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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

INDONESIA

This report, prepared for the sixth Trade Policy Review of Indonesia, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Indonesia on its trade policies and practices.

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Document WT/TPR/G/278 contains the policy statement submitted by Indonesia.

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SUMMARY

Economic Environment

1. Since its previous review in 2007, Indonesia has made steady economic progress with an average annual real GDP growth rate of 5.9%. GDP per capita almost doubled to almost $3,500 and the poverty incidence declined from a post-crisis peak of 24% to 12.4% in 2011. These and other solid fundamentals provided good underlying support in the face of the 2008-09 global recession. Looking ahead, the government's 2011 Master Plan for the Acceleration and Expansion of Economic Development 2011-2025 recognizes that higher and sustainable economic expansion requires that the country diversify sources of growth, accelerate infrastructure development and close the development gap between eastern and western regions. Real GDP has been forecast by the World Bank to grow by 6.1% in 2012, rising slightly to 6.3% in 2013, assuming continued strong consumption and investment growth, supported by a recovery in exports.

2. Indonesia has taken steps to improve its business environment, which is reflected in improvements in its rankings in various global indicators. In addition to positive assessments of Indonesia's macroeconomic climate and FDI regime, some notable reforms include the launch of the Indonesia National Single Window to facilitate online processing of trade and licensing activities and the development of initiatives to improve governance.

3. State-owned enterprises (SOEs) continue to play a key role in Indonesia's economy, estimated to account for around 40% of Indonesia's GDP. There has not been any significant privatization activity over the review period. However, the government has partially divested itself of some of its ownership shares in various industries, including: cement, telecommunications, mining, energy, pharmaceuticals, construction, highways, steel, manufacturing, airlines and banks. An SOE monopoly on the importation of alcoholic beverages was terminated in 2010.

4. Trade remains limited as a share of economic output, with merchandise exports accounting for between 21% and 26% of GDP during the review period and imports for between 15% and 18.5% of GDP. Indonesia continues to trade more energy-related products (fuels) than any other product category on both the import and export sides. A number of measures - including export restrictions and taxes on raw resources, tighter import licensing requirements, point of entry restrictions on imports, ownership limitations on banks and certain divestment requirements for foreign mining companies - have recently raised concerns about the direction of trade and investment policy-making. In this regard, the authorities consider that domestic industrial policy considerations, aimed, *inter alia*, at developing local industries and moving up the value chain, should be balanced with maintaining an open foreign trade and investment regime in order to ensure that Indonesia's external commitments continue to be fully respected.

Trade and investment policy framework

5. Indonesia provides at least MFN treatment to all WTO Members. In order to improve trade and investment policies, Indonesia has enacted new laws relating, *inter alia*, to investment, its SPS regime, export financing, special economic zones as well as in agriculture, fisheries, shipping, mineral and coal mining and tourism. Indonesia is continuing to strengthen its economic ties with countries in the region, both bilaterally and through its participation in ASEAN. Under ASEAN, which is working towards achieving an ASEAN Community by 2015, new goods and investment agreements have recently entered into force.

6. Indonesia's medium-term trade policy objectives are to increase the export of non-oil products, strengthen the domestic market and manage the availability of basic products; and to strengthen national distribution channels. To this end, it has identified ten priority products of key interest in its trade negotiations. Its economic priorities may also be understood within the context of various development plans, which aim to increase the competitiveness of Indonesia's businesses and encourage a shift into higher value-added activities. Central to this is the economic development of six regional economic corridors, each with industrial clusters focusing on priority sectors. These corridors would be connected through an enhanced transport and ICT infrastructure, which is currently poor. The realisation of these objectives will be dependent to a considerable extent on private investment.

7. There have been significant legal and institutional changes to Indonesia's foreign investment regime. A new foreign investment law was enacted in 2007 which represents an improvement to previous rules by doing away, for example, with maximum timeframes for investment in permitted sectors and has provisions on national treatment for foreign investors as well as access to international arbitration. Investment restrictions, including limits to foreign equity participation, are set out in a comprehensive "negative list" which has been revised and liberalised over the review period. Foreign ownership is restricted in a number of sectors which include agriculture, forestry and fisheries; energy-related activities; communications and financial services and health services. Overall, the 2007 Investment law offers greater transparency in terms of the sectors covered and a reduction in administrative burdens.

Trade measures and practices

8. Indonesia has continued to undertake systematic efforts to reduce constraints to trade, investment and production and to streamline procedures at the border. Customs reform is prominent on the government's agenda. This includes the 2007 launch of Indonesia's National Single Window, which allows for the online processing of customs documentation, applications for licences, and duty payments. It is now operational at all of Indonesia's ten main customs entry points, through which an estimated 90% of trade enters and leaves Indonesia. Efforts are also being undertaken to improve risk management and facilitate trade by introducing schemes for reputable importers. The goal of customs reform is to reduce the time and cost of clearing customs and to limit smuggling and customs fraud. The authorities have observed a significant drop in customs-related appeals as a result of guidelines issued to assist customs officers to determine the customs value of imported goods. On the other hand, import procedures tend to be complicated by registration requirements, port of entry restrictions for several products, and extensive pre-shipment inspection and import licensing requirements.

9. The tariff has remained Indonesia's main trade policy instrument, albeit a relatively small source of tax revenue. Indonesia's revenues from taxes on international trade constitute around 4% of total tax revenues, which is considerably lower than the average for developing countries. Nearly half of Indonesia's trade taxes are levied on exports, mainly commodities, the main policy objectives being price stabilization, development of downstream processing facilities and reducing the rate of depletion in non-renewable resources.

10. The Ministry of Finance concluded a five-year tariff harmonization programme in 2010, which has resulted in the lowering of Indonesia's simple average MFN tariff to 7.8% in 2012, down from 9.5% in 2006. The average applied MFN tariff is 7.5% for industrial products and 9.5% for agricultural imports. More than 85% of tariff rates are currently in the range of zero to 10%. In line with long-standing sectoral support, the highest tariffs apply mainly to motor vehicles. As has been the case in previous reviews, 95% of tariff lines are bound but at 37.4% the average bound rate largely exceeds the average applied rate, creating a degree of unpredictability for the tariff. The difference between average applied and bound rates remains much higher for agricultural products (at 9.5% and 47.1% respectively). With the exception of a few tariff lines subject to specific rates, virtually all applied tariff rates are ad valorem, a feature that contributes to the transparency of the tariff. Tariff preferences offered by Indonesia through bilateral and ASEAN FTAs have resulted in significant tariff reductions, ranging from 0.8% to 5.9%, thus widening the gap with its MFN tariff rate. In addition to the tariff, Indonesia levies VAT at a flat rate of 10%, luxury taxes which range from 10% to 75% and excise taxes on alcohol and tobacco products; for alcoholic beverages with an alcohol content of 5% or more excise tax rates on imports are higher than on domestic production.

11. Around 20% of Indonesia's tariff lines are affected by import licensing requirements, which have been expanded since Indonesia's previous review. Many are in place to implement policies designed to protect domestic production, such as rice, sugar, salt, certain textiles and textile products, cloves, animals and animal products and horticultural products. Various concerns have been raised by WTO Members with regard to the complexity, lack of transparency and trade-impairing effects of Indonesia's import licensing requirements.

12. In 2011 Indonesia enacted new rules governing anti-dumping, countervailing and safeguard measures, with the main changes intended to reinforce investigation procedures as well as to bring the regulation of trade remedies under one piece of legislation. Relevant institutional restructuring is in progress. Indonesia has not so far initiated a countervailing investigation. At end-2012, it had

18 definitive anti-dumping measures in force. Since 2010 Indonesia's use of safeguard actions has increased significantly, making it the WTO's second most frequent user of this instrument.

13. National standards are formulated in accordance with international standards, where feasible. About 3% of all standards are mandatory. Indonesia has a transparent approach to the formulation of standards and technical regulations, which allows for the participation of interested members of the public. During the review period, new SPS-related legislation has entered into force relating to animal husbandry and animal health and to horticulture. All imported meat and dairy products must be accompanied by a halal certificate issued by an approved halal certifying body. Regulations to implement horticultural legislation have tightened up import quarantine procedures to prevent the spread of fruit fly, which imits the ports of entry into Indonesia for imports from countries that do not have recognised food safety systems.

14. Public procurement in Indonesia is undertaken by numerous entities at the central and regional levels of government as well as by state owned enterprises. Indonesia became an observer to the WTO Government Procurement Agreement (GPA) in 2012. Government procurement remains an important instrument of industrial policy. Foreign companies may only bid in co-operation with a national company (unless no national company has the ability to provide the goods and services requested) and only on bids that exceed certain thresholds. Procurement rules mandate the use of domestic products in government procurement if there are providers offering goods and services with a local content exceeding 40% of value. Since 2007, transparency in procurement has been improved with the introduction of mandatory e-procurement for public tenders. New procurement regulations require each procuring entity to implement stronger management controls and also set out contracting procedures and timeframes. However, in spite of these reforms, bid-rigging remains a major problem and accounts for around 70% of the Competition Commission's caseload, pointing to the need for a comprehensive procurement law and strengthened audit procedures. Indonesia's competition policy framework has not undergone any significant change in the period under review.

15. Support for production and trade has been provided through a variety of incentives for domestic and foreign investors. These include: corporate tax relief and exemptions; fuel subsidies; customs duty exemptions; as well as various incentives related to free trade zones and special economic zones. Indonesia currently has one FTZ in operation. The Government enacted a Special Economic Zones (SEZ) Law in 2009 to encourage the development of SEZs as centres of economic activity situated in strategic positions and encompassing export processing zones, bonded zones, industrial zones, technology parks, and supporting activities. Two SEZs are currently being developed.

16. Indonesia has export licensing, prohibitions and restrictions in place to ensure protection of natural resources and endangered species, provide an adequate domestic supply of essential products, promote higher-value-added downstream industries, and upgrade the quality of export products. In addition, the government will prohibit mining companies from exporting mineral ore products (currently subject to export licensing and taxes) as of 2014, when they will be required to undertake refining activities onshore. During the review period, new export taxes have been introduced on leather and wood, palm oil, raw cocoa and mineral ore products. The main objective of these measures is to encourage value-added processing within Indonesia. Secondary considerations are to secure domestic supply, safeguard the environment and raise revenue.

17. In 2009 the state-owned Bank Ekspor Indonesia, which had provided pre-shipment and post-shipment financing facilities for exporters was transformed under new legislation into the Indonesia Eximbank. It provides exporting financing, guarantees and insurance in areas not entered into by commercial financial institutions, with enterprises in the areas of crude palm oil, textiles, oil and gas, and mining being among its main clients. Another state-owned enterprise, Asuransi Expor Indonesia offers export credit insurance to exporters for all products other than oil and gas.

18. A net importer of IP-intensive goods, Indonesia has sought to strengthen protection of intellectual property rights by improving its legal framework. Indonesia is at an advanced stage in drafting amendments to legislation concerning copyright, trademarks, patents and industrial designs. Indonesia is a proponent of incorporating into the TRIPS agreement a requirement for the disclosure of origin of genetic resources and/or associated traditional knowledge. Over the review period Indonesia has used compulsory licensing on two occasions to permit Government

use of pharmaceutical patents in order to produce certain antiviral and antiretroviral drugs: in all instances Government use of these patents is until their expiry. IPR infringements, particularly with respect to copyright, remain of concern to Indonesia's trading partners and Indonesia is making efforts to combat IPR violations through inter alia import licensing requirements and upgraded monitoring and investigation efforts.

Sectoral policy developments

19. As a large country with a complex archipelagic structure, Indonesia confronts considerable difficulties in establishing the extensive infrastructure of transport, communications and public utilities that is essential for its economic and social development. Years of under-investment have left Indonesia's infrastructure network crumbling. Roads are congested, ports are bottlenecked, and many Indonesians do not have access to either potable water or reliable electricity. Inadequate infrastructure has also contributed to poor distribution systems, which have resulted in high logistics costs; for example, shipping costs are between an estimated 50% and 80% higher than elsewhere in the region. Efforts to draw up a master plan for port development have been hampered by the decentralized structure of government and the competing interests of provincial and district governments.

20. In terms of the overall sectoral structure of the Indonesian economy, there was little change during the review period. Agriculture, forestry, and fishing contributed 14.7% of GDP in 2011 and engaged an estimated 35.9% of the employed labour force, continuing to provide employment to more than 40 million persons. Agricultural policy priorities are driven by concerns over food self-sufficiency, food consumption and production diversification, value-added and competitiveness, and the welfare of farmers. Rice is the most important food crop and the preferred staple of the great majority of Indonesians, who get nearly half their calories from rice, so maintaining stable and low rice prices has been a major policy aim of the Indonesian Government. Key domestic policy objectives are pursued through a wide range of input subsidies on fertilizer and seeds, and credit is used to support producers. Quantitative import restrictions have been maintained for rice, sugar, and salt and introduced for animals and animal products. Import requirements imposed for food safety, SPS, and cultural reasons appear to have become more stringent. A variable export tax regime has been introduced on crude palm oil and derived products, and more recently on cocoa.

21. Around 70% of Indonesia’s land area remains covered by forests but widespread illegal logging practices have led to serious environmental damage. In the face of illegal logging and the smuggling of timber, the government has supplemented its domestic enforcement efforts by signing international agreements with the European Union, Malaysia, Japan, and the PRC to ban the import of illegal logs from Indonesia. Indonesia has instituted a number of policy measures to discourage or ban log exports in order to encourage processing industries within Indonesia. In 2011 Indonesia banned exports of raw and semi-processed rattan (used for traditional furniture). The measure was designed to encourage rattan furniture production but instead seems to be pushing rattan prices down. On the other hand, processed wood and wood manufactures (including finished products such as furniture) make an important contribution to Indonesia's exports.

22. Indonesia continues to be an important supplier in the global mining industry, with significant levels of coal, copper, gold, tin, and nickel production. As a result of the new 2009 Mining Law, mining firms operating in Indonesia will face new restrictions in exporting unprocessed ore. The legislation will require them to process the ore in Indonesia before shipping it abroad. The policy is intended to support the expansion of value-added activities, including the smelting industry.

