



Improving Indonesia's Public-Private Consultation Mechanism for Free Trade Negotiations

This TPSA workshop increased the capacity of the private sector to provide input to government officials and trade negotiators before, during, and after free trade agreement (FTA) negotiations.

Background

Currently, the government of Indonesia is actively seeking to open new foreign markets to their exporters by negotiating multiple bilateral and regional trade agreements. Indonesia is involved in six ongoing free trade agreement (FTA) negotiations and expects to conduct 12 more in the near future. To prepare for those trade talks, the government needs to establish both its defensive and offensive positions by collecting input from the private sector and other stakeholders.

However, Indonesia's relationship between its public and private sectors could be further developed. There is no system or formal framework for gathering opinions and contributions from businesses and other domestic stakeholders. Also, business associations face internal challenges, such as limited human and financial resources, which preclude them from providing the comprehensive private-sector feedback and technical input that the government requires to conduct FTA negotiations.

In this context, the Canada-Indonesia Trade and Private Sector Assistance (TPSA) project organized a two-day workshop aimed at strengthening the capacity of public- and private-sector representa-



Participants arrive at the workshop.

tives to support a public-private consultation (PPC) mechanism for FTA negotiations.

The workshop sought to share international good practices on PPC for trade policy and FTA negotiations by including both a traditional knowledge-sharing component and a practical simulation designed as a hands-on exercise for Indonesian private-sector representatives. This approach helped initiate a dialogue between public- and private-sector participants, and increased their knowledge and understanding of both PPC and FTA negotiation issues.





Objectives

Held in Jakarta on February 27 and 28, 2018, the workshop covered key aspects of public-private consultation in trade policy design and implementation, focusing on building strong private-sector capacity to develop, draft, and submit position papers on selected international trade and investment topics to the Government of Indonesia. Fifteen men and 14 women representing the Ministry of Trade and other government agencies, as well as the business associations KADIN and APINDO, participated in the workshop.

This proved to be an invaluable opportunity for representatives from both the public and private sectors to initiate a dialogue on Indonesia's trade policy and participate in a practical simulation of consultations for FTA negotiations.

Workshop Topics

The workshop included two major components. First, TPSA trade experts delivered interactive technical presentations to share best practices on all steps of an FTA negotiation and consultation process. Participants were then invited to engage in a PPC simulation, in which they were asked to prepare and present position papers.

Presentations

The workshop was opened by Nadia Bourély, Counsellor and Senior Trade Commissioner for the Embassy of Canada in Jakarta. Ms. Bourély stressed the importance of preparing strong position papers for negotiations, as they are crucial to helping trade negotiators effectively argue for the preferred outcomes of domestic businesses and other stake-



Nadia Bourély discusses the importance of preparing strong position papers for FTA negotiation.



Wahyuni Bahar outlines the private sector's main priorities related to Indonesia's FTA negotiations.

holders. Real benefits for the private sector and the country can only be achieved through adequate public-private consultation processes and efficient intergovernmental agency coordination.

Wahyuni Bahar, Head of the Permanent Committee for Multilateral Institutions and FTAs (KADIN Indonesia), then outlined the private sector's main priorities in relation to Indonesia's FTA negotiations. Due to the country's busy trade-negotiation agenda, there is an urgent need for active participation by all stakeholders in inclusive public-private consultation at all stages of FTA negotiations. Given limited available human and financial resources, Mr. Bahar suggested that government agencies and the private sector work together closely and make good use of technical assistance received from foreign experts and international donors. In addition, he stressed the necessity of conducting and updating sectoral and comparative studies in Indonesia, as well as technical reports covering a broad range of issues that include international trade, foreign investment, and foreign market opportunities. This intelligence is crucial to estimating the impact of future FTAs, capturing business opportunities, and making adjustments for domestic industries that are negatively affected by FTAs.

TPSA senior trade and investment expert Alexandre Larouche-Maltais delivered a technical presentation on the consultation process in the context of FTA negotiations. He explained the rationale for PPCs, described the historical development of PPC in Canada over the past 50 years, and outlined Canada's current bilateral and regional trade negotiations and consultations.



Mr. Larouche-Maltais divided the consultation process activities into three phases: identification of defensive and offensive interests before undertaking negotiations; coordination among governmental agencies during the negotiation process; and communication with domestic stakeholders after trade negotiations are complete.

Wenguo Cai, TPSA senior trade and investment expert, delivered a comprehensive presentation on both traditional and new trade-negotiation issues. He first explained that the traditional topics negotiated at the WTO (i.e., agriculture, non-agricultural goods, services, and rules), could be liberalized further with an FTA, and provided an update on the latest developments. He then clarified the so-called new trade issues currently included in the framework of 21st-century trade agreements. They include investment, competition policy, government procurement, and state-owned enterprises (SOEs), as well as labour, environment, gender equality, indigenous peoples, and SMEs.

