sell their tea to the PT. Teh Nusamba factories. This zoning system caused farmers to incur financial losses, because the aim was to protect these factories so that the supply of tea ran smoothly. Since 1998, this system was no longer imposed even though the regulations have not formally been abolished.²⁰

Kabupaten Ciamis²¹

The Kabupaten Ciamis Government has also ratified new local regulations following the release of Law No.22, 1999 and Law No.34, 2000. Up until November 2001, the Kabupaten Ciamis government had already ratified 27 new local regulations, 19 of these being related to taxes, levies (16) and other charges (two) which are included in other items of income under the sub-item of third party contributions (see Table 6).

From the 19 local regulations mentioned above, six of these were revisions of local regulations already in effect. The remainder are new local regulations created as a result of the shift of authority from the central and provincial governments to the *kabupaten* and *kota* governments based on Government Regulations No.25, 2000, as well as reinstating local regulations which were abolished by Law No.18, 1997 (for example, the local regulation on “Printing and Certification Fees”).

²⁰ SMERU, “*Deregulasi Perdagangan Regional: Pengaruhnya terhadap Perekonomian Daerah dan Pelajaran yang Diperoleh*”, December 1999.

²¹ The analysis of regulations in Kabupaten Ciamis is only based on the secondary data successfully gathered together by the local researchers. The SMERU team did not carry out any discussions directly with respondents like in Kabupaten Cirebon and Kabupaten Garut.

Table 6. Local regulations on taxes and levies effective in Kabupaten Ciamis, beginning 2002

| No. | Local Regulation Number | Name of the Local Regulation | Office of the Local Government Administering the Charge |
|-----|-------------------------------------|--|---|
| A | Tax | | |
| 1. | Local Regulation No.11, 1998 | Hotel and Restaurant Tax | Local Treasury Office |
| 2. | Local Regulation No.12, 1998 | Entertainment Tax | Local Treasury Office |
| 3. | Local Regulation No.1, 2000 | Advertisement Tax | Local Treasury Office |
| 4. | Local Regulation No.11, 1992 | Street Light Tax | State Electricity Company |
| 5. | Local Regulation No.2, 1998 | Exploitation and Processing of C Mining Activities | Local Treasury Office |
| 6. | Local Regulation No.27, 2001 | Management and Cultivation of Birds Nests and Similar Products | Local Office of Agriculture |
| | Levies | | |
| 1. | Local Regulation No.2, 1994 | Health Services Levies | Local Office of Health Services |
| 2. | Local Regulation No.2, 2000 | Sanitation and Cleaning Service Levies | Local Office of Parks and Sanitation |
| 3. | Local Regulation No.11, 2001* | Fees for issuing ID Cards and Civil Registration Documents | Local Office of Manpower and Citizenship |
| 4. | Local Regulation No.13, 1999 | Levies for Parking on the side of Public Roads | Local Office of Transport and Communications |
| 5. | Local Regulation No.12, 1999 | Market Levies | Local Office of Market Services |
| 6. | Local Regulation No.7, 2001 | Motor Vehicle Road Worthiness Levies | Local Office of Transport and Communications |
| 7. | Local Regulation No.23, 2001* | Extraction of Local Resources Levies | Local Office of Market Services, Local Office of Tourism and Culture, Local Treasury Office, Local Office of Settlements and Infrastructure |
| 8. | Local Regulation No.8, 2000 | Fish Auction Levies | Office of Fisheries and Maritime Affairs |
| 9. | Local Regulation No.7, 1991 | Bus and non-bus Terminal Levies | Local Office of Transport and Communications |
| 10. | Official Notary Contract No.3, 1989 | Lodging, Rest House, and Villa Levies | Local Office of Tourism and Culture |
| 11. | Local Regulation No.3, 2000 | Septic Tank Waste Removal Levies | Local Office of Parks and Sanitation |
| 12. | Local Regulation No.8, 1995 | Abattoir Levies | Local Office of Agriculture |
| 13. | Local Regulation No.21, 2001* | Sports and Recreation Ground License Fees | Local Office of Tourism, and Culture |
| 14. | Local Regulation No.6, 1996 | Sale of Local Produce Levies | Office of Agriculture, and the Office of Maritime Affairs |
| 15. | Local Regulation No.22, 2000 | Use of Land Allocation Permit Fees | Local Office of Land Affairs |

| No. | Local Regulation Number | Name of the Local Regulation | Office of the Local Government Administering the Charge |
|---------------------|-------------------------------|--|---|
| 16. | Local Regulation No.26, 2001* | Building Permit Fees | Local Office of Settlements and Infrastructure |
| 17. | Local Regulation No.20, 2000 | Noise/Disturbance License Fees | Local Office of Industry, Trade and Cooperatives |
| 18. | Local Regulation No.18, 2001* | Transport Route Permit Fees | Local Office of Transport and Communications |
| 19. | Local Regulation No.12, 2001 | Printing and Certification Service Fees | Local Treasury Office |
| 20. | Local Regulation No.16, 2001 | Transport Business License Fees | Local Office of Transport and Communications |
| 21. | Local Regulation No.17, 2001 | Use of Public Roads and Loading and Unloading Goods Permit Fees | Local Office of Transport and Communications |
| 22. | Local Regulation No.20, 2001 | Tourism and Culture Business License Fees for Businesses Operating in Kabupaten Ciamis | Local Office of Tourism and Culture |
| 23. | Local Regulation No.22, 2001 | Tractor Services Business License Fees | Local Office of Agriculture |
| 24. | Local Regulation No. 19, 2001 | License Fees and Cost of Unloading Advertisements in Kabupaten Ciamis | |
| 25. | Local Regulation No.10, 2001 | Administrative Service Fees for Privately Owned Forest Produce Businesses | Local Office of Forestry |
| 26. | Local Regulation No.9, 2001 | Fishing and Maritime Business License Fees | Local Office of Fishing and Maritime Affairs |
| 27. | Local Regulation No.5, 2001** | Control and License Service Fees for Waste Disposal Businesses | Local Office of Environmental Control |
| Other Income | | | |
| 1. | Local Regulation No.24, 2001* | Auction Document Fees | Regional Secretary's Office |
| 2. | Local Regulation No. 13, 2001 | Public Mining in Kabupaten Ciamis | Local Office of Mining and Energy |

Note: *New local regulation which modifies the relevant long-standing local regulation

**Had not yet been included in the 2001 budget revenue targets or predicted revenues for the 2002 budget at the time this research was carried out.

Source: A compilation of Kabupaten Ciamis documents for 2001. Draft Kabupaten Ciamis Budgets for the 2000 and the 2001 budget years.

The contents of a number of new local regulations requiring close attention include:

- The Management and Cultivation of Birds Nests (Local Regulation No.27, 2001). This local regulation has been formulated based on Law No. 34, 2000 which gives the regions a chance to determine taxes outside of those outlined in the present laws. A number of local regulations on similar taxes on commodities (both goods and services) in other regions are presently being considered to be revoked based on the Letter from the Minister of Finance.

