
**BANKRUPTCY DEVELOPMENTS IN
SOUTHEAST ASIA:
JUNE 2006 – JUNE 2007**

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I. ECONOMIC BACKGROUND

A. GROWTH RATES, 2005 - 2007

COUNTRY/REGION	2005	2006	2007 (IMF PROJECTED)
SINGAPORE	6.6	7.9	5.5
SOUTHEAST ASIA	5.2	5.4	5.5
KOREA	4.2	5.0	4.4
CHINA	10.4	10.7	10.0
U.S.	3.5	3.3	2.2

I. ECONOMIC BACKGROUND (cont'd)

B. MAJOR TRENDS AFFECTING RESTRUCTURING

1. Few new defaults, bankruptcies or restructurings
2. Most restructuring out-of-court
3. Debt load of debtors in default relatively small
4. Ample liquidity; refinancing easily achieved
5. Strong secondary debt market, but supply of distressed debt diminishing
6. Multilateral currency swap framework
 - Finance ministers from 13 Asian countries (ASEAN plus Japan, China and Korea) recently agreed to pool part of their foreign currency reserves to prevent repetition of regional financial crisis as in 1997.

II. REPRESENTATIVE MAJOR RESTRUCTURINGS IN SOUTHEAST AND EAST ASIA, JUNE 2006 - 2007

NAME OF DEBTOR	SECTOR	COUNTRY	TYPE	YEAR OF INCEPTION	DEBT (MILLIONS US\$ EQUIVALENT)
GARUDA	AIRLINE	INDONESIA	OUT-OF-COURT/ SECOND RESTRUCTURING	2006	800
BENPRES	HOLDING CO.	PHILIPPINES	OUT-OF-COURT	2002	400
PANTECH	HANDSET MAKER	KOREA	OUT-OF-COURT	2006	2,100
APP CHINA	PULP AND PAPER	CHINA	OUT-OF-COURT	2001	2,700
JAPAN AIRLINES	AIRLINE	JAPAN	OUT-OF-COURT	2007?	14,000

III. NOTABLE JUDICIAL AND ADMINISTRATIVE DECISIONS ARISING FROM RESTRUCTURINGS, 2006 - 2007

A. JUDICIAL DECISIONS

1. Indonesia: Indah Kiat Bonds

- background: out-of-court restructuring plan for Indah Kiat provided no preference for secured bonds (US \$500 million)
- bondholders sued the guarantor, Indah Kiat, in Indonesia and New York; issuer and guarantor brought counterclaims
- held (by Indonesian Supreme Court): bonds issued by Dutch SPV and guaranteed by parent company invalid; lenders liable to borrower

NOTABLE JUDICIAL AND ADMINISTRATIVE DECISIONS ARISING FROM RESTRUCTURINGS (cont'd)

- application for reconsideration now pending

2. Philippines: Bayantel

- Bayantel: Philippine fixed line operator which entered rehabilitation proceeding in 2003 with debt of about \$674 million, of which about half was secured
- Rehabilitation Plan, adopted in 2004, provided for *pari passu* treatment of secured and unsecured creditors

NOTABLE JUDICIAL AND ADMINISTRATIVE DECISIONS ARISING FROM RESTRUCTURINGS (cont'd)

- held, by Court of Appeals, Manila: "preference in the payment of secured creditors comes into play only upon the institution of liquidation proceedings" -- not in rehabilitation.
 - secured creditors not entitled to cash flow preference under court-approved Plan of Rehabilitation but may be treated *pari passu* with unsecured creditors
- appeal to Supreme Court pending

NOTABLE JUDICIAL AND ADMINISTRATIVE DECISIONS ARISING FROM RESTRUCTURINGS (cont'd)

B. ADMINISTRATION DECISIONS: U.S. DEPARTMENT OF COMMERCE COUNTERVAILING DUTY PROCEEDINGS

1. In Indonesia, Commerce Dept. is investigating allegations that two restructured paper producers, part of the Sinar Mas Group (“SMG”)/APP, received subsidies from the Government of Indonesia because of its:
 - a. "acceptance of allegedly worthless shares in ... [an] affiliated bank as debt repayment," and
 - b. "debt forgiveness [by] allowing debtor to repurchase its own debt at a steep discount."

NOTABLE JUDICIAL AND ADMINISTRATIVE DECISIONS ARISING FROM RESTRUCTURINGS (cont'd)

2. In China, the Commerce Dept. may impose countervailing duties on two coated-paper producers (one of which is also a SMG affiliate) if loans to the producers from state-owned banks were:
 - a. made at interest rates less than would have been payable on a "comparable commercial loan," or
 - b. in the case of the SMG affiliate, made while the producer was "uncreditworthy" because in restructuring.

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