23. Indonesia’s strong recent GDP performance has been driven by services and commodities, not manufacturing, whose share of GDP has fallen to under 25%. Although manufacturing has declined or stagnated in terms of its value added, its share of exports and employment, it nevertheless remains one of Indonesia's biggest contributors to GDP. Citing the country's relatively low labour costs compared with the rest of Southeast Asia, and the large domestic market, the Government has been pursuing investors in sectors such as electronics manufacturing, although inadequate infrastructure remains an obstacle. Indonesia offers numerous incentives to attract foreign direct investment, including bonded or free-trade zones, and exemptions on tax and import duties. To take advantage of these incentives, investors must meet certain conditions stipulated in

the 2007 investment law, such as locating in rural or border regions, employing a large workforce, or undertaking research and development.

24. Services provided 38.1% of GDP in 2011, a share that has remained relatively stable during the review period, and engaged 43.5% of the employed labour force. The engine of economic growth shifted from manufacturing to services during the review period, when the services sector grew at almost twice the rate of manufacturing and agriculture. Trade in services (imports + exports) accounted for 6.3% of GDP in 2011, down from over 12% in 2000. Travel services, which largely represent the tourism sector, dominate exports, with over 37% of Indonesia's services exports. Indonesia has latent comparative advantages in several services sectors, including skilled labour services, technology deployment, and business processing outsourcing.

25. Indonesia's financial system was resilient during the global financial crisis that commenced in 2007. This is in large part attributable to the stability of the banking sector, which remains small relative to Asian neighbours like India and China. Total financial sector assets were 66% of GDP in mid-2012, with the ratio of total bank assets to GDP at 50%. Bank Indonesia (BI) is responsible for supervising and regulating the banking sector although the current supervisory structure is due to change. In 2011, Indonesia established a new financial services authority (Otoritas Jasa Keuangan), which is set to become the sole regulatory agency for all financial services institutions (banks, securities companies, insurance companies, pension funds, and multi-finance companies). Its authority will include bank licensing, bank operations, setting policy on banking liquidity, and banking supervision, all of which it will take over from BI at the end of 2013. The new authority will start supervising and regulating banks in January 2014.

26. The financial system is dominated by banks, accounting for 76% of financial sector assets and other players in the financial industry, such as insurance companies, pension funds, finance companies, securities companies and pawn shops, have small shares within the market. Foreign banks (including branches, joint venture banks, and foreign-owned local banks) play an important role in the sector, with an increasing share in banking assets. Since 1999, up to 99% of a bank’s shares may be held by foreign entities or individuals. Indonesia has revised its WTO financial services commitments to 51% foreign ownership in its GATS schedule (previously 49%); new bank licences are unbound. A 2012 regulation on commercial bank ownership is intended to improve the resilience of banks through better governance. The regulation minimizes ownership dominance in a bank as this may have a negative effect on a bank’s operations. The regulation applies to all shareholders, Indonesians and foreign. Permitted ownership of banks up to 99% by foreign nationals remains unchanged.

27. During the review period, Indonesia's telecommunications market continued to expand and has settled into a healthy development phase. Fixed-wireless technology has provided a fresh basis for expansion in the development of the country's fixed-line network. Wireless has become the dominant component within the fixed-market segment, and by 2011 accounted for an estimated 80% of the total fixed-line subscriber base, with teledensity reaching 17% by early 2012; it has provided much needed basic telephone services to previously unserved communities. The number of mobile subscribers increased from 104 million in 2007 (37% penetration rate) to an estimated 249 million by early 2012, with a penetration rate of over 100%. As penetration passed the important 100% milestone, there was still considerable potential for further market growth, with consumer interest shifting to the 3G services offered by the operators. The rapid growth has attracted a number of foreign investors to the country.

28. The Government’s national transport growth strategy emphasizes enhanced domestic connectivity through major infrastructure development and transport sector reform. The specific objectives for the transport sector development include: improving capacity of transport infrastructure and reducing backlogs and bottlenecks in transport services; achieving a 90% stable road network: increasing domestic sea transport market share to 100%, and railway freight and passenger market shares by 7% and 23%, respectively; and improving the level of transport safety (to reduce transport accidents by 50% by 2014). Transport infrastructure and services are under national, provincial, district, or city agency control, depending on the level of infrastructure or service. Targeting funding to specific purposes is difficult because of the decentralized governance.

1 ECONOMIC ENVIRONMENT

1.1 Introduction

1.1. Historically, Indonesia's economy has relied on agriculture, including small-scale rice farming, large-scale plantations (rubber, palm oil), and fishing. In recent years, new industries extracting fuel resources (oil, natural gas, and coal), and manufacturing products such as textiles and computer components have driven economic growth and contributed new job opportunities, increasing average incomes.

1.2. Since its previous Review, Indonesia has continued to emerge as a regional player, prominent in both the Group of Twenty (G20) and the Association of Southeast Asian Nations (ASEAN), and as a developing democracy with a robust record of economic growth. This has required protracted legislative reform to restructure the economy and establish democratic institutions, decentralization to establish political stability, and a concerted drive to address pressing social needs. In 2004, the country also had to deal with one of the worst natural disasters in recent history, the earthquake and tsunami in Aceh and Nias, in which more than 200,000 people perished.

1.3. From 2007 to 2011, Indonesia's gross domestic product (GDP) grew by an average of 5.9% per year, GDP per capita almost doubled from US$1,859 to US$3,495, and the poverty incidence declined from a post-crisis peak of 24% to 12.4% in 2011. However, over 50% of the population still lives on less than US$2 a day (purchasing power parity)[1], and while most Millennium Development Goals (MDGs) are on course to be achieved on time, progress is lagging for important targets such as maternal mortality, HIV and AIDS incidence, and environmental management.

1.4. The 2011 Master Plan for the Acceleration and Expansion of Economic Development 2011-2025 recognizes that higher and sustainable economic expansion requires the country to diversify sources of growth, accelerate infrastructure development, close the development gap between eastern and western regions, improve the quality of human resources, manage rapid urbanization, as well as cope with climate change.

1.2 Recent economic developments

1.2.1 Trends in growth

1.5. During the review period, Indonesia averaged 5.9% annual real GDP growth, maintained a (declining) surplus in its current account, guarded a strong fiscal position, reduced external debt as a share of GDP, and nearly doubled international reserves (Table 1.1). Inflation averaged around 6% since 2007, having fallen from the double-digit rates of 2005–2006. These solid fundamentals provided good underlying support in the face of the global recession.[2]

1.6. Indonesia partly avoided the effects of the 2008–09 global recession due to its large domestic market and its relatively low dependence on external trade. It managed to recover from the global slow-down with GDP expanding by 4.6% in 2009, about 1.3% below the average annual growth of the previous five years. The National Development Planning Agency's (BAPPENAS) annual planning document sets targets for 2013 of 5.8%–6.1% for GDP growth, with inflation of 4.5%–5.5% and unemployment at 5%–6%, and poverty reduction from 15% to 10%. According to the Asian Development Bank, Indonesia's economy grew by 6.3% year-on-year in the first half of 2012 with stronger domestic demand largely offsetting external weaknesses as exports declined.

[1] Income inequality, as measured by the Gini coefficient, increased from 0.32 in 2004 to 0.37 in 2009.

[2] Reflecting the country's good economic performance, two major rating agencies raised Indonesia sovereign ratings to investment grade: Fitch to BBB minus in December 2011 and Moody's to Baa3 in January 2012. See in ADB (2012), p. 195.

Table 1.1 Selected macroeconomic indicators, 2007-12

	2007	2008	2009	2010	2011	2012[a]
Real GDP (Rp trillion, 2000 prices)	1,964.3	2,082.5	2,178.9	2,313.8	2,463.2	..
Real GDP (US$ billion, 2000 prices)	219.5	206.9	193.3	221.0	229.2	..
Current GDP (Rp trillion)	3,950.9	4,948.7	5,606.2	6,436.3	7,427.1	..
Current GDP (US$ billion)	432.2	510.2	539.6	708.0	846.8	906
GDP per capita at current market price (US$)	1,859.3	2,171.6	2,272.7	2,951.7	3,494.6	..
National accounts	(% change based on constant figures, unless otherwise indicated)					
Real GDP (2000 prices)	6.3	6.0	4.6	6.2	6.5	6.0
Consumption	4.9	5.9	6.2	4.1	4.5	..
Private consumption expenditure	5.0	5.3	4.9	4.7	4.7	4.9
Government Consumption expenditure	3.9	10.4	15.7	0.3	3.2	..
Gross fixed capital formation	9.3	11.9	3.3	8.5	8.8	..
Exports of goods and services	8.5	9.5	-9.7	15.3	13.6	..
Imports of goods and services	9.1	10.0	-15.0	17.3	13.3	..
XGS/GDP (%, at current market price)	29.4	29.8	24.2	24.6	26.3	..
MGS/GDP (%, at current market price)	25.4	28.8	21.4	22.9	24.9	..
Unemployment rate (%)	9.1	8.1	7.4	7.1	6.5	..
Prices and interest rates	(%, unless otherwise indicated)					
Inflation (CPI, %age change)	6.4	9.8	4.8	5.1	5.4	4.4
Time deposit[b], rupiah	7.7	10.3	7.9	7.2	7.2	..
Time deposit[b], foreign currency	4.3	4.2	3.0	2.0	2.1	..
Exchange rate						
Rupiah/US$ (annual average)	9,141.0	9,699.0	10,389.9	9,090.4	8,770.4	-
Real effective exchange rate (%age change)[c]	-6.2	-6.4	13.5	7.3	0.6	..
	(% of current GDP, unless otherwise indicated)					
Fiscal policy						
Central government revenue (excluding grants)	17.9	19.8	15.1	15.8	16.1	16.3
Tax revenue	12.4	13.3	11.1	10.7	10.8	..
Central government expenditure	19.1	19.9	16.7	16.4	17.3	18.1
Overall balance	-1.2	-0.1	-1.6	-0.6	-1.1	-1.8
Primary balance	0.8	1.7	0.1	0.8	0.1	-0.5
Central government debt	36.9	33.2	28.6	26.9	24.5	23.5
Domestic debt	..	..	..	..	..	..
Saving and investment						
Gross national saving	27.3	27.8	33.0	33.3	33.0	32.3
Gross domestic investment	24.9	27.8	31.0	32.6	32.8	34.2
Savings-investment gap	2.4	0.0	2.0	0.7	0.2	-1.9
External sector						

	2007	2008	2009	2010	2011	2012[a]
Current account balance	2.4	0.0	2.0	0.7	0.2	..
Net merchandise trade	8.0	4.8	6.0	4.4	4.1	..
Merchandise exports	25.8	25.9	21.0	21.2	22.6	..
Merchandise imports	17.8	21.1	15.0	16.7	18.5	..
Services balance	-3.1	-2.9	-2.1	-1.4	-1.3	..
Services exports	2.9	3.0	2.5	2.4	2.5	..
Services imports	6.1	5.9	4.5	3.8	3.8	..
Capital account	0.1	0.1	0.0	0.0	0.0	..
Financial account	0.7	-0.4	0.9	3.8	1.7	..
Direct investment	0.5	0.7	0.5	1.6	1.2	..
Balance of Payments	2.9	-0.4	2.3	4.3	1.4	..
Terms of trade (%age change)	4.1	3.2	-5.8	3.8	2.3	..
Merchandise exports (%age change)[c]	13.3	18.8	-14.3	32.4	27.8	..
Merchandise imports (%age change)[c]	16.2	40.2	-24.8	46.4	32.3	..
Service exports (%age change)[c]	8.4	22.6	-14.1	27.2	26.2	..
Service imports (%age change)[c]	9.1	14.7	-19.0	10.7	20.9	..
International reserves, excl. gold (US$ billion)	56.9	51.6	66.1	96.2	110.1	107.8
in months of imports of goods and services	4.7	5.7	5.2	5.9	6.7	5.9
Total external debt (US$ billion; end-period)	133.6	155.0	172.8	202.4	225.4	..
Debt service ratio[d]	19.4	18.1	23.2	21.7	22.5	..

.. Not available.

a Estimates.
b Six-month time deposit at commercial banks, weighted average at end of period.
c Growth rate based on US$ dollars.
d As a percentage of exports of goods and receipts from services and income.

Source: IMF (2012), *International Financial Statistics*; IMF (2011), *Country Report Nos. 11/309 and 12/277*; and Bank Indonesia online information. Viewed at: http//www.bi.go.id/web/en [19/09/2012].

1.7. Inflation gained momentum (from 2.9% in December 2009 to 6.7% in February 2011) due to the gradual rise in commodity prices as well as the accelerating economy. According to the ADB, inflation then slowed to 3.8% year-on-year at the end of 2011, below the 4%-6% target of Bank Indonesia, and has remained contained in 2012. According to the authorities, headline inflation continued to move down, reaching a 2-year low of 3.6% in February 2012. With good harvests and the postponement of price rises for subsidized fuel as oil prices declined globally, average inflation in 2012 may be the lowest in a decade.

1.8. The rate of unemployment declined during the review period, reaching an estimated 6.3% of the labour force by February 2012. The level of underemployment (those working fewer than 35 hours a week) is around 13.2% of the total employed according to the Indonesian authorities. Furthermore, the proportion of those who are employed in the informal sector, where wages and job security are low, has also decreased to 63% in 2012 from almost 70% in 2007. Overall, the pace of economic growth has been generating employment opportunities to absorb the unemployed, underemployed and new entrants to the labour market, as well as to reduce the proportion of workers in the informal sector. However, substantial employment growth is still necessary to provide jobs with better wages and security.

1.9. Lacklustre growth in the tradeable sector, particularly labour-intensive manufacturing, is largely caused by weaknesses in the business environment (where problems include legal and regulatory uncertainty and governance issues) and deficient infrastructure such as roads, ports, and electricity supply. While progress has been made, there exists scope to further improve the business environment. Indonesia has improved its position in the World Economic Forum's Global Competitiveness index (CGI). At 46th, its current rank is supported by its strong macroeconomic environment (23rd, up from 89th in 2007), but infrastructure, institutions, and security remain weak.[3]

1.2.2 Macroeconomic policy framework

1.10. Major macroeconomic policy initiatives during the past ten years have included legally enshrining fiscal discipline as well as the adoption of inflation targeting and a more flexible exchange rate policy. As a result, growth averaged 5.5% during 2002–11, inflation declined sharply, from more than 58% in 1998 to around 5% in 2010, and public debt has fallen from around 76% of GDP in 2001 to under 25%. The strong policy framework ensured that Indonesia came out of the 2008 global financial crisis in better shape than its Asian peers. Indonesia's 6.5% economic growth rate in 2011 was the highest in 14 years and international reserves had nearly doubled from their level at the beginning of the review period.