- Permits for the Use of Public Roads and the Loading and Unloading of Goods (Local Regulation No.17, 2001), Administrative Service Fees for Privately Owned Forest Produce Businesses (Local Regulation No.19, 2001), and License Fees and Costs of Unloading Advertisements in Kabupaten Ciamis (Local Regulation No.9, 2001). In other *kabupaten*, these three taxes are under consideration to be abolished. The reasons given for why the regulation on License Fees and Costs of Unloading Advertisements in Kabupaten Ciamis is being considered to be revoked include:
 - 1) this charge is collected as a tax, therefore the amount which has to be paid does not depend on the costs incurred in the unloading process; and
 - 2) advertisements are already taxed and therefore this additional charge will only become a larger burden for the community.
- Auction Document Fees (Local Regulation No.24, 2001) and Public Mining in Kabupaten Ciamis (Local Regulation No.13, 2001). These two regulations are not considered to be levies according to the local government budget, instead they are deemed to be “other income” in the sub-section on third party contributions. This contravenes the principle of voluntary contributions. Both regulations impose charges fixed at an amount in accordance with the tasks carried out. In addition, third party contributions are included amongst the local regulations which are being considered to be abolished through the Letter from the Minister of Finance.

Before these new local regulations on taxes and levies were introduced, the local revenue section of the Kabupaten Ciamis government budget for 2000 included six local taxes, 17 levies as well as additional third party contributions which were included as ‘other income’. The tax on the use of ground and surface water is no longer collected as the authority to do so has been passed on the provincial government. With the addition of new local regulations on taxes, namely the Management and Cultivation of Birds Nests Tax, the number of taxes in the Kabupaten remains at six. Meanwhile, the new fees or levies introduced have increased their total to 27, and an additional two charges classified as third party contributions in the ‘other income’ section have also been introduced.

All of these new local regulations on taxes and levies, except the regulation on Control and License Service Fees for Waste Disposal Businesses are targeted to be included in the changes to the 2001 local government budget. A large proportion of the targeted revenue for 2001 budget year comes from Public Fish Auction Levies (Rp297.5 million) and Motor Vehicle Inspection Levies (Rp252 million). The total revenue target from these new regulations for the 2001 budget year is Rp988.46 million, and is estimated to increase to Rp1,172.8 million for the 2002 budget year. Yet, the local government has lost one tax, the tax on the use of ground and surface water, which during the 2000 budget year accounted for Rp64 million in revenue (see Table 7). The local revenue target for the 2002 budget year, with the implementation of these new taxes and levies is estimated to reach Rp13.3 billion, an increase of 60% compared to the total amount of local revenue collected in 2000.

Table 7. Revenue targets from the local regulations on new levies in Kabupaten Ciamis, for the 2001 and 2002 budget year*

| No. | Tax or Levy | Target for 2001** (millions of Rp) | Target for 2002 (millions of Rp) | Actual Revenue (millions of Rp) |
|-----|---|---------------------------------------|-------------------------------------|------------------------------------|
| 1. | Management and Cultivation of Birds Nests Tax | 15 | 10 | |
| 2. | Motor Vehicle Road Worthiness Levies | 252 | 263 | |
| 3. | Fish Auction Levies | 297.5 | 352.998 | |
| 4. | Printing and Certification Service Fees | 80.6 | 101 | |
| 5. | Transport Business License Fees | 16 | 37.172 | |
| 6. | Use of Public Roads and Loading and Unloading Goods Permit Fees | 11.75 | 59.5 | |
| 7. | Tourism and Culture Business License Fees | 42 | 42 | |
| 8. | Tractor Services Business License Fees | 12.5 | 15 | |
| 9. | License and Unloading Advertisement Fees | 2 | 6 | |
| 10. | Administrative Service Fees for Privately Owned Forest Produce Businesses | 226.61 | 252 | |
| 11. | Fishing and Maritime Business License Fees | 2.5 | 4.2 | |
| 12. | Auction Document Fees | 30 | 30 | |
| | Total Local Revenue*** | 12,354.294 | 13,383.849 | 8,344.911 |

Note: * Does not include revised local regulations and the Local Regulation on "Control and License Service Fees for Waste Disposal Businesses"

** Income targets following the adjustments to the Kabupaten Ciamis Government Budget, these targets were not available at the time the 2001 budget was ratified

*** Local Revenue does not include shared tax revenue and non tax revenue.

Source: Kabupaten Ciamis Treasury Office

The Kabupaten Ciamis government is making efforts to increase local revenue not only by adding to the number of charges through the creation of new local regulations, but also by increasing the charges imposed by the regulations already in place. For example, the total of revenue collected from Hotel and Restaurant Taxes in the 2000 budget year amounted to Rp487 million, yet the revenue target for this same tax in the 2002 budget year has almost doubled, making it Rp850 million. Another examples is the Market Levy, the revenue collected from this levy in the 2000 budget year amounted to Rp472 million, meanwhile the target for this same levy in the 2002 budget year is Rp2.75 billion, five times that amount.

Kabupaten Ciamis has already conducted a follow up step after the implementation of decentralization, by issuing Bupati Decision No.80, 2001 which delegates a part of the Kabupaten's authority to the *kecamatan*. A portion of this delegated authority is related to levies and charges. The following constitutes three examples indicating how authority has been delegated in part to the *kecamatan*:

- Local Regulation No.26, 2001 on “Amendments to Kabupaten Ciamis Local Regulation No.21, 2001 on Building Permit Levies”. The authority which has been delegated to the *kecamatan* concerns the writing-off of building permit levies.
- Local Regulation No.20, 2000 on Noise/Disturbance License Fees. The *kecamatan* have been delegated the authority to be in charge of this licensing process for rice-milling enterprises and mobile saw mills.
- Local Regulation No. 18, 2001 on Transport Route Permits. The *kecamatan* have been delegated the authority to update the registration of public transport in rural areas.

The community in general will benefit, particularly business people, because they will no longer need to go all the way to the Kabupaten Government Office to obtain their licenses if the *kecamatan* are really delegated this authority.

III. THE BUSINESS ENVIRONMENT AND LOCAL REGULATIONS

Local regulations, especially those relating to business licenses, taxes, levies and other forms of fees such as third party contributions, have a direct effect on the business climate in the region. Furthermore, the business climate directly impacts on improvements in national economic performance which has until now remained poor. In other words, local regulations which have the potential to disturb the business environment will impede national economic recovery. In line with this, it is not surprising that the problem of local regulations has attracted the attention of international donor institutions and has been addressed in Indonesia's Letter of Intent (LoI) submitted to the International Monetary Fund (IMF). This indicates that the regulations created by local governments, although confined to certain areas, will continue to have a serious national impact.

