



ACTIVITY BRIEF

MARCH 20–22, 2017, JAKARTA



TPSA | CANADA-INDONESIA TRADE AND PRIVATE SECTOR ASSISTANCE PROJECT

Helping Indonesia to Protect Against Unfair Trade Practices and Import Surges

The TPSA Project delivered an introductory workshop on WTO trade remedies for Indonesian officials and private sector participants. Speakers outlined methods to respond to unfair trade practices, such as dumping and subsidized imports, as well as sudden import surges that may injure domestic industries.

Background

In November 2016, the Directorate General of Foreign Trade of the Ministry of Trade of Indonesia submitted a request to the Canada-Indonesia Trade and Private Sector Assistance (TPSA) project for training and capacity building on trade remedies in the context of the World Trade Organization (WTO).

Indonesia is currently involved in several disputes on trade remedies both as complainant and respondent. Based on Canadian expertise and experience on trade remedies, the TPSA project suggested a two-part training program. The first part is an introductory course on WTO trade remedies that covers dumping and anti-dumping measures, subsidies and countervailing duties, safeguards, and Canadian national legislation and practices on trade remedies. This activity was delivered on March 20–22, 2017.

The second part is an advanced intensive training course to be delivered in July 2017. The advanced course will focus on actual trade remedy cases in which Indonesia or Canada are involved, either in the context of the WTO or the *Special Import Measures Act* (for Canada). The advanced course may also conduct trade remedy simulation exercises to give Ministry offi-



Participants at the workshop in Jakarta.

cial's first-hand experience on trade remedy investigations and dispute settlements.

Introductory Workshop Overview

Forty-nine representatives from the Ministry of Trade of Indonesia and the private sector participated in the introductory workshop on trade remedies and trade defence. Held in Jakarta, this three-day workshop aimed to increase understanding of WTO trade remedies, improve the technical skills and expertise of government officials and private sector representatives involved in trade remedy or defence cases, and share Canada's long-standing experience and legislative and litigation best practices on trade remedies.

The workshop was divided into three parts, each dedicated to an in-depth analysis and discussion

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of a trade remedy. A trade remedy is a policy tool that allows a government to take action against imports that are damaging its domestic industry. Trade remedies are divided broadly into three types: anti-dumping duties, countervailing duties, and safeguard measures.

Wenguo Cai, TPSA Senior Trade and Investment Expert, focused on the unfair trade practice of "dumping," which is when an exporter sells a product to the importing country at a lower price than the price at which the same (or a similar) product is sold in its own domestic market. In order to apply a trade remedy (in this case an anti-dumping duty) under the WTO rules, the country must demonstrate a causal relationship between the dumped imports and the injury to the domestic industry. Mr. Cai outlined the essential procedures to follow during dumping investigations and the application of anti-dumping duties.

The second part of the workshop was led by Peter Clark, President of Gray, Clark, Shih, and Associates, a Canadian consulting company specializing in international trade and advising developing countries on how to adapt to and implement international trade rules and cope with trade actions against their exports. Mr. Clark focused on the unfair trade practice of subsidies, which is a financial contribution by a government or any public body within the territory of a trade partner that confers a benefit. Mr. Clark provided comprehensive information and cases on subsidies and countervailing measures (SCMs) and explained the use of countervailing duties against subsidies and provided case studies.



Wenguo Cai presents the topic of anti-dumping trade remedies.



Participants discuss trade remedies.

Based on his experience as a highly regarded Canadian trade remedy expert, he gave detailed technical information on Canadian trade remedy legislation and practices, including the application of the *Special Import Measures Act* and the roles of the Canada Border Services Agency and the Canadian International Trade Tribunal. He also covered the public interest inquiry guidelines on trade remedies in Canada.

On day three, Alexandre Larouche-Maltais, TPSA Senior Trade and Investment Expert, delivered a session on safeguards under the WTO law. He explained the objectives and structure of the WTO Safeguards Agreement, as well as the rationale for the use of the safeguards measures against a surge in imports. He addressed the requirements for applying new safeguard measures, including the condition of "unforeseen developments," and discussed leading WTO cases.

At the end of the workshop, a roundtable discussion on trade remedies/defence and their implications for Indonesia provided an opportunity for further questions.

