

# FDI Feature Interview

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## Indonesia in 2020 and Beyond: Bill Sullivan

### *Part Two: COVID-19, Economic Reform, Foreign Relations, 2024 Election*

#### Key Points

- The Covid-19 pandemic and the resulting economic crisis may prove to be a catalyst for much-needed economic reform.
- The Omnibus Bill on Job Creation, currently stalled in Parliament, is a potentially positive development that seeks to ease restrictive labour laws and open the economy to increased foreign investment.
- In its relationship with China, Indonesia faces very similar issues to Australia. Jakarta is realising that having a close relationship with Beijing brings risks for Indonesian sovereignty and the protection of Indonesian interests.
- Given the historical closeness between the two, Indonesia may follow the lead of India and develop a closer relationship with the United States as a way of counterbalancing Chinese expansionism.
- Indonesia has an increasingly young voting population and the candidates for the 2024 presidential election will need to pay much greater attention to the concerns of younger voters. The successful candidate may even be from a younger generation.

#### Introduction

In this two-part Feature Interview, FDI speaks with Bill Sullivan about the challenges and opportunities confronting Indonesia now and into the near future.

Mr Sullivan specialises in advising foreign investors on the legal, policy and regulatory aspects of construction, energy, mining and oil and gas projects in Indonesia and elsewhere in South-East Asia. A leading expert on Indonesian mining law and regulation, Mr Sullivan is currently Senior Foreign Counsel with Christian Teo & Partners in Jakarta and has lived and worked in Indonesia for more than 20 years.

Christian Teo & Partners operates in close association with international law firm Stephenson Harwood LLP, which has nine offices throughout Europe, the Middle East and Asia. Mr Sullivan is a Senior Adviser to Stephenson Harwood LLP.

Continuing from our discussion in [Part One](#) of the Australia-Indonesia relationship, the opportunities and challenges for businesses looking to operate in Indonesia, the Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA) and the status of the Indonesian mining and resources sector, we begin Part Two by examining the potential effects on Indonesia of the Covid-19 pandemic. We then move to the realm of international relations to discuss the relationships of Indonesia with China, the United States, Russia and India, before taking a look ahead, towards the next presidential election, due to be held in 2024.

### Commentary

**FDI:** *In your view, what are some of the longer term effects that the Covid-19 pandemic is likely to have on Indonesia? Is it possible that it could actually even have some positive effects?*

**BS:** Yes, I think that will be the case, because of the almost unprecedented fiscal and economic crisis that is facing Indonesia at the moment. The country is looking at economic growth dropping from five per cent per year to – at least for the next couple of years – one per cent per annum, or perhaps even into negative figures. That is a huge problem and the Indonesian authorities accept that the economy actually needs to grow at seven per cent per year just to absorb the number of young people coming into the workforce every year.

When Jokowi took office in 2014, he promised that he would achieve seven per cent Gross Domestic Product (GDP) growth every year by the end of his first term, and that he would do that through large infrastructure projects, thereby overcoming Indonesia's endemic problems of unemployment and underemployment. He was unsuccessful in that regard, and only managed to achieve five per cent GDP growth and that, as I said, has now fallen back to just one per cent, with perhaps even lower figures in the years ahead.

That really has forced the government to think more laterally about what it needs to do to make Indonesia a more attractive place for foreign investment. There is currently before the Indonesian parliament a so-called Omnibus Bill on Job Creation, which, among other things, attempts to address Indonesia's very socialist and anti-employer labour laws. Those laws make it extraordinarily difficult for employers to terminate workers even if they are incompetent, or if they exceed the number of workers that a company needs in light of changed economic circumstances. In those very few instances where a worker's employment actually can be terminated, the employer is obliged to pay the former employee a comparatively large amount of money, thus ensuring that s/he won't become a burden on the government during a possible period of prolonged unemployment. They are all very negative factors for foreign investors, particularly in labour-intensive industries. Indonesia's labour laws have been criticised for many, many years but, until very recently, the government has not been interested in that criticism. This year, though, as things have become much more difficult, the government has finally agreed that the labour legislation has to be amended.

That has to be a very positive thing, and the Omnibus Bill also contemplates reducing the number of sectors of the Indonesian economy that are closed to foreign investment and, for those sectors that are open to foreign investment but with ownership limitations, reducing the ownership limitations, thus allowing foreigners to own greater percentages of the companies operating in those industries. So those are very

positive things, which have unquestionably been driven by the current difficult economic circumstances confronting Indonesia.