The business community has often voiced their objections to increases in various taxes and levies imposed by the local governments. An example of this can be seen in letter No. 238/GPP/IX/2001, dated September 4, 2001 sent to the Governor of West Java by the Association of Plantation Businesses (GPP). In this letter, the association explained that several local regulations on taxes and levies have recently been issued by the *kabupaten*, *kota* and village governments. The Association of Plantation Businesses considers these taxes and levies to be a burden, because they increase production costs without raising the level of value-added production. As a result, GPP are proposing that the Provincial government apply Government Regulation No. 20, 2001 on "Guidance and Supervision of *Kabupaten* and *Kota* Government Administrations". A few of these contested local regulations in the agricultural sector include:

- 1) Local regulations on ground and surface water taxes. Law No. 34, 2000 states that these taxes are provincial government taxes. However, a number of *kabupaten*, for example, Kabupaten Bandung, Cianjur, Sukabumi and Garut have both created their own local regulations and now collect the revenue from them themselves. In addition to overlapping taxes, the amount of each tax differs depending on the *kabupaten*. For example, in Kabupaten Bandung water incurs a charge of Rp350/m³, and Rp189/m³ in Kabupaten Sukabumi, whereas the Kabupaten Garut and Kabupaten Cianjur governments charge Rp1,250 and Rp7,500 respectively per hectare of plantation land.
- 2) Local regulations on fees for intended relocations based on the extension of leasehold certificates in Kabupaten Lebak. According to the Association of Plantation Businesses, fees of this nature should only be charged for new projects which require new locations. They are of the opinion that it is inappropriate to collect fees for requests to extend plantation leasehold certificates.
- 3) Local regulations on agricultural and plantation produce. These regulations are imposed in Kabupaten Cianjur, where Rp15 is charged per kilogram and collected from factories processing tea obtained from community owned tea plantations. Kabupaten Tasikmalaya is presently drafting a local regulation which will impose a

tax of Rp5 on every kilogram of produce. Kabupaten Sukabumi has already issued a local regulation on fees for the inspection of farm produce. The village of Cicadas in Kecamatan Sagalaherang, Kabupaten Subang charges farmers Rp2 per kilogram for young tea leaves.

A summary of the business climate in West Java is outlined below. It has been divided up according to sectors.

1. The Provincial Level

The implementation of regional autonomy has brought drastic changes to several aspects of local government. This is evident in the increasingly limited authority of the provincial government. For example, the authority of the Provincial Office of Industry and Trade is presently restricted to the field of metrology. Even in this field, their authority is limited to consumer protection, rather than regulatory directives. One staff member from this office stated that there was really no need for a Provincial Office of Industry and Trade because the *kabupaten* and *kota* governments have already been given the authority to carry out most duties. Since the implementation of regional autonomy, the provincial government has not issued any regulations relating to industry and trade activities, or the business environment in general.

The transfer of authority from the Provincial government to the *kabupaten* and *kota* governments has resulted in poor coordination of aspects relating to trade and industrial development. For example, sound coordination is required if Kabupaten A is to provide industry licenses, when waste products from the enterprise concerned are disposed of in rivers or in the air within the boundaries of Kabupaten B or even Kabupaten C, as this will consequently burden both neighboring Kabupaten. It is also a concern that as a result of poor coordination, trade blocks between areas will be set up because each area would like to protect their own commodities which they consider to be of superior quality compared to other regions. In addition, the tendency for the *kabupaten* and *kota* governments to increase local revenue through the implementation of taxes and levies does not positively contribute to the business climate.

At the same time, this does not mean that the provincial government is no longer interested in increasing their local revenue. For example, West Java Provincial Regulations No.8, 2000 and No.9, 2000 on wholesale distribution, have been imposed in order to collect public fish market levies. A number of *kabupaten* and *kota* governments have begun to oppose this, as public fish markets are already included within their authority. In addition to the levies on public fish markets, the provincial government is endeavoring to find other sources of local revenue from the fisheries sector, for example, through the regulation of fishing permits for boats weighing between 10-30 GT, certificates ensuring the quality of fingerlings, and certificates ensuring the quality of fish produce for export.

In the plantations and forestry sector, there is still an overlap between the authority of the provincial government and the authority which has been passed on to the *kabupaten* and *kota* governments. For example, Local Regulations No.23, 2000 on Tree Felling and No. 24, 2000 on Tea Processing Enterprises are actually in conflict

with local regulations in Kabupaten Cianjur, Garut, Ciamis and Tasikmalaya which regulate the same matters.

2. The Kabupaten Level

Kabupaten Cirebon

Public policy on the development of industry and trade in Kabupaten Cirebon focusses on:

- 1) Developing commodities which are considered profitable, for example, rattan, *batik* and rubber sandals;
- 2) Developing the manufacturing industry as well as agroindustry which will include gem stones, garments, *melinjo*²² chips, timber for the construction of furniture, fried onion garnish, and snacks through local industry centres; and
- 3) Developing small-scale industries.

In order to develop these industries as well as trade, the Kabupaten Cirebon government has yet to create any specific local regulations within the sector. The market and industry structure set up for all products relies completely on market mechanisms. The *kabupaten* government is aware that economic activities will continue to be carried out efficiently provided that the local government does not intervene and create market distortions. As a result, the *kabupaten* government does not see any reason to create policies which regulate production activities and the trading system in the region.

Furthermore, the Chamber of Commerce and Industry stated that the implementation of regional autonomy in Kabupaten Cirebon has not disrupted business activities so far. In other words, Kabupaten Cirebon, in implementing regional autonomy, has taken a “friendly” approach towards the entire business community in the region, no matter how large or small the enterprise. Nevertheless, in order to anticipate and ensure that no local regulations which may disrupt the business environment in the future are created, the Chamber of Commerce and Industry has decided to play an active role in providing input and policy recommendations to the Kabupaten Cirebon government.

According to the Chamber of Commerce and Industry, current obstacles for the business environment in Cirebon are actually the result of local regulations in other regions. For example, the rattan industry in Cirebon is presently experiencing difficulties in obtaining raw materials. This is because the government in the region where rattan is being produced has issued a regulation permitting the export of raw rattan, resulting in a shortage of rattan supplies in Cirebon. Regional autonomy should not be interpreted to suggest that every business activity must only concern itself with the interests of the region, on the contrary, it should be placed within a national framework, where national interests are taken into account. Nevertheless, in this era of regional autonomy, business activities should be kept open, in the sense that each region should not isolate itself. Regional autonomy needs to ensure cooperation between the regions, between *kabupaten* and *kota* as well as between

²² Melinjo (*Gnetum gnemon*) is a tree bearing edible leaves and seeds.

provinces, and it should avoid creating conditions which result in isolation and urbanization which can have a detrimental effect on all concerned.