1.11. Since the 2003 Fiscal Law, public deficits have been capped at 3% of GDP and public debt at 60%. The gross public debt burden has been reduced significantly, to an estimated 24.3% of GDP from a peak of 89% in 2000. Indonesia faces formidable financing challenges as it expands the coverage of its social security system and develops its infrastructure. The tax-to-GDP ratio of 11.8%, reflecting widespread informality and tax evasion, is low by international standards and seems insufficient to finance programmes in priority areas. Energy subsidies amounted to roughly 28.9% of central government spending in 2011[4]; the fiscal resources put into them would be better utilized elsewhere.

1.12. Indonesia's revenues from taxes on international trade constitute around 4% of total tax revenues, which is considerably lower than in the average developing economy where the share is around 15% (Table 1.2). The rates of import duties have fallen in Indonesia, conferring benefits on consumers as well as on firms relying on imported intermediate inputs.

Table 1.2 Government tax revenues, 2007-12
(Billion Rp and %)

	2007	2008	2009	2010	2011[a]	2012[a]
Tax revenues (billion Rp)	490,988	658,701	619,922	723,307	878,685	1,019,333
(% of GDP)	12.4	13.3	11.1	11.2	11.8	..
			(% of total)			
International trade taxes	4.3	5.5	3.0	4.0	5.3	4.2
Import duties	3.4	3.5	2.9	2.8	2.4	2.3
Export tax	0.9	2.1	0.1	1.2	2.9	1.9
Domestic taxes	95.7	94.5	97.0	96.0	94.7	95.8
Income tax	48.6	49.7	51.2	49.4	49.2	50.3
Value added tax	31.5	31.8	31.1	31.9	34.0	34.4
Land and building tax	4.8	3.8	3.9	4.0	3.3	3.5
Duties on land and building transfers	1.2	0.8	1.0	1.1	0.0	0.0
Exercise duties	9.1	7.8	9.1	9.1	7.7	7.1
Others domestic taxes	0.6	0.5	0.5	0.5	0.5	0.6

a Estimates.

Source: Statistics Indonesia online information. Viewed at: http://www.bps.go.id/eng [04/10/12].

[3] These weaknesses are echoed in the World Bank's *Doing Business* survey, where Indonesia's overall ranking was less favourable. Constraints identified there included access to electricity, resolving insolvency, and contract enforcement. Concerns about the business environment are also prominent in the mining community, with mineral extraction companies according Indonesia a relatively weak international ranking, as regards the stability and predictability of the tax regime.

[4] In the face of strong political resistance, government proposals in 2011 to reduce fossil-fuel and electricity subsidies were postponed to 2013. Although the Constitution prevents the complete liberalization of domestic fuel prices, it appears feasible to reduce energy subsidies.

1.13. Nearly half of Indonesia's trade taxes are levied on exports. The Government is making further use of export taxes, as demonstrated by the decision to levy a 20% tax on selected mineral ore exports and the introduction of export taxes on crude palm oil and cocoa. The policy objectives regarding export taxes on commodities include price stabilization, fostering the development of downstream processing facilities, and reducing the rate of depletion of non-renewable resources in mining. According to the authorities, export taxes on primary commodities can be used to reduce the domestic price of primary products in order to guarantee supply of intermediate inputs at below world market prices for domestic processing industries. In this way, export taxes provide an incentive for the development of domestic manufacturing or processing industries with higher value-added exports.

1.3 Current account developments

1.14. Indonesia's current account has generally remained in surplus since 1998, with export earnings more than offsetting imports and income payments to foreign investors. This reflects an increase in savings relative to investment after the Asian financial crisis, as a result of more conservative investment practices and lending regulations. The persistent current account surplus has helped to provide a source of external financing in recent years and has contributed to the four-fold increase in foreign reserves over the past decade. However, since the 2008 global financial crisis, strong domestic conditions combined with on-going weakness in the global economy have resulted in a narrowing of the current account surplus, as imports and income outflows related to increasing FDI (particularly in the mining and minerals sector) have grown faster than exports earnings.

1.15. In 2012, a shrinking trade surplus, and deficits in income and services together produced a current account deficit equivalent to 2.3% of GDP in the first six months. The current account is projected to be in deficit for the year as a whole, reflecting lower trade surplus caused by weaker global demand and declining commodity prices, combined with continued strong demand for imports of capital and intermediate goods associated with the rise in FDI inflows. Thus, like other commodity exporters, Indonesia clearly felt the effects of the weaker global economy in 2012 through the trade channel.

1.16. Non-oil commodity prices dropped sizeably in 2011-12, including the prices of some of Indonesia's key commodity exports such as coal, rubber, palm oil, and copper. Falling international commodity prices and weaker volumes, due to the weaker global economic environment, contributed to a sharp slowdown in export growth in 2012. On the other hand, import growth remained strong with a pick-up in intermediate goods, particularly machinery, electrical appliances and transport goods. These trends pushed the non-oil and gas goods balance into a deficit for only the second time in ten years while oil and gas trade remained broadly in balance. As a result, the trade surplus narrowed and moved into a deficit in April and May 2012. This trend contributed to the current account balance turning into deficit, which is consistent with stronger domestic economic performance relative to the external environment. This deterioration has weighted on the rupiah, which depreciated by around 6% on a trade-weighted basis in 2012.

1.4 Foreign direct investment

1.17. Following a sharp decline in foreign direct investment (FDI), from US$14.8 billion in 2008 to US$10.4 billion in 2009, FDI rose to US$16.2 billion in 2010 and to an estimated US$19.5 billion in 2011 and is expected to achieve similar levels in 2012 (Tables A1.1 and A1.2). Thanks to growing sectors such as mining, manufacturing, transport and telecommunications, Indonesia has continued to attract relatively high levels of foreign direct investment. Indonesia will benefit if it continues to diversify its FDI inflows which have been dominated by the extractive industries and palm oil. The biggest investors come from Singapore, United States, and Japan. The growth in FDI since 2009 is partly due to the attractiveness to investors of the relatively rapid growth and long-term potential of Indonesia's large domestic consumer base, its vast natural resources, and its relatively low cost production base.

1.5 Developments in trade

1.18. Trade remains limited as a share of economic output. Merchandise exports accounted for between 21% and 26% of GDP during the review period, whereas imports accounted for between 15% and 18.5% of GDP. Indonesia trades more energy-related products (fuels) than any other product category, on both the export and import side.

1.5.1 Composition of trade

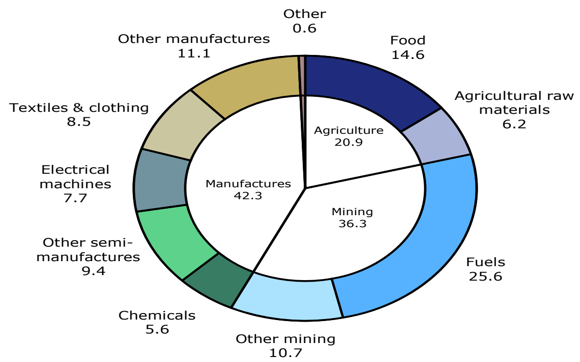
1.19. In 2011, fuels accounted for 33.9% of exports, up from 25.6% in 2007 (Chart 1.1 and Tables A1.3 and A1.4). Coal, in particular, has gained prominence and Indonesia has surpassed Australia as the top global exporter of coal (as well as Thailand as the top exporter of rubber, and Malaysia as the top exporter of palm oil). Despite their diminished importance since the 1980s, petroleum and natural gas remain important export products, with their contribution rising in tandem with strong energy prices and increases in production as new investments in the hydrocarbons sector yield results. The bulk of Indonesia's remaining exports consist of primary and semi-processed agricultural and mineral commodities. The most important of these have traditionally been rubber, coffee, tin, shrimps and palm oil. Indonesia is currently the largest producer and exporter of palm oil, having about half of the global export market. In contrast, Indonesia's mineral exports (copper, tin, and bauxite) only account for about 4–5% of total export value. Exports of logs, which accounted for 7.6% of total exports in 1980, declined into virtual insignificance in subsequent years and were replaced by exports of processed wood (including plywood), which declined gradually but steadily in subsequent years. The share of manufactured exports declined markedly during the review period, reflecting increasing competition in labour-intensive sectors.

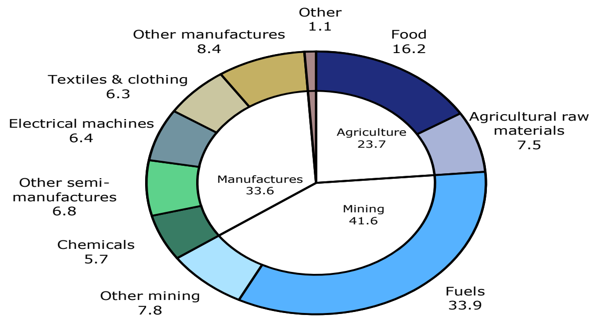
Chart 1.1 Product composition of merchandise trade, 2007 and 2011

Per cent

2007 | **2011**

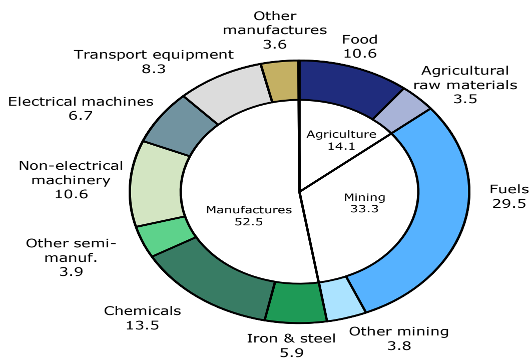
(a) Exports (f.o.b.)

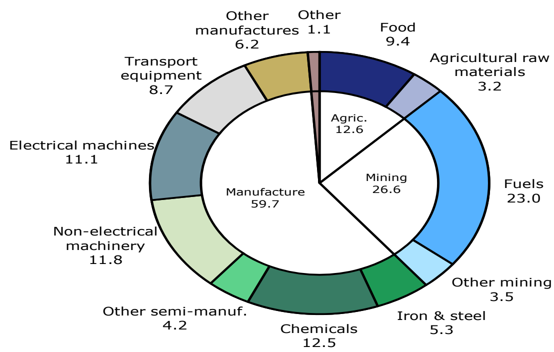




Total: US$114.1 billion | **Total: US$203.5 billion**

(b) Imports (c.i.f.)





Total: US$74.5 billion | **Total: US$177.4 billion**

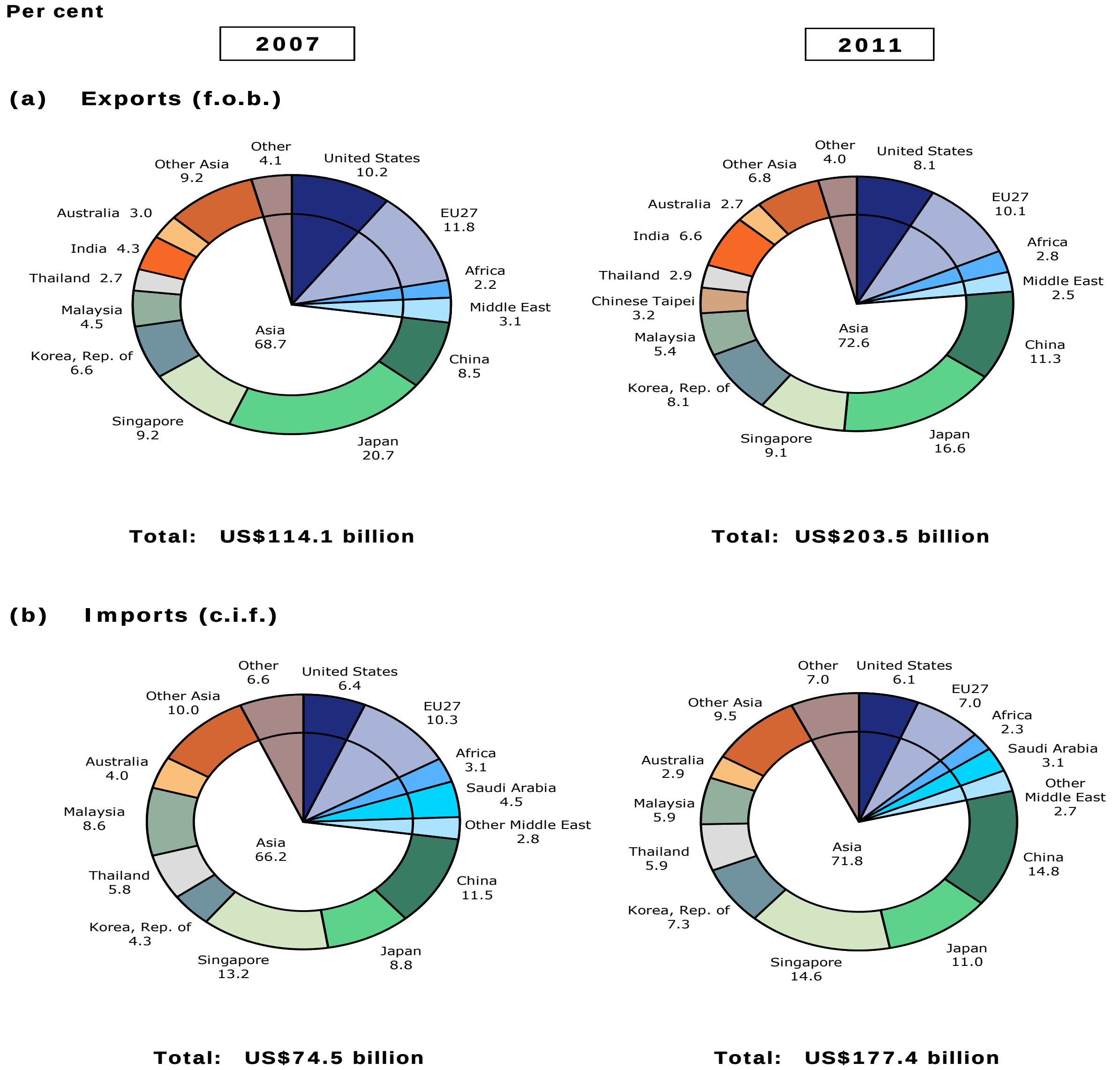
Source: UNSD Comtrade database (SITC Rev.3).

1.20. Manufactured products accounted for almost 60% of imports in 2011, up from 52.5% in 2007. Significant import sectors include chemicals, non-electrical machinery, office machines and telecommunications equipment, and automotive products. Indonesia imports products that serve as inputs to industry (e.g., cotton for textile production), as well as food and animal-feed products. A relatively high share of Indonesia's import value is in commodities, such as cotton, wheat, soybeans, soymeal, corn, and rice, which are often shipped in bulk and often require further processing in Indonesia. In 2011, fuels accounted for 23% of Indonesia's overall imports, down from almost 30% at the beginning of the review period.

