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An Evaluation of the Need for Selected Trade Facilitation Measures in Indonesia: Implications for the WTO Negotiations on Trade Facilitation

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Table of Contents

| | |
|--|----|
| EXECUTIVE SUMMARY | 4 |
| INTRODUCTION | 6 |
| 1. TRADE FACILITATION IN INDONESIA | 7 |
| 1.1. REVIEW OF LITERATURE | 7 |
| 1.2. MAJOR GOVERNMENT INITIATIVES AND INSTITUTIONS INVOLVED | 8 |
| 1.3. MAJOR ON GOING CAPACITY BUILDING PROJECTS | 11 |
| 2. ASSESSMENT OF THE TRADE FACILITATION SITUATION IN INDONESIA..... | 12 |
| 2.1 GATT ARTICLE X | 12 |
| 2.1.1. Publication of regulations and Availability of Information | 12 |
| 2.1.2. Time Period between Publication and Implementation | 14 |
| 2.1.3. Consultation and Commenting on New or Amended Rules | 15 |
| 2.1.4 Advance Rulings..... | 15 |
| 2.1.5 Appeal Procedures | 16 |
| 2.1.6 Other Measures to Enhance Impartiality and Non-Discrimination | 16 |
| 2.2. GATT ARTICLE VIII..... | 17 |
| 2.2.1. Fees and Charges Connected with Importation and Exportation | 17 |
| 2.2.2 Formalities Connected with Importation and Exportation | 18 |
| 2.2.3 Border Agency Coordination..... | 19 |
| 2.2.4 Release and Clearance of Goods | 20 |
| 2.2.5 Tariff Classification | 22 |
| 2.3 GATT Article V | 22 |
| 2.3.1 Matters Relating to Goods in Transit..... | 22 |
| 3. TRADE FACILITATION NEEDS AND PRIORITIES OF THE PRIVATE SECTOR | 23 |
| 3.1. PERCEIVED LEVEL OF TRADE FACILITATION AND IMPLEMENTATION OF GATT ARTICLES V, VIII, AND X | 24 |
| 3.1.1. Information-related measures | 24 |
| 3.1.2 Procedures of export and import..... | 26 |
| 3.1.3 Fees and charges | 28 |
| 3.2. TRADE FACILITATION PRIORITIES OF THE PRIVATE SECTOR | 29 |
| 4. IMPLICATIONS FOR THE WTO NEGOTIATIONS ON TRADE FACILITATION..... | 32 |

| | |
|---|----|
| 4.1. PRIORITY TF MEASURES TO BE CONSIDERED FOR INCLUSION IN THE WTO TF AGREEMENT | 32 |
| 4.1.1. Measures Related to Article X | 32 |
| 4.1.2. Measures Related to Article VIII and V..... | 33 |
| 4.2. SPECIAL AND DIFFERENTIAL TREATMENT | 33 |
| 4.3. CAPACITY BUILDING NEEDS | 34 |
| 4.4. BINDING COMMITMENTS | 35 |
| 4.5. SCOPE OF A WTO TRADE FACILITATION NEGOTIATIONS AND AGREEMENT..... | 35 |
| CONCLUSIONS | 37 |
| REFERENCES | 38 |
| ANNEX 1. SELF ASSESSMENT CHECKLIST FOR WTO TRADE FACILITATION NEGOTIATIONS | 39 |
| ANNEX II: PRIVATE SECTOR SURVEY INSTRUMENT | 44 |

Executive Summary

As a member of WTO, Indonesia has been involved in the discussions of the WTO Negotiating Group on Trade Facilitation (NGTF). This study aims to examine the current situation of trade facilitation in Indonesia, as well to assess the needs and priorities of various measures related to the trade facilitation negotiations.

Trade activities have been the engine of growth since the period of economic liberalization and trade reform in the 1980s and 1990s. As part of past and on-going reforms, Indonesia has implemented various trade facilitation measures currently discussed in the WTO TF negotiation. However, the degree of implementation of those measures needs significant improvement in order to provide simplified and harmonized procedures related to trade.

In relation to GATT Article X, most government agencies have launched various efforts to disseminate trade-related regulations and procedures. However, as there is no specific guideline for publication of relevant regulations, policy towards dissemination is sporadic. New regulations are not communicated well to stakeholders, while no formal mechanism is available that allow traders to provide comments and suggestions regarding trade rules and regulations. The exploratory private sector survey conducted as part of this study reveals that measures regarding publication of relevant regulations are of highest priority for trade facilitation improvement. Another utmost concern related to Article X is the need for certainty and uniformity in how trade procedures are implemented, which relates to the improvement of the integrity of officials.

The government of Indonesia introduced a number of programs in order to improve trade facilitation measures related to GATT Article VIII. This study shows that more simplified and automated trade procedures and required documentations are among the measures perceived as highest priority for improvement in trade facilitation. While formal fees and charges for services related to trade procedures are perceived to be quite reasonable, the existence of rampant illegal charges need to be addressed as it erodes Indonesian products' competitiveness. With regards to GATT Article V, Indonesia recognizes special treatment for goods in transit and exempts them from import duties payment and submission of importation or exportation documents.

Recognizing the current situation of trade facilitation in Indonesia, the government might need a relatively long timeframe of implementation for some of the measures under discussion at the NGTF (e.g., advance ruling facilities) so as to prepare necessary institutions and administrative arrangements. Capacity building may be particularly important for implementation of measures to improve coordination among authorities responsible for trade activities. External technical assistance that has more flexibility to act across different agencies will accelerate the government's program to improve coordination. Technical assistance might also be needed to develop an information system for traders and other stakeholders to learn about trade procedures and regulations.

While it is important to account for the technical aspects of trade facilitation and Indonesia's implementation capacity when negotiating at the NGTF, improvement in trade facilitation can be expected to bring significant benefits to Indonesia's trade

performance and the economy as a whole. Successful negotiation on trade facilitation at the WTO, including binding commitments on selected trade facilitation measures, will support the already on-going unilateral efforts for the improvement of trade related procedures and system.

Introduction

During the last three decades, Indonesia has taken various important actions to open its market and liberalize its trade regime. Indonesia's trade policies have shifted from the import substitution strategy and agricultural protection regime in the 1970s and early 1980s to trade liberalization in the late 1980s. Since then, international trade activities have become important components in Indonesia's economy. Both exports and imports values have increased substantially, while the structure of exports has also changed dramatically.

Trade activities have been the engine of growth during the period of economic liberalization in 1980s and 1990s. The growth of exports and imports has been generally higher than overall economic growth at around 7 percent annually. Even in 1998, when overall economic growth declined by more than 13 percent, trade sectors, especially exports, still grew by more than 10 percent. Specifically targeted reforms to promote exports together with a sound macroeconomic management produced the on-going exports boom from the mid-1980s.

Drivers of liberalization in the early 1980s came from both internal and external conditions. The end of the oil boom in the early 1980s forced the Indonesian government to launch various strategies to diversify the economic base away from oil, using general export incentives and undertaking a substantive program of structural reforms. Numerous non-tariff barriers were abolished while tariffs were drastically reduced, especially those applied to imported input for export-oriented industries, while investment deregulations were introduced to support trade. In addition to the internal condition, Indonesia's active participation in several regional trade agreements and economic cooperation schemes, such as APEC and AFTA, as well as the multilateral ones, led to further liberalization in the first half of the 1990s.

The current average tariff rate of 6.9% is much lower than the average tariff rate in the mid-1980s, which reached 28%. Various other unilateral measures, such as customs deregulation and abolishment of various trade licenses, were introduced at the end of the 1980s to further liberalize and facilitate trade activities and to encourage non-oil exports. The development of the trade infrastructure was also a government priority. Several ports were equipped with modern logistic and transport facilities to make trade activities easier. However, the availability and quality of trade infrastructure, as well as exports and imports procedures, are still the main obstacles for further development in the trade sectors. The high cost of transportation and port services, together with lengthy and complicated trade procedures, contributed significantly to the non-competitiveness of Indonesian products during the time of crisis. Trade infrastructure bottlenecks and unsupportive trade procedures weakened Indonesia's trade performance and earlier competitiveness gained from trade liberalization.

This paper discusses the trade facilitation situation in Indonesia with regards to the WTO Trade Facilitation Agreement. Section 2 presents the development of trade facilitation initiatives that have so far taken place. Section 3 evaluates the current state of trade facilitation in Indonesia with regards to various measures currently discussed by the WTO Negotiating Group on Trade Facilitation (NGTF). Section 4 presents the result of a field survey conducted to provide insight on the needs and priorities of private sectors

towards the provision of trade facilitation in Indonesia. Section 5 discusses several implications of current trade facilitation situation in Indonesia and its possible position in the WTO negotiation. The final section presents concluding remarks.

1. Trade Facilitation in Indonesia

1.1. Review of Literature

While trade facilitation frequently refers to all measures that can be taken to facilitate and ease trade flows, there is no standard formal definition of trade facilitation. In a broader sense of the term, trade facilitation can be defined as any action intended to reduce transaction costs which affect the international movement of goods, services, investments and people. In this sense, the term covers all types of non-tariff measures to trade such as technical standard, sanitary and phytosanitary (SPS) and environmental-related regulation, as well as other domestic business climate related regulations and all types of infrastructure issues. In a narrow sense, the scope of trade facilitation is generally limited to customs procedures and related formalities involved in the movement of goods.

Several studies show that improvement on trade facilitation could lead to substantial economic gains. Wilson, Mann, and Otsuki (2003), suggest that raising capacity in broad measures related trade facilitation, such as customs, regulations and infrastructure across whole countries, could increase world trade by approximately \$377 billion dollars. Other studies that mostly try to evaluate the benefit of certain actions in facilitating trade also reveal significant benefit of those measures¹.

As one founding member of APEC, Indonesia has committed to take several actions under the APEC trade facilitation framework, which has an objective of reducing transactions costs by 5 percent by 2006 through introduction of trade facilitation measures². On the movement of goods, the APEC Trade Facilitation Action Plan identifies 11 main measures to be implemented by member countries in order to achieve the overall objective. Of all 65 actions and measures Indonesia has committed to improve, 50 of them are now under implementation. In terms of trade related procedures, Indonesia agreed to implement 39 actions, 30 of which have been implemented to improve trade procedures³.

Indonesia has also been actively involved in various initiatives to improve trade-related procedures under ASEAN's Customs Procedures agreement. While commitment to improve trade-related procedures and facilitate intra-ASEAN trade has been introduced since 1983 by commencing an ASEAN Customs Code of Conduct, the need to provide such facilitation gained importance in the view of the ASEAN Free Trade Area. Since 1997, ASEAN member countries, including Indonesia, agreed to carry out various efforts in order to harmonize trade procedures under the program called ASEAN Policy and Implementation Work Program (PIWP). The harmonization of tariff classification applied in all ASEAN countries is among the fifteen elements of PIWP. The next main agenda of customs cooperation in ASEAN is the creation of an ASEAN Single Window, which will

¹ See for example APEC Report on paperless trading (2001) that estimate application of the method will reduce up to 15% transaction cost of imported items.

² APEC Economic Committee, 2004

³ APEC Individual Action Plan for Indonesia, 2004

require the establishment of national single window systems in each member country. Indonesia is now preparing to set up a single window system at national level.

As a WTO member, Indonesia acknowledged various attempts to facilitate trade under the General Agreement on Tariffs and Trade (GATT). At this multilateral level, WTO recognizes trade facilitation as “the simplification and harmonization of international trade procedures” covering the “activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade”. WTO discussion on trade facilitation focuses on improvement and implementation of Articles V, VIII and X of GATT 1994.