The government, however, is encountering some significant public and political pushback and, unfortunately, the Bill is currently stalled because of a lack of bipartisan support for it. It remains to be seen whether the government can regain the initiative and move forward with the Bill, but the fact that the government is even talking about those issues is, I would say, still a very positive thing, because in the past, those issues were not to be discussed and the government itself had no interest in talking about them. Even if it does not come to pass immediately, the fact that such reforms are now a legitimate subject for discussion within the government is a very positive development.

Somewhat ironically, I would suggest that Covid-19 and the resulting economic crisis are probably good for foreign investors, in terms of driving economic change in Indonesia. President Soekarno's favourite economist, Muhammad Fadli, was very fond of saying that an economic crisis, and the opportunities it presents for reform, should never be missed. What he was alluding to, of course, is that in good times, governments often have the luxury of introducing very bad policy, whereas in more difficult times, governments are frequently forced by their economic circumstances to adopt much better policies and to rethink existing bad policies. I think what we're seeing now in Indonesia is a very good illustration of that and it might yet be the case that Covid-19 proves to be a catalyst for some genuine economic reform.

**FDI:** *Moving to foreign affairs now, in light of the escalating tensions between China, on one hand, and the United States (and Australia) on the other, what do you see as the likely impact on Indonesia of those tensions?*

**BS:** I think that Indonesia is in a position that is not that different to Australia, in that the assertiveness and aggression displayed by China as it pursues its interests in South-East Asia, unquestionably has taken Indonesia by surprise and caused it to realise that there is a very definite cost to having a close relationship with China and that there are real risks involved in terms of Indonesian sovereignty and the protection of Indonesian interests.

That is particularly notable for Indonesia in terms of China's vigorous assertion of its claim to the entirety of the South China Sea, part of which abuts Indonesian waters and that Indonesia calls the Natuna Sea. Those waters are a very valuable source of fish stocks for Indonesia and Jakarta unquestionably is very concerned about incursions made by Chinese commercial fishing vessels into the Natuna Sea and the other waters surrounding Indonesia. The fact is that Indonesia is not in a position to do much about it, because those commercial fishing vessels are very often vigorously protected by Chinese naval ships, and the Indonesian navy, in comparison, is simply not up to the job, owing its lack of equipment and relatively few vessels with which to really police and patrol all of Indonesia's long coastlines and important fishing waters.

So there is a realisation that, yes, there's a big issue here with China, and that might be good for Australia, because it may make Indonesia more receptive to co-operating more closely with Australia on regional security issues. Equally, it might make the Association of South-East Asian Nations (ASEAN), as a whole, more receptive to co-operating with Australia and the United States on regional security issues. My assessment is that there is a perception within ASEAN that ASEAN simply lacks the strength to be a serious deterrent to Chinese expansionism, even if operating as a single entity. So Indonesia faces very similar issues, I suggest, in terms of its relationship with China and, in the long run, that may only be to the benefit of Australia and the US in terms of finding a welcoming attitude among the ASEAN countries in general, and Indonesia in particular.

**FDI:** *What other options does Indonesia have in terms of responding to a greater and more aggressive Chinese encroachment in its territorial waters?*

**BS:** Not a lot. In the first Jokowi Government, Jokowi had a very aggressive fisheries minister, Susi Pudjiastuti, who used to insist on blowing up captured illegal foreign fishing vessels. She would have them brought into port and, in a very public way, dynamited in the harbour. It was certainly spectacular and it sent a very strong message but, of course, there was a huge pushback from China and, coming back to my bugbear of the inadequate Indonesian legal system, often the Chinese ship owners would go to court in Indonesia and, through improper means, get the courts to order the release of their vessels before the fisheries minister could blow them up. She was still successful in blowing up a number of Chinese vessels, but apart from that very blunt type of approach, I don't think there is too much more that Indonesia can do.

To a large degree, that is because Indonesia has been very keen to attract Chinese investment in infrastructure projects and is somewhat beholden to China for its assistance with them. That, too, has proven to come at a considerable cost to Indonesia because the Chinese state-owned companies, which are behind most of those large-scale infrastructure developments, insist on bringing large numbers of Chinese workers to Indonesia to do much of the work, at least at the technical level. That has generated a huge amount of unhappiness and racial tensions in parts of Indonesia where those infrastructure projects are located. So, again, Indonesia has learnt that it is a very complicated relationship and that there are definitely some very significant downsides for it in being too close to China.