Mr. Larouche-Maltais then spoke about the art of drafting position papers. He provided advice for business associations on how to monitor negotiations and define positions, and shared Canadian best practices on communicating with key stakeholders in civil-society and private-sector-led organizations. He then reviewed how to draft convincing position papers on selected international trade negotiation issues.

On the second day of the workshop, Jessica Callista, an associate at Bahar Law Firm, presented the key takeaways from her report *Public-Private Consultation for Free Trade Agreement Negotiations in Canada and Indonesia* [hyperlink: <http://www.tpsaproject.com/wp-content/uploads/2017-11-01-Report-1213.01j.pdf>]. The report was written during a two-month research internship at The Conference Board of Canada in Ottawa. The internship program included a series of meetings with key Canadian business associations and government agencies involved in trade policy. Ms. Callista provided a comparative analysis of Canada's and Indonesia's PPC mechanisms and identified the main weaknesses and gaps of Indonesia's PPC. She also shared the best practices of Canadian business associations in preparing position papers,

including the importance of conducting in-depth field studies and academic research. Lastly, she provided insights and recommendations for reforming Indonesia's PPC mechanism to make it more efficient and inclusive.

The last session was dedicated to a roundtable discussion, facilitated by Mr. Larouche-Maltais, on how Indonesia's PPC mechanism can be improved.

PPC Simulation

The second component of the workshop was a practical group exercise on preparing and presenting trade-negotiation position papers. This exercise was based on a scenario in which Canada and Indonesia are negotiating a comprehensive economic partnership agreement in 2019, where the Indonesian government is seeking the views of businesses and civil-society associations, labour unions, academia, and individuals. The objective of this consultation was for Indonesia to identify the key interests, opportunities, and concerns of Indonesians with respect to the bilateral trade and investment relationship with Canada.

Participants were split into five teams, each representing a fictitious interest group. Each team was assigned a topic:

- Group 1 represented the "Indonesian Exporters and Manufacturers Association" and focused on market access for industrial and other non-agricultural goods.
- Group 2 represented the "Confederation of Indonesian Farmers and Planters" and focused on market access for agricultural goods.



Participants work in teams to prepare and present trade-negotiation position papers.



Wenguo Cai listens to participant comments.

- Group 3 represented the "Indonesian Services Coalition" and focused on trade in services.
- Group 4 represented "Jakarta International" and focused on investment and investor-state dispute settlement.
- Group 5 represented the "Indonesian Federation of Labour Unions" and focused on labour issues.

Each group was asked to prepare and present a position paper on the assigned topic, integrating a cross-cutting issue related to either the environment and sustainable development or gender equality and women's economic empowerment. In addition, participants were asked to design a communication strategy covering both internal coordination with members and stakeholders and external outreach.

"This workshop is important because the private sector can increase its capacity to prepare a good position paper for submission to our negotiators, so they will understand our point of view and what we expect from FTA. With active participation by the private sector and other key stakeholders in Indonesia, I believe we can offer an economic and social boost to our businesses, our workers, our consumers, and our country."

—WAHYUNI BAHAR
Head of Permanent Committee for
Multilateral Institutions and FTA, KADIN Indonesia

Workshop participants had only a few hours to conduct research on Canada-Indonesia trade and investment trends and technical issues, identify respective stakeholders' interests, determine sectoral positions, prepare evidence-based arguments, and draft strategic position papers and communication strategies. After each spokesperson's presentation, all participants were invited to ask questions and provide comments.

Participant Feedback

Overall, participants were satisfied with the training activity: 37 per cent of respondents indicated the training was "excellent," 37 per cent said "very good," and 26 per cent called it "good." All participants reported that their knowledge had increased as a result of their participation in the training, including 37 per cent who reported it had "increased significantly," with the remaining 63 per cent reporting it had "increased to some extent."

Most participants indicated that the skills they learned during the seminar were directly applicable to their day-to-day duties as policy-makers and researchers. Sixty-six per cent reported that they expect to use their new knowledge and skills "very frequently" or "frequently." Further, 92 per cent of seminar participants indicated that their new level of confidence in applying the skills learned was at least "good."

Key Learnings

Consultation on FTA negotiations makes sense for both government and private-sector stakeholders.

This workshop provided an opportunity to discuss and debate the rationale for FTA negotiation consultations, highlighting its relevance to both the public and private sectors.