1.2. Major government initiatives and institutions involved

The story of Indonesia’s trade performance cannot be separated from several major trade reforms that have taken place during the last two decades. Besides the elimination of several trade restrictions and the reduction of tariff barriers, the reforms also covered various measures of trade facilitation aiming to simplify export and import procedures.

Indonesia’s trade procedures underwent various significant alterations to respond to the needs of more dynamic trade activities. The first significant reform program came into effect in April 1985 when the government of Indonesia decided to hand over trade procedures and formalities to a Swiss Company, *Société Générale de Surveillance* (SGS). Allowing the company to conduct pre-shipment inspection (PSI) for imported goods at the point of origin sidelined the customs agency. This policy was introduced to simplify and streamline import procedures.

Pre-shipment inspection provided various functions. The main function was to ensure that the quantity and the price of goods to be imported were compliant with the associated documents and invoices. Additionally, PSI also provided other services, such as verification of the origin of goods, data collection and other related trade procedures. These procedures and formalities, such as valuation of imported goods and assessment of duties as well as direct payments of duties through financial banks, were conducted in a more efficient way than the previous arrangement, and reduced the chance for bribery or side payments for import clearance.

The success story of PSI procedures led the government to continue implementing the system until April 1997 before returning authority over import procedures to customs offices, although strong requests from the private sector remain for the government to extend the PSI scheme. One of the arguments behind the termination of PSI is that the scheme draws on too many foreign reserves to pay the company. The government also argued that customs offices have been prepared and readied for greater authority and would conduct better import procedure in order to facilitate flows of imports and stimulate export growth. Prior to the handover, the government issued a new law on customs which marked another significant change in Indonesian trade procedures.

In April 1997, following the transfer of authority over import procedures, the Indonesian Directorate General of Customs and Excise began the operation of post-entry audit system, which relies on verification and auditing rather than inspection. Together

with the implementation of this new system, customs offices offered self-assessment procedures for importers. It provides importers some independence to report imported goods characteristics, amount, tariff and harmonized system (HS) classification, as well as to calculate import duties and all relevant taxes in their import declaration. Procedure of verification and control, equipped with risk management technique and implementation of post verification and audit function, was also introduced to complement the new import procedures.

This new procedure enables importers to submit import declaration and various documents related to imports prior to the goods entering the Indonesian customs area. Verification and audit are conducted after the release of imported goods at points of entry areas. Physical inspection is also part of the current custom procedure. However, the inspection is conducted only on a “red channel” based on a selective basis and is supposed to focus only on imported goods with high risks. Customs officers may examine 100% of such goods, but usually the inspection applies only for minimal parts of the imported goods. More “reliable” imports may enjoy the “green channel”, where no physical inspection takes place.

In order to differentiate between high risk goods and reliable ones, the Directorate General of Customs and Excise implemented a risk management-based control system. Various factors were taken into consideration to assess whether the imported goods fall into the high risk category or are reliable, ranging from the track record of importers and any suspicion arising during the process of documents verification or a simple random sampling on arrival goods.

Various other measures were also implemented in order to facilitate the flows of imports and exports. One of the most noticeable efforts among these was the first launch of the electronic data interchange (EDI) system that allows traders or forwarders to lodge their documents online, even though it is limited only to major international ports and customs offices and for import declaration. At the same time, Indonesian Customs has also implemented advance classification ruling, together with the harmonization of trade data according to the UN/EDIFACT Standard and adoption of World Customs Organization (WCO) guidelines on express consignment clearance.

In response to increasing demand for favorable trade facilitation, the Indonesian customs office launched its reform program in 2003. There are four main areas of the reform, namely trade facilitation, enforcement, integrity and coordination. The objective of the trade facilitation initiative under the reform program is to create an environment conducive to legal trade and investment by eliminating the high economic costs related to the complexities of customs clearance procedures. For that purpose, several trade facilitation measures have been implemented or will be launched in the near future.

One of the important features of the reform is the modernization and automation of customs procedures through the utilization of telecommunication technology. The Indonesian customs office has made payments for import duties and all related taxes available through an integrated online payment system using a single document. It has also enhanced the use of EDI by including information and documents not only import declaration but also on cargo manifest.

Another major characteristic of the new import release procedures is the improvement of risk-based management through the control system. The parameter is based on two main variables, commodity profiles and importer profiles, and other relevant variables. To deal with the lack of information on importers' profiles and track records, customs offices also use a system of importer registration. This system collects information about the existence of importers including responsibilities of the management, nature of business and auditable bookkeeping. With this information, customs offices may build a database to qualify whether or not an importer is high risk. In addition, particularly eligible importers are treated as distinguished importers and will be served through priority channels. This facility ensures these particular importers that their imported goods are handled without intensive document inspection and physical inspection during import clearance process.

Indonesian customs and other related agencies also improved the dissemination of relevant information on trade procedures. To encourage public participation and support, the customs office uses its website as one of the main channels of information and to get feedback from users of customs services and other stakeholders. The office has also established a consultation desk for general public information on trade and customs procedures. However, information available on the website is limited to basic procedures and legal regulations. More technical and practical information on procedures of exports and imports could only be obtained through the consultation desk or relevant agencies.

All these reforms and implementation of measures related to improvement of trade procedures have brought significant improvements to the business and trade environment. However, various actions are still needed to facilitate trade activities further. A recent study on the time required for imported goods to obtain release permission from arrival reveals that Indonesia is still behind other countries in facilitating trade. Table 1 summarizes "lead time" required for imported goods to obtain release permission in Indonesia in comparison to several developed countries. While it takes only 1 day in average to obtain release permission in Singapore, it takes on average 5.5 days to carry out similar procedures in the Tanjung Priok port of Jakarta. Even for goods entitled to the green channel, the time required is still two times longer than that in developed countries⁴.

Table 1. Lead Time Required to Obtain Release Permission

| No. | Nation | Lead Time (days) |
|-----|---------------------------------|------------------|
| 1 | Port of Tanjung Priok (Average) | 5.5 |
| | Green Channel | 3.6 |
| | Red Channel | 6.5 |
| 2 | Japan | 3.1 |
| 3 | Germany | 2.0 |
| 4 | USA | 2.0 |
| 5 | Singapore | 1.0 |

Source: JICA Study on Trade Related Procedures, 2005

⁴ Summarized from "Lead Time" survey conducted by JICA (2005).

One of the main obstacles in performing trade activities in Indonesia is that there are many agencies involved in the process, while coordination is quite limited. Traders need to collect various approvals and documents from several different offices before they could obtain import clearance. The current automation and modernization of customs procedures offered moderate solution to this problem. At the moment, the system only connects banks, tax offices and the treasury. The proposed development of a single window facility is expected to improve coordination between relevant agencies and further simplify trade procedures.

1.3. Major on Going Capacity Building Projects

As part of the economic recovery program following the conclusion of the IMF recovery program, the Government of Indonesia released an economic package embodied in the document known as the “White Paper” in 2003. The post-IMF package consists of a three-part program including: macroeconomic stabilization, financial sector restructuring, and increase in investment, exports, and employment creation. Various policies and actions related to trade facilitation are also included in this package.

- Simplifying the export and import procedures, including harmonization of import tariffs, speeding up tax restitution claims and simplification of import permit procedures through an online system. The tariff harmonization process providing a simpler import tariff schedule was completed by February 2006. Import permit application through the online system has been introduced and is progressing quite satisfactorily.
- Improving import clearance information system, including a system which interconnects the online payment system for tax and customs as well as the quarantine information system.
- Improving the selection process based on a risk management system, including extension of use of priority lanes for selected traders, development of a better price database to comply with best valuation practice while at the same time reducing undervaluation.
- Improving the quality and integrity of customs officials by introducing a code of conduct and establishing a supervisory committee.
- Enhancing coordination among relevant agencies to reduce smuggling.
- Improvement of trade infrastructure by inviting greater private sector participation in developing trade related infrastructure, such as in the rehabilitation program of Tanjung Priok port of Jakarta.

In addition to those actions under the post-IMF economic package, the government is also planning to conduct several actions related to trade facilitation.

Single window system. The government of Indonesia is planning to establish a system that allows business entities and all authorities to communicate electronically on each procedure needed in international trade activities. This effort is in part triggered by Indonesia’s commitment to the establishment of the ASEAN Single Window. A national

task force will be formed to prepare the construction of a national single window. Currently a team from different authorities has been working informally to look at the feasibility of the system. There are several conditions that would support the establishment of a single window system:

- Adoption of internationally compatible data formats such as the one from UN/EDIFACT formats;
- More intensive usage of international standard declaration forms and other trade documents;
- Making the electronic application as general rule rather than exception as currently applied;
- Shortening procedures related to import and export by reducing duplicated process and documentation.

The enactment of trade law. As Indonesia has entered into various trade agreements, there has been reform on a number of statutory enactments in the field of international trade and foreign investment. Unfortunately up to now, Indonesia does not have a fundamental law in trade regulation which promotes subsequent introduction or revision of numerous relevant laws and regulations. Enactment of trade law will provide a legal and institutional basis for various efforts to improve trade performance and to facilitate trading activities further. In early 2006 the government finalized drafting the law and expected to present it to parliament later in the same year.

2. Assessment of the Trade Facilitation Situation in Indonesia

The government of Indonesia introduced and maintains various measures in facilitating trade procedures. This section assesses trade facilitation measures currently discussed in the WTO, particularly GATT Articles V, VIII and X. The discussion in this section is limited to trade facilitation measures provided by the government of Indonesia. The next session examines the implementation of such measures from the point of view of the private sector. As availability of information from other studies is very limited, detailed information in this section is derived from legal texts of relevant regulations and discussions with government officials from various related agencies. The current situation of trade facilitation in Indonesia is summarized in the WTO/WCO Checklist provided in Annex 1 of this paper.

2.1 GATT Article X

2.1.1. Publication of regulations and Availability of Information

Availability of information is an important and crucial aspect in providing trade facilitation in Indonesia. In general, the government of Indonesia has the responsibility to publish and inform all regulations to the public. New laws and regulations issued by the government, up to ministerial level decrees, have to be announced and published in the monthly State Gazette, including trade related laws and regulations⁵. Stakeholders and

⁵ The Indonesian legal system acknowledges Laws as the highest regulation for a specific subject, but it can be substituted by various types of regulation from the government, such as Presidential Decrees and

the wider public are expected to consult this State Gazette in order to get information on relevant new laws and regulations issued by the government.

While this might serve the government's purpose to fulfill its legal obligation to disseminate information, this mechanism is not an effective way to distribute information to the public and to ensure more transparency. Relatively few people actually ever read the Gazette. Relevant stockholders, such as business people, rarely consult the State Gazette in order to find new pertinent regulations. Moreover, there is a significant time lag between implementation and publication of a new regulation in the State Gazette; sometimes it even takes six months after implementation of a new rule to be published in the Gazette. For these reasons, many agencies in Indonesia have taken initiatives to publish and disseminate information on relevant regulations through other media.

With regards to the availability of information on trade related regulations and procedures, we should distinguish between regulations under Customs jurisdiction, which is administrated by the Ministry of Finance, and regulations from other government agencies, such as the Ministries of Trade, Transportation, etc. All regulations from these government agencies direct international trade activities and affect the efficiency of trade facilitation in Indonesia. However, since the regulations come from different agencies, the dissemination process significantly depends on each agency's policies towards transparency and availability of information.

A frontline agency directing international trade activities, the Directorate General of Customs and Excise (DGCE) engages efforts to ensure the availability of information and trade related regulations, particularly those from the DG itself or from the Ministry of Finance as the authoritative ministry. Although there is no specific guideline regarding information, customs maintains various methods to disseminate trade related information.