The general trade and industry regulations presently in effect in Kabupaten Cirebon still refer to policies issued by the central government, for example, Law No.2, 1981 on "Metrology", Law No.3, 1982 on "Compulsory Business Registration" and Law No.5, 1984 on "Industry". Revenue from various trade and industry services is still being handed over to the central government. Within the framework of implementing regional autonomy, the Kabupaten Cirebon government, through the Office of Trade and Industry, have planned to draft a local regulation on trade and industry licencing. The licences which have been planned for implementation are the same as those currently being imposed, covering industry registration, industry licences, business registration, trade licences and warehouse registration. The only difference between these licences and those presently in place is the government responsible for collecting the revenue. If the central government currently has the right to collect these taxes and levies, these draft regulations will allow the *kabupaten* government to collect the same revenue from these charges in the future.

1) **Batik Products**

Business people producing *batik* have stated that they are yet to obtain any information on the implementation of regional autonomy, nor have they attended any sessions aimed at publicizing the issue. Regional autonomy is yet to have an impact on their business activities. The Kabupaten Cirebon government is yet to issue any specific form of regulation on *batik*. Nevertheless, if under regional autonomy, the *kabupaten* government decides to issue a regulation on *batik* enterprises, especially if they are intending to impose taxes or levies on them, these businesses have requested that they are invited to discuss the issue from its conception.

One respondent who is also Head of the Cirebon Batik Cooperative stated that at present, the *batik* industry is becoming increasingly isolated from other garment industries, such as those producing shirts or other items of clothing made at a very low cost from high quality fabrics. At one stage, this *batik* cooperative had a membership of 700 businesses spread throughout Cirebon. However, only around 20-25% of members remain active in the industry.

2) **Rattan Products**

Until now, regional autonomy has had neither a positive or negative effect on the business environment in the rattan sector. The present sluggish business environment is a result of numerous political demonstrations and an uncertain security situation leaving a number of foreign buyers hesitant to conduct business in Indonesia. In addition, the Cirebon rattan industry is experiencing other problems including difficulties obtaining sufficient supplies of raw materials. This is because nowadays the central government allows the export of raw rattan. As a result, rattan producing areas such as Sulawesi and Kalimantan prefer to export their products rather than make them available domestically. Although the export of raw rattan currently incurs a 30% export tax, foreign sales remain more profitable compared to domestic sales. For example, raw rattan can fetch a price of US\$2 per kilogram overseas, while if it is

sold domestically it can generally only fetch a price of Rp10,000 per kilogram, or US\$1 at the present exchange rate of Rp9,900.

Third party contributions collected directly from rattan businesses amount to Rp10,000 per container. This levy was previously abolished, but was reinstated at the beginning of January 2001. The levy is collected by the local Office of Trade and Industry when the exporter arranges their Certificate of Origin (CO). Rattan exporters who arrange their CO in Cirebon incur this charge, while exporters who arrange their CO in Jakarta (approximately 10-20%) do not have to pay. In addition to third party contributions, rattan businesses also incur other taxes and levies which are also effective for other businesses, including a ground and surface water tax, reforestation levy and informal port charges. Business people in the rattan industry consider that these taxes and levies are still reasonable and therefore they have never complained.

3) Fishing Produce

During this era of regional autonomy, the Kabupaten Cirebon government has begun to regulate fishing produce through Local Regulation No.53, 2001 on “Administering Public Fish Auctions” and Local Regulation No. 54, 2001 on “Levies on Fish Auctions”. These two local regulations are yet to come into effect as they are still being introduced and publicized to the community, but are most likely to be brought into effect during the 2002 budget year. Presently, public fish auction levies still refer to local regulations formulated by the provincial government, and therefore the revenue collected is still passed on to the provincial government treasury. In Local Regulation No.9, 2000 on “Retail and Wholesale Distribution Levies” in the Province of West Java, fish auction levies are set at 5%. Of this, 3% is paid by the purchaser and passed on directly to the kabupaten government treasury, while the remaining 2% is borne by the fishermen and organized through the fishing cooperatives.

In addition to the revenue that is handed over to the provincial treasury, revenue collected from public fish auction levies is also divided up amongst the *kabupaten* and *kota* governments, and allocated for use in:

- village cooperatives’ operational costs;
- Ocean Safety and Security (a portion of revenue collected is allocated to the Navy, Water Police and other related officers);
- aid in times of drought; and
- social funds (which includes fishermen who are not members of village cooperatives).

Village government administration has questioned the 3% of total revenue collected by the provincial government treasury which has been allocated for development in the region (the place where the public fish markets exist). They are of the opinion that a portion of these funds should be given to the villages directly. However, according to staff from the Local Office of Fisheries in Kabupaten Cirebon, these funds are distributed indirectly to the villages, through supporting sectors, such as through public works and education.

Of the nine public fish markets in Kabupaten Cirebon, only four are actually in operation. These are located in Karangreja, Bondet, Ender and Gebang Mekar. There are approximately 2,800 fishermen who sell their goods at the public fish market in Gebang Mekar, yet the local fishing cooperative (KUD Mina) only has a membership of 200 fishermen and traders. Only a small group of fishermen have decided to become members of this cooperative as they feel that there are few benefits for members. Most of the fishermen rely on the capital borrowed from small and large scale traders to purchase their fishing equipment and ensure they can carry out their activities at sea.

Fishermen generally sell their catch directly to both large and small scale traders. Most fishermen have debit and credit arrangements with one of these traders, and therefore do not have the flexibility to sell their fish to any other trader. These small-scale traders then sell the catch to cold storage companies. There are seven cold storage companies which buy fish from the public fish markets, three of these companies specifically store crabs, while the other four store anchovies. The fishermen's primary catch includes both crabs and anchovies and is sold at the Gebang Mekar public fish market.

One cold storage company representative stated that larger traders who generally own the boats used by the fishermen, work together with the companies to supply them with anchovies. Two of these larger traders coordinate approximately 100 boats which supply this company with anchovies. These large scale traders carry out transactions with the fishermen or the small-scale traders at the public fish market. By doing this they receive a commission from the company based on the quality of the anchovies. Presently, the purchasing price of raw anchovies is between Rp10,000 and Rp13,000 per kilogram. The large scale traders receive a commission of between Rp500 and Rp600 per kilogram.

This company packages the produce, before sending it to Gresik for the final preparations, where it is then exported to Japan via Surabaya. This factory can accommodate between 2-3 tons of anchovies per day. There are four similar factories which purchase anchovies from the public fish market in Gerbang Mekar. These companies compete freely and the Kabupaten Cirebon government does not intervene in the process.

According to the Head of the Local Branch Office of Maritime Affairs and Fisheries, the primary difficulty for the fishermen is their lack of capital and equipment. Most fishermen only own a small boat (*payang*) which can only be used within a two mile radius of the land and only at certain times of the year. Just a few fishermen have the certain *senggol*²³ type of fishing gear which allows them to fish up to depths of three nautical miles, throughout the whole year.