The workshop adopted a participatory approach by incorporating question-and-answer sessions throughout the three days that used current global trade remedy dispute cases before the WTO Dispute Settlement Body (DSB) and Canada's domestic trade remedy system. In addition, workshop participants got to work in groups on moot cases involving unfair trade practices, which involved them analyzing the case facts and providing policy options to the other workshop participants.



Participant Feedback

All participants reported that their skills and knowledge improved as a result of the workshop on trade remedies. Forty-five per cent said that their new level of confidence in applying the knowledge was "excellent" or "very good," another 37 per cent said "good," 16 per cent said "fair," and 2 per cent said "poor."

Fifty-seven per cent said they would use the knowledge from the training "very frequently" or "frequently" in their work, while 35 per cent said "occasionally" and 8 per cent said "rarely."

"The trade remedies training gave me new knowledge of what Indonesia faces in trade remedy or defence cases. It enriched my understanding of the various approaches available to address those cases. I hope that the advanced training will further explain the wider context of trade disputes. I am very interested to know the views and approaches Canada has adopted that may help with the trade remedies cases Indonesia is involved in."

—CHRISTIANO TONGGO A SIGALINGGING
*S.H., Trade Analyst, Directorate General of Foreign Trade,
Indonesia Ministry of Trade*

The participants reported good overall satisfaction with the training. Twenty-three per cent gave a satisfaction rating of "excellent," 54 per cent said "very good," 21 per cent said "good," and 2 per cent gave a "fair" rating.

Conclusion

Workshop participants increased their understanding of the WTO rules on anti-dumping. Dumping is not forbidden, but it constitutes an unfair trade practice by private companies of an exporting country if it has caused injury or threatened to cause injury to the domestic industry of the importing country. The only adequate remedy is anti-dumping measures, which need to be applied under specific circumstances, and only if the following three conditions are met: (1) dumping (i.e., price discrimination) occurs; (2) the domestic industry of the importing country suffers injury or threat of

injury; and (3) there is a causal link between the dumping and injury. Anti-dumping duties are limited to the margin of dumping and applied only to dumped products.

Participants also gained expertise on subsidies and countervailing measures. Subsidies are not prohibited under WTO Agreements, but their use is restricted. To be considered a subsidy under the Agreement on Subsidies and Countervailing Measures, there must be a financial contribution by a government with a benefit conferred to the product, and such subsidy must be specific. Products subject to prohibited and actionable subsidies causing adverse effect on the interest of other countries may be addressed by applying countervailing measures.

Participants were familiarized with technical aspects of safeguard measures. Unlike the other types of trade remedies, safeguards are not meant to be used against unfair trade practices, but against a sudden surge of imports. Under the Agreement on Safeguards, safeguard measures may be imposed if a domestic industry is seriously injured or threatened with injury by a surge in imports.

About the TPSA Project

TPSA is a five-year C\$12-million project funded by the Government of Canada through Global Affairs Canada. The project is executed by The Conference Board of Canada, and the primary implementation partner is the Directorate General for National Export Development, Ministry of Trade.

TPSA is designed to provide training, research, and technical assistance to Indonesian government agencies, the private sector—particularly small and medium-sized enterprises (SMEs)—academics, and civil society organizations on trade-related information, trade policy analysis, regulatory reforms, and trade and investment promotion by Canadian, Indonesian, and other experts from public and private organizations.

The overall objective of TPSA is to support higher sustainable economic growth and reduce poverty in Indonesia through increased trade and trade-enabling investment between Indonesia



Participants and speakers celebrate a successful workshop.

and Canada. TPSA is intended to increase sustainable and gender-responsive trade and investment opportunities, particularly for Indonesian SMEs, and to increase the use of trade and investment analysis by Indonesian stakeholders for expanded trade and investment partnerships between Indonesia and Canada.

The expected immediate outcomes of TPSA are:

- improved trade and investment information flows between Indonesia and Canada, particularly for the private sector, SMEs, and women entrepreneurs, including trade-related environmental risks and opportunities;
- enhanced private sector business links between Indonesia and Canada, particularly for SMEs;
- strengthened analytical skills and knowledge of Indonesian stakeholders on how to increase

trade and investment between Indonesia and Canada;

- improved understanding of regulatory rules and best practices for trade and investment.

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