Official publication and dissemination materials. In addition to the State Gazette, trade related regulations and relevant trade procedures and rules from DGCE (and the Ministry of Finance) are also available in its regular published collection of regulations. Every year the directorate also releases the Indonesian Tariff Book, a main reference for product categorization and import duty assessments. As a periodical media, these publications cannot serve the needs for immediate dissemination of new regulations and changes of rules and procedures.

DGCE also publishes several brochures and leaflets. This method is a useful means to provide practical information with regard to trade and customs procedures, especially for non-regular clients. However, those brochures are only available in limited places. People have to go to the customs office or designated ports and airports to obtain such information. Again these brochures are sometimes out of date and do not reflect current procedures and regulations.

Other relevant ministries and government agencies also have their own official publication on regulations and rules under their authorities. Some agencies, such as quarantine, provide practical information in brochures and leaflets. But the information is not comprehensive and is only limited to several aspects of lengthy procedures.

President Instructions. More elaborate direction come in the form of ministerial level decrees, while technical regulations are under the domain of relevant directorate generals.

Mass media. Indonesian Customs has been using public newspapers and magazines to inform the public of new regulations and changes of custom and trade procedures. Other government agencies occasionally announce the changes of regulations and rules through the mass media. There are limitations in using mass media to inform the public as they only presents limited information and leave the details behind. To overcome this problem, DGCE publishes a monthly magazine, which in part serves as a channel to disseminate detailed information to traders and the wider public on procedures and available facilities. The magazine also acts as a communication bridge between traders and the directorate itself.

Other relevant agencies also disseminate information on their related regulations and procedures through their own publications. Unfortunately the circulation is either published on irregular basis or the publication period is too far from one volume to the next.

Internet based information. Various government agencies in Indonesia are providing information on the Internet. One of the benefits from using a website channel is the ease of the users to obtain required information. However, some websites only present news regarding their activities and provide limited information on procedures and regulations. Some others only provide laws and regulations without giving more practical information to traders. For instance, there is no information available on the procedures to obtain necessary documentation and requirements to be eligible as a special importer for certain products.

Some websites are relatively better in providing information. The website of DGCE (www.beacukai.go.id) is among the most informative websites on customs. It does not only give customs related regulations and laws but also more practical information such as customs procedures, information on import and export duties as well as tariff classification. It also allows the users to join a forum, moderated by customs officials that actively discuss customs related problems. However, some problems remain. Information on the changes in regulations and procedures usually take time to appear on the website. The English version of the website only provides limited information as not all regulations have been translated. The information in this website mostly comes from the DGCE or the Ministry of Finance. Information on other trade related regulations and procedures could hardly be found in this website.

Hotline number and enquiry points. Currently there is no enquiry point or consultation desk available for traders and the public to obtain information regarding customs and trade related matters. However, the Directorate General of Customs and Excise opened a telephone hotline number for traders and other stakeholders to obtain general information. The inquirer would then be channeled to a relevant officer for more detailed and specific queries. Unfortunately, the service is only available in the directorate's headquarter in Jakarta, making people from other parts of Indonesia expensive long distance calls to acquire information.

2.1.2. Time Period between Publication and Implementation

Related to the transparency and availability of information is the prior notification of changes in regulations and procedures. Prior notification of changes in procedures or

release of new regulations allows traders to prepare necessary requirements concerning the changes.

The Indonesian legal system does not specify in detail how long after the publication date a new law or regulation should be implemented. However, in practice, a new regulation usually provides for a 30-day grace period before it is implemented in order to allow relevant agencies to meet necessary requirements for implementation.

2.1.3. Consultation and Commenting on New or Amended Rules

Considering there is no general guideline regarding dissemination of information, it falls on each agency to construct a notification process of new or amended trade related regulations along with required consultative mechanism. Some of the agencies, such as DGCE, make available proposed regulations to the interested parties, both domestic and foreign. The Customs office also carries out regular consultative activities with stakeholders, especially business associations, traders, and also foreign representatives, in order to obtain information for the improvement of customs procedures and to overcome problems. Although it is quite an effective way to collect feedback from stakeholders, the mechanism is informal and there is no specific guideline directing such activities.

Together with the notification process, an appropriate consultative mechanism provides the opportunity for stakeholders to respond to new regulations and deliver comments or suggestions prior to implementation and enforcement. However, the lack of formal consultative mechanisms discouraged relevant government agencies to improve the trade facilitation situation in Indonesia. The business society usually does not know how and where to give comments for improvement. Their ability to submit suggestions and comments depends on personal relation to related officials, opening the possibility of improper conduct of government authorities.

2.1.4 Advance Rulings

Indonesian customs procedures allow traders to submit Customs Declarations and other necessary documents through an online system or manually prior to the arrival of the goods. Documents have to be presented to the customs office at the latest 24 hours after goods arrival. As the customs procedures have been set up based on a self-assessment, certainty over various aspects of the procedures is very crucial, even before the documents are submitted.

The Ministry of Finance Decree No 453/KMK.04/2002 on Import Customs Procedures presents a pre-entry determination on classification. Persons importing goods may seek customs advice on the tariff classification to determine the imported goods. This can be done electronically through the Customs website or by filling out the Pre-Entry Classification (PEC) form manually in the respective Customs Offices.

The introduction of the electronic application system in determining tariff classifications has made the procedures much faster and more efficient. Applicants only need to submit relevant information regarding the imported goods, while the applications are going through examination by relevant customs officers. Even though it is not legally binding, they might even consult the Customs' website to get early determination before the formal decision is released.

While the provision of advice on pre-entry classification might be perceived as a variety of advanced ruling on classification, it is different in the sense that this advice might not be legally binding, and it applies only once. Indonesian custom procedures do not recognize advance rulings on the origin of imported products. Bilateral and regional trade agreements between Indonesia and its major partners require imported goods from partner countries to be complemented by a certificate of origin each time imports carried out in order to receive preferential treatment.

DGCE, however, provides advanced ruling facilities on valuation. It is a legally binding valuation of imported goods that can be used to evaluate future imports of the same goods by the same importer. The ruling is valid for a duration of six months.

2.1.5 Appeal Procedures

Based on the Ministry of Finance Decree No. 380/KMK.05/1999, DGCE implemented an objection and appeal procedure. Objections to the assessment of tariff classifications and valuations determined by customs officials might be made as an objection letter to the Director General within 30 days after the date of assessment. The letter should enclose all information regarding the objection itself, including the supporting arguments and various evidences to back it up, and should be accepted by the Director General within 14 days after the letter submitted. During the process, the claimant has to pay a security deposit of the same amount as the import duties in order to get the imported goods released.

The DG should come to a decision within 60 days of the submission date. The objection can be accepted fully or in part, which will allow the claimant to get his deposits back or obtain duties restitution. In case the DG fails to come to a decision, the objection shall be deemed accepted and the security deposit returned. If the objection is rejected, the import duty will be paid by clearing the security deposit.

The claimant can make further appeal to the Tax Court within 60 days, in case s/he does not accept decision from the Director General, after paying the import duty according to the DG's decision⁶. Decisions from this court are considered to be final. The court will hold the trials within six months after the application. However, there is no time limit for the court to come to a decision; thus making it difficult for claimants to estimate the length of the process.

2.1.6 Other Measures to Enhance Impartiality and Non-Discrimination

One important agenda in the Customs reform is to improve administrative arrangements and integrity among officials. It is widely perceived in the Indonesian public that there are many fraudulent activities in the DGCE, ranging from deducting illegal levies in the customs clearance process to involvement in various smuggling and illegal imports. In order to improve its image, as well as to support the reform program, Indonesian customs introduced several measures related to the improvement of its integrity.

One important action is to implement a code of conduct for customs officials. The code of conduct was introduced in 2002 through the implementation of Ministry of

⁶ The courts not only deal with customs appeals but also arrange trials and appeal for other tax related cases.

Finance Decree No. 515/KMK.04/2002 on Codes of Ethic and Conduct for Official of DGCE. It focuses mainly on reducing corruption among officers, such as refusing gifts and contributions in carrying out their job, and describing appropriate behaviors in serving the public. The decree also stipulates sanctions towards all illegal actions.

To further impose the code of conduct and improve integrity, a Code of Conduct Committee consisting of six permanent members and 16 task force officers, was appointed in 2002. The committee is expected to monitor the officer morale from both within and outside the organization. The main duty of the committee is to receive and to collect complaints towards behaviors of customs officers that may potentially cause misconduct and illegal action. Such complaints would be followed by investigation from a special unit which leads to suitable action from the committee. To complete this purpose a channel for complaints on violation of code of conduct has been opened through a hotline telephone channel at 62-21-3842074.

2.2. *GATT Article VIII*

2.2.1. Fees and Charges Connected with Importation and Exportation

People or companies conducting exportation and importation have to arrange numerous necessary documents, such as import or export declaration, trade manifests, and certificate of origin for exporters. Most documents are provided by and submitted to the Directorate General of Customs and Excise (DGCE), while some others are related to services provided by other agencies. Traders pay fees for each service provided. The fees are relatively reasonable, but as the agencies related to different services charge different fees, it might be quite expensive to obtain the whole necessary documents.

A schedule of duty payment of non-tax revenue (PNBP) was introduced to importers and exporters by the issuance of Finance Ministry Decree No. 118/2004. This regulation was intended to collect financial resources in order to improve customs and trade related services, such as the development of a better EDI system. Table 2 summarizes duty payments for various services related to customs and trade procedures.

Table 2. Fees for Customs Services

| Type of Service | Fees |
|--------------------------------------|--------------|
| Accomplishment of Import Declaration | |
| EDI Service | Rp 100,000,- |
| Non-EDI Service | Rp 50,000,- |
| Accomplishment of Export Declaration | |
| EDI Service | Rp 60,000,- |
| Non-EDI Service | Rp 30,000,- |
| Trade Manifest | |
| EDI Service | Rp 250,000,- |
| Non-EDI Service | Rp 125,000,- |

Source: Ministry of Finance Decree No. 118/2004
 Note: 1 US\$ is approximately equal to Rp9500,00

The decree also arranges the collection of duty payment through a number of private and public banks. It also provides some flexibility and facilities for certain cases. A facility for periodic payment is available for frequent traders, who conduct trading activities more than five times per month. In addition, deferred payment of service fees is also allowed in specific cases, such as for time sensitive imported or exported goods.

2.2.2 Formalities Connected with Importation and Exportation

Indonesia introduced various customs and trade related features in line with standard procedures developed by many international institutions. To accommodate HS amendment 2002 based on the WCO recommendation, for example, Indonesia issued a new tariff classification, effective since May 1, 2003. Indonesia also fully implemented the WTO Customs Valuation Agreement. Most trade related documents have also been aligned to standard forms recommended by international institutions, although many of them have been adjusted to cater specific needs of relevant agencies.

Automation of trade and customs procedures have been in place since Indonesia implemented a post-entry audit system in 1997. Two main areas have been identified as focal points for the improvement and the automation of trade related procedures. The first, and the most established one, is the customs electronic data interchange (EDI). The second, still in its initial stage, is the electronic integration between related government agencies and other supporting industries.

Since its inception in 1997, the EDI system has been introduced at 9 customs service offices in Indonesia, two airports and seven sea ports⁷. Initially the system only assisted import procedures until May 2004, when EDI also implemented export procedures.