4) Onion Products

Red onions are another important commodity for farmers in Kabupaten Cirebon. Large fluctuations in the price of onions and the desire to produce value-added products has motivated the Kabupaten Cirebon community to develop this product further, by creating business opportunities through fried onions. No regulation has

²³ The fishermen and people in the fishing community call the owners of *senggol* fishing gear "boss".

been uncovered thus far that in anyway impedes these activities, on either the onion farming or fried onion enterprise levels. Onion products do not incur taxes, levies or any other charges.

Kabupaten Garut

1) Community Owned Tea Plantation Products

Plantation products which have become important economically in Kabupaten Garut include tea, *akar wangi*, and tobacco. In particular regard to the tea sector, the tea factory owners in Kabupaten Garut have started to complain that it is becoming even harder to obtain unprocessed raw materials than it was previously. The problem is not that production rates have declined, rather, the market is starting to focus its attention on supplying tea leaves to factories in Kabupaten Tasikmalaya. In reaction to this, factory owners in Garut have appealed for the Kabupaten Garut Offices of Plantations to prohibit the farmers from selling tea leaves outside the *kabupaten*, or at least return to the previous system whereby zones for the marketing of tea leaves are set in place. The Local Office of Plantations have paid little attention to the factory owners' appeals, remaining tied to the principal that in this era of globalization, there should be no regulations limiting trade.

Tea farmers and traders in Kabupaten Garut have shifted their attention to the market in Kabupaten Tasikmalaya because factory owners in Tasikmalaya pay in cash, within seven days of the transaction being made. In addition, they are prepared to buy tea leaves of any quality at higher prices than the factories in Kabupaten Garut are willing to pay.

Box 1.

The Conditions and History of Nuclear Tea Plantations in Kampung Balebat

The community owned tea plantations amounting to approximately 200ha in Kampung Balebat, in the village of Jatiwangi were first opened as a nuclear enterprise by PT. Sinar Inesko in the 1980's. In 1984, after Gunung Galunggung erupted, the land used for tea plantations was handed over to the "Surya Medal" farming group (200 heads of families) who were all ex-victims of the Gunung Galunggung volcanic eruption in Tasikmalaya. However, due to poor maintenance, only 110ha of the land was suitable for use. When the system of marketing zones was still in effect, the plantation was coordinated by PT. Teh Nusamba. Under this system the farmers were forced to sell their produce to the company. Farmers paid their land installments through PT. Nusamba, at an amount fixed at 30% of their tea sales. In 1987, PT. Nusamba went bankrupt and could not continue collecting the farmers' installments.

In the same year, the price of tea dropped to its lowest levels. Therefore, between 1987-1989 tea plantations in the village of Jatiwangi were not properly maintained, in fact, they were left to become forest again. After the price of tea began to increase in 1990, the farmers, based on their own initiative, cleared the land and replanted the tea. As a result, while the farmers officially still have debts with PT. Teh Nusamba, because the plantations present conditions are solely a result of the farmers own efforts, the respondents stated that the farmers debts have been written off. Presently, only 130ha can be used for production, and the remaining 70ha is either unsuitable for tea plantations, or it has been sold.

Issues concerning Taxes and Levies. In July 2001, the village government administration throughout Kecamatan Pakenjeng agreed to impose a levy on the trading of tea. At the time, the levy was fixed at Rp25 per kilogram and paid by the tea processing factory. Nevertheless, the factory owners were only prepared to pay Rp10 per kilogram. This levy should be borne by the factory owners and not the farmers, however, the government remains concerned that eventually factory owners will pass the levy on to the farmers.

The Market and Prices. Farmers sell their tea leaves through middle-men in their villages. In Kampung Belebat, in the Jatiwangi village, there are four middle-men. A large proportion of the tea leaves from this village are sold to processing factories in the Pamegatan village, Kecamatan Pakenjeng. Some of the tea leaves are sold to factories outside of the *kecamatan*, for example, PT. Megawati in Kecamatan Cipangramatan, PT. Gopindo in Kecamatan Cikajang and one other company in Kecamatan Cisarupan.

Farmers are presently selling their tea leaves for Rp600 per kilogram, but before the September 11 bombing, tea leaves were being sold for Rp800 per kilogram. The cost of harvesting the tea leaves is Rp125 per kilogram. Traders sell the tea leaves to factories for Rp625-650 per kilogram. The cost of transporting the tea leaves to the factory is borne by the processing factory. The traders bear the cost of the loss of volume resulting from the drying process, as well as labor costs. These traders make a profit of approximately Rp25 per kilogram.

Traders obtain information on prices from the factories. If there is a sudden drop in prices which does not allow time for the factory to inform the traders, the factory will buy the tea leaves at the old price.

The traders pay the farmers in cash. However, payments from the factories to the traders are often delayed for between two weeks and two months. Some farmers are forced to sell their tea to certain traders because they have a debt with them for supplying agricultural goods, such as fertilizer. Traders providing the capital enabling farmers to continue their production are paid back in installments of Rp100 per kilogram every time a sale takes place. Generally, they are able to clear their debts in three months.

A system of free trade ensuring that farmers no longer have to sell their tea to PT. Teh Nusamba is considered to be extremely beneficial for the farmers. Nowadays, the farmers are free to sell their tea to the traders who give them the best price and at their desired location.

Plasma Estates. Most of the people living in Kampung Halimun, in the village of Jatiwangi are indigenous to the area, whereas most of the people living in Kampung Balebat are migrants from Kabupaten Tasikmalaya. Every person trading in young tea leaves in this village has formed a clientele group with a number of farmers, based on the block of plantations around where they live. In order to ensure that the farmers sell their produce to the respective traders, the traders lend the farmers capital, generally in the form of fertilizer.

The traders sell their tea leaves to PT. Sami Jaya in the village of Taraju, Tasikmalaya, which is 55km from their village. The traders buy the tea leaves from

the farmers for Rp700 per kilogram paid in cash, and then they sell it to the factories for Rp800 per kilogram. Tea leaf sales amounting to approximately one ton take place in Taraju every two days, and transactions are in cash.

The taxes and levies which have become burdensome for the traders include unofficial charges amounting to Rp25,000 per month. These unofficial levies are apparently imposed for the maintenance of the roads in the village because they are often used by large trucks carrying tea. Similarly, in Kampung Balebat, a free and competitive system for the marketing of tea has been established between the farmers and traders as well as between the traders and factories.

In addition to monthly taxes and levies, the village government once planned to impose a levy of Rp50 for every kilogram of tea sold but the farmers rejected their proposal. In regard to the village levy of Rp10 per kilogram, which is to be paid by the factory owners, the farmers have yet to agree because it is not clear where the funds collected from this levy will be used.

2) Leather Products

The leather tanning and handicraft industries which have proliferated recently in Kabupaten Garut remain free of local government intervention. The Kabupaten Garut government have not issued any tariff or non-tariff regulations in this sector.