**FDI:** *That leads us very neatly into a look at Indonesia's relationships with a number of other key countries. What is the general view in Indonesia of the United States and what potential is there, if any, for a closer relationship with Washington?*

**BS:** Well, certainly since independence, Indonesia has often had a very ambivalent relationship with the US. When President Soekarno nationalised Dutch assets in Indonesia in 1957, the American ambassador of the day said to Soekarno in a public forum, 'I hope you realise this means the end of foreign investment in Indonesia', and Soekarno turned to him and said, in a very haughty voice, 'to hell with the West and its capital'. There is also a perception, probably true, that America had advance knowledge of, and was tacitly supporting, the overthrow of Soekarno in 1967. So, this perception of America as a country not averse to interfering in the internal affairs of Indonesia has been problematic in terms of developing a close relationship with Washington over time.

President Soekarno was also very keen on the idea of Indonesia as the leader of a non-aligned movement of countries that were seeking to steer a very middle path, neither beholden to America nor to China or the Soviet Union. There has been a realisation in more recent times, though, that the middle path of the non-aligned movement is not sufficiently strong to prevent expansionism, such as what we are now seeing from China, and so, Indonesia increasingly is feeling that it is being forced to choose, and I think it is more likely that Indonesia will choose to be more closely aligned with the US than with China.

Indonesia may well take careful note of India's position in that regard, even if only because India and its early post-independence leaders were very prominent and vocal supporters of the Indonesian independence movement and worked very closely with Soekarno in developing the non-aligned movement. Accordingly, the fact that India seems sufficiently threatened by China to want to build a closer relationship with the US, may well resonate with many people in government in Indonesia, who, while they might still prefer to pursue a non-aligned middle course, recognise that that is probably not a viable possibility at this time. Indonesia may well follow India's lead and choose to develop a closer relationship with America, not

necessarily because it wants a closer relationship with America for its own sake but, rather, because it wants to develop a counterbalance to China.

**FDI:** *In terms of India, how does Indonesia view that relationship? What possibilities might it hold?*

**BS:** Historically, there has been a very strong relationship between India and Indonesia, built on the back of the non-aligned movement and the real affinity that Soekarno had for Nehru and India's early post-independence leaders. Even though there is still a lot of warmth and goodwill there, it really has not translated into huge Indian investment in the Indonesian economy. Certainly, in the mining sector, there are some very large Indian-owned investments, but Indian investment in Indonesia is just not as widespread as might be expected given that close historical relationship built upon the nonaligned movement. It is, nevertheless, a very warm and friendly relationship and that probably bodes well for Indonesia's willingness to be influenced by India in terms of how it approaches China and a closer relationship with the US.

**FDI:** *Do you think, therefore, that Indonesia would be largely untroubled by a greater Indian presence in its area of the Indo-Pacific?*

**BS:** Indonesia may well be coming to realise that a greater Indian presence is preferable to a greater Chinese presence. Or, perhaps cynically, it would be a way to counterbalance the Chinese presence. Indeed, Indonesia has shown itself to be quite willing to look at that type of arrangement. Despite the historical problems between Japan and Indonesia, for instance, Indonesia has been very willing to encourage Japanese investment in infrastructure. That is undoubtedly in part to ensure that it is not too dependent on Chinese investment. Accordingly, Indonesia may look at Indian participation in a very similar light. Also, India is a hugely important export destination for Indonesian mineral products; it's one of the biggest importers of Indonesian coal and nickel and various other minerals. So, there is that aspect of the economic relationship which is very strong and important.

**FDI:** *In terms of Russia, there has certainly been some interest there, and Defence Minister Prabowo Subianto made another visit to Moscow in early July. How do you characterise the future of the Russia-Indonesia relationship?*

**BS:** The relationship between Indonesia and Russia is complicated. Indonesia certainly has a long tradition of buying weapons systems from Russia (and the USSR). In the twilight years of the Soekarno presidency, Soekarno became very close to Moscow as he moved further to the left and flirted with communism. There's certainly a lot of evidence of past Russian influence in terms of the various socialist realism-style statues spread throughout the Indonesian capital. Indonesia, though, is also under great pressure from the US and elsewhere to buy US and European weapons systems, and it may be that the US and Europe can offer more to Indonesia than can Russia at this point in time.