The system is managed by PT. EDI Indonesia, established in July 1995 in order to realize the EDI system for port and customs clearance procedures. Importers and exporters have to fill in declaration forms through the system, which is on-line with the customs services and several main banks. The aim of this automation is to improve and speed up the processing of goods and documents at sea ports and airports, and also to reduce the scope for collusion and illegal actions. At the moment the EDI system has connected traders with customs, banks and tax offices, allowing them to make import duties payment through an integrated online payment system using a single document.

The utilization of this EDI system is quite high. Although it is expensive for a particular company to buy the system, many have introduced it as an integral part of their export and import trading systems. Those who cannot afford the purchase can still use it through the service of customs brokers (PPJK) by paying small charges for data transfer. The DGCE's policy to allow companies who do not have their own system to use other's has contributed to higher utilization of the system.

Unfortunately, the EDI system is not an integrated system through which the traders are able to assist all import and export related procedures. Data and information exchange between related government agencies has been improving rather slowly.

⁷ These sea ports and airports are the biggest ports in Indonesia, serving more than 85% of national import cargo volume. Currently DGCE operates 13 regional offices with 143 service offices.

Agreement for data interchange among related agencies under Ministry of Trade and Ministry of finance was accomplished in March 2004⁸. The objective is that each institution would become more capable in supporting, accelerating and smoothing the supervision of international trade activities as well as improving coordination among institutions. This is the initial attempt to improve coordination between related agencies even though it is still limited to agencies under the two ministries. The implementation of this new system will take several stages depending on the availability of infrastructure between them. In the future it is expected that the system will allow each agency to utilize available information currently held and used solely by other agencies.

2.2.3 Border Agency Coordination

Coordination poses difficulties in Indonesia, including in trade related system and procedures. Facilitation of international trade requires the involvement of various government agencies dealing with a range of activities from trade, customs, transport, quarantine and others. The Indonesian international trade system lacks efficient and effective coordination among all relevant agencies. It is common for certain regulations and rules from different authorities to lead to opposite results and practices in the field. In many cases, officials from different agencies remain unaware of each others' new regulations.

To improve coordination among relevant trade agencies, the government of Indonesia initiated several efforts. In practical terms, an initial attempt on setting up a more integrated data and information exchange system between Ministry of Finance and Ministry of Trade started in 2004; yet no significant results have been observed so far. More strategic efforts are indicated by the formation of the Coordinating Team for Enhancing Smoothness of Export and Import of Goods in 2002, based on Presidential Decree No.54/2002.

The team, consisting of eight different ministries and ministerial level agencies including the national police and army, has as its main duty to monitor and improve the flow of export and import commodities. It is expected that the team would coordinate efforts in formulation of related strategies to improve efficiency of trade flows and procedures. The team would also coordinate planning, implementation as well as evaluation of required activities on the improvement of trade flows. Other duties of the team include coordination in elimination of all kinds of smuggling.

However, up to now the team does not engage considerable efforts to improve coordination among agencies. The team focuses mainly on combating smuggling and illegal trade, and has already held several meeting related to this task. As this particular task was actually assigned by the government in the Economic Policy Package 2003 (White Paper), most of the efforts fall into this, while other tasks of the team have been set aside.

⁸ There are some other government agencies involved in trade related procedures, such as Ministry of Industry, Ministry of Agriculture and Ministry of Health. These ministries are currently not integrated in the available information system.

2.2.4 Release and Clearance of Goods

Risk management is an integrated part of the current Indonesian customs system. The system is based on self-assessment and post-entry audit, where the import and export shipping bill declaration and customs clearance declaration are accepted prior to the arrival of goods, and customs calculates the related duties and taxes according to the information supplied. An excellent risk assessment mechanism is necessary to facilitate trading activities.

Indonesian customs assessment is a two-step process. First, a risk assessment of cargo is made based on verification of relevant documents. This assessment determines treatment at the next stage of assessment. The following characteristics are basic criteria used in evaluating associated risk.

- Type of importation. Whether the cargo is imported as temporary import, re-import or other types of imports which is considered high risk.
- Commodity profile. Some commodities are regarded as high risk.
- Importers profile. There are three categories of importers: 1) new and high risk importers, 2) medium risk importers, and 3) low risk importers.
- Other criteria. Such as intelligence information.

The cargo is then directed to a particular inspection channel: red for high risk cargo and green for low risk. There is also a special channel for faster and simpler procedures, called the priority channel, introduced by customs for importers with good reputations and who comply with certain criteria. Cargo in the red channel is subject to physical inspection at the port of entry. The procedure of inspection is regulated under the DG's circular No SE.05/BC/2003 in order to standardize the procedure and make it proportional to the risks involved. Inspections cover anywhere from 10% to 100% of cargo using x-ray scanners, depending on the criteria mentioned above. Cargo in the green channel is released without physical inspection. Table 3 summarizes the custom risk assessment mechanism.

Table 3. Matrix for Risk Assessment and Channeling Criteria

| | Low Risk commodities | High Risk commodities | Other commodities |
|------------------------------|----------------------------------|---------------------------------|---------------------------------|
| High Risk importers | Red Channel (100% inspection) | | |
| Medium Risk importers | Green Channel | Red Channel (30% inspection) | |
| Low Risk importers | Green Channel | Green Channel | Red Channel (10% inspection) |
| Priority importers | Green Channel | Green Channel | Inspection at importer's place |

Source: Warta Bea Cukai vol. 369 August 2005

The post-entry audit system is intended to check transaction values and general compliance with trade rules and regulations. Audits may be conducted by the customs according to an annual plan, following instructions of the Director General, or based on a company's request. For this purpose, importation documents must be maintained by both importers and customs a maximum of 10 years.

An important factor behind the success of this risk assessment mechanism is the availability of a reliable and informative database on importer profiles. The process of developing the database started in 2002 when importers were asked to register and to provide some information for the development of the current systematic risk evaluation. The profile includes information such as the nature of business, capacity of the company, credibility of management and owners, and accountability practices. The registration process and provision of information is on a self-assessment basis, as it may change over time and need further updating. Currently, importer registration can also be done through the customs internet website. Based on this information, importers are grouped into five categories from high risk to priority importers.

In addition to general export and import procedures, the government of Indonesia provides various facilities regarding simplified release procedures. Minister of Finance Decree No. 453/KMK.04/2002 describes various customs facilities for special import arrangements. Three facilities are available to provide simpler and faster release procedures: (i) rush handling for particular commodities, (ii) express consignment, and (iii) temporary imported goods. Each facility is directed in a specific guideline to ensure standardized treatments and practices.

For time-sensitive goods, such as newspapers and magazines, perishable goods, or medical-related goods, Indonesian customs provides a rush handling facility, which allows importers to release the imported goods without having customs clearance, providing that the importers provide a deposit security. Within seven days of release, importers have to submit appropriate documentation to allow for deposit security withdrawal. In the case that importers fail to provide relevant documents, provision of the facility will be terminated and the security will be cleared.

Indonesia has implemented WCO Guidelines on express consignment clearance. Express consignment procedures are provided for imported goods delivered by courier and post, considering that most consignments are not for commercial purposes. The facility allows courier companies to receive simpler and faster clearance procedures. Exemption of duties is also available for the consignments of no more than 100 kilograms and less than US\$5,000. The respective courier company should be registered in the customs office and obtain special licenses to conduct their activities in the office's jurisdiction. The company should also place deposit guarantees, either in cash or bank guarantee, to obtain such facilities.

There are some other facilities to make trade related procedures simpler and faster. One of them is the facility for temporary import. Importation of goods for specific purposes, determined by the government of Indonesia, or for temporary use, such as exhibition and promotion display, or for the goods that will eventually be re-exported, are entitled to exemption or relief of related import duties. In order to receive exemption, importers have to place deposit security according to the amount of duties and taxes paid,

while for the goods with duties relief, the importers have to pay 2% of import duties and taxes for each monthly period of usage. Administrative sanctions and fines can be applied to the importers who fail to re-export the goods within the specified time period.

Periodic payments, which allow importers to avoid paying for each import activity, are also available for certain importers, depending on assessment and approval from the appropriate Heads of Customs Offices. Importers may also obtain other customs facilities, such as physical inspection of imported goods in the importer premises, which can provide faster and simpler release procedures. There is also a priority channel given to reputable importers who fulfill special treatment criteria. Imported goods from these special importers do not have to go through documents inspection nor physical inspection. Payment of duties can also be delivered in the following month according to the monthly report.

2.2.5 Tariff Classification

In order to promote intra-ASEAN regional trade and to simplify trade procedures among member countries, ASEAN countries agreed to introduce the use of a common tariff nomenclature known as ASEAN Harmonized Tariff Nomenclature (AHTN). The common tariff nomenclature includes an 8 digit level product classification based on HS Code 2002 of the World Customs Organization (WCO) with the addition of two digits and commodity descriptions for tariff purposes.

As a member country, Indonesia has applied the common nomenclature since 2004. For all trade transactions with other ASEAN member countries, DGCE utilizes the 8 digit common nomenclature, while for non-member countries and for statistical data collection, Indonesia sub-divides the AHTN into a 10 digit classification. DGCE actively informs the business society and the general public on the use of the new classification. The new released tariff schedule has also been classified under the 10 digit AHTN.

2.3 GATT Article V

2.3.1 Matters Relating to Goods in Transit

Indonesia recognized special treatment for goods in transit as stipulated in the Ministry of Finance Decree No. 575/KMK/1996. The decree differentiates goods in transit from goods in transshipment. Goods in transit are transported in and out of a particular customs area without loading, Transshipment goods require loading and change of transportation vehicle. The difference between these two is in the treatment and required documents to be submitted. Both cases enjoy not being obligated to pay import duties.

For goods in transit, traders are not required to deliver import declaration documents to the respective customs office, but they need to notify the office using an inward manifest. The owner of imported transshipment goods has to submit several required documents when the goods are unloaded and transported outside the customs area. For some cases, traders also need to provide guarantees in the form of a bank or insurance guarantee or a written statement.

3. Trade Facilitation Needs and Priorities of the Private Sector

The field research focuses on discussions and interviews with relevant government agencies and stakeholders in trade facilitation. The field research includes a survey by personal and telephone interviews with associations of exporters and importers, other relevant business associations, and firms. A questionnaire with pre-coded and open-ended questions is administered to allow for quantitative and qualitative analysis (see Annex 2). The questionnaire follows that developed by ARTNeT⁹, with minor modification to capture specific characteristics of Indonesia's trade environment.

Private sector participants represent various stakeholders in trade facilitation. Three groups of business were identified for the survey. The first group represents trade-related-services firms, such as forwarders. This group deals directly with the technical matters of trade facilitation and is an important source of information to assess trade facilitation needs. The second group consists of importer and exporter firms whose main businesses are trade-related. The third group includes more general firms which perform import and export activities to support their main businesses. To further explore the need of trade facilitation actions in Indonesia, several firms from each group, with sizes varying from small providers to transnational companies, were interviewed.

The private sector survey aimed to provide insight on the needs and priorities of the private sector with regards to trade facilitation. The survey questionnaire contains two main elements. The first part of the questionnaire attempts to examine the general perception of business entities on the current provision of trade facilitation. This perspective can provide information on which aspects of trade facilitation need further improvement. The second part of the questionnaire tries studies which facilitation measures require prioritization.

The survey was conducted through telephone interviews with the private sector, including importers and exporters as well as other relevant business associations. Closed ended questionnaires were distributed to 25 companies in Jakarta and Surabaya, of which a total of 18 responded. Six interviews were made of the respondents to the closed ended questionnaire. Of the total 18 respondents, nine are forwarding companies, five are registered importers and the remaining are imports producers. The sample shows a variety of business entities, from small forwarding firms to multinational manufacturing companies.