1.5.2 Direction of trade

1.21. China has emerged as a major trading partner, accounting in 2011 for over 11% of Indonesia's exports and nearly 15% of imports (Chart 1.2 and Tables A1.5 and A1.6). Trade between China and Indonesia is dominated by the commodity sector. This development has been accelerating in the past decade, with China's rapid increase in commodity demand affecting global prices and import volumes. Given the dominant role of commodities in Indonesia's export basket, lower commodity prices and demand would have an substantial impact on Indonesia's export earnings.

Chart 1.2 Direction of merchandise trade, 2007 and 2011



Source: UNSD, Comtrade database.

1.22. Growth in the consumption of palm oil, which is widely used in the food industry, has gone hand in hand with improved income per capita in populous developing countries like China. Palm oil represents about one third of global consumption of edible oil. Beyond its main use for food consumption (about 80%) and the chemical industry (about 10%), demand for palm oil for biofuels has recently increased and now represents about 10% of total palm oil usage. In the last decade, China's import volume growth averaged around 20% and China and India now import about half of the world's palm oil. Indonesia is also a large supplier of rubber to China, which has become the largest global consumer and importer of natural rubber. Previously, Indonesia's main export market was the United States, whose overall share in Indonesian exports declined over the review period. Asian countries have been the largest suppliers of Indonesian imports for many years, particularly Japan and Singapore in addition to China.

1.6 Outlook

1.23. GDP is calculated by the World Bank[5] to have grown by 6.1% as whole in 2012 and forecast to rise marginally to 6.3% in 2013, assuming continued strong consumption and investment growth supported by a relative recovery in exports. Thus, Indonesia's economy is predicted to forge ahead although risks from a downturn in the global economy remain pronounced. The private sector played a key role in Indonesia's solid economic performance during the review period by driving the impressive growth in investment spending. However, a number of policy announcements made towards the end of the review period, as noted elsewhere in this report, have raised some concerns on the current direction of trade and investment policy-making, which could adversely affect the confidence of investors and trading partners in Indonesia's economic outlook. It is important that domestic industrial policy considerations - aimed, *inter alia*, at developing local industries and supporting domestic investors and seeking to move up the value chain - are balanced with maintaining an open foreign trade and investment regime.

[5] World Bank (2012b), p. vii.

2 TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

2.1 Administration of trade and investment policy

2.1. Trade and investment policy-making is the responsibility of the national government and is undertaken through a variety of institutions that were in existence at the time of Indonesia's previous Review (Table 2.1). Laws are jointly approved by the President and Parliament, and are implemented through different instruments, as specified in each law, such as government and presidential regulations.[1] The Government is legally required to offer the public the opportunity to give input into the rule-making process orally or in writing.[2] The authorities indicated that consultations are undertaken on an ad-hoc basis as issues arise. There is no formal independent advisory body to evaluate trade and investment policies and provide advice to the Government.

2.2. Procedures for the negotiation of trade agreements, as with other international agreements, are governed by Law No. 24 of 2000 on International Treaties. Primary responsibility for negotiating trade agreements rests with the Minister of Foreign Affairs. Other Government institutions and agencies may make proposals. The Minister of Foreign Affairs is obliged to consult with the House of Representatives which, in turn, is responsible for treaty ratification, once the treaty has been signed by the President.

Table 2.1 Main institutions involved in trade and investment policy-making

Institution	Trade and investment-related responsibilities
Coordinating Ministry of Economic Affairs	Sits above line ministries. Responsible for ensuring coherence of economic policy (including trade policy) across the government including in the formulation of regulations.
National Team for the Enhancement of Exports and Investment (Timnas PEPI)	Established in 2003, led by the President and chaired by the Coordinating Minister for Economic Affairs. Consists of over 20 ministers and heads of institutions. Main aim is to accelerate national economic development by increasing exports and investments. Played a key role in formulation of the Investment Law 2007 and developing early drafts of its revised implementing regulations. Taskforces established in 2007 to assess and evaluate export and investment policy, coordinate dispute settlement for export and investment enhancement, and promote use of domestic products.
Ministry of Trade (MoT)	Coordination of trade policy and supporting Indonesia in international trade negotiations, including the WTO. Secretariat for Indonesia's anti-dumping committee (KADI) is located in the Ministry. Intra-ministry Team for Non-tariff Measures (KNT) established in 2011; scope is limited to measures under the authority of the Ministry of Trade.
Ministry of Finance (MoF)	Responsible for tariffs; works with Team Tariff. MoF has final authority to make changes in tariffs, export taxes, and other duties applied at the border. Formal decisions on tariffs are contained in decrees from the Minister of Finance.
Team Tariff	Inter-ministerial advisory body on tariff policy charged with reviewing Indonesia's tariff. Composed of ministries of Finance, Industry, Trade, Agriculture, and Economic Affairs.
Investment Coordinating Board (BKPM)	At national level, charged with providing investor services, formulating investment policies, and coordinating with national government agencies and regional governments. Several overseas offices promote investment into Indonesia. BKPM's Chairman reports directly to the President. BKPM was responsible for the issuance of the new Investment Negative List.
National Development Planning Agency (Bappenas)	Responsible for formulating national development plans; has developed a number of regulatory reform tools.

Source: WTO (2007), *Trade Policy Review:* Indonesia; and information provided by the Indonesian authorities.

[1] Law No. 12 of 2011 Concerning Making Rules, sets out the hierarchy of legislation, both at the national and sub-national levels. Viewed at: http://rulebook-jica.ekon.go.id/english/4778_UU_12_2011_e.html.

[2] Law 2012 of 2011, Article 96.

2.2 Trade policy objectives

2.3. According to the authorities, the Ministry of Trade's (MOT) Strategic Development Plan (2010-14) constitutes the main framework for the development of Indonesia's trade. It focuses on three goals: increasing the export of non-oil products; strengthening the domestic market and managing the availability of basic products and strengthening national distribution channels.

2.4. The Government's trade and investment policy vision should also be viewed within the broader context of its national development planning system. This consists of a Long-Term Development Plan (2005-2025) which has set broad targets for economic growth and poverty alleviation, emphasizing the need to create an attractive investment climate and greater competition. This is being implemented by annual plans as well as four, four-year medium-term plans, the current one covering the period 2010-14.[3] The Long-Term Development Plan sees the industrial sector as driving the economy, supported by the agriculture, marine, and mining sectors. Exports are to be encouraged through strengthened bilateral and multilateral cooperation; initiatives to improve the image of Indonesia's products; and pursuit of trade facilitative measures to ensure that Indonesia's exports are competitive.

2.5. The Government has also issued a more detailed Master Plan for the Acceleration and Expansion of Indonesia's Economic Development (MP3EI) 2011-2025, which is intended to complement the long- and medium-term plans. Among the key objectives of the Master Plan is to increase the competitiveness of Indonesia's businesses and encourage a movement into higher value-added activities. It sets out a roadmap for the economic development of six regional economic corridors, each with industrial clusters focusing on priority sectors (Table A2.1).[4] It foresees greater physical connectivity between these economic corridors, through expanded and new transportation and information and communications technology (ICT) networks, which would be linked into an improved maritime and air transport infrastructure, thereby allowing businesses to trade more efficiently and competitively both regionally and globally. Importance is also attached to developing human, scientific, and technological capacity to support the development of these programmes. The realization of this development vision is highly dependent on private investment.[5] The Plan acknowledges that various measures need to be undertaken to make Indonesia more attractive to investors, including: changing the regulatory environment to make it clearer and more business friendly; making the process of developing land easier; and giving various tax and non-tax incentives to attract investment (including tax and customs policies, labour regulations, licensing and permits, and special economic zones). A number of laws have already been enacted to realize these objectives.

2.6. Since Indonesia's previous Review, in 2007, new laws have entered into force relating to investment; the SPS regime; export financing; and special economic zones. New rules on contingency measures and government procurement have been issued. In addition, new sectoral laws have been enacted in agriculture, fisheries, shipping, mineral and coal mining, and tourism.

2.3 Trade agreements and arrangements

2.3.1 WTO participation

2.7. Indonesia, an original member of the WTO, grants at least MFN treatment to all trading partners. It is participant in the WTO Information Technology Agreement (ITA) and signatory to the GATS protocols on telecommunications (Fourth Protocol) and Financial Services (Fifth Protocol). It is not a signatory but has observer status to the WTO plurilateral agreements on Government Procurement (GPA) and on Trade in Civil Aircraft.

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[3] National Medium-Term Development Plan 2010-2014. Viewed at: bappenas.go.id/get-file-server/node/9374 (in Bahasa Indonesian only).

[4] Master Plan for the Acceleration and Expansion of Indonesia's Economic Development (MP3EI) 2011-2015. Viewed at: http://www.ekon.go.id/media/filemanager/2011/07/06/m/p/mp3ei-english_final.pdf.

[5] As noted in MP3EI, Rp 4,012 trillion of investment is needed to support development of the main economic activities within the corridors. The Government envisages contributing around 10% of the cost in the form of basic infrastructure provision (i.e. roads, seaports, airports, railways, and power generation). The remainder is to be provided by state-owned enterprises, the private sector, and through-public private partnerships.

2.8. Indonesia has maintained a solid record of meeting its WTO notification obligations. However, notifications are outstanding in the areas of agriculture (domestic support; export subsidies; special safeguards; and tariff quotas); import licensing; notification procedures for quantitative restrictions; state trading enterprises; and subsidies and countervailing measures. Indonesia has not notified any new, or any changes to existing laws, regulations or administrative guidelines, which significantly affect trade in services that Indonesia is obliged to notify under Article III.3 of the GATS (Table A2.2).

2.9. Over the review period, Indonesia's participation in new dispute settlement activities has involved bringing one case against the United States relating to measures affecting the production and sale of clove cigarettes, and requesting consultations with the EU with respect to anti-dumping measures affecting imports of fatty alcohols. In January 2013, the United States requested consultations with Indonesia with respect to the latter's import licensing and quota regime for horticultural products and animals and animal products (Table 2.2).

Table 2.2 Indonesia's involvement in WTO dispute settlement: new cases, 2007 to January 2013

Dispute	Raised by/against	Request for consultation	Panel established/panel report circulated	Appeal/ implementation	Document series
Complaints by Indonesia					
Anti-dumping measures on imports of certain fatty alcohols	Indonesia/EU	30/07/2012			DS442
Measures affecting the production and sale of clove cigarettes	Indonesia/ United States	07/04/2010	22/07/2010/ 02/09/2011	04/04/2012 Appellate Body Report circulated	DS406
Complaints against Indonesia					
Importation of horticultural products, animals and animal products	United States/ Indonesia	10/01/2013			DS455
Indonesia's participation as a third party					
None					

Source: WTO Secretariat.

2.10. Two other dispute settlement cases were active over the review period. A request for consultations brought by Indonesia against South Africa in 2004 relating to the latter's anti-dumping measures on uncoated woodfree paper, was withdrawn by Indonesia in 2008 (DS374). With respect to Indonesia's complaint against Korea's anti-dumping duties on imports of certain paper from Indonesia (DS312), an Article 21.5 Panel Report was adopted by the DSB in October 2007. Since 2005, Indonesia has been involved in a total of five cases as complainant, four cases as respondent, and four cases as third party.

2.3.2 Regional and bilateral agreements

2.11. Indonesia is a member of ASEAN, which has component agreements on goods (ASEAN Trade in Goods Agreement (ATIGA)); services (ASEAN Framework Agreement on Services (AFAS)) and investment (Comprehensive Investment Agreement (ACIA)). ASEAN has FTAs with: Australia and New Zealand; China; India; Japan; and Korea. Indonesia has a bilateral FTA with Japan.

2.12. Indonesia is continuing to work, together with the other members of ASEAN, towards achieving an ASEAN Community by 2015. The end goal is a single market and production base, in which there is a free flow of goods, services, investment, and skilled labour, and a freer flow of capital, along with equitable economic development, and reduced poverty and socio-economic disparities. The Community comprises three pillars: political-security; socio-cultural; and economic. An AEC Blueprint sets out the targets and deadlines for advancing the economic pillar (the ASEAN Economic Community (AEC)).[6]

2.13. In furtherance of implementing the AEC Blueprint targets, the Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT-AFTA) was reviewed in 2008 and enhanced into a more comprehensive legal instrument, the ASEAN Trade in Goods Agreement (ATIGA). This was signed in February 2009 and entered into force in May 2010. The ATIGA preserves, consolidates, and streamlines all the provisions in the CEPT-AFTA; enhances the transparency of Members' tariff reduction schedules; codifies non-tariff measures (NTMs), and a mechanism has been set up to monitor their elimination; and it includes a dedicated chapter on trade facilitation.[7]

2.14. In addition, ASEAN has reviewed its investment agreements and developed the ASEAN Comprehensive Investment Agreement (ACIA), which was signed in February 2009, and entered into force on 29 March 2012. The ACIA replaces the existing ASEAN Investment Agreement and ASEAN Investment Guarantee Agreement and brings together liberalization, protection, promotion, and facilitation measures under a single comprehensive agreement.

2.15. ASEAN negotiations are on-going with India and Japan on services and investment. In addition, in November 2012, ASEAN Members and their FTA partners endorsed guiding principles and objectives for negotiating a Regional Comprehensive Economic Partnership (RCEP), thereby formally launching formal negotiations on a single FTA which would consolidate ASEAN's existing FTAs with third countries (Australia, China, India, Japan, South Korea and New Zealand).

2.16. Including ASEAN members, Indonesia's network of FTAs covers 7 regional and bilateral agreements encompassing 15 trading partners. Five FTAs entered into force during the review period: four are regional agreements negotiated in the context of ASEAN (with Australia and New Zealand; India; Japan; and, Korea), and one was negotiated bilaterally by Indonesia (with Japan) (Table A2.3). The goods part of ASEAN's FTA with China was amended in 2010. Indonesia ratified a preferential agreement with Pakistan in November 2012, which has not yet entered into force. Bilateral negotiations to conclude Comprehensive Economic Partnership agreements are on-going with the European Free Trade Association (EFTA); Australia; and Korea respectively. Indonesia is also negotiating a preferential trade agreement with Iran. Exploratory discussions are under way with India, the European Union and Chile.

