

SEADI-13-R124

MEMORANDUM

DATE	: July 15, 2013
TO	: Timothy S. Buehrer
FROM	: Moekti P. Soejachmoen
CC	:
SUBJECT	: Reporting on the Outcome of the Two Day BSN Workshop on Good Regulatory Practices – Shared Experiences of the United States and Indonesia Gran Melia Hotel, 20 - 21 June 2013

Objective

The two day seminar on “Good Regulatory Practices – Shared Experiences of the United States and Indonesia” was conducted to improve the understanding of Good Regulatory Practices particularly in the implementation of the Technical Barriers to Trade (TBT) Agreement.

The APEC Committee on Trade and Investment Subcommittee on Standards and Conformance (SCSC) has recognized that good regulatory practices (GRPs) can be used to strengthen implementation of World Trade Organization (WTO) rules and reduce the number of unnecessary obstacles to trade caused by technical regulations.

Over the past decade, businesses around the world have begun to complain that standards and technical regulations are becoming a major source of barriers to trade. However, everyone recognizes that there is a legitimate role for standards and technical regulations in protecting consumers and the environment. That is why the WTO agreement sets out requirements for notification and comment to ensure that all voices are heard in the standards development process. This is particularly important because once countries have adopted new technical regulations, it is extremely difficult for them to change them, even when confronted with legitimate challenges by trading partners, because of the typically complex and lengthy regulatory and legislative processes required to change them in many countries. Thus, efforts to prevent bad technical regulations from becoming established in the first place using GRP may contribute significantly to the reduction of Technical Barriers to Trade.

As part of Indonesia’s chairmanship of APEC in 2013, the Center for Cooperation on Standardization of the National Standardization Agency of Indonesia (BSN), as Indonesia Notification Body and Enquiry Point for WTO, and the Office of the United States Trade Representative organized a two-day workshop to share experiences between the United States and Indonesia on good regulatory practices. While having a focus on GRP as applied to technical

regulations, the conference looks more broadly at how GRP can improve the process of developing all government regulations.

The workshop addressed internal coordination of rulemaking and public consultation mechanisms with speakers from both government and private sectors from Indonesia and the United States.

Agenda

Day 1: 20 June 2013

8:30 – 9:00 am *Registration*

9:00 am *Welcome and Opening Remarks*

USTR Representative, Jennifer Stradtman

Head of BSN, Prof. Dr. Ir. Bambang Prasetya, MSc

9:15 – 9:30am *Report of Thematic Discussion on GRP at TBT – WTO meeting*

Deputy for Research and Standardization Cooperation - BSN: Ir. TAR Hanafiah, MSc

Internal Coordination

Improving Good Regulatory Practices through Interagency Coordination

9:30 am – 11:00 am

Mechanisms, Experiences, and Lessons Learned from Implementation

Moderator: Dr. Soekarno Wirokartono, SEADI – USAID

- United States
 - Central Coordination for the Development of Regulations: *Ileana Martinez, NIST*
 - Coordination of Regulations for International Obligations: *Jennifer Stradtman, USTR*
- Q&A

11:00 am – 11:15 am Tea break

11:15 am – 12:30 pm

Overview of the TBT Inquiry Point and Challenges in the Interagency Cooperation

Moderator: Dr. Moekti P. Soejachmoen, SEADI – USAID

- Experience of U.S. TBT Inquiry Point: *Ileana Martinez, NIST*
- Experience of Indonesia's TBT Inquiry Point: *Ms. Erniningsih Haryadi, BSN - Head of Center of Standardization Cooperation*
- Q&A

12:30 pm – 14:00 pm Lunch

14:00 – 16:00 pm

Overview of Guidelines, Tools and Best Practices from International and Regional Organizations:

Moderator: Christine Brown, USTR

- OECD checklist, WTO TBT Triennial Review: *Jennifer Stradtman, USTR*
- ASEAN Regional Technical Regulations: *Shirley V. Ramesh, ASEAN Secretariat*
- Case Study: APEC Toy Standards : *Alan Kaufman, Toy Industry Association*
- Q&A

Day 2: 21 June 2013

Best practices of Good Regulatory Practices

9:00 am – 10:15 am

How Implementation Helps Lead to Better Regulation and Trade: View of the Private Sector or Public-Private Partnerships