From a **public-sector** perspective, conducting meaningful, transparent, and inclusive trade consultations can greatly contribute to achieving trade-negotiation objectives by better identifying bottlenecks at the border, main barriers to trade, and most promising market opportunities abroad. This can also help fast-track negotiations, as private-sector representatives may clarify and explain complex technical and policy issues to trade negotiators. As well, consultations may have



other positive side effects, such as enhancing trust between the government, the private sector, and civil society, contributing to the social acceptance of international trade agreements, and increasing stakeholder awareness of FTA issues.

For **private-sector** representatives of both large businesses and SMEs, submitting grounded and conclusive position papers in the context of FTA negotiation consultations has proven to be valuable in several ways. First, public-private consultation initiatives increase transparency in the negotiation process and contribute to government accountability. Additionally, PPC helps business associations and NGOs achieve their advocacy objectives and fulfill their mandates by providing a platform for their members' voices to be heard by the government on international trade matters. Finally, and most importantly, fruitful consultations ensure that the negotiation outcomes are sound, workable, and beneficial to the social and economic interests of the country.

Stakeholders play different roles and bear specific responsibilities before, during, and after FTA negotiations.

MoT officials and business-organization representatives became more familiar with the respective roles they are expected to play in the context of FTA negotiations at each stage of the consultation process.

Before entering into FTA negotiations, government officials should determine the appropriate timeframe for negotiations, share information on the selected approach to trade negotiations and the domestic regulatory regime, define the scope and coverage of a potential agreement, and set negotiation objectives based on defensive and offensive interests.

Business associations should attempt to convince the government to either undertake or abandon the negotiations, building coalitions if necessary. They should also take the lead in finding the most promising business, trade, and investment opportunities abroad, identifying bottlenecks, non-tariff barriers, cross-border issues, and other red tape while ensuring the voices of potential "losers" are heard by government negotiators.



Group presentations.

During trade talks, government negotiators should prepare requests and offers based on collected input, taking into consideration concerns voiced by stakeholders. They must keep communication channels open with the private sector and other stakeholders, asking for feedback on other parties' offers and requests as well as potential concessions, if necessary, while keeping the general public informed about the progress of negotiations. This stage requires close coordination between the lead ministry and other governmental agencies (such as agriculture, health and safety, customs, and finance).

For private-sector representatives, it is essential to stay responsive to government requests and technical questions during the negotiations, especially if feedback is requested on draft texts. Sectoral associations should closely monitor the negotiations to keep their members or stakeholders aware of progress made or potential deadlocks. In certain cases, business associations can build domestic or international coalitions with other stakeholders who have convergent interests, to influence the negotiation process and results.

After the conclusion of a trade deal, government authorities should seek to disseminate the outcomes as widely as possible among stakeholders and the general public. This is necessary to raise awareness in the private sector (especially among SMEs) of new or enhanced trade and investment opportunities, so that they may reap the maximum benefits. The government will also undertake ratification of the FTA and implement it into the domestic legal system, as per constitutional imperatives.



After the negotiations have concluded, the private sector should support the FTA implementation process by providing input on the best policy and regulatory options to ensure a smooth transition. Business associations should also share good news (and not-so-good news) with members and stakeholders. Eventually, their representatives should inform government authorities of any persisting problems or implementation failures so that they may be swiftly addressed. The private sector may also want to offer advice on potential areas for further cooperation or new sectors to include in future FTA reviews or renegotiations.

Indonesia can address internal challenges and overcome the weaknesses of its domestic consultation process.

Like other countries, Indonesia is facing multiple interrelated challenges, including low awareness of FTAs among domestic stakeholders, a lack of transparency in the international trade-negotiation process, insufficient input submitted by business associations, and limited access by SMEs to negotiators and government officials. This workshop provided an opportunity to identify those weaknesses and discuss possible practical solutions.

The first set of challenges faced by Indonesia relates to its lack of a formal, systematic PPC mechanism. Consequently, the private sector, particularly SMEs, lacks awareness of the FTA negotiations that Indonesia has completed or is currently conducting. This can be addressed by establishing a transparent, reliable, easily accessible web portal that includes all non-confidential FTA-related information, structured in concise and simple terms to ensure complete understanding by Indonesian stakeholders. The portal should provide the Indonesian private sector and other stakeholders with opportunities to provide comment on all information and to offer their views in the form of submissions or position papers.

Another solution is to establish an institutional body, possibly a committee on trade agreement negotiations, to monitor PPCs on FTA negotiations. This committee should be led by the government and include members from the private sector and civil society, such as technical experts, academics, and NGOs. The main purpose of this committee



Jessica Callista provides workshop participants with a comparative analysis of Canada's and Indonesia's PPC mechanisms.

would be to monitor PPC implementation, ensuring that all information is made available and updated accordingly, and that the Indonesian private sector and other stakeholders have full access and opportunities to submit their views and receive feedback from the government.