2.17. Over the review period, Indonesia has seen a healthy growth in exports to most of its FTA partners, except New Zealand. The authorities indicate that securing market access for 10 key products remains a priority in trade negotiations. These are: textiles and textile products; electronics; rubber and rubber articles; palm oil; forest products; footwear; automotives; shrimps; cocoa; and coffee. It has also identified products which it considers to have export potential, namely: leather and leather products; medical instruments and appliances; medicinal herbs; processed food; essential oil; fish and fish products; handicrafts; jewellery; spices and stationery (non-paper).

2.3.3 Other agreements

2.18. Indonesia participates in intergovernmental arrangements for dialogue and co-operation with other Pacific Rim countries through the Asia Pacific Economic Co-operation (APEC) forum, and with Europe through the Asia-Europe Meeting (ASEM).

[6] Four overarching goals have been identified under the AEC Blueprint: a single market and production base (with 12 sectors earmarked as priorities for integration, i.e. electronics, e-ASEAN, healthcare, wood-based products, automotives, rubber-based products, textiles and apparel, agri-based products, fisheries, air travel, tourism, and logistics services); a highly competitive economic region (including the areas of competition policy, taxation, and IPRs); a region of equitable economic development (including facilitating SME development); and a region fully integrated into the global economy. For further details on specific measures and timeframes, see the AEC Blueprint. Viewed at: http://www.asean.org/ 21083.pdf.

[7] ASEAN online information. Viewed at: http://www.aseansec.org/Fact%20Sheet/AEC/2010-AEC-025-2.pdf.

2.19. An APEC review of Indonesia's Individual Action Plan (IAP) to meet the "Bogor Goals" of free and open trade and investment was undertaken in 2009.[8] APEC trade- and investment-related initiatives over the review period included: the second Trade Facilitation Action Plan (TFAP II), which called for the reduction of transaction costs by 5% over the period 2007-10; a Strategic Window Plan (2007), which provided a series of recommendations to assist member countries to develop single-window systems for trade transactions, with a longer term view of achieving interoperability between these systems within the region; and an Investment Facilitation Action Plan (2008).[9]

2.20. Indonesia is entitled to benefit from preferential tariff rates under the GSP schemes of: Australia; Canada; the European Union; Japan; New Zealand; Norway; Switzerland; Turkey; and, the United States.[10]

2.4 Foreign investment regime

2.21. There have been significant legal and institutional changes to Indonesia's foreign investment regime over the period under review; a law on investment was enacted in 2007 and a new, comprehensive list of restrictions to investment has been issued. On the institutional front, the responsibilities of the national and local governments have been more clearly delineated, with the national government taking the lead role in investment policy formulation and investor facilitation, while local governments have obtained greater administrative responsibilities.

2.4.1 Investment Law

2.22. A new law on investment (Law No. 25) was enacted in 2007, replacing two pre-existing laws relating to domestic and foreign investment respectively.[11] The new law does away with timeframes for foreign investment in permitted sectors (which were 10 years for trade sectors and 30 years for industry and other sectors).[12] It grants national treatment to investors, regardless of their country of origin, in accordance with laws and regulations. Foreign investors have the right to repatriate funds using foreign currency. The law specifies that the Government will not undertake any nationalization activities, except through law and has provisions on market price compensation and recourse to arbitration in such circumstances. It also has provisions on access to international arbitration with respect to investor-state disputes which coexist with provisions on recognition and enforcement of foreign arbitral awards in the national Arbitration Law, its obligations under various arbitral conventions to which it is signatory, as well as commitments under FTAs and bilateral investment treaties (Table A2.4)

2.23. As noted by the OECD, the law offers greater transparency in terms of the sectors covered (see negative list below); extensive land use rights[13], and a reduction in administrative burdens through the creation of an integrated service facility and longer work permits for key personnel. Moreover, it delineates the sectors in which national and local authorities have responsibility for investment licensing (see below); and contains rules on investment incentives.[14]

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[8] APEC (2009).

[9] APEC online information. Viewed at: http://www.apec.org/en/About-Us/About-APEC/Achievements-and-Benefits.aspx.

[10] For more information see the WTO database on preferential trade agreements. Viewed at: http://ptadb.wto.org.

[11] Law No. 25 of 2007 concerning Investment. Viewed at: http://www.embassyofindonesia.org/ina-usa/economy/pdf/laws/Investment_Law_Number_25-2007.pdf. This replaces Law No. 1 of 1967 regarding Foreign Investment, and Law No. 6 of 1968 regarding Domestic Investment.

[12] Under Law No. 1 of 1967, foreign investment was prohibited in certain sectors: ports; electricity; telecommunications; shipping; air transport; water; public railway transportation; atomic energy; and mass media.

[13] As noted by the OECD, prior to implementation of the new investment law, land titles were offered to investment companies for 25-35 years with the possibility of renewal for similar durations. The new law stipulates extension in advance to make the duration of leases 60 years for leaseholds, 50 years for building rights, and 45 years for the right to use land, again with the possibility of renewal.

[14] OECD (2010).

2.24. Under the 2007 Investment Law, foreign investment is defined as investment activities in Indonesia made by foreign investors using either foreign capital entirely, or joint capital with domestic capital.[15] Foreign investment may only take the form of a limited liability company.

2.25. There is no general government approval or screening process for foreign investment and, in principle, all business fields are open to investment with the exception of those declared as being closed or open with certain conditions in the 2010 Negative List (see below).

2.4.2 Negative list

2.26. Presidential Regulation No. 36 of 2010 (the Negative List) contains the list of business fields closed to investment, and businesses open but with conditions to investment.[16] This revises the 2007 list, liberalizing foreign equity participation in industry, public works, culture and tourism, health, and electricity.[17] It also introduces new limitations to foreign equity participation in agriculture and in communication and information.[18] It was also designed to comply with Indonesia's commitments under ASEAN, which is why it provides ASEAN investors higher maximum ownership in some sectors. The Co-ordinating Ministry for Economic Affairs is responsible for evaluating the list periodically, based on the criteria and requirements set out in Presidential Regulation No. 76, 2007.[19] The authorities indicated that an amendment is being drafted with a view to liberalizing some restrictions.

2.27. Activities closed to investment (domestic and foreign) are generally for health, safety, and environmental reasons, and include the alcoholic beverage industry and gambling and casinos.[20] A large number of business activities are subject to restrictions to investment. These restrictions are (some activities are subject to more than one restriction):

- 100% domestic capital requirement (50 business groups);
- 100% domestic capital and specific permit (4 business groups);
- maximum foreign ownership and location requirements (22 business groups);
- maximum foreign ownership and specific permit requirements (21 business groups);
- maximum foreign ownership and/or location requirements for ASEAN investors (5 business groups);
- reservation for micro, small and medium-sized enterprises and cooperatives (MSMEs)[21] (37 business groups);

[15] Domestic investment is considered to be investment activities in Indonesia by domestic investors using domestic capital.

[16] Presidential Regulation No. 36, 2010. Viewed at: http://www.bkpm.go.id/file_uploaded/PPres-36-2010.pdf.

[17] The cyclamate and saccharin industry, which was previously closed to investment is now opened with special permission; and in the public works sector foreign capital ownership was increased from 55% to 67%; Foreign capital in the business of filming techniques was opened (with a 49% limit); Foreign equity participation in specialist medical clinics and medical support services was increased from 65% to 67% and such activities may now be conducted at locations throughout Indonesia. With respect to electricity, power plant businesses of 10MW may now take the form of partnerships, while maximum foreign equity ownership in power plants of above 10MW is 95%.

[18] Law No. 41 of 2009, introduces a maximum foreign equity ownership on the cultivation of staple food crops in areas of more than 25 hectares. Under Law No. 38 of 2009, maximum foreign capital is capped at 49% for postal administration businesses. In addition, the new list introduces a 100% domestic capital requirement for the management and provision of construction services for telecommunication towers.

[19] Presidential Regulation No. 76, 2007. Viewed at: http://www.scribd.com/doc/4568351/Regulation-of-the-President-No-76-of-2007-Preparation-of-the-Investment-Negative-Lists-Wishnu-Basuki.

[20] Activities closed to all investment are: marijuana cultivation; capture of certain fish species (as listed in Appendix I to the CITES Convention); removal of coral from nature; the alcoholic beverage industry; manufacture of various chemicals; provision and implementation of land terminals (i.e. parking lot businesses); implementation and operation of vehicle weighing stations; motor vehicle type tests; motor vehicle periodic tests; telecommunications or supporting facilities for shipping navigation; vessel traffic information systems; air traffic guiding services; management and operation of radio frequency and satellite orbit spectrum monitoring stations; public museums; historical and ancient heritage; residential/traditional environment; monuments; and gambling/casinos.

[21] The criteria for SMSEs are set out in Law No. 20 (2008). Micro enterprises must have a maximum net worth of Rp 50 million and maximum annual sales of Rp 300 million; small enterprises must have a net worth of between Rp 50 million and Rp 500 million and annual sales of between Rp 300 million and Rp 2.5 billion. Medium-sized enterprises must have a net worth of between Rp 500 million and Rp 10 billion and annual sales of between Rp 2.5 billion and Rp 50 billion. Law No. 25 (1992) governs Cooperatives. Activities reserved for

- partnership requirements (which take the form of cooperation between MSMEs and large enterprises, with the latter required to foster the development of the former) (36 business groups);
- maximum capital ownership requirements (83 business groups);
- specific territory requirements (1 business group); and
- permit requirements (35 business groups).

2.28. According to the OECD, the Negative List of sectors where foreign investors face equity or other restrictions appears long in comparison with other countries, and with earlier lists published by the Government, but this is partly a consequence of its transparency. The OECD notes that while the overall restrictiveness of Indonesia in terms of statutory restrictions on FDI is substantially above that found in OECD countries, it is similar, on average, to other major emerging economies.[22]

2.29. Foreign ownership is prohibited in various business activities (i.e. 100% local capital requirements) (Table 2.3). Maximum foreign capital thresholds range from 49% to 95%.

Table 2.3 Investment Negative List (2010), foreign equity ceilings

Sector	Activity	Maximum foreign capital (%)
Agriculture	Use of products resulting from genetic engineering; cultivation of main crops (corn, soy, peanuts, green beans, rice, cassava and sweet potato) in an area of more than 25 ha; and, nursery businesses for main crops	49
	Nursery businesses for non-main crops; plant cultivation for land areas exceeding 25 hectares (ha) (non-main crops); certain plantation businesses of 25 hectares or more; and processing industries for plantation products	95
Forestry	Veneer industry; and supplying and distributing forest plants seed and seeding	100% local capital
	Hunting businesses in hunting parks; raising wildlife in parks; and cultivation of coral	49
	Certain nature tourism businesses	51
Maritime and fisheries	Fishery catching business using a ship of 100 GT and/or bigger in open sea catching areas; fishery catching business using a ship of 30 GT and/or bigger in water areas beyond 12 miles; and sea sand extraction	100% local capital
Energy and mineral resources	Operation and maintenance of geothermal facilities	90
	Geothermal drilling service; geothermal power plant; oil and gas drilling service offshore outside of Eastern Indonesia Territory; oil and gas drilling service on land; operation and maintenance service of oil and gas facility; power plant maintenance and operation installation service; power plant above 10 MW; nuclear power plant; power plant transmission; electricity distribution; constructing and installing electricity service; engineering procurement construction service; electricity consultation service; and technology development of electricity supplied equipment	95
Industry sector	Car maintenance and repair	49
	Sugar industry (white crystal sugar, refined crystal sugar, and raw crystal sugar)	95
Defence	Production of weapons, ammunition, explosive devices and war equipment	100% local capital

SMSEs and Cooperatives, *inter alia*, include: certain small-scale agriculture, manufacturing and food processing industries; forest plantation and related processing industries; small-scale fishing and fish processing; low-volume power plants; certain textile and handicraft industries, low-value construction services and tourism services.

[22] OECD (2010).

Sector	Activity	Maximum foreign capital (%)
	Raw material for explosives (ammonium nitrate) and industry of explosive materials and its components for industry need	49
Public works	Various consultancy services relating to landscape architecture, architecture, engineering; construction; city planning; and testing services	55
	Various listed construction services using advanced technology and/or high risk and/or the work value is more than Rp 1 million	67
	Drinking water business and toll road business	95
Trade	Private cleaning services; various retail businesses; large trade based on fee or contract (agency service / agent commission); various survey services; property/real estate broker based on fee or contract; rental service of land transport equipment (rental without operator); rental of machinery (agricultural, construction, civil engineering, office machinery and other); building cleaning services; and, other activity services (laundry services, barbershop, beauty salon, tailor, other)	100% local capital
	Direct selling through a marketing network developed by a business partner	95
Culture and tourism	Film making; film distribution (export, import and distribution) viewing in movie theatre; recording studio (cassette, VCD, DVD etc.); film promotional facility (advertisement, poster, stills, photo, slide negative, banner, pamphlet, folder etc.)	100% local capital
	Various film technique services	49%
	Other accommodation services (i.e. motel and lodging services); "non-talam" restaurant[a]; outbound tour operator; impresario business service (i.e. bringing into Indonesia and returning artists, musicians, athletes and other foreign entertainers); recreational and entertainment business (excluding golf); and, bar/café/singing room (karaoke)	49% (or 51% if in partnership with micro, small or medium enterprise or cooperative)
	Golf	49% (or 51% if in partnership with micro, small or medium enterprise or cooperative)(or 100% if from an ASEAN country in eastern Indonesia, Bengkulu and Jambi)
	Hotels (one and two starred); guest house; "talam" restaurant[a]; catering; convention, exhibition and incentive tour service (for incentive travel by companies to employees and business partners); cultural tourism object business (private museum and cultural heritage managed privately); spa; natural tourism object business outside conservation area	51%
	Art gallery; art performance building; dexterity[b]	67%
	Film processing laboratory	49%