Moderator: Dr. Moekti P. Soejachmoen, SEADI – USAID

- IAPMO (International Association of Plumbing and Mechanical Officials), MOU with BSN: *Megan Lehtonen, IAPMO*
- APBI (Association of Indonesian Tire Producer) and Standing Committee on Standards and Quality Products – KADIN: *Mr. Aziz Pane*
- Q&A

10:15 – 10:30 am Tea break

Public Consultation

Openness, Transparency, Consensus and Due Process in the Regulatory and Standards Development Process

10:30 - 11:45 am

Implementing Trade Commitments; Guidelines, Tools and Best Practices from International and Regional Organizations

Moderator: Christine Brown, USTR

- WTO Agreements (main focus on TBT): *Jennifer Stradtman, USTR*
- APEC/OECD guidelines and checklist: *Michael Boyles, U.S. Department of Commerce*
- ASEAN: *Kukuh Syaifudin Ahmad, BSN - Head of Center of Standard Implementation System*
- Q&A

11:45 am – 13:30 pm Lunch

13:30 – 15:00 pm

Domestic Implementation: Best Practices for Public Consultations

Moderator: Ir. TAR Hanafiah, MSc, BSN

- United States: *Jennifer Stradtman, USTR*
- Indonesia: *Made Dharma Harthana, Ministry of Industry - Head of Center for Data and Information*
- Q&A

15:00 – 15:15 pm Tea break

15:15 – 16:45 pm

Importance of Public-Private Partnership: Both U.S. and Indonesian private sector

Moderator: Dr. Anwar Nasution, SEADI – USAID

- Private Sector Standards Development: *Leslie McDermott, ANSI*
- The role of the private sector in the U.S. system and how foreign parties can participate: *Adam Schlosser, U.S. Chamber of Commerce*
- The role of the private sector in the Indonesian system: *Sofyan Wanandi, APINDO*
- Opportunities and Imperatives for Public-Private Information Sharing, *Henry Kim, TransUnion*
- Q&A

16:45 pm – 17:15 pm

Closing Remarks: Economic Counselor – the U.S. Embassy, Mr. James Carouso

Participants

The total of 150 participants came (100 male and 50 female), consists of:

- 13 Technical Ministries
- TBT Team
- Private sectors both domestic and foreign

Conclusions

The workshop discussed US and Indonesian experiences in implementing Good Regulatory Practices especially with respect to the Technical Barriers to Trade Agreement under WTO.

The first topic discussed was Internal Coordination: the US presenters (Ileana Martinez – NIST and Jennifer Stradtman – USTR) explained how the US develops standards and regulations. The US differs from other countries in that the private sector develops most standards and conformity assessment practices. The US has issued clear policy signals on the important role that voluntary standards play in supporting regulatory programs. The emphasis is on agencies reducing costs and increasing efficiencies; lowering the regulatory burden on industry. Integration and innovation, flexibility are keys and regulatory cooperation is identified as an important tool for addressing global challenges. The US also use a website to help meet its WTO commitments on proposed regulations. Several websites are:

1. Unified Agenda – Regulatory Plan for the U.S. published every six months <http://www.reginfo.gov/public/do/eAgendaMain>
2. Federal Register – www.federalregister.gov - daily gazette of proposed regulations in various stages of development and information about final regulations.
3. Regulations.gov – www.regulations.gov - online access to all proposed U.S. federal regulations and public dockets where you can upload comments.
4. Notify U.S. – A service provided by the U.S. Inquiry Point at NIST which allows all interested U.S. stakeholders to receive information regarding proposed foreign regulations
5. U.S. states have daily publications of state laws that are reviewed by the U.S. inquiry point for notification to the WTO.

The second session was on TBT inquiry point and challenges for interagency coordination, presented by Ileana Martinez from the US side and Erningsih Haryadi, BSN from Indonesian side. Both presenters agree that the challenges in the interagency coordination are on communication and reporting. Possible means to improve coordination are conferences and meetings, creating a forum for regulators to share best practices and issues, and brochures and leaflets – keep it simple and up to date.