The survey results are presented in this section. Firstly, we examine the findings from the private sector questionnaire on the current situation of trade facilitation measures, and include information obtained during interview sessions with selected private sector actors. Secondly, we discuss priorities of improvement for relevant measures. Complete survey results are also presented in Annex 2 of the paper.

⁹ Available at www.artnetontrade.org under the trade research programme 2004-5, thematic study on trade facilitation.

3.1. *Perceived level of trade facilitation and implementation of GATT Articles V, VIII, and X*

The questionnaire includes one general question to capture overall evaluation on the implementation of trade related procedures and regulations; whether they are improving, similar or worsening in recent years (say last 5 years). Most of them (14 respondents) state that implementation of trade related procedures are improving, while the rest do not see significant changes during the time. During interviews, several traders mentioned their appreciation for the recent reform program from the Directorate General of Customs.

Table 4. Most Problematic Areas of Trade Related Procedures

| | Percentage of the Respondents Seeing the Areas Below As: | | |
|---------------------------------------|--|-------------------------|------------------------|
| | Most Problematic | Second Most Problematic | Third Most Problematic |
| Obtaining an import license | 11.1 | 0.0 | 5.6 |
| Tariff classification | 16.7 | 11.1 | 16.7 |
| Submission of documents for clearance | 0.0 | 5.6 | 11.1 |
| Identification of origin of the goods | 0.0 | 0.0 | 5.6 |
| Payment of fees and penalties | 22.2 | 27.8 | 16.7 |
| Customs valuation | 27.8 | 11.1 | 16.7 |
| Technical or sanitary requirements | 5.6 | 16.7 | 5.6 |
| Inspection and release of goods | 16.7 | 27.8 | 22.2 |

Source: Private Sector Survey

Another general question tries to capture the private sector's perception of the most problematic measures in facilitating trade. Table 4 shows the distribution of respondents in looking at the most problematic areas of trade related procedures. Most of the respondents see customs valuation as the main problem of facilitating trade, followed by payment of fees and penalties.

3.1.1. Information-related measures

Several queries in the questionnaire are dedicated to information related measures. They capture the private sector's perceptions of the availability of information, notification of proposed changes and new regulations, and the consultation mechanism. More than 61% of respondents agreed that information regarding trade related regulations and procedures have been widely available and can be conveniently obtained. Yet, six respondents find it difficult to obtain such information.

The case is slightly different when we are looking at the private sectors' responses regarding information on proposed changes and new regulations. Most of them, some 72.2%, do not think that the current mechanism ensures relevant parties can collect information on new regulations prior to implementation. A similar pattern of responses can also be observed regarding consultative mechanism. Table 5 presents private sectors' responses on selected information-related measures.

Table 5. These Measures are Provided in Effective Manners

| | Private Sector Respondents | | | Formal Regulation |
|--|----------------------------|----------|------------|--|
| | Agree | Disagree | No Opinion | |
| Publication of Regulations | | | | |
| Publicly available and easily accessible | 61.1 | 33.3 | 5.6 | Obligation to publish in the State Gazzete |
| Sufficient information about changes and new regulations | 27.8 | 72.2 | 0.0 | No regulation concerning such information |
| Existence of formal and effective consultative mechanism | 22.2 | 61.1 | 16.7 | No formal mechanism |

Source: Private Sector Survey

As mentioned above, communication and availability of information are among the most important problems related to trade and customs regulations. Lack of communication and information is not only observed between the authorities and stakeholders, but also between officials from different authorities, or even from same agencies. From our interviews with relevant private sector actors, there are several important areas of concern related to the availability of information.

The first, and perhaps the most serious problem, is that the new regulations are not communicated well to stakeholders. As there are no specific guidelines for publication of relevant regulations, policy towards dissemination is sporadic. Some agencies, such as customs, provide prior notification of new regulations to stakeholders selectively, particularly to the association of traders and forwarders as well as some foreign country representative. However, other agencies do not bother to give such notification.

There are many cases when traders face difficulties in meeting certain regulations, or meeting procedures based on new regulations, as they are issued and implemented at the same time, without providing any notification. Some traders mention that policies over prohibited or special importing goods, which are revised quite frequently, are rarely communicated to traders. Traders often find themselves suddenly unable to import certain goods due to the change in regulations, already having made arrangements for the trade.

The second serious problem observed in the interview is the interpretation of new regulations. When in some cases new regulations are communicated quite well to stakeholders, problems arise regarding the implementation of the regulations in the field. Some stakeholders who were already notified and informed of the new regulations encounter different situations than those of which they were informed. Sometimes customs officers in service offices are unaware of new regulations or changes to them.

This is a result of various factors both from internal organization, such as the lack of internal communication channels, and external factors, such as the fact that there are hundreds of ports and customs service offices throughout Indonesia. These combine to make it difficult to disseminate information to all levels of officials. Different interpretations might also take place over existing regulation and rules. Some traders mentioned difficulties when importing products with manual books or CDs. The books were supposed to be treated as part of the products, not as separate items; however in the field, customs officers sometimes treat them as separate import goods, and subject them to different regulations.

The third problem, rarely mentioned by traders who participated in the survey before it was explicitly brought up during the interview, is the lack of consultative mechanism. As explained in the previous section, there is no formal consultative mechanism between stakeholders and authorities. Most recommendations from the private sector are addressed via informal and personal channels. Customs officers usually conduct meetings with private sector actors and other stakeholders periodically to obtain feedback and comments on regulations and Customs activities. Yet there is no specific guideline for a consultative mechanism. The fact that many private sectors do not see it as a serious problem partly explains why there is no serious effort to form a formal consultative mechanism.

3.1.2 Procedures of export and import

In general, respondents in this survey agreed that procedures related to export and import have been improving recently. Most of them (14 respondents) mentioned that automation and computerization of customs procedures and payment of duties greatly contributed to a more efficient process. While there are several difficulties and problems regarding the automation, as will be explained in the next section, private sector respondents agree that it has been properly implemented to support international trade activities. Table 6 presents respondent's answer to questions related to select trading procedures.

A large number of respondents see that documentation requirements have been quite significantly simplified. Most of the required documents have adopted international standards and formats, allowing traders to fill them more conveniently. Other trade related procedures that have been perceived as properly implemented are the appeals mechanism and advance ruling. Although ruling facilities might not be fully implemented, as explained in the previous section, most of the private sector has obtained significant advantages on the current level of implementation, since it leverages the level of certainty. As a specific and clear appeal mechanism is available for respective parties, particularly with regard to customs matters, most traders agreed that it contributes substantially to the creation of a better trading environment.

However, the integrity of field officers and certainty over the implementation of relevant procedures are perceived to be more problematic. Around 78% of the respondents agree that the integrity of officers is still low, and the implementation of related procedures is still ambiguous. These problems increase uncertainty, which in turn lower Indonesia's products competitiveness.

Table 6. These Procedures Have Been Simplified and Implemented Properly

| | Private Sector Respondents | | | Formal Regulation |
|--|----------------------------|----------|------------|---|
| | Agree | Disagree | No Opinion | |
| Effective Advance Rulings | 72.2 | 22.2 | 5.6 | Not legally binding advance ruling |
| Simple and Effective Appeal Mechanism | 55.6 | 33.3 | 11.1 | Internal appeal mechanism |
| Certain and Uniform Implementation of Trade Procedures | 22.2 | 77.8 | 0.0 | Efforts to improve integration |
| Excessive Documentation Requirements | 33.3 | 66.7 | 0.0 | Standardized and harmonized documentation |
| Easy to Submit Documents | 88.9 | 11.1 | 0.0 | Efforts to improve integration |
| Efficient computerized and automated procedures | 83.3 | 16.7 | 0.0 | Introduction of EDI |

Source: Private Sector Survey

Interviews with several private sector actors from different commercial backgrounds reveal some problems they think need to be addressed to provide better international trading environments, as follows:

Product Classification and Customs Valuation. Some interviewed private sector traders mentioned that the determination of product classifications is sometimes vague and draws disagreement between the importers and officials. Although Indonesian customs widely publishes tariff books every year, together with a description and explanation of each tariff line and its related products, information regarding these matters needs improvement. This problem is partly related to the limited understanding on rules and regulations from both officials in the field and users. Advance ruling and customs advice on classification problems have led to considerable resolution of this problem. More effective implementation of customs advice, via more active consultation and information desks, might reduce disputes on product classifications. It is also necessary to encourage the private sector to participate further in technical training programs for customs offices in order to upscale capacities for product determination.

The same problem also arises in evaluating products for customs purposes. Although Indonesia has adopted customs valuation principles as described in GATT Article VII, it attracts controversies and critics from traders and foreign related parties. At the moment, DGCE applies six different methods on valuing imported goods, ranging from the transaction value of good, to valuation determined by customs officials, which is based on the value of similar goods or a price database.

Private sector respondents pointed out that customs officials often base their evaluation on their personal judgment rather than the transaction value of the imported goods, which usually results in prices higher than the real value of the goods. Customs officials argued that this practice is a way to counter under-invoicing. The database used by customs offices consists of two types of price databases. The first database, compiled by customs headquarters, is based on price information of respective goods, while the second, developed by local offices, is based on previous entry documents of similar and

identical products. The database is linked to the EDI system on import declaration, which automatically checks the declared price. When the price from importers is out of the range determined by the database, importers need to clarify the discrepancy.

Automated Procedures. There is no doubt that the automation and computerization of trade related procedures significantly contributes to enhanced efficiency. However, there are several challenges related to automation. One frequently mentioned problem is the system's high sensitivity to small errors, such as mistakes on entering importer registration numbers. The current EDI system automatically blocks the process of entering import declarations without providing any explanation. Users need to repeat the entire process again when this error occurs. Immediately stopping the system prevents users from locating their mistakes and taking proper action to cope with the situation.

Limited utilization of the EDI system is also pointed out as an aspect needing further improvement. Currently there are only 9 customs service offices in 5 ports and 2 airports. Although these offices cover around 85% of current cargo traffic, private sector respondents noted strong interest in the immediate use of the EDI system in many other locations. They admitted that the system reduces the possibility of illegal actions between traders and officers, and expected to have more systems available in other places.

Risk Management and Audit. As previously explained Indonesia is currently applying a risk management system that allows customs officials to categorize imported goods in order to treat them according to their associated risk. Although this system is described quite comprehensively in regulations and information from DGCE, private sector respondents complained that in practice it is somewhat unpredictable. While the risk assessment is conducted based on specific criteria, such as importer profile and commodity characteristics, officials in the field often act cautiously by directing cargo to the red channel and conducting inspections. Currently, on average 35% of import activity is directed to the red channel, 58% to the green channel and the rest enjoy priority treatment (7%)¹⁰.

Private sector respondents also complained that the reasons underlying categorization of commodities as high risk, which then forces them to undergo inspection, are ambiguous and change rapidly. While most of the high risk commodities are hazardous and require inspection, some of them are categorized as risky commodities to serve unrelated objectives. For instance, the government recently decided that imported textile and garment products are high risk commodities, directing them to the red channel to undergo physical inspection. The decision is intended as the government's scheme to compensate the domestic textile and garment industry for the increasing oil-prices.

3.1.3 Fees and charges

While most private sector respondents agreed that fees and charges for carrying out main trading procedures are quite reasonable, they also pointed out the persistence of illegal fees. Although illegal fees have recently seen declining levels, thanks to the

¹⁰ This figure is based on the number of import document. In term of volume of import, the red, green and priority channel serves 26%, 70% and 4% respectively.

introduction of automatic and computerized procedures, this remains a significant problem. Figure 3 describes the private sector’s perception of the fees and charges related to trading procedures.