That may be because Russia does not really have much, if any, presence in South-East Asia, whereas the US, through Singapore and Australia, in that sense, definitely does have a much closer physical presence to Indonesia. The ability to provide on-the-ground support for weapons systems that are purchased could also be an important consideration. In one of the most catastrophic defence industry decisions that Indonesia has ever made, following the collapse of East Germany, Indonesia bought much of the former East German navy at a "bargain basement" price, and then, to its horror, found that many of the vessels were not sufficiently seaworthy to make the journey from Germany to Indonesia. That has caused people to have doubts about the quality and long-term reliability of military hardware sourced from Russia. But there is undoubtedly still some affinity for Russia among a number of people in the Indonesian army, especially

among its older leaders, and perhaps even from General Prabowo. I doubt, though, that any such residual loyalty is going to be sufficient to enable Russia to become the dominant supplier of weapons systems or defence matériel to Indonesia.

**FDI:** *Given that, how would you characterise the level of interest in Indonesia for eventually going ahead with the proposed purchase of the eleven Sukhoi Su-35 fighter jets?*

**BS:** Well, that deal has been talked about on and off and was supposedly signed some years ago, but the money to ensure the delivery of the aircraft has never been forthcoming. I understand that Indonesia and Russia have looked at various barter arrangements to find alternatives to hard cash as a way of funding the transaction, but nothing has happened to date. Russia is also in a very difficult economic position at the moment, so its ability and capacity to offer particularly generous purchase terms to Indonesia may be considerably less today than it has been in the past. I actually doubt that this is going to come to anything or, even if some planes are delivered, I doubt that the whole contract will actually be fulfilled. That is not uncommon in Indonesia, though. The government will be reluctant to say that the contract is dead and that the defence relationship with Russia is not going anywhere; rather, the contract will simply languish and never be progressed to completion, and I think that is the more likely scenario.

**FDI:** *The general consensus is that Prabowo Subianto is doing a good job as Defence Minister. What is your view of the possibility of him standing for President again, in 2024?*

**BS:** It is quite possible that General Prabowo might run for President again in 2024, but he has already lost twice to Jokowi and, of course, Jokowi cannot run again, but that does, I think, dent his credibility somewhat as a candidate. Prabowo is obviously very capable and has, by all accounts, done a very good job at the defence ministry and been a positive player in the government, but he might just be too old by the time 2024 comes around. Perhaps more so than just about any country in the world, Indonesia has an increasingly young voting population, and when you look at the up-and-coming politicians in Indonesia, they are people in their 30s, 40s and 50s. Prabowo is already very much an outlier by virtue of his age and is only going to be more so in another four years' time. The increasingly young voting population are just going to see someone like Prabowo as being too removed from the issues of interest to them as a generation.

There are a number of other people who are much younger and are likely to be seen as more in tune with younger voters than Prabowo, such as the governor of Jakarta, or the former deputy governor of Jakarta, and some of the regional governors of Java, who have really made a great effort to at least feign interest in matters that concern the young people of Indonesia.

With his credentials, Prabowo may well be a contender, or he may be very active behind the scenes, anointing a particular person as the ultimately successful candidate, but I would be surprised if he became president in 2024.

**FDI:** *Do you think he might decide to stand for president and have one of the younger, next generation of political leaders as a running mate?*

**BS:** That may be a possibility, and it was his strategy at the 2019 presidential election, when he teamed up with the former deputy governor of Jakarta, a young businessman, Sandiaga Uno. It was not successful, and although Sandiaga Uno showed himself to be a very successful campaigner, the campaign itself was not ultimately successful. Part of the problem was surely that, in Indonesian politics, the Vice-President does not really have any power or authority at all, so it really is all about who is going to be president and the vice-presidential candidate is very much just an afterthought. I don't think that just having a young and

dynamic vice-presidential candidate is going to be sufficient to make Prabowo a winner in 2024, when it wasn't sufficient to make him a winner in 2019, when he was five years younger.

**FDI:** *What role, if any, do you see Puan Maharani, Megawati Soekarnoputri's daughter, as taking?*

**BS:** That's an interesting one. Of course, Megawati is grooming Puan to take over as Chair of the Indonesian Democratic Party of Struggle (PDI-P), and is endeavouring to find political positions where she can show her ability and keep her name before the voting public. Puan, however, suffers somewhat from the same problem that Megawati has had in recent years. By that, I mean that Megawati really only has one asset, and that is her name: that she was the daughter of Indonesia's founding president. For people who grew up in the Soekarno era and immediately afterwards, there is undoubtedly a real magic, mystery and allure to the Soekarno family and its name and its heritage.