Sector	Activity	Maximum foreign capital (%)
Transportation	Container transportation; general cargo; dangerous cargo; special cargo; heavy equipment; sea transportation (domestic and overseas); ferry transport; river and lake boat transportation < 30 GT; various port facilities; salvage service and/or underwater work; terminal supporting business; airport service; air transport supporting service; non-commercial air transportation; airport-related services; transport arrangement service; airplane cargo service; general selling agent of foreign air transport company; commercial air transportation (scheduled and unscheduled)	49%
	Overseas sea transportation and unloading/loading cargo	49% (60% if from an ASEAN country)
Communication and informatics	Provider, management (operation and renting), and construction services for telecommunication tower; press company; private broadcasting agency; and subscription broadcasting agency	100% local capital
	Fixed-line telecommunications network provider; internet service provider; telephone internet service for public need; other multimedia services; and mail provider (postal)	49%
	Mobile network provider (cellular and satellite); and internet connection service	65%
	Data communication system service; and establishment of testing telecommunication device agency (laboratory test)	95%
Financial	Pension fund	100% local capital
	Venture capital; general insurance company; life insurance company; reinsurance company; general insurance adjuster company; insurance agent company; insurance broker company; reinsurance broker company; and actuary consulting company	80%
	Leasing; and non-leasing funding (factoring funding, consumer funding, credit card funding, other non-leasing funding)	85%
Banking	Conventional BPR; Sharia BPR and Foreign Exchange Trader[c]	100% local capital
Manpower and transmigration	Indonesian worker placement service for overseas	100% local capital
	Indonesian worker placement service in Indonesia; worker/labour service provider; and work training	49%
Education	Non formal education (private computer education service; private language education service; private beauty and personality education service; and other private skills education)	49%
Health	Production of traditional medicine; traditional medicine business; pharmaceutical wholesaler; pharmaceutical raw material wholesaler; pharmacy (pharmacist profession practitioner); drug store/public pharmacy; health research centre; private maternity hospital; general hospital/public healthcare clinic; other hospital service; basic health service facility; health worker individual practice (general practitioner; specialist doctor; dentist practice; health service performed by paramedics; and traditional health service); and supporting health service (ambulance service, pest control service/fugimation)	100% local capital

Sector	Activity	Maximum foreign capital (%)
	Calibration testing, health equipment maintenance and repair service; acupuncture service; nursing service (maximum 51% foreign equity for Medan and Surabaya); and supporting health services (medical equipment rental)	49%
	Business and management consulting (hospital management service); supporting health service (assistance service in heath assistance evacuation and patient evacuation in emergency situations); specialist/sub-specialist hospital service (200 beds); other hospital service (mental rehabilitation clinic); specialist medical clinic; dental clinic; and supporting health services (laboratory clinic and medical check-up clinic)	67%
	Raw material medicine industry and patent medicine industry	75%
Security	Security consulting service; security worker provider service; money and valuable goods transport escorting service; security equipment implementation service; security education and training service; and animal provider service	49%

a Talam restaurant refers to restaurants licenced by the Ministry of Tourism and Creative Economy; non-talam restaurants are unlicenced.
b The authorities clarified that "dexterity" is a business that provides space and facilities for a game or game engine with agility as the core business. This space may be equipped with food and beverage services.
c BPR is a bank financial institution that accepts deposits only in the form of time deposits, savings deposits and/or similar.
Note: The listed activities are based on the Indonesian Standard Industrial Classification Codes (KBLI), 2009. Viewed at: http://www.bps.go.id/download_file/KBLI_2009_Cetakan_III.pdf (in Indonesian only).

Source: Presidential Regulation No. 36 of 2010 on List of Business Fields Closed to Investment and Business Fields Open, with Conditions, to Investment. Viewed at: http://www.bkpm.go.id/file_ uploaded/PPres-36-2010.pdf.

2.30. As set out in the 2007 Investment Law, the national Government has responsibility for cross-province investment; investment related to non-renewable natural resources possessing high environmental damage risk; nationally prioritized industrial sectors[23]; national defence and security; investment stemming from inter-governmental agreements; foreign investment using capital from a foreign government based on a treaty between it and the Indonesian Government; and any other investment under governmental authority pursuant to law. Local authorities have responsibility for administering all other investment activity. A more detailed breakdown of the respective responsibilities of the central, provincial, and local governments for investment policy-making, promotion, services, and controls is set out in Regulation No. 38, of 2007 concerning the sharing of government affairs between the Government, provincial governments and regency/municipal governments.

2.31. The BKPM operates a One Stop Shop Integrated Service (fully implemented in 2012) to assist businesses to access fiscal facilities, to provide information on investment regulations and opportunities, and to streamline the process by which investors obtain business licences. With respect to the latter, rather than going to 16 licensing agencies, businesses may now obtain the licences required from central government agencies through Indonesia's National Single Window.[24] These licences include: foreign investors registration[25]; business licences (required for all

[23] There are six nationally prioritized industrial sectors: labour intensive industries; small and medium industries; capital goods industries; natural resource-based industries; high growth industries including automotive, electronics, and telematics; and industry-specific priorities.
[24] BKPM online information. Viewed at: http://www4.bkpm.go.id/contents/general/16/one-stop-shop.
[25] The purpose of registration of foreign investors is to check whether the business activity they plan to engage in is subject to any restrictions as set out in the Negative List (see below).

investors, domestic and foreign); and primary licences, allowing investors (both domestic and foreign) to benefit from tax incentives on customs duties, VAT, and income tax. Business licences are also required at sub-national levels and must be obtained from the respective local authorities.

2.5 Framework for business

2.32. Indonesia's business environment is complicated by multiple layers of government. As a result of devolution in 1999, large amounts of public expenditure and service delivery transferred from the central government to the local level (comprising provinces and within them regencies and municipalities). There have been recent efforts to ensure that sub-national legislation does not conflict with higher laws issued at the national level (*inter alia*, through Law No. 12 of 2011) as well to delineate more clearly the policy areas in which the central Government has sole responsibility and those where responsibilities are shared with local governments, such as through Government Regulation No. 38 of 2007.[26]

2.33. Indonesia offers a variety of incentives for domestic and foreign investors. These include: corporate income tax relief and exemptions (Table 2.4); fuel subsidies (Chapter 1); customs duty exemptions (Chapter 3); VAT exemptions (Chapter 3); as well as various free trade zone and special economic zone-related incentives (Chapter 3).

Table 2.4 Corporate income tax incentives

Scheme	Facilities
Corporate income tax relief (tax allowance)	30% net income tax deduction for investment in certain business fields and/or in specific areas. Other incentives such as accelerated depreciation and amortization facilities are also available.
Corporate income tax holiday	Tax holidays may be provided to new corporate taxpayers for no more than 10 years and no less than 5 years from the tax year in which commercial production commences. A corporate income tax reduction of 50% applies for two years following the tax holiday. Tax holiday and tax relief may be extended by the Minister of Finance to maintain the competitiveness of national industries. Tax payers must meet the following criteria: (a) constitute a pioneer industry (these include: basic metal industries; oil refinery industries and/or basic organic chemicals; machinery industries; renewable resources industries; and communication devices industries; and any other industry as determined by the Minister of Finance); (b) have a new and approved investment plan for a minimum of one trillion rupiah; (c) place funds in Indonesian banks equal to at least 10% of the total capital investment plan and not withdraw such funds before the commencement of capital investment realization; and (d) be a new Indonesian legal entity.

Source: Information provided by the Indonesian authorities.

2.34. Over the review period Indonesia inched up the ranks in a number of indices which consider the health of the business environment from a variety of angles. In the World Economic Forum's 2012 *Global Enabling Trade Report*, Indonesia is ranked 58 out of 132 countries, up from 68 out of 125 countries in 2010.[27] Indonesia is ranked 46 (out of 142) in the WEF's Global Competitiveness Index (2011-12), compared to 55 (out of 134) in 2008-09.[28] Transparency International's Corruption Perceptions Index of 2011 ranks Indonesia 100 (out of 182), up from 130 (out of 163)

[26] Government Regulation (GR) No. 38 of 2007 clarifies the division of responsibilities set out in Law No. 32 of 2004. Under GR38, the Central Government has exclusive responsibility for: foreign policy; defence; security; justice; national monetary and fiscal issues; and, religion. Obligatory shared responsibilities inter alia include: education; health; environment; public works; development and spatial planning; housing; capital investment; cooperatives and SMEs; food security; and, transportation. Local governments may also decide if they want to have shared responsibilities in the areas of marine and fisheries; agriculture; forestry; energy and mineral resources; and, tourism.

[27] World Economic Forum (2012b)

[28] World Economic Forum (20012a).

in 2006.[29] Indonesia's ranking in the World Bank's *Doing Business* report remained largely unchanged over the review period; it was 129 out of 183 countries in 2012.[30]

2.35. Various performance indicators and reforms have contributed to these improvements in rankings. Among the positive developments noted are: solid macroeconomic indicators; efficiency of the financial sector; better procedures for registering and licensing businesses; an enhanced climate for FDI through improvements to laws regulating investor protection; reductions in corporate income tax; measures to speed up property registration and building permit applications; introduction of bankruptcy reforms; the launch of a single-window service at several of Indonesia's main seaports; and the successful establishment of institutions and development of initiatives to curb corruption.[31]

2.36. However, Indonesia's position in these various indices indicates that there is still scope for reform. Reports have raised concerns about security and corruption despite reforms undertaken. Recent concerns have been expressed about bills to amend the Anti-Graft Act and the KPK Act, which would dilute legal penalties for corruption and reduce the KPK's authority.[32] According to the authorities, these bills are still under discussion. It has been noted that getting electricity has become more difficult, as a result of increased connection fees, and that minimum capital requirements for establishing a business have been increased.[33] The Economist Intelligence Unit reports that there is a lack of transparency in the legal system, which sometimes appears to discriminate against foreign interests, and that there are inflexible labour laws and high severance payments.

2.37. A number of sources highlight that Indonesia's transport and ICT infrastructure remains underdeveloped. However, the Government is seeking to improve this situation through investment and public private partnerships. Legislative steps have also been made to expedite land acquisition procedures that hitherto hindered infrastructure development, including through the 2012 Land Acquisition Law (see Chapter 4, Section 3).

[29] Transparency International online information. Viewed at: http://cpi.transparency.org/cpi2011/.

[30] World Bank (2012).

[31] World Economic Forum (2012a).

[32] Transparency International online information. Viewed at: http://blog.transparency.org/2011/07/22/indonesian-ngos-protest-an-unnecessary-revision-of-anti-corruption-laws/.

[33] World Bank online information, *Doing Business Reports* (2008 to 2012). Viewed at: http://doingbusiness.org.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures directly affecting imports

3.1.1 Procedures

3.1. Indonesia has several customs entry points. Its main seaports are Tanjung Periok port (Jakarta); Tanjung Perak port (Surabaya); Belawan port (Medan); and Tanjung Emas Port (Semarang). Its main airport is Soekarno-Hatta airport (Jakarta). Customs matters, including facilitating and controlling the flow of goods in and out of the Indonesian territory and the collection of customs duties, excise and other taxes, are the responsibility of the Directorate-General of Customs and Excise (DGCE), under the Ministry of Finance (MOF). The Customs Act No. 10/1995 (as amended by Act No. 17/2006) governs customs matters.

3.2. A number of customs-related reforms were implemented over the review period. These include: the introduction of a single administrative document (SAD); implementation of the Indonesian National Single Window (INSW) (see below); and the development of Customs Prime Service Offices with trade facilitation for "prioritized" and "non-prioritized" prominent partners (see below).

3.1.1.1 Registration requirements

3.3. Use of a customs broker to import goods into Indonesia is not required. All importers must be registered with the DGCE: they are given a customs identification number (NIK) and an importer registration number (API).

3.4. Since 2007, two types of importer registration number have been used: a General API (API-U) and a Producer API (API-P). Each importer may obtain only one type of API. This duel-registration system has been modified several times and is currently regulated by Minister of Trade Regulation No. 27/2012 (as amended).[1]

3.5. A General API (API-U) is granted to importers who import goods for trading purposes. API-U registered importers are permitted to import goods falling within only one of the 18 sections in Indonesia's good's classification system.[2] Exceptions are permitted for state-owned enterprises and for imports where there is a special relationship between the importing and exporting companies.[3]

3.6. A Producer API (API-P) is granted to importers importing goods for their own use, such as capital goods, raw materials, auxiliary materials and/or materials to support the production process. Trading or transfer of these imports is not allowed (except for market testing purposes, under certain conditions).

3.1.1.2 Port of entry restrictions

3.7. Port of entry restrictions apply to: (a) food and beverages, toys, electronics, footwear and garments; (b) horticultural products; (c) pearls; (d) ozone depleting substances; (e) salt; (f) alcoholic beverages; and (g) hazardous materials. These products are also subject to pre-shipment inspection and import licensing requirements (see below).

3.1.1.3 Pre-shipment inspection

3.8. Various goods require pre-shipment inspection (PSI) by surveyors who have been approved by the Indonesian authorities. These goods are: (i) sugar; (ii) rice; (iii) salt; (iv) precursors; (v) optical discs (empty and filled), and machines and materials used to produce them; (vi) textiles

[1] Minister of Trade Regulation No. 27/2012 as amended by No 59/2012. Viewed at: http://rulebook-jica.ekon.go.id/english/4682_27_M-DAG_PER_5_2012_e.html and http://rulebook-jica.ekon.go.id/english/4847_59_M-DAG_PER_9_2012_e.html.

[2] Attachment to Minister of Trade Regulation No. 27/2012, contains Indonesia's goods classification system.

[3] Article 6 of Regulation 27/2012 (as amended) sets out the conditions under which a special relationship may be recognized.

and textile products; (vii) ozone-depleting substances; (viii) nitro cellulose; (ix) hazardous materials; (x) colour multifunctional machines, colour photocopying and printing machines; (xi) non-hazardous and toxic waste; (xii) used capital goods; (xiii) iron and steel; (xiv) certain imports of electronics, ready-to-wear clothes, children's toys, footwear, and food and beverages; (xv) ceramics; (xvi) sheet glass; (xvii) tyres; (xviii) pearls; and (xix) horticulture products. Most of these imported goods are subject to import licensing requirements (see below), and some are also subject to restrictions on ports of entry (see above).

3.1.1.4 National single window

3.9. Indonesia has had an electronic data interchange (EDI) system in operation for the submission of customs documentation since 1997. This was linked into Indonesia's national single window (INSW), launched in 2007. The INSW, *inter alia*, allows for the single submission of customs documents and applications for trade licences, payment of duties, synchronized processing, and a final decision by Customs. By the end of 2012, it was operational at eight sea ports in Indonesia as well as the Soekarno-Hatta International Airport in Jakarta and the Juanda Airport in Surabaya. The authorities indicated that around 90% of trade enters or leaves Indonesia through these ten customs entry points.