Private sector respondents mentioned during interviews that illegal and additional payments frequently arise when customs inspections are required, particularly when high risk commodities are involved. Some additional charges are related to services required during the inspection, such as towing of the containers or other relevant activities. These charges, however, are not explicitly defined and usually have to be paid at the time of inspection. This practice opens the possibility of illegal charges. The amount of charges usually differs between traders and depends on persons in charge. Explicitly publishing the schedule of payment of these additional services is needed to remedy customs inspection inconsistencies.

Table 7. Fees and Charges

| | Private Sector Respondents | | | Formal Regulation |
|--------------------------------|----------------------------|----------|------------|--|
| | Agree | Disagree | No Opinion | |
| Reasonable fees and charges | 38.9 | 61.1 | 0.0 | Regulated through government regulations Efforts to improve integration |
| Reasonable fines and penalties | 61.1 | 33.3 | 5.6 | |
| Prevalence of Illegal fees | 61.1 | 33.3 | 5.6 | |

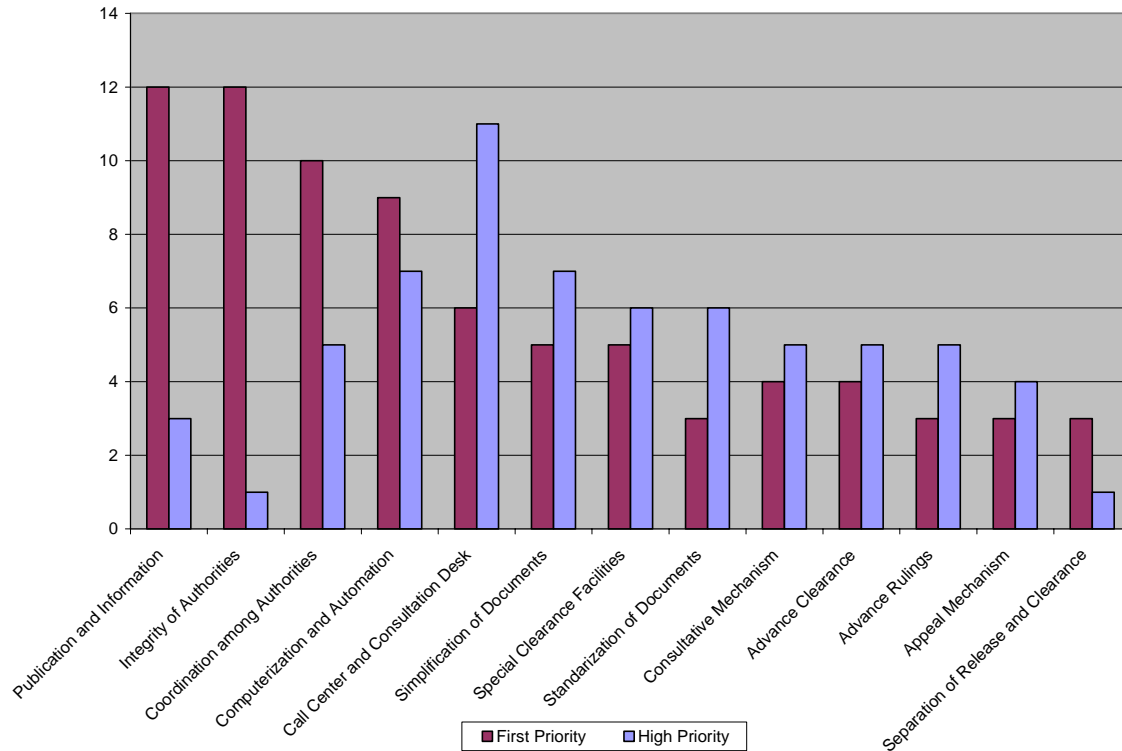
Source: Private Sector Survey

3.2. Trade Facilitation Priorities of the private sector

The private sector survey also collected information on priorities in trade facilitation improvement according to the perspective of business entities. One question inquired about which trade facilitation measure among those discussed in the survey should receive high priority (see figure 1). Most respondents (39%) ranked the uniformity of rules and regulations and integrity of field officers in first place, and other measures related to information (28%) in second. Other measures, such as coordination among different authorities, might not be seen as priority aspects for more improvement, although it would bring substantial benefits to the business sector. This might be so because these “priority” measures directly affect the private sectors’ performance in conducting international trade activities.

In more detailed questions, the respondents are asked whether the selected trade facilitation measures need improvement and how they would prioritize them. Figure 4 presents the result of each question for the respective measures. Again availability of information and integrity of officials ranked quite high. Out of 18 respondents, 12 agreed that information availability is among the first priority to be improved, while improvement of work integrity of officials received quite serious attention. Considerable concern over the improvement of coordination among authorities is also observed in the survey responses.

Figure 1 Are These Areas Priority for Improvement?



In the interview with selected private sector respondents, several trade facilitation priorities were discussed further, including:

Publication and Information. As described, availability of information on trade related regulations and procedures, particularly the new rules, remain major concerns of the private sector. There are several priorities for improvement identified in the interview regarding the availability of information.

- Relevant government authorities need to set up faster and reliable methods to ensure wider dissemination of information. One possible way is to improve the functionality of the internet websites of particular authorities. While most government agencies have launched their own websites, utilization remains very low. A periodical, such as a monthly magazine from the Directorate General Customs and Excise, might be utilized to disseminate more information, as it can be widely available and more accessible to the public.
- The government should specify formal guidelines regarding prior-notification of proposed changes and new regulations. A specific date of enforcement of the new regulations or rules should be defined specifically in the guidelines to allow sufficient time for parties to make preparations. The related government authorities should ensure that correct information is widely known by officers in the field, in the same sense it is informed to the public.

Professional Integrity of Officials. Improvement of administrative arrangements and professional integrity of related trade officials are among the most important measures to be taken in trade facilitation. Traders complain that improper conduct of trade-related officials do not only cost them more money, but also slow down their activities, which might lead to the loss of business opportunities and substantial market share. One study on the cost of doing business in Indonesia estimates that illegal levies among customs officials reached US\$800 million or equivalent to 2.3% of total import value per year. Some private sectors and government officials involved in this survey suggested that the estimated figure from the study might be too high and include other parties related to trade activities, not only customs officials. But they also agreed that rampant illegal charges and improper conduct need to be resolved, otherwise Indonesia's already low product competitiveness will continue to erode.

The Government of Indonesia has taken several steps towards cleaner trade activities, such as introducing a code of conduct for officials and opening a hotline service for the private sector to submit complaints. However, the result is yet to be realized. One shortcoming in the efforts to improve professional integrity and reduce improper conduct is the lack of mechanisms to allow participation of external parties. While many government agencies have set up teams and committees to ensure programs are implemented, they usually do not involve the private sector and other external parties to push for further improvement. Thus a formal consultative mechanism has to be established to allow more inclusive participation.

Coordination among relevant authorities. International trade activities require the involvement of various government agencies. Efficient and effective coordination and cooperation among all agencies through proper inter-agency coordination units are crucial to the facilitation of international trade. Concerns over coordination among trade related authorities were identified in the interviews with traders and other related parties.

- Overlapping, and sometimes conflicting, regulations from different agencies are frequently applied to certain imported goods. There were several cases that certain products need to be imported by authorized importers according to regulation from a respective authority, while it is allowed to be imported by general importers according to regulations from other agencies.
- Lack of communication between different agencies makes changes of regulations and procedures often not immediately implementable. Traders that obtain information on the new rules might not immediately obtain access to the new facilities and/or services.
- There are simply too many documents and requirements that need to be submitted to different authorities. Moreover, the information that should be provided is more or less the same each time. The Ministry of Trade, for instance, requires traders to register and supply information regarding their activities, while for customs purposes, DGCE imposes similar requirements to traders and other parties performing international trade activities frequently. Similar trade related documents must also be submitted to a number of different agencies in order to get supporting document for trade clearance.

All the above problems are the consequences of lack of coordination among trade relevant agencies. The private sector expressed deep concern with these problems, as it increases unpredictability regarding trade procedures, which in turn increases business costs. Lengthy and duplicated trade procedures, a result of lack of coordination, also increase the need for human interaction between relevant officials and traders. This opens the possibility of illegal conduct from both parties.

One solution is to establish a system that allows traders to receive “one-stop service” in dealing with import and export procedures, widely known as a single window system. This system allows business entities and authorities to communicate electronically on each procedure needed in international trade. Authorities can enhance coordination among themselves, minimizing overlapping and conflicting regulations, while at the same time reducing different interpretations between officials. The system will significantly cut down the import and export clearance process as information and documents would need to be submitted only once for all necessary procedures. Human interaction will also be reduced leading to fewer possibilities for illegal conduct.

4. Implications for the WTO Negotiations on Trade Facilitation

4.1. Priority TF measures to be considered for inclusion in the WTO TF agreement

As discussed in the previous section, Indonesia continue to adopt various measures on trade facilitation currently discussed in the WTO. However, the degree of implementation of such measures requires improvement.

4.1.1. Measures Related to Article X

The government of Indonesia implemented various actions regarding publication of regulations. Regulations and information on procedures related to exports and imports are available through several media, including the internet, and periodical publications. However, the implementation of these measures needs some improvement. New regulations and rules take some time to be socialized. Information on new regulations and rules are also difficult to distribute to authorities much less the wider public, leading to confusion and uncertainty on the implementation of new regulations. Measures that require immediate publication of regulations as soon as possible might provide a solution to the problem. The availability of enquiry points and consultation desks should be considered for inclusion in the WTO TF agreement.

Formal consultative mechanisms and clarity on the time period before new regulations take place are also important in ensuring transparency and effective governance among relevant agencies and the business community. Although many agencies effectively consult and communicate with relevant business sectors this depends on personal relationships and specific policies of certain officials currently in charge. Such practices often come to an end when the officials are replaced. These measures need to be discussed in the WTO TF agreement.

Improvement of administrative arrangements and professional integrity among officials are priority measures to be discussed in the WTO TF agreement. The proposed measures should take into account the increased participation of the business community and wider public in developing the professional integrity of officials and increasing the certainty of implementing trade procedures. Such participation will provide external forces and incentives to ensure improvement of staff integrity and reduction of improper conduct.

4.1.2. Measures Related to Article VIII and V

Among the various measures related to Article VIII, improvement of risk management system is among the most important to be discussed in the WTO TF Agreement. The availability of simple procedures for pre-arrival clearance and unambiguous criteria for risk assessment procedures are perceived to be significant aspects of trade facilitation. While Indonesia has implemented numerous activities to support a risk management system, there remains room for further improvement, such as constructing a better criteria for priority treatment of products and importers, such as faster clearance time and no need for physical inspection.

Measures intended to enhance cooperation and coordination between several agencies related to trade should also be included in the TF Agreement. A single window system might provide a good solution. However, the problem is that there is insufficient communication between agencies, particularly on the formulation and implementation of regulations. This can be solved by implementing various actions and measures that allow greater exchange and information.

Currently, Indonesia distinguishes goods in transit and transshipment, each subject to different customs treatment. Uniformity of treatment between those two activities is required to facilitate trading activities. Providing this uniformity may not directly promote Indonesian trading activities but would benefit Indonesian exports and imports goods transiting in third-party countries.