The third session was on the best practices from international and regional organizations. The speakers were Jennifer Stradtman on the WTO, Shirley V. Ramesh (ASEAN Secretariat) on ASEAN and one case study on APEC Toy Standards by Alan Kaufman (Toy Industry Association). All speakers emphasized the important role of good regulatory practices. From the case study, multiple recognitions is the best option because it will promote trade since more products will be available in multiple markets. Treating domestic and imported products in the same manner is also important.



Speakers, from left to right: Leslie McDermott (ANSI), Erniningsih (BSN), Anwar Nasution (SEADI), Jennifer Stradtman (USTR), TAR Hanafiah (BSN), Bambang Prasetya (BSN), Christine Brown (USTR), Michael Boyles (US Department of Commerce)



Speakers, from left to right: Jennifer Stradtman (USTR), Alan Kaufman (Toy Industry Association), Ileana Martinez (NIST), Shirley V. Ramesh (ASEAN Secretariat), Christine Brown (USTR), Moekti P. Soejachmoen (SEADI), Firman Aji (USADI), Megan Lehtonen (AIPMO), Leslie McDermott (ANSI), Adam Schlosser (US Chamber of Commerce)

The fourth session was a view from the private sector on how implementation helps lead to better regulation and trade. Megan Lehtonen from IAPMO discussed about the roadmap for development, adoption and enforcement of Uniform Plumbing Code specific to Indonesia (UPC-ID). IAPMO has signed an MOU with BSN. Aziz Pane from Indonesian Tyre Producers Association explained that standardization's objectives are for safety and also as technical barrier to trade.

Public consultation process was discussed in the fifth and sixth session. The first one was on best practices from international and regional organizations. Jennifer Stradtman discussed WTO – TBT best practices, where standards will lower cost and conformance and expedite trade. Michael Boyles from the U.S. Department of Commerce presented about the APEC/OECD Checklist of Regulatory Reform which has been collectively endorsed and utilized by APEC and OECD members since 2005. He also presented two studies produced following the 6th Conference on GRP: (i) Good Regulatory Practices in APEC Member Economies -Baseline Study (The Baseline Study) and (ii) Supporting the TBT Agreement with Good Regulatory Practices: Implementation Options for APEC Members (The TBT Linkages Study). The third speaker, Kukuh Syaifudin Ahmad from BSN, discussed how the different stages of development among the ASEAN countries make it challenging to achieve consensus on standards and conformance.

The second session on the public consultation discussed best practices for public consultation from the US and Indonesian perspective. Jennifer Stradtman explained that there are several approaches used in the US to solicit comments from the public such as daily publication of the U.S. Federal Register, daily publication of proposed regulation on regulations.gov, regular notifications to the WTO TBT Committee and public meetings on proposed regulations. From Indonesian side, Made Dharma Harthana, Ministry of Industry explained the use of the Ministry's Data and Information Center to develop an integrated and reliable industrial

information system, that is accurate, complete, trustable, and up-to-date.

The last session discussed the importance of Public-Private Partnership on the GRP. The three speakers from the US were Leslie McDermott from ANSI, Adam Schlosser from U.S. Chamber of Commerce and Henry Kim from TransUnion. ANSI is a private sector organization that accredits standards developers and conformity assessment organizations as well as coordinates partnership between U.S. public and private sectors. One example of PPP is TransUnion which maintains credit histories of approximately 500 million consumers and business around the world. TransUnion's experiences shows that information sharing between government and the private sector is one important element of public-private partnerships which foster good regulatory practices. The Indonesian side was represented by Sofyan Wanandi from APINDO, he discussed the complicated laws and regulations in Indonesia which create uncertainty in business environment in Indonesia.

The workshop was closed by the Economic Counselor – the U.S. Embassy, Mr. James Caruso.

Evaluation of the events

The participants provided the following suggestions:

- Assistance should be provided to the GOI to establish a daily publication of regulations like the Federal Register
- Identify concrete areas for cooperation between the US and Indonesia
- Provide more examples on the differences between the US and Indonesia systems
- Provide sector-specific training on GRP and RIA
- Provide examples of the consequences of not implementing GRP
- Improve collaboration, training and infrastructure for WTO – TBT notification body
- Encourage greater communications among regulators, senior regulatory officials, and other stakeholders