3.1.1.5 Risk management

3.10. There are four entry channels into Indonesia (Table 3.1). The priority lane was introduced in 2006 as a result of amendments to the Customs Act. Reputable importers may submit customs documentation prior to arrival of the goods. Once the goods arrive, they are automatically released without documentary verification or physical inspection for prioritized prominent partners and with limited documentary verification or physical inspection for non-prioritized prominent partners. The DGCE allocates imported goods from other importers into the green, yellow, or red lane according to the risk levels associated with them, as evaluated by its automated risk management system (in operation since 2002). The authorities indicated that customs clearance takes a matter of minutes for "prioritized" and "non-prioritized" prominent partners, and a maximum of three days for goods passing though the red channel. The DGCE reported that it performs around 520 post-clearance audits on average per year.

Table 3.1 Indonesia's risk management system: customs clearance channels

Lane	Characteristics
Priority lane *(Prime Service Office only)*	
- Prioritized Prominent Partner lane	Release of goods from customs without documentary verification or physical inspection
- Non-prioritized Prominent Partner lane	Release of goods from customs without physical inspection and document verification, except for: re-imports of exported goods; goods subject to random inspection; or temporarily imported goods
Green lane	Document verification after the issuance of the approval letter for release of goods; no physical inspection
Yellow lane	Document verification before the issuance of the approval letter for release of goods; no physical inspection
Red lane	Physical inspection and document verification before the issuance of the approval letter for release of goods. Reasons for use of red lane include: importer is new or high-risk; goods are temporarily imported; goods are type II oil operational goods; and goods are certain goods specified by the government.

Source: DGCE Regulation No. 42/BC/2008.

3.11. Rules are being elaborated on Authorized Economic Operators (AEO) and specialized customs treatment accorded to them. In 2010, a Ministry of Finance regulation delineated the types of economic operators that could be given recognition as a AEO; the various security, financial and technical capacities required; and the specialized customs treatment that may be granted, such as simpler and expedited customs procedures.[4] According to the authorities, this regulation is to be implemented by DGCE rules, which are being developed, and a pilot project set to be launched in December 2012. Requirements AEOs will be similar to those for prioritized and non-prioritized prominent partners, but with additional security and compliance standards.

3.1.1.6 International agreements

3.12. Indonesia is a member of the World Customs Organization. It is not a signatory to the major customs-related international conventions (the WCO Revised Kyoto Convention and the Istanbul Convention on Temporary Admission), but the authorities indicated that much of their contents is referred to in Indonesian laws and regulations. Indonesia has bilateral agreements for the exchange of customs information with 13 countries[5], and provisions on customs cooperation are incorporated in its FTAs (see Chapter 2).

3.1.2 Customs valuation and rules of origin

3.13. Indonesia's rules on customs valuation are contained in Article 15 of Customs Law No. 17 of 2006. Indonesia uses the transaction value as the basis for customs valuation. When this is not feasible, Indonesia uses the sequential methods set out in the Customs Valuation Agreement. Information was not available on use of the various customs valuation methods. The authorities indicated that a database of market prices is regularly updated.

3.14. Indonesia does not have non-preferential rules of origin. Its preferential rules of origin are set out in its FTAs. Origin is generally conferred by a change in tariff heading.

3.15. The DGCE provides advance rulings for both customs valuation and classification. The authorities indicated that these rulings are binding.

3.16. Procedures for challenging customs decisions, including valuation and classification issues and customs penalties, are set out in the Customs Law. Objections must be sent, in writing, to the DGCE within 60 days of a customs decision. The DGCE has 60 days in which to issue a decision, and if it fails to do so the objection is considered to be approved. Importers may appeal DGCE decisions to the Tax Court within 60 days of the DGCE's decision. According to an external source, the hearing process is normally completed within 12 months. However, it may be extended in some cases.[6] There were 1,937 appeals against DGCE decisions relating to customs duties in 2011, 3,357 in 2010, 4,434 in 2009, and 3,306 in 2008. The authorities noted that the big drop in appeals was partly due to the issuance in 2010 of Ministry of Finance guidelines for officers on determining the customs value of imported goods.

3.1.3 Tariffs

3.1.3.1 Tariff bindings

3.17. Indonesia has bound 95% of its tariffs (2003 tariff schedule in HS02 nomenclature). Nearly 72% of these are at bound at 40% or above.[7] Unbound products include salt; some chemical products; certain plastic articles; platinum; articles of iron and steel; transport equipment; and arms and ammunitions. Given the big difference in the tariff nomenclatures it was not possible to compare bound and applied rates on a tariff line basis. However, a large binding overhang is apparent when comparing the overall MFN applied average with final bound average (Table 3.2).

[4] Ministry of Finance Regulation No. PMK219/PMK.04/2010.

[5] Australia; Azerbaijan; India; Iran; Japan; Jordan; the Netherlands; Papua New Guinea; South Korea; Thailand; Turkey; the United States; and Uzbekistan.

[6] Deloitte (2010).

[7] Indonesia has 7,157 bound tariff lines of which 273 (3.8% of total bound lines) are bound at over 40%; 4,846 (67.7%) are bound at 40%; and 2,038 (28.5%) are bound at below 40%.

Table 3.2 Indonesia's tariff structure, 2006 and 2012
(%, unless otherwise indicated)

	MFN applied		Final bound[a]
	2006	2012	
Bound tariff lines (% of all tariff lines)	..	..	95.0
Simple average rate	9.5	7.8	37.4
Agricultural products (HS01-24)	11.4	9.5	47.1
Industrial products (HS25-97)	9.2	7.5	35.6
WTO agricultural products	11.8	10.5	47.3
WTO non-agricultural products	9.2	7.4	35.7
Duty free tariff lines (% of all tariff lines)	22.0	12.5	2.2
Simple average rate of dutiable lines only	12.1	9.0	38.3
Tariff quotas (% of all tariff lines)	0.0	0.0	0.0
Non-*ad valorem* tariffs (% of all tariff lines)	0.2	0.6	0.0
Domestic tariff "peaks" (% of all tariff lines)[b]	5.1	2.9	0.5
International tariff "peaks" (% of all tariff lines)[c]	10.6	3.4	94.6
Overall standard deviation of tariff rates	13.7	11.4	12.8
Coefficient of variation of tariff rates	1.4	1.5	0.3
Nuisance applied rates (% of all tariff lines)[d]	0.0	0.0	0.0
Total number of tariff lines	11,161	10,012	7,157[e]
Ad valorem rates	8,684	8,696	6,988
Duty free	2,450	1,251	159
Specific rates	27	65	0

a Final bound rates are based on the 2003 tariff schedule in HS02 nomenclature. Calculations on bound averages are based on 7,157 bound rates out of a total of 7,532 tariff lines.
b Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.
c International tariff peaks are defined as those exceeding 15%.
d Nuisance rates are those greater than zero, but less or equal to 2%.
e Total number of fully and partially bound lines.

Note: The 2006 tariff is based on HS02 nomenclature, the 2012 tariff is based on HS12. Calculations for averages are based on national tariff line level (10-digit), excluding specific rates. The 2006 simple average rate including AVEs, as provided by the authorities, equals 9.5%. Calculations for averages for final bound rates are based on 9-digit tariff line level.

Source: WTO Secretariat calculations, based on data provided by the authorities of Indonesia.

3.1.3.2 Applied MFN tariffs

3.18. In 2012, the Government replaced the Indonesian Entry Custom Tariff Book (BTBMI) with the Indonesian Custom Tariff Book (BTKI) 2012, which is formulated in accordance with the World Custom Organization HS2012 nomenclature and the ASEAN Harmonized Tariff Nomenclature (AHTN). Nomenclature changes have resulted in a 10% reduction in the total number of MFN applied tariff lines compared to at the time of Indonesia's previous review.[8] Customs duties accounted for an estimated 2.4% of total tax revenues in 2012 (down from 3.4% in 2007).

3.19. Indonesia's 2012 simple average MFN applied rate is 7.8%; this includes *ad valorem* equivalent duties, as calculated by the Indonesian authorities (see Table A3.1). The number of

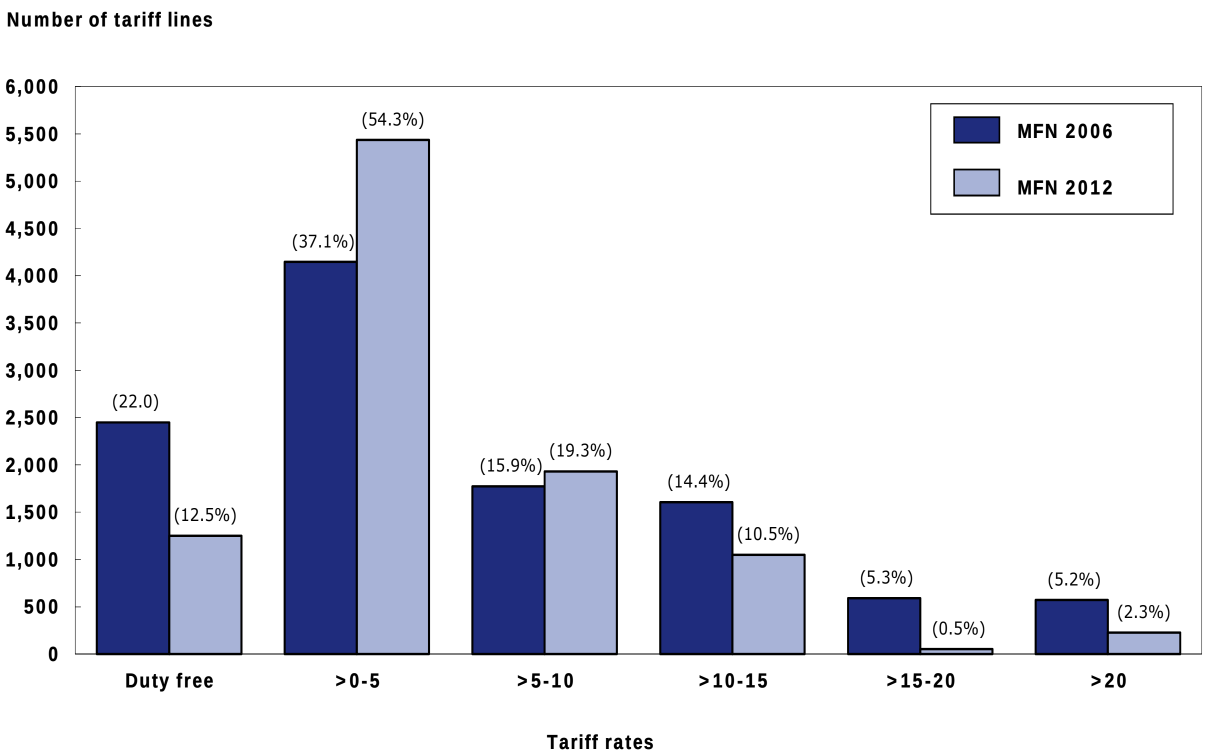
[8] Indonesia changed its tariff nomenclature twice over the review period: from HS2002 to HS2007, and from HS2007 to HS2012.

tariff lines subject to specific rates increased over the review period, from 27 in 2006 to 65 in 2012. At the time of Indonesia's previous review only rice and sugar were subject to specific rates. However, since 2010 specific rates have also been applied to alcoholic beverages, as well as cinematographic films and related media. Indonesia does not implement tariff quotas.

3.20. The Minister of Finance has the authority to change applied tariff rates, and draws on the recommendations of Team Tariff (see Chapter 2). During 2005-10 a number of changes were made to tariff rates in order to achieve the tariff harmonization programmes targets: to achieve low tariff rates; have relatively harmonized tariff rates among upstream, intermediate, and downstream products; and to simplify and make more uniform its tariff structure. These, together with nomenclature changes reduced Indonesia's simple average MFN applied rate from 9.5% in 2006 to 7.8% in 2012; raised tariffs to 5% on a number of lines that were previously duty free; and liberalized some higher tariffs (Charts 3.1 and 3.2). A full description of tariff movements since 2006 was not available.

3.21. MFN tariffs range from duty free to 150%. Tariffs of 150% apply to 43 lines (34 non-*ad valorem* lines relating to alcoholic beverages; 7 lines relating to food preparations (not elsewhere specified) and 2 lines relating to mixtures of odoriferous substances used in the food or drink industries). The second highest tariff rate is 90% (5 non-*ad valorem* lines relating to wine and shandy). Thereafter, all other tariff rates are applied at 40% or below. Overall, Indonesia's tariff shows positive escalation; the simple average applied tariff on fully processed goods is 9.0%, compared with 6.2% for semi-processed goods and 5% for goods at the first stage of processing (Table 3.3).

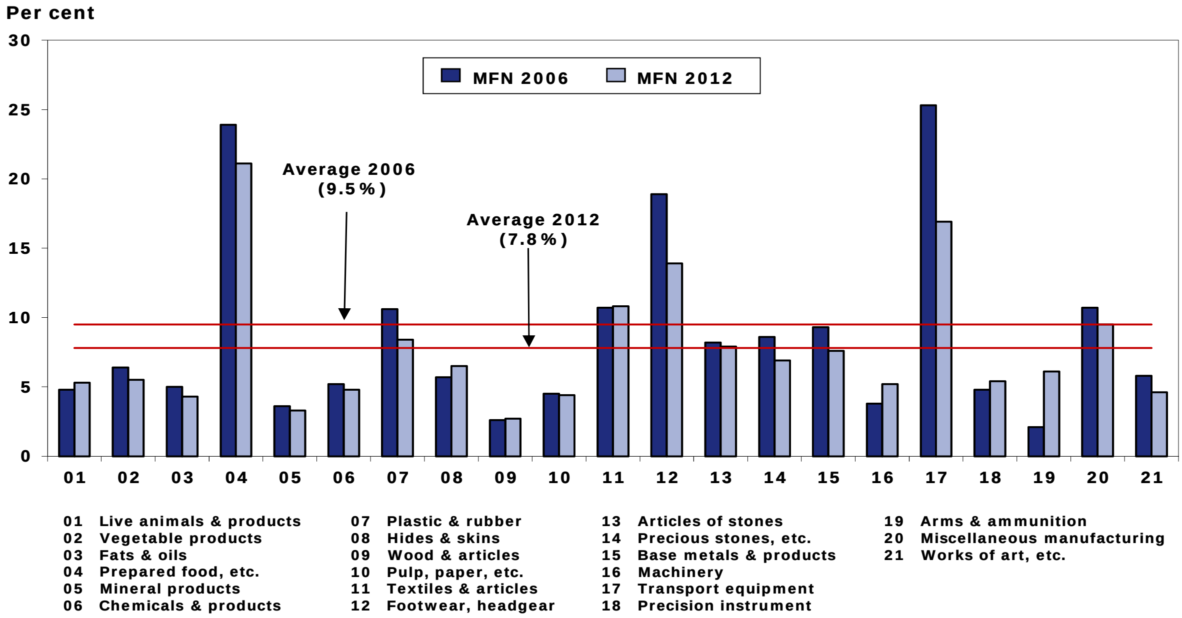
Chart 3.1 Distribution of MFN tariff rates, 2006 and 2012



Note: Figures in parentheses denote the share of total lines. Calculations include AVEs for specific rates provided by the authorities. The 2006 and 2012 tariff schedules consist, respectively, of 11,161 and 10,012 tariff lines.