4.2. *Special and differential treatment*

WTO discussions on trade facilitation cover a broad range of measures. Although implementation of those measures will be beneficial to the trading activities of member countries, the degree of implementation might depend on the specific situations of each individual country. One factor that might hold back the acceptance of a single criterion for trade facilitation measures is the different abilities and capacities of member countries. Developed countries might have stronger capacities to comply with agreed criteria, but developing and less developed countries do not carry sufficient capabilities to implement such measures. Other factors, such as variety in geographical conditions and different institutional arrangements in each member country, make special and differential treatment more important.

Special and differential treatment within the context of trade facilitation should take into account all of these relevant factors. Thus, the treatment must go beyond provision of longer transitional implementation periods. While this type of special treatment might cater to the needs of developing and less developed countries to attain certain levels of facilitation within longer period of time subject to their capacity, it does

not allow particular countries to develop different types of facilitation measures according to their needs.

Recognizing this situation Indonesia might require special and differential treatment in several trade facilitation measures. At the moment Indonesia does not implement legally binding advance ruling in both the classification and origin of imported products, due to the inability of administrative arrangements to overcome unexpected impacts of such measure. Mistreatment and manipulation of certain facilities are quite common in Indonesia; smuggling usually takes advantage of such facilitation, due to the lack of control and monitoring action. Longer periods of implementation for advance ruling might be needed to prepare necessary institutions and administrative arrangements for facilitation measures. Indonesia might also find difficulties in implementing various measures related to goods in transit. The archipelagic situation of the country requires special arrangement on transiting goods and ships that may not fully comply with the upcoming agreements related to goods in transit.

4.3. *Capacity Building Needs*

There is no doubt that implementation of trade facilitation measures will benefit countries. However, the implementation of such measures often involves development of infrastructure and facilities required to carry out the measures. For more developed countries, the requirements might be easy to fulfill. But developing countries like Indonesia often find difficulties in implementing the measures due to limited capacity. Therefore technical assistance and support for capacity building to developing and less developed countries is necessary to allow member countries to fully participate in the negotiation and provision of trade facilitation measures.

Indonesia already submitted initial proposals on its capacity building needs and priorities. The list of proposed capacity building programs includes the provision on the internet of trade facilitation information in several custom service offices, ports and airports to allow traders to obtain required information. Provision of better infrastructure and increased capacity for trade related officials on risk management techniques also shape part of Indonesia's proposal for capacity building. Among the more important aspects in capacity building is the establishment of a National Single Window system to improve coordination among relevant agencies. It is expected that the single window will increase efficiency in facilitating trade and accelerate export and import procedures.

Indonesia might also need capacity building to improve various trade facilitation measures currently under implementation. On measures related to dissemination of relevant information, Indonesia should set up an information system that allows the wider public to find information related to trade easily from separate institutions. Despite the recent development that each individual agency provides information on their respective websites, the public often finds it difficult to obtain cross-agency information related to trade. A well designed system would not only link websites of different agencies, but also allow the public to find relevant information from different institutions. Technical assistance might take place in establishing such a system.

Capacity building may also be particularly important to implement measures to improve coordination among authorities responsible for trade activities. While the government of Indonesia is planning to have a national single window system that will

significantly improve coordination, this effort might be difficult to implement in the near future. Lack of substantial cooperation between the authorities makes it difficult to assign certain agencies to undertake improvement activities. External technical assistance that has the flexibility to act across different agencies will accelerate such improvement.

Technical assistance and capacity building programs are also required to improve several measures related to export and import formalities, including release and clearance procedures. Currently the EDI system is still limited to only a handful of custom areas. Wider use of an electronic system in many other areas will improve speed of information flows needed in facilitating trade. A better clearance system and the associated risk assessment criteria will give higher certainty and reduce transaction costs, including improper conduct of officials in the field.

4.4. Binding commitments

Initiatives towards simplification and harmonization of trade procedures and practices have been discussed in many international fora. Most of the agreements are on a voluntary basis and do not have legally binding commitments. Multilateral agreement in trade facilitation ensures that related measures are taken by most countries, providing more comprehensive benefits from trade liberalization. However, this agreement should be based on legally binding commitments. The lack of discipline in implementing relevant measures may lead to reluctance and refusal from several member countries.

One possible approach to deliver such commitment is to provide a time schedule of expected implementation for some specific agreed to measures. Recognizing differing states of implementation and capacities of member countries, commitments should be clearly defined for each group of members to implement relevant measures in trade facilitation. This approach has been taken in several international initiatives related to trade facilitation. Indonesia has good experience in the implementation of customs agreements under the ASEAN initiative, which set definite time tables for each measure taken by its member countries.

Another possible approach is to establish a set of quantifiable indicators to measure the benefit of implementing certain trade facilitation measures. The Shanghai Declaration of APEC member countries, for example, stated the objective of reducing transaction costs of member countries by 5 percent by 2006 through trade facilitation measures. This approach requires development of methods of quantification for a wide variety of trade facilitation measures. However, despite complications in establishing the indicators, this approach gives more flexibility to each member country in facilitating trade according to their specific capacities and situations. While APEC member countries agreed to determine the implementation of trade facilitation measures in terms of transaction costs, other indicators might be relevant for the evaluation.

4.5. Scope of WTO trade facilitation negotiations and agreement

The scope of trade facilitation negotiation in the WTO is limited to measures and actions related to the following three articles: GATT Articles V (freedom of transit), VIII (fees and formalities related to importation and exportation), and X (publication and administration of trade regulations). These GATT articles center on the simplification and

harmonization of international trade procedures, including customs and border crossing procedures.

The scope of negotiation in the WTO might seem to be very narrow and to not address a considerable number of problems in trading activities. Facilitation of trade is also required in many other areas related to trade such as standards and conformance, problems in trade infrastructure and facilitation of trade related services. However, the approach allows member countries to deal with specific problems first before going ahead with different priorities. Even with a specific and limited scope of trade facilitation measures, WTO negotiation is unlikely to reach an agreement on very specific trade facilitation measures easily. Some developing country members, while supportive of the basic goals of trade facilitation, expressed their reluctance to commit to new legal obligations in the WTO.

Therefore, the scope of negotiation and agreement in WTO trade facilitation should be kept to the current discussion. The most important thing is not to broaden the scope of negotiation, but instead to reach agreement toward improvement of currently discussed trade facilitation measures.

Conclusions

Indonesia has already implemented various trade facilitation measures currently discussed in the WTO TF negotiation. However, the degree of implementation of those measures needs significant improvement in order to provide simplified and harmonized procedures related to trade. In response to increasing demand for better public services related to trading activities, the Government of Indonesia has launched a number of programs to improve trade procedures, including a customs related administration program. The programs are also in line with several international agreements on trade facilitation, in which Indonesia has actively participated. Those include the APEC Trade Facilitation Action Plan and ASEAN Customs Agreement.

A survey of private sector actors from different lines of business activities reveals that the implementation of several trade facilitation measures needs significant improvement. While the availability of information related to trading activities has shown significant progress, this remains the most problematic issue. There are many cases when traders face difficulties in meeting certain regulations and procedures based on new regulations, as they are issued and implemented at the same time, without any notification whatsoever. The lack of formal consultative mechanisms exacerbates the situation even further. Rampant illegal conduct of officials has eroded the competitiveness of Indonesian products. Traders complain that improper conduct of trade-related officials do not only increase costs, but also slow down their activities, which might lead to the loss of business opportunities and substantial market share. Improvement of administrative arrangements and professional integrity among officials are among priority measures to be taken and discussed in the WTO TF agreement.

While recognizing benefits from better trade facilitation arrangements, as a developing country, Indonesia is likely to seek special and differential treatment in the implementation of certain measures under the WTO TF Agreement. Special and differential treatment within the context of trade facilitation should take into account several relevant factors, including different capacities of member countries, and variety of situations in providing facilitation. The need of special treatment is also related to the need of technical assistance and capacity building. The legally binding commitment of WTO TF negotiation requires substantial resources for implementation. Therefore technical assistance and support for capacity building to developing and less developed countries is necessary to allow member countries to fully participate in the negotiation and provision of trade facilitation measures.

Negotiation of trade facilitation in the WTO is an opportunity for Indonesia to improve its trade performance and competitiveness. Through active involvement in the negotiation and compliance with the measures agreed upon, Indonesia will ensure the success of its on-going unilateral trade facilitation reform efforts.

References

APEC (2005). Individual Action Plan for Indonesia.

APEC Economic Committee (2004). Trade Facilitation and Trade Liberalization: From Shanghai to Bogor. Singapore.

Direktorat Jenderal Bea dan Cukai (2005). "Perkembangan Jalur Prioritas," *Warta Bea Cukai* vol. 369 August. Jakarta

Japan Port Consultant Ltd. (2005). *The Study on Trade Related Systems and Procedures*. Japan International Cooperation Agency. Tokyo.

Moise, Evdokia (2004). *The costs of introducing and implementing trade facilitation measures: interim report* (Document TD/TC/WP(2004)36/FINAL). Organization for Economic Cooperation and Development.

Novrial Anas (2003). "Indonesian Customs Reform Comprehensive Measures For Facilitating Legal Trade". Paper presented in *The Third ASEM Seminar on the Simplification and Harmonization of Customs Procedures*. Jakarta.

Wilson, John, Catherine L. Mann and Tsunehiro Otsuki (2003). "Trade Facilitation and Economic Development: Measuring the Impact," *World Bank Policy Research Paper* 2988. The World Bank.

Annex 1. Self Assessment Checklist for WTO Trade Facilitation Negotiations

| Question | Response [Yes=1; No=0] | Comments and precisions |
|---|--|---|
| Questions/Issues related mainly to Article X (publication and administration of trade regulations) | | |
| PUBLICATION/AVAILABILITY OF INFORMATION | | |
| 1 | Is any of the following published? | |
| | laws- | 1 |
| | regulations | 1 |
| | documentary requirements | 1 |
| | standard operating practices | 1 |
| | standard processing times | 1 |
| | specific customs procedures | 1 |
| | tariff classification | 1 |
| | valuation | 1 |
| | exemptions, prohibitions, restrictions | 1 |
| | duty & tax rates | 1 |
| | fees and charges | 1 |
| | administrative arrangements & requirements | 1 |
| | management plans | 1 |
| | rulings | 1 |
| | judicial decisions | 1 |
| | agreements with other countries | 1 |
| | other? | 1 |
| 2 | Is relevant Customs and trade related information made available via the internet? | 1 http://www.beacukai.go.id |
| 3 | Is relevant Customs and trade related information made available in: | |
| | Customs offices | 1 |
| | embassies | 1 |
| | consulates | 1 |
| | trade missions/offices | 1 |
| | government buildings/offices | 1 |
| | public buildings/offices | 1 |
| | other? | 1 At International Airport and Seaport |
| 4 | Is relevant information made available in English, French or Spanish? | 1 Bi-Lingual Website (Inde-Eng) still under development |
| 5 | Does Customs charge for information provided? | 0 |

| | | | |
|----|--|---|------------------|
| 6 | When charges are made, are costs limited to only the service provided? | - | See answer no. 5 |
| 7 | Is information relevant to any proposed changes or new requirements made available sufficiently in advance for interested parties to take account of them? | 1 | |
| 8 | Does Customs publish all proposed changes or new requirements in advance of the entry into force? | 1 | |
| 9 | Do stakeholders have the opportunity to contribute/develop/influence/question all proposed changes of new requirements in advance of the entry into force? | 1 | |
| 10 | Does Customs invite comments from the public and trade on all proposed changes or new requirements in advance of the entry into force? | 1 | |
| 11 | Has Customs established information services such as: | | |
| | client/help desk | 1 | |
| | enquirey point | 1 | |
| | customer/trader contacts | 1 | |
| | call center | 1 | |
| | other? | | |
| | Rulings | | |
| 12 | Does a system exist of national legislation establishing appropriate provisions for binding rulings by Customs? | 1 | |
| 13 | Does national legislation provide for Customs to furnish rulings within a specified period? | 1 | |
| 14 | Are ruling processes established with specific time limits? | 1 | |
| 15 | Do ruling procedures provide the opportunity for appeal with review and/or judicial process | 0 | |
| 16 | Does the administration provide binding rulings for: | | |
| | valuation | 1 | |
| | classification | 1 | |
| | origin | 0 | |
| | other Customs purposes? | | |
| | Appeals and Review | | |
| 17 | Are internal appeal and review mechanisms established? | 1 | |
| 18 | Are internal appeal and review mechanisms independent? | 1 | |
| 19 | Are provisions established for an initial appeal to Customs? | 0 | |