But, again, given the young dynamic voting population that now exists in Indonesia, Soekarno is really just a very distant figure in Indonesian history, someone who they have no direct knowledge of, someone they don't really feel any particular attachment or affinity for. Accordingly, Puan is going to find it very difficult to trade on the Soekarno name as much as her mother was able to do in her early political years. Also, Puan has not shown herself to be a particularly capable or inspiring politician and certainly lacks her grandfather's charisma and oratorical skills. This is a real issue for the PDI-P, which has been one of the most successful and, with Jokowi as its appointee as president, one of the largest, political parties in Indonesia.

But when Jokowi steps down in 2024, I certainly don't see Puan as being a viable replacement for Jokowi. She doesn't have the empathy for the common person that Jokowi has, and she is seen as being very much part of the old élite. While that may be attractive to certain parts of the population, I don't think it really resonates any more with most of the young voters in Indonesia. While Puan will almost certainly continue to have an important role in PDI-P, I don't see her as being Indonesia's next president or even as having a particularly significant position in the next government. A lot, of course, depends on how the PDI-P itself does at the next election; there will be some role for Puan, but I will be amazed if it is the role of president.

**FDI:** *Given that, who do you see as the most likely contender(s) for the presidency?*

**BS:** It is possible that it could be someone like Sandiaga Uno. He is quite an impressive individual and is the former deputy governor of Jakarta who ran with Prabowo at the last election. Although I'm not a great fan of his, the governor of Jakarta, Anies Baswedan, is also quite a credible candidate. In terms of the Covid-19 response, Anies is one of the very few persons in Indonesia who has made any sense and has really tried to be professional and transparent in dealing with the crisis. He has undoubtedly improved his political stocks from his handling of the Covid-19 crisis and, correspondingly, Jokowi has got very poor marks for his handling of it. It is perhaps just as well that he cannot run for a third term in 2024, because this has not been the shining moment of the Jokowi Presidency, whereas Anies has come out of the Covid-19 crisis, so far at least, looking very good. There are also a couple of regional governors who have shown themselves to be seemingly very capable and professional in dealing with the Covid-19 crisis, and one of them may emerge as the successful candidate. But I do think it is much more likely to be someone who is relatively young, and so more in tune with Indonesia's youthful voting population.

**FDI:** *Thank you for making the time to talk with FDI today, Bill. Your insights and experiences have given us much to think about.*

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**About the Interviewee:** Bill Sullivan specialises in advising foreign investors on the legal, policy and regulatory aspects of construction, energy, mining and oil and gas projects in Indonesia and elsewhere in South-East Asia, including Myanmar.

Bill has spoken and written widely on Indonesia's 2009 Mining Law and its implications for foreign investment. Bill is the author of the 2013 book *Mining Law & Regulatory Practice in Indonesia – A Primary Reference Source*, the only internationally published (Wiley, New York) and distributed, comprehensive review, to date, of the 2009 Mining Law and its implementing regulations. As a consequence, Bill is regarded as a leading expert on Indonesian mining law and regulation.

In 2015, Bill was part of the Working Group of the Australia-Myanmar Chamber of Commerce which prepared a detailed written submission to the Myanmar Mines Department on what the then proposed new Myanmar Mining Law should provide for in order to encourage world-class mining companies to invest in Myanmar's mining industry.

Bill is currently Senior Foreign Counsel with Christian Teo & Partners (in association with Stephenson Harwood LLP) and Senior Adviser to Stephenson Harwood LLP, as well as a qualified legal practitioner in England and Wales, Hong Kong, New South Wales and New York. He has lived and worked in Indonesia for more than 20 years.

Bill was previously an international equity partner of Coudert Brothers LLP and acted as the Australian Government-funded technical adviser to Bank Indonesia on debt restructuring matters in the aftermath of the Asian Financial Crisis. Bill is a graduate of the University of New South Wales (BCom (with merit), LLB and MCom), Harvard Law School (LLM) and the University of Sydney (MBA and SJD). During his time at Harvard Law School, Bill was both a Frank Knox Memorial Fellow and the recipient of a Fulbright Postgraduate Award.

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