3) Cow's Milk Products

Another important part of the informal sector in Kabupaten Garut revolves around the production of cow's milk. One village cooperative in Kecamatan Cisurupan has a membership of 1,800 people who keep 6,000 head of cows. They are able to produce 14,000 litres of milk per day. The milk which is stored or bought by the village cooperative is sent to PT. Indomilk or PT. Susu Bendera. Local thugs imposing unofficial levies on the transportation of milk have become a problem for the local cooperative, for example, in Jonggol the cooperative must pay the local thugs Rp200,000 per month to ensure the smooth delivery of the milk.

The Kabupaten Garut government believes that developing the informal sector activities such as those in the milk sector have the potential to increase their local revenue. As a result, they have imposed a levy on milk which is fixed at Rp4 per litre.²⁴ Originally, the local government fixed the levy at Rp6 per litre. However, because of the objections from the livestock owners, the levy was eventually set at Rp4 per litre after a meeting was held to discuss the issue with local government representatives, the village assembly, and the village cooperatives.

The village cooperative requested that the *kabupaten* government delay the implementation of this levy throughout Kabupaten Garut until January 2002. This delay constituted a compromise, after the livestock owners voiced their objections to paying the levy. In addition to the delay, the *kabupaten* government and the village cooperative also agreed that this levy be the last one imposed, meaning that no other government office whatsoever be allowed to impose any other form of tax or levy on

²⁴ There was also a levy on cow's milk which was fixed at Rp2 per litre before it was abolished by Law No. 18, 1997.

this village cooperative. This agreement is extremely important for the village cooperative because previously the Village Representative Board (BPD) also intended to impose a levy which would be collected for use by the village treasury.

4) *Akar Wangi* Products

The cultivation of the *akar wangi* which is used in the production of vetiver oil has been flourishing in Kabupaten Garut since the 1950's. At the peak of production in the 1970's, Kecamatan Samarang alone had 60 vetiver oil refineries in operation. However, four years ago there was only 14 oil refineries left in Garut, and presently there are only five in operation on a regular basis.

Akar wangi is generally intercropped with potatoes, tomatoes or legumes. Every hectare of *akar wangi* produces a yield of approximately 20 tons. Production costs are approximately Rp4 million/ha per year (taking into account the cost of fertilizer and labor). The farmers sell their yield directly to the oil refineries in their area.

Presently, farmers are able to sell *akar wangi* for between Rp500 and Rp800 per kilogram depending on its quality. At this stage, the farmers have neither the desire nor the interest to form groups or cooperatives. Each farmer acts independently when it comes to the cultivation and marketing of *akar wangi*. From every 1.3 tons of *akar wangi* (the per-unit capacity of an oil refinery) 3.5-5kg of vetiver oil can be produced. Vetiver oil is currently being sold for Rp210,000 per kilogram. The refinery owners sell the vetiver oil to middle-men in Garut. There is only one middle-man in Kecamatan Samarang who also buys patchouli and citronella oil. Both the patchouli and citronella oil bought in this *kecamatan* is sold in Jakarta.

Generally, the oil refinery owners are bound to the vetiver oil traders as they rely on them for capital to ensure they can continue to distil the oil. Loan repayments are calculated when the refinery owners sell their produce. Often traders also offer up to Rp30 million as a special type of 'interest free loan' for oil refinery owners. If a loan of this nature is obtained, the oil refinery owners are forced to sell their produce to the trader who provides them with the loan. The full amount of the loan must be repaid if the oil refinery discontinues its operations. Oil refinery owners who are bound by these loans sell their produce to their trader at a price far below the market rate, for example, for Rp180,000 per kilogram compared to a market price of Rp210,000 per kilogram.

Presently, neither the *kabupaten* nor the village governments impose any taxes or levies on the *akar wangi* farmers. The only levy which exists in this sector is imposed on the oil refinery owners who must have a noise/disturbance permit, which is valid for five years from the time it is issued. In 1995 the cost of obtaining this permit was Rp150,000.

IV. THE TRENDS IN THE IMPACT OF REGULATIONS

Regional autonomy was formally implemented beginning on the 1st of January 2001, meaning that it has been in place for approximately one year. However, in practice, the regions are not yet able to implement all aspects of regional autonomy. One obstacle to this is that the central government regulatory guidelines on implementation are still incomplete. In addition, some legislation formulated by the regions, for example, local regulations on taxes, levies and charges can not be issued immediately for technical, administrative and political reasons. As a result, both the general impact of regional autonomy and the specific impact of regulations formulated by the local government on the business environment as yet cannot be identified or empirically evaluated. Nevertheless, in scrutinizing the various trends in the implementation of regional autonomy like those that have been mentioned in the previous chapters, it appears that regional autonomy has had a negative impact on the business environment in particular, and many are now concerned about the provision of public services.

1. The unclear division of authority between the provincial and *kabupaten* governments tends to create duplicate levies and vertical conflict. There are presently a number of overlapping local regulations on taxes, levies and charges in West Java because they have been issued by both the provincial government as well as the *kabupaten* and *kota* governments. For example, both the Provincial Government of West Java and a number of *kabupaten* governments such as Kabupaten Cirebon and Kabupaten Ciamis have created their own local regulations on public fish market levies. Before Government Regulation No.25, 2000 was brought into effect, the provincial government had the full authority to collect public fish market levies, and the *kabupaten* and *kota* governments would receive a share of the revenue. However, with the implementation of this law, the authority to collect public fish market levies should have already been transferred to the *kabupaten* and *kota* governments. Furthermore, representatives from the provincial government have stated that they already made an agreement that the *kabupaten* and *kota* governments will not formulate their own local regulations on public fish market levies, rather they will refer to the provincial regulations which already exist. Yet, in reality, several *kabupaten* have already formulated local regulations on public fish markets, and will ignore the existing provincial regulations.

The existence of overlapping local regulations of this type indicates that the implementation of regional autonomy is still quite unclear, and that each level of government tends to justify their own actions. For example, provincial government representatives, have stated that certain powers should remain under the authority of the provincial government because the *kabupaten* and *kota* governments still have limited means and technical skills. Motor vehicle inspections, for example, require special equipment and skills which until now only the provincial government has been able to provide. Conversely, the *kabupaten* and *kota* government representatives have stated that technical issues of this nature can not be used as a reason to reduce the authority of the *kabupaten* and *kota* governments. The *kabupaten* and *kota* governments still have the desire

to control the authority, which they consider to be within their rights, and share the revenue from the taxes and levies with the province, rather than the other way round. In doing this the *kabupaten* and *kota* governments have referred to Article 8 of Law No.22, 1999 which states that “government authority transferred to the regions within the framework of decentralization must be accompanied by the transfer of funding, equipment and infrastructure as well as human resources, in accordance with the authority being transferred”. Government Regulation No. 25, 2000 states that motor vehicle inspections are under the authority of the *kabupaten* and *kota* governments.