Second, the Government of Indonesia has witnessed a low level of business participation in the consultation process, especially by SMEs. More specifically, the quality and quantity of input submitted by the private sector have not produced a satisfactory picture of stakeholders' positions and priorities. One possible solution is to create a template form and guidelines for the Indonesian private sector and other stakeholders on how to submit their contributions and input. The form should be made available for download on the above-mentioned FTA web portal.

Another way to enhance the quality of private-sector input is to increase transparency in the international trade agreement negotiation process, so that external stakeholders get a clearer idea of the specific issues that should be given primary consideration. To achieve greater transparency, the Government of Indonesia should produce technical briefing notes that provide background on bilateral trade and investment trends between Indonesia and negotiating partners, scope and coverage of future FTAs, and other specific regional issues for consultation. These briefing notes should be made available online prior to the consultation's launch, to provide adequate time for stakeholders to review them.



Third, given the limited access of smaller businesses to trade negotiators and governmental officials, Indonesia should encourage the organization of open meetings and events on FTAs. One option would be for the government to conduct regular awareness-raising and capacity-building meetings to discuss current or upcoming FTA negotiations. Facilitators with extensive experience and knowledge—either MoT negotiators or domestic and foreign trade experts—should be invited to participate. These events would provide an opportunity for all stakeholders, including SMEs, to receive privileged access to trade negotiators and provide comment, while at the same time increasing their understanding of FTA negotiations and building a relationship of trust with the government.

Business associations must be better prepared to participate in PPC and develop their own communication strategies.

The workshop discussions and research conducted by Ms. Callista show that mindset and behavioral changes can greatly improve the input provided to government by the private sector. As such, Indonesian business associations and other private-sector organizations should undertake the following initiatives:

- **Be proactive:** Business associations and their members should proactively reach out to one another on a regular basis, especially when there are issues related to topics that need to be dealt with in the FTA negotiation process.
- **Share information:** Both the association and its members should establish a regularly scheduled two-way exchange of information.
- **Draw on membership resources:** Private-sector organizations should engage with members who have technical or legal expertise and may be able to provide in-kind contributions, such as human resources or meeting venues.
- **Summarize all member views:** Because they represent many sectors and business interests, private-sector organizations must conduct extensive internal consultations with their members to summarize and provide all views to the government for their consideration during FTA negotiations.

In addition to these changes, each business association should design and adopt a comprehensive

communication strategy for reaching out to the following groups:

- **Members and stakeholders:** Knowing its stakeholders is essential for a business association to build credibility and authority and to identify the best ways to stay aligned with member needs and priorities. A communication strategy may include setting up regular face-to-face meetings or phone calls, sending a scheduled newsletter, and organizing knowledge-sharing events.
- **Government:** Building trust with the government takes time. Business associations should use every opportunity to participate in consultations and be responsive while respecting confidentiality clauses. A communication strategy could include requesting regular face-to-face meetings or phone calls, keeping in touch with members of parliament, and submitting written input during the PPC process.
- **Other private-sector organizations:** Business associations should strengthen their networks and create domestic or international coalitions, as appropriate. Business associations will have greater impact and more influence if they avoid competition and join forces. A communication strategy could include establishing international networks of business associations, submitting joint position papers, and creating domestic industry coalitions.
- **General public:** Business associations should pay attention to public relations and reach out to the population in general. Sometimes, the public may feel that business interests diverge from theirs. Explanations and education may increase public support. A communication strategy could include publishing position papers online, using traditional mass media (TV, newspapers, and radio), and employing social media (such as YouTube, Twitter, and Facebook).

Business associations should use the "recipe for success" when drafting position papers.

Private-sector organizations participating in public-private consultations seek to influence the government in a way that will benefit their members and the domestic economy in general. Based on interviews with Canadian business associations, written



Participants gather at the end of the workshop.

submissions must include three elements in order to maximize their impact:

- **Evidence-based arguments:** Well-researched input is more convincing than mere opinions. This means using information from independent and reliable sources that are grounded in facts, including primary sources.
- **Positions supported by members:** To hold weight, a business association's position must be widely supported by its members. In the event of a lack of consensus, position papers may describe the majority versus minority positions. Providing updated information about its membership network and the methodology of internal consultations can also enhance the credibility of an association's submissions.
- **Useful input for negotiators:** The best position papers speak the same language as trade negotiators: that is, the papers should suggest a list of priorities, the chapters to cover, and even specific provision formulations. They are realistic, covering both offensive and defensive interests, within the scope of the FTA negotiation's mandate.

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 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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