| | | | |
|-------------------------------|---|---|--|
| 20 | Are provisions established for a further appeal to an authority independent of Customs? | 0 | |
| 21 | Are provisions established for a final right of appeal to a judicial authority? | 1 | |
| 22 | Do appeal processes have specific time limites? | 1 | |
| 23 | Are goods released pending the outcome of an appeal? | 0 | |
| 24 | Is a security of other form of guarantee required? | 1 | |
| Management | | | |
| 25 | Are systems in place to monitor and evaluate the performance of Customs against established standards and/or indicators? | 1 | Code of Conduct Committee at Department of Finance |
| 26 | Are training programmes established for Customs clearance procedures | 1 | |
| 27 | Are all Customs staff given training on integrity matters? | 1 | |
| 28 | Has a Code of Conduct/Code of Ethics been developed and implemented by Customs? | 1 | |
| Systems and Procedures | | | |
| 29 | Is the customs automated? | 1 | Using Electronic Data Interchange (EDI) |
| 30 | Is electronic filing of entry documents provided for? | 1 | |
| 31 | Do customs and other agencies share information electronically? | 1 | For data statistic purpose with Department of Trade not as a Single Window System |
| 32 | Are pre-arrival clearance procedures used? | 1 | Using Pre-Notification facility |
| 33 | Does the administration grant immediate release/clearance procedures to any category of goods? | 1 | Granted to authorized importer (priority channel) and under certain customs facility such as rush handling, express consignment except for restriction and prohibition goods |
| 34 | Does the administration specify a minimum value/minimum amount of duties and taxes below which no duties and taxes will be collected? | 0 | |
| 35 | Do you have separate expedited procedures for express consignment shipments? | 1 | Decree of Director General of Customs and Excise Number: KEP-78/BC/1997 juncto KEP-83/BC/2002 |
| 36 | Can data be submitted prior to arrival of the goods? | 1 | |
| 37 | Can goods be released prior to completion of all clearance formalities? | 1 | Using simplified procedure for authorized importer on priority channel |

| | | | |
|---|--|-----------------------|---|
| 38 | Do you have weight or value restrictions for express consignment shipments? | 1 | Decree of Director General of Customs and Excise Number: KEP-78/BC/1997 juncto KEP-83/BC/2002 |
| 39 | Does the administration use risk analysis to determine which goods should be examined? | 1 | |
| 40 | Do Customs control systems include audit based controls? | 1 | |
| 41 | Does the Customs administration authorize persons with an appropriate compliance record for simplified and special procedures | 1 | |
| 42 | For authorized persons * can goods be released on the provision of minimum information with full clearance being finalized subsequently-can goods be cleared at the declarant's premises * other | 1 | |
| Questions/Issues related mainly to Article VIII (Fees and Formalities connected with importation/exportations) | | | |
| 43 | Does the administration charge for the provision of information to the trade? | 0 | |
| 44 | Do fees for customs processing reflect the cost of services rendered? | 1 | Customs User Free of called PNBPNBP=Penerimaan Negara Bukan Pajak |
| 45 | Are fees published? the amount? time due? entity assessing the fee? how payment can be made? | 1 1 1 1 1 | |
| 46 | Are fee amounts published on the internet? | 1 | |
| Questions/Issues related mainly to Article V (Freedom of Transit) | | | |
| General | | | |
| 47 | Have international transit systems been implemented? | 1 | |
| 48 | Have regional transit systems been implemented? | 0 | |
| 49 | Is the Customs territory a landlocked country? | 0 | |
| 50 | Are transit corridors established within the Customs territory? | 1 | |
| 51 | Are transit routes prescribed? | 0 | Confirmation is needed with Department of Transportation |
| 52 | Are transit routes agreed in consultation with trade operators? | 0 | Confirmation is needed with Department of Transportation |
| 53 | Is abuse of the Customs transit system a concern in the Customs territory? | 1 | |
| 54 | Is a strict route stipulated for all high risk goods? | 0 | Confirmation is needed with Department of Transportation |
| 55 | Is Customs escort required for all high risk goods? | 0 | |

| | | |
|----------------------------------|--|---|
| 56 | Are time limits imposed for transit goods? | 0 |
| 57 | Are current border posts and Customs offices suitably located for effective transit operations within the Customs territory? | 1 |
| 58 | Are operating hours coordinated with other Customs administrations? | 1 |
| 59 | Are controls and responsibilities at border posts coordinated with other border agencies? | 1 |
| 60 | Are controls and responsibilities at border posts coordinated with other country's Customs administrations? | 1 |
| Documentation | | |
| 61 | Is a Goods declaration required for all goods in transit? | 1 |
| 62 | Is a standardized Customs transit declaration/document in use? | 1 |
| 63 | Have documentary requirements for transit coordinated with other border agencies? | 0 |
| 64 | Are documentary requirements for transit coordinated with other border agencies? | 0 |
| 65 | Are simplified transit declarations in use? | 1 |
| Securities and Guarantees | | |
| 66 | Are goods in transit relieved of the payment of duties and taxes? | 1 |
| 67 | Are any fees and charges levied in connection with Customs transit? | 0 |
| 68 | Has an international guarantee system been implemented? | 0 |
| 69 | Are securities and/or guarantees required for all goods in transit? | 0 |
| 70 | Are cash deposits required for goods in transit? | 0 |
| 71 | Are securities and/or guarantees discharged as soon as the obligations have been fulfilled? | 0 |
| Examination | | |
| 72 | Are examinations for goods in transit based on the application of risk assessment? | 1 |
| Authorized Trades | | |
| 73 | Are simplified procedures established for authorized consignors involved in the transit procedure? | 0 |
| Seals and Fastening | | |
| 74 | Are seals and identification marks affixed by foreign Customs accepted for Customs transit operations? | 0 |

Annex II: Private Sector Survey instrument

1. Perceived level of implementation of GATT Articles V, VIII, and X by the private sector in Indonesia

| | Issues | Average Score |
|----|--|----------------------|
| 1 | Relevant trade and customs procedures and regulations are publicly available and easily accessible | 4.9 |
| 2 | Information about changes in regulations and procedures are made available promptly and conveniently to the public | 3.6 |
| 3 | Laws, regulations and judicial decisions are applied in a uniform, impartial, and reasonable manner | 2.7 |
| 4 | An independent system to appeal trade and/or customs authorities' decisions is available and operates effectively | 4.2 |
| 5 | A formal and effective private sector consultation mechanism exists, which allows traders to comment on proposed changes to regulations and procedures before they are issued and implemented. | 3.4 |
| 6 | An effective advance ruling system is in place, which allows the importer, in advance of trade, to obtain binding rules in certain specific areas (e.g., tariff classification, customs valuation, origin) | 5.1 |
| 7 | Documentation requirements for import/export are excessive and time consuming | 3.6 |
| 8 | On average, fees and charges levied on export and import are reasonable (i.e., are limited to the cost of services rendered by the authorities) | 3.3 |
| 9 | Penalties and fines for minor breaches of customs regulation (e.g., due to typing mistakes) are small and reasonable | 4.3 |
| 10 | Irregular and arbitrary payments are often required to expedite release of goods from customs | 4.8 |
| 11 | It is easy to submit required trade documentation to trade/customs authorities for approval | 5.4 |
| 12 | Computerization and automation of customs and trade procedures have noticeably reduced average time of clearance | 5.6 |
| 13 | The treatment of goods and vehicles in transit is non-discriminatory (i.e., imported goods are not discriminated based on origin and/or destination) | 4.3 |
| 14 | Goods in transit are subject to unreasonable transit duties or transit charges | 4.2 |
| 15 | Regulation and procedures for goods in transit are clearly defined and widely available | 3.9 |
| 16 | Vehicles in transit are allowed to use the most convenient routes to their destination | 4.3 |

Note: The scale is 1 to 7 where 1 represent “strongly disagree” to the statement and 7 represent “strongly agree”

2. The Most problematic areas in trade facilitation

| | Percentage of Respondents See the Areas Below: | | |
|---------------------------------------|--|-------------------------|------------------------|
| | Most Problematic | Second Most Problematic | Third Most Problematic |
| Obtaining an import license | 11.1 | 0.0 | 5.6 |
| Tariff classification | 16.7 | 11.1 | 16.7 |
| Submission of documents for clearance | 0.0 | 5.6 | 11.1 |
| Identification of origin of the goods | 0.0 | 0.0 | 5.6 |
| Payment of fees and penalties | 22.2 | 27.8 | 16.7 |
| Customs valuation | 27.8 | 11.1 | 16.7 |
| Technical or sanitary requirements | 5.6 | 16.7 | 5.6 |
| Inspection and release of goods | 16.7 | 27.8 | 22.2 |
| Other | | | |

3. Trade facilitation needs and priorities in Indonesia

| | Issues | Average Score |
|----|---|----------------------|
| 1 | Timely and comprehensive publication and dissemination of trade rules and regulations (e.g., through the Internet) | 3.5 |
| 2 | Establishment (or improvement in the effectiveness) of enquiry points and/or call centers for up-to-date information on trade procedures | 3.3 |
| 3 | Establishment (or improvement in the effectiveness) of an appeal mechanism outside of the authority of customs or related agencies for traders to dispute customs and other authorities' decisions | 2.4 |
| 4 | Establishment (or improvement in the effectiveness) of a consultation mechanism through which traders can provide inputs on proposed new or amended rules and regulations | 2.7 |
| 5 | Establishment (or improvement in the effectiveness) of an advance ruling system, which allows the importer, in advance of trade, to obtain binding rules in certain specific areas (e.g., tariff classification, customs valuation, origin) | 2.6 |
| 6 | Beginning and, if possible, completing clearance of goods before they have arrived physically in the Customs territory (based on advance submission of good declaration and other documents) | 2.2 |
| 7 | Separating release from clearance procedures, i.e., allowing goods to be released before all clearance formalities have been completed (this may be subject to providing a financial guarantee to customs and/or post-release audit) | 1.6 |
| 8 | Reduction and simplification of the documentation requirements for import and export procedures | 2.8 |
| 9 | Harmonization and standardization of documentation requirements based on international standards | 2.6 |
| 10 | Improvement of coordination between relevant agencies, particularly on document requirement, e.g., through the establishment of a single window for one-time submission and collection of all trade documents | 3.3 |
| 11 | Computerization and automation of trade procedures, e.g., online submission and approval of customs declarations, cargo manifests, including electronic payment of fees and customs duties | 3.2 |
| 12 | Improvement in customs inspection and control procedures, e.g., systematic use of risk analysis to determine which good should be examined, clearer criteria for "green" and "red" channels and special channels for authorized traders and express shipments | 2.4 |
| 13 | Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods | 3.3 |

Note: The scale is 0 to 4 where 0 represent "lowest priority" of a particular measure, while 4 "highest priority"