2. Too many local regulations on taxes and levies can become a boomerang for the local government. Letter No. 238/GPP/IX/2001 from The Association of Plantation Business (GPP) states that at present there are many local regulations stipulating taxes and levies on plantation businesses, which are being issued by the *kabupaten* governments and even the village governments. They feel that these taxes and levies are creating difficulties for plantation businesses because they increase production costs without raising the levels of value-added production. A trend like this can create a boomerang effect for the regional governments, because plantation businesses, especially those which are protected by associations can make agreements to reject all forms of taxes and levies imposed by the regional governments. Instead of attracting investors – which is extremely important for regional and national economic growth – business people can simply relocate their business to another region where the local government has more conducive policies. An even worse scenario is that in this era of globalization, excessive regulations on taxes and levies imposed by the local governments could cause business people to relocate their businesses overseas. There would be severe economic and social repercussions if this was to occur, for example, local governments would have to deal with the problem of unemployment. In consideration of all this, a business or industry’s contribution to a region should not only be evaluated on how much it contributes to the local government treasury, but how much it contributes to other social and economic activities. In other words, it is not completely correct for local governments to state that businesses “must” contribute funds to their treasury. In creating work opportunities, businesses are in fact contributing something to the local government, as they play a role in reducing unemployment.
3. Complicated licencing procedures create unofficial taxes and a high cost economy. One such example identified in Kabupaten Garut is based on the Bupati’s decision outlined in Letter No.405, 2001 on Implementation Guidelines for Kabupaten Garut Local Regulation No.9, 2001 concerning “Permits for the Management of Privately Owned Timber”. This decision requires every person or group involved in the felling of trees to submit a written request to the Head of the Kabupaten Office of Plantations and Forestry, and a copy for the Head of the Local Branch Office of Plantations and Forestry. The following information must be attached to this request:
 - 1) a photo copy of the applicant’s identification card (KTP);
 - 2) proof of land and building tax payments;

- 3) a land and tree ownership certificate from the Head of the local *desa/kelurahan*;
- 4) proof of purchase if the trees have been bought from another party;
- 5) a declaration stating that the applicant is capable of providing seeds and will replant the site where the trees have been cut down, written on legally certified paper;
- 6) an official document indicating which trees are of an age and can be cut down;
- 7) a map or sketch of the tree felling area; and
- 8) information on the type and number of trees that are going to be cut down.

An investigatory commission needs first to be established in order to obtain a tree felling permit for certain species planted by the State Owned Forest Enterprise, for example, teak, mahogany, pine, resin, Indian rosewood, accacia, and rasamala (*Altingia excelsa*). The commission should consist of the Head of the Branch and Kabupaten Offices of Forestry and Plantations, a local technical official from the local Office of Forestry and Plantations and a local official from the State Owned Forest Enterprise. This commission investigates the request in the field. In addition, to ensure that the transportation, authorization and ownership of the felled trees is valid, those people involved in these processes must submit a request for a Legality of Forest Products Certificate which is issued by the Kabupaten Office of Forestry and Plantations. The following information must be attached to this request:

- 1) a photo copy of the applicant's tree felling licence;
- 2) proof of tree felling licence payment;
- 3) information on the type of vehicle which is to be used to transport the timber;
- 4) a production report; and
- 5) a report on the timber prepared for transport.

As part of their duties, the commission is required to prepare a report on their field inspections which must be authorized by the Assistant at the State Owned Forest Enterprise or the Head of the local division of the same forest enterprise, the Head of the *kecamatan*, and the Head of the Police Force at the *Kecamatan* level.

These requirements must be fulfilled by any person or body in Kabupaten Garut who intends to fell more than ten trees on their own land. This local regulation on tree felling has good intentions, namely to monitor, control, utilize, supervise, rehabilitate and restore the ecological, economic and social functions of the land. However, the complicated licencing procedures tend to make implementation difficult.

People in the community who still own trees generally live in rural areas, far from any Office for Forestry and Plantations. The various requirements which applicants must fulfill before submitting their request to obtain permission to

fell trees tends to be quite costly. In addition, the complicated procedures also create the opportunity for unofficial taxes and levies to be collected, which in addition to increasing costs, also tends to disregard the important supervisory role of the regulation.

Prior to the implementation of Law No. 18, 1997, there were quite a number of levies of this sort. During this period, the levies collected did not result in services, rather they were more like a “tax”. Levies of this sort include the cattle identity card levy, livestock health inspection levy, and fresh dairy milk levy. Ultimately, these types of taxes and levies resulted in a high cost economy. The impact of this high cost economy was not only felt by the community, but also the local governments which had to allocate more funds (for carrying out inspections and paying staff wages) than they were actually receiving from the levies they were collecting. This is because the Local Treasury Office only received a small income and also a large proportion of the levies collected went straight into the “pockets” of the levy collectors, rather than into the local treasury.

4. Increasing the types of taxes has become one alternative for the local government to avoid providing direct services. Law No.34, 2000 provides the local government with the opportunity to collect local taxes in addition to the taxes which have already been stipulated (the provinces have four types of taxes, and the *kabupaten* and *kota* have seven types of taxes), based on a number of criteria.²⁵ This has created one alternative for the local governments endeavoring to increase local revenue. In fact, there have not been many *kabupaten* or *kota* governments which have created local regulations on taxes, because the regulations containing the technical guidelines which support Law No. 34, 2000 have only just been issued. For example, Government Regulation No.66, 2001 on “Local Taxes” was only issued on the 13th of September 2001. However, local governments have started to prepare to formulate new local regulations on taxes. For example, Kabupaten Garut, before the end of 2001 had already ratified three new regulations on taxes, namely, a swallows nests tax, television tax and a parking tax. The tax on swallows nests and televisions are both additional taxes formulated by the Kabupaten Garut Government outside of the seven types of taxes which are outlined in Law No. 34, 2000.

Even though the several criteria on the taxes which can be stipulated by the local government have been outlined in Law No. 34, 2000, these criteria are still extremely general. Consequently, it is very easy for the local governments to formulate various local regulations on taxes which do not contravene the stipulations outlined in the Law. In a number of regions (outside of the research area), there seems to be a tendency for the local governments to create additional taxes on goods and services, which are generally linked to farming or trade. Four taxes of this sort have been included in a list of local

²⁵ The criteria used to determine local taxes is based on Law No.34, 2000, and includes: 1) they are taxes and not service-based levies; 2)the items being taxed are located or can be found in the respective *kabupaten/kota* and have limited mobility, and only serve the community in the respective *kabupaten/kota*; 3) the items being taxed and the reasons given as to why they are being taxed are not in conflict with the public interest; 4)the items being taxed are not included in provincial or national taxes; 5)they have sufficient potential; 6) they do not have a negative effect on the economy; 7) they pay attention to justice and community capabilities; and 8) they consider environmental conservation.

regulations which are being considered to be revoked by the Minister of Finance²⁶. These taxes on traded goods and services are being considered to be abolished because if a low level government administration imposes such taxes, it is thought that the flow of economic resources between regions and export import activities will be hampered.

Article 80, Clause (2) of Government Regulation No. 65, 2001 on “Local Taxes” states that if in any instance regulations are in opposition to the public interest and/or a higher level of government regulation, the Minister of Home Affairs after consultation with the Minister of Finance may revoke the local regulations in question. This supervisory function is definitely required, yet, it would seem that the central government would find it difficult to monitor 32 provinces and 341 *kabupaten* and *kota*. Supposing that each region was to formulate 10 local regulations every year, there would be $(341+32) \times 10$ local regulations which would have to be examined by the central government each year. In the past, monitoring systems of this nature have often opened up the opportunity for ‘rogue elements’ of the central government to collect unofficial fees from the regions. In addition, there is a current tendency for the regions to reject various forms of central government supervision, because they feel that in practice, the central government’s supervisory role tends to interfere with the regions’ authority, and therefore is not in accordance with the basic values of regional autonomy and decentralization.

To create a more efficient and reliable method of supervision over the implementation of additional local regulations, the community, both individuals and organizations, such as the press, NGOs, academics and business groups need to take a larger role in the monitoring process. In order for this to happen the community needs to be strengthened and made aware that they also have a responsibility to play a role in the formulation of public policies, rather than just waiting to become the next target of these policies.

5. One region’s regulations can be detrimental for another region. Rattan craftsmen from Cirebon are starting to suspect that the diminishing supplies of unprocessed rattan from Sulawesi and Kalimantan is a result of the implementation of regional autonomy. They have stated that because the local governments in the rattan producing areas are now permitting the export of unprocessed rattan,²⁷ the supply of rattan to Cirebon is diminishing.

²⁶ These four taxes include: 1) Commodity taxes in Kabupaten Toli-toli; 2) Unrefined oil and oil palm cernal taxes in Kabupaten Bengkulu Selatan; 3) taxes on agricultural, forest, ocean, industrial and other natural produce in Kabupaten Bima; 4) taxes on plantation produce paid by the State/Region, Private Plantation Companies or Community Plantations in Kabupaten Deli Serdang.

²⁷ The prohibition on the export of unprocessed rattan was abolished by the central government, not the local government.

V. CONCLUSION

Free trade and regional autonomy. The free movement of goods and services can increase economic efficiency and have positive benefits for both producers and consumers. Free domestic trade also supports national interests by increasing international competition, and promoting the national economy as a unifying force within the country. Meanwhile, decentralization and the regional autonomy policy are basically in line with free domestic trade. The main objective of this policy is to make government services accessible to the community, by promoting efficiency and accountability through the involvement of the wider community. However, in order to ensure that the local governments provide these improved public services, they require funding. Regional revenue is one source of funding which is controlled by local governments as autonomous administrations.

The Relationship between the provincial government and the *kabupaten* and *kota* governments. During the initial stages of implementing decentralization and regional autonomy, the provincial government's authority tended to decrease in relation to the *kabupaten* and *kota* governments. As yet, Government Regulation No. 20, 2001 on "Guidance and Supervision of Local Government Administrations" has not been fully implemented. A barrier to its full implementation is one of the clauses in Law No.22, 1999 which states that each autonomous region stands alone, and has no hierarchical relationship with any other government in the region. There is a tendency for *kabupaten* and *kota* governments to formulate regulations without considering the effects these regulations will have on another *kabupaten* or *kota*. Both the provincial governments as well as the *kabupaten* and *kota* governments can impose local charges on the same target.

The procedures and criteria used to obtain licenses are both costly and time consuming. Local regulations on licensing can often have a negative impact on the business climate because there are often a significant number of complex requirements which need to be fulfilled to obtain certain licenses. In order to obtain all the required documents to start the licensing process, the applicant must pay quite a large sum of money (for both official and unofficial charges), and set a side a significant amount of time. When the required documents have been obtained, the applicant must be prepared for additional costs and more time consuming procedures.

The Relationship between the General Allocation of Funds, local revenue and the business climate. All regions whether they are receiving a large or a small amount of funding from the General Allocation of Funds, make every effort to increase their local revenue. Several regions have done this by issuing new local regulations on taxes and levies and/or by updating the local regulations which already exist. Regional government officials consider this necessary for regulating the implementation of regional autonomy which requires funds to improve public services. However, business people are beginning to see that this tendency will gradually suppress the business climate, and eventually obstruct any efforts to make the economy more efficient. For example, the West Java Association of Plantation Businesses has sent a letter to the Governor complaining about the taxes and levies imposed in several *kabupaten* in West Java which have increased production costs without adding value to their plantation produce. It is not only

business people who are worried about these conditions, but also international organizations. For example, at the end of 2001, the IMF recommended that the government immediately revoke approximately 100 local regulations in various regions throughout Indonesia.

Problems with the concept of taxes, levies, fees and contributions. Recently, several parties have been concerned that the taxes and levies imposed on economic activities in the community are not being supported by government efforts to improve services. The local governments are aware that the payment of charges and fees should be translated as the provision of services for the community. However, the local governments realize they can not provide the services that are intended, therefore, they try to collect the funds in the form of tax. Indeed, taxes are not directly related to services, yet the community keeps demanding that the government provide services as a result of the taxes they are obliged to pay. For example, people living in settlements with no streetlights will be opposed to paying a public street light tax. From the procedural side of regulatory legislation, it would seem easier to collect charges in the form of third party contributions. A number of local governments are trying to shift taxes and levies towards third party contributions, which in the local government budgets are classified as other revenue items.

Kabupatens are demanding fiscal decentralization. Officials at the *kabupaten* level of government are starting to demand that this level of government be appointed or designated the task of collecting potential taxes and levies, including income tax, value-added tax, and taxes on motor vehicles. They are proposing that the central or provincial governments formulate regulations on the mechanisms used in the collection of taxes and levies, the size of the taxes and levies, the sanctions imposed, and the formula outlined to allocate the revenue. In theory, this will be extremely significant for the government in their efforts to reduce routine administrative expenses, especially office operating expenses and the cost of salaries.

The potential influence of businesses on local government policy. Neither the Provincial Government of West Java nor the *kabupaten* and *kota* governments in the province have formulated local regulations implementing *non-tariff* barriers aimed at controlling the economy or the market. Several factory owners in the tea sector have tried to encourage the local government to create trading system regulations on the marketing of tea leaves, ensuring that certain local farmers only sell their produce to factories in their own area. Previously in West Java, zones were set up for the marketing of tea, but in practice, these marketing zones caused the price of tea at the level of the producer to decline.

If the negative effects of decentralization and the implementation of regional autonomy are not rectified, they will eventually become a source of conflict amongst government administrations, both vertically and horizontally, as well as local governments and community groups. Presently, with decentralization and the implementation of regional autonomy there is a tendency for community interests to be pushed aside, especially those related to the investment climate and trade. These factors indeed need to be monitored and evaluated by various parties, including the local governments themselves. In order to provide more opportunities for community involvement, a program needs to be developed to strengthen the potential of the community.

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