Source: WTO Secretariat calculations, based on data provided by the authorities of Indonesia.

Chart 3.2 Average applied MFN tariff rates, by HS section, 2006 and 2012



Note: Calculations include AVEs for specific rates provided by the authorities.

Source: WTO Secretariat calculations, based on data provided by the authorities of Indonesia.

Table 3.3 Indonesia's tariff summary, 2012

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
Total	**10,012**	**7.8**	**0-150**	**11.4**	**12.5**
By WTO category					
WTO agricultural products	1,320	10.5	0-150	26.0	9.2
Animals and products thereof	151	4.6	0-20	2.0	10.6
Dairy products	38	5.4	5-10	1.3	0.0
Fruit, vegetables, and plants	351	5.3	0-20	3.4	8.3
Coffee and tea	42	6.4	5-10	2.3	0
Cereals and preparations	191	11.8	0-150	27.6	5.8
Oils seeds, fats, oil and their products	206	4.3	0-10	1.8	13.6
Sugars and confectionary	32	12.8	5-40	13.2	0.0
Beverages, spirits and tobacco	108	59.8	5-150	64.0	0.0
Cotton	5	4.0	0-5	2.0	20.0
Other agricultural products, n.e.s.	196	4.1	0-5	2.0	18.9
WTO non-agricultural products	8,692	7.4	0-150	6.8	13
Fish and fishery products	431	5.5	0-10	2.0	3.5
Minerals and metals	1,479	7.1	0-30	4.8	14
Chemicals and photographic supplies	1,359	5.6	0-150	6.4	11.8
Wood, pulp, paper and furniture	480	4.4	0-15	3.3	28.1
Textiles	842	9.4	0-25	3.9	0.8
Clothing	348	14.5	0-15	1.7	0.3
Leather, rubber, footwear and travel goods	324	9.1	0-25	6.2	7.4
Non-electric machinery	1,333	4.9	0-15	2.9	18.2
Electric machinery	705	5.8	0-12.5	3.9	21.8
Transport equipment	619	17.3	0-40	14.8	10.7

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
Non-agricultural products, n.e.s.	735	6.6	0-15	3.9	11.6
Petroleum	37	0.7	0-5	1.7	86.5
By ISIC sector[a]					
ISIC 1 - Agriculture, hunting and fishing	653	4.8	0-30	3.2	14.4
ISIC 2 - Mining	118	3.8	0-10	2.4	27.1
ISIC 3 - Manufacturing	9,240	8.1	0-150	11.8	12.2
Manufacturing excluding food processing	8,156	7.6	0-150	6.9	13.1
By HS section					
01 Live animals and products	571	5.3	0-20	2.1	5.4
02 Vegetable products	480	5.5	0-30	4.9	11.5
03 Fats and oils	164	4.3	0-5	1.8	14.6
04 Prepared food, beverages and tobacco	453	21.1	0-150	42.2	2.4
05 Mineral products	206	3.3	0-10	2.5	35.4
06 Chemicals and products thereof	1,182	4.8	0-150	6.4	14.8
07 Plastics, rubber, and articles thereof	491	8.4	0-25	4.4	1.6
08 Raw hides and skins, leather, and products thereof	102	6.5	0-15	5.8	35.3
09 Wood and articles of wood	160	2.7	0-10	2.9	51.3
10 Pulp of wood, paper and paperboard	283	4.4	0-10	2.4	18.7
11 Textiles and clothing	1,167	10.8	0-15	4.1	0.6
12 Footwear, headgear, etc.	75	13.9	5-25	7.7	0.0
13 Articles of stone, plaster, cement	224	7.9	5-30	6.0	0.0
14 Precious stones and metals, pearls, articles thereof	89	6.9	0-15	4.4	18.0
15 Base metals and articles thereof	984	7.6	0-20	4.6	13.4
16 Machinery, electrical equipment, etc.	2,123	5.2	0-15	3.4	20.7
17 Transport equipment	633	16.9	0-40	14.8	11.8
18 Precision equipment	329	5.4	0-10	2.5	8.8
19 Arms and ammunition	27	6.1	5-15	3.1	0
20 Miscellaneous manufactured articles	255	9.5	0-15	3.6	0.8
21 Works of art, etc.	14	4.6	0-10	2.3	14.3
By stage of processing					
First stage of processing	1,116	5.0	0-30	3.8	16.4
Semi-processed products	2,613	6.2	0-150	5.7	13.1
Fully processed products	6,283	9.0	0-150	13.7	11.6

a ISIC (Rev.2) classification, excluding electricity (1 line).

Note: Calculations for averages are based on national tariff line level (10-digit), including AVEs for specific rates.

Source: WTO Secretariat calculations, based on data provided by the authorities of Indonesia.

3.1.3.3 Customs duty exemptions

3.22. Rules on customs duty exemptions are set out in Articles 25 and 26 of the Customs Act. There have been no changes to these provisions since Indonesia's previous Review.

3.23. Under Article 25, customs duty exemptions are, *inter alia*, extended to goods for research and scientific purposes.

3.24. Under Article 26, duty exemptions may be granted, *inter alia*, for machinery for the establishment and development of industry; goods and materials for the establishment and development of industry for a specified period of time; seeds and stocks for the establishment and development of agriculture, animal husbandry or fisheries; marine products caught by licenced vessels; and goods purchased by the Government for public purposes. Provisions on exemptions to be granted must be set out in Ministerial regulations.

3.25. In November 2009, a scheme was introduced to facilitate investment by offering customs duty exemptions for imports of machines, goods, and materials for the establishment and development of industries in the framework of investment. Amendments to this scheme in 2012 extended incentives to the motor vehicle assembly industry.[9] Applications for duty exemptions must be made to the Indonesia Investment Coordinating Board (BKPM), and exemptions are granted only if products are: (a) not yet produced domestically; (b) produced domestically but do not fulfil the required specifications; or (c) are produced domestically but are not sufficient for the industries' needs.

3.1.3.4 Temporary changes to customs duties

3.26. The Ministry of Finance has the flexibility to reduce or increase customs duties temporarily on an MFN basis at the request of another Government Ministry or agency and did so on various occasions over the review period, often in order to stabilize domestic commodity prices (particularly for rice, sugar, and soybeans).

3.27. In order to promote the competitiveness of certain industries in strategic sectors, the Government may waive import duties temporarily on imported inputs for the production of certain goods. This "Government Borne Import Duty" scheme has been in place since 2008. During fiscal year 2012, waivers (up to specified budget ceilings) were available to industries using imported goods and materials to produce goods and services sold on the domestic market in accordance with the following criteria: (a) they must be provided for the public interest, public consumption or to protect the public; (b) they improve the competitiveness of the industries; (c) they increase the employment rate; and (d) they increase the State's revenue. Imports must: not yet be produced domestically; be domestically produced but do not meet the specification needed; or be domestically produced but not in quantities necessary to meet the industry need (Table 3.4).[10] The authorities noted that, for a business to avail itself of these incentives, it must submit proposals to the DGCE, enclosing an import plan that has been approved by the Ministry of Industry. Information on incentives awarded was not available.

Table 3.4 Customs duty waivers, FY2012

Product	Ceiling value:
Production of certain parts of heavy equipment or the assembly of heavy equipment	Rp 58,000,000,000
The production of ballpoint pens	Rp 1,205,600,000
Production of carpet and/or rugs	Rp 24,000,000,000
Production of automotive components	Rp 147,350,000,000
Production and repair of the box wagon of the passenger train, electric/diesel train, bogie and train's components	Rp 10,000,000,000
Production and/or repair of ships	Rp 30,500,000,000
Production of electronics components and/or products	Rp 25,000,000,000
Production of optical fibre cable	Rp 3,382,000,000
Production of communication devices	Rp 14,880,000,000
Production of toner	Rp 824, 900,000
Production of plastic packages, plastic sheets, biaxially orientated poly propylene film, plastic sacks, plastic threads, welding plastic sheets, geotextile, household goods and/or furnishings made of plastic	Rp 81, 957,400,000

[9] Minister of Finance Regulation No. 176/PMK.011/2009, as amended by Minister of Finance Regulation No. 76/PMK.011/2012, 21 May 2012.

[10] Finance Minister Regulations (PMK) No. 96/PMK.011/2012 to No. 110/PMK.01/2012.

Product	Ceiling value:
Production of resin in the form of alkyd resin, unsaturated polyester resin, amino resin, pigment phthalate, solution acrylic/synthetic latex, plasticizer	Rp 9, 518,000,000
Production of fertilizer	Rp 22,000,000,000
Repair and/or maintenance of planes	Rp 109,676,000,000
Production of packaging and/or drug infusion products	Rp 9, 372,600,000

Source: Ministry of Finance.

3.1.3.5 Tariff preferences

3.28. Tariff preferences are offered by Indonesia under its bilateral FTA with Japan, under the ASEAN ATIGA, and through ASEAN's FTAs with Korea, China, Australia and New Zealand, and India. These have resulted in significant tariff reductions, particularly with respect to the ATIGA agreement, whereby the simple average applied preferential tariff is 0.8%, compared with an average applied MFN tariff rate of 7.8%. For the other FTAs, the simple average applied preferential tariffs range from 1.9% to 5.9% (Table 3.5). It was not possible to calculate preferential tariff averages under the Indonesia-Japan Economic Partnership Agreement.

Table 3.5 Indonesia's selected preferential tariff averages, 2012

Description	No. of lines	MFN applied (%)	ATIGA[a] (%)	AK FTA[b] (%)	AC FTA[c] (%)	AANZ FTA[d] (%)	AI FTA[e] (%)
Total	**10,012**	**7.8**	**0.8**	**1.9**	**2.5**	**2.4**	**5.9**
HS 01-24	1,668	9.5	4.3	4.5	4.5	5.5	7.8
HS 25-97	8,344	7.5	0.1	1.4	2.1	1.8	5.5
By WTO category							
WTO Agriculture	1,320	10.5	5.5	5.6	5.7	6.5	8.6
Animals and products thereof	151	4.6	0.0	0.1	0.0	0.8	2.2
Dairy products	38	5.4	0.0	0.0	0.0	2.6	4.2
Fruit, vegetables and plants	351	5.3	0.0	0.1	0.0	1.2	3.8
Coffee and tea	42	6.4	0.0	0.0	0.0	0.4	4.3
Cereals and preparations	191	11.8	7.1	7.3	7.3	7.7	10.1
Oil seeds, fats and oils and their products	206	4.3	0.0	0.0	0.0	0.1	2.3
Sugar and confectionary	32	12.8	8.1	8.1	8.1	8.1	10.4
Beverages, spirits and tobacco	108	59.8	52.1	52.9	53.8	57.5	56.5
Cotton	5	4.0	0.0	0.0	0.0	0.0	1.6
Other agricultural products n.e.s.	196	4.1	0.0	0.0	0.0	0.1	2.4
WTO non-agriculture (incl. petroleum)	8,692	7.4	0.1	1.3	2.0	1.8	5.5
Fish and fishery products	431	5.5	0.0	0.3	0.1	1.4	4.4
Minerals and metals	1,479	7.1	0.0	2.7	1.5	1.7	5.5
Chemicals and Photographic supplies	1,359	5.6	0.3	1.5	1.8	0.8	4.0
Wood, pulp, paper and furniture	480	4.4	0.0	0.0	0.0	0.2	3.0
Textiles	842	9.4	0.0	0.1	0.5	1.1	7.3
Clothing	348	14.5	0.0	3.0	2.6	5.6	13.8

Description	No. of lines	MFN applied (%)	ATIGA[a] (%)	AK FTA[b] (%)	AC FTA[c] (%)	AANZ FTA[d] (%)	AI FTA[e] (%)
Leather, rubber, footwear and travel goods	324	9.1	0.0	0.1	2.7	1.3	6.5
Non-electric machinery	1,333	4.9	0.0	0.4	0.3	0.7	2.0
Electric machinery	705	5.8	0.0	0.4	0.3	0.7	4.3
Transport equipment	619	17.3	0.0	5.3	15.2	9.5	13.2
Non-agriculture articles n.e.s.	735	6.6	0.3	0.2	0.5	0.5	4.8
Petroleum	37	0.7	0.0	0.5	0.5	0.5	0.7
By ISIC sector[f]							
Agriculture and fisheries	656	4.8	0.1	0.2	0.2	0.9	3.4
Mining	118	3.8	0.0	0.0	0.3	0.2	2.2
Manufacturing	9,240	8.1	0.8	2.0	2.7	2.5	6.1
Manufacturing excluding food processing	8,156	7.6	0.1	1.4	2.1	1.8	5.6
By HS section							
01 Live animals and products	571	5.3	0.0	0.3	0.0	1.3	3.7
02 Vegetable products	480	5.5	0.6	0.8	0.7	1.6	4.3
03 Fats and oils	164	4.3	0.0	0.0	0.0	0.0	2.3
04 Prepared food, beverage and tobacco	453	21.1	15.3	15.5	15.8	16.9	18.6
05 Mineral products	206	3.3	0.0	0.1	0.3	0.2	1.9
06 Chemicals and products thereof	1,182	4.8	0.3	0.4	0.8	0.3	3.1
07 Plastics, rubber, and articles thereof	491	8.4	0.0	3.3	4.8	1.9	6.7
08 Raw hides and skins, Leather products	102	6.5	0.0	0.2	1.2	1.9	4.7
09 Wood and articles of wood	160	2.7	0.0	0.0	0.0	0.1	2.2
10 Pulp of wood, paper and paperboard	283	4.4	0.0	0.0	0.0	0.2	2.8
11 Textiles and clothing	1,167	10.8	0.0	0.9	1.0	2.3	9.1
12 Footwear, headgear, etc.	75	13.9	0.0	1.3	2.3	1.7	10.0
13 Articles of stone, plaster, cement	224	7.9	0.0	0.0	2.3	1.0	5.5
14 Precious stones and metals	89	6.9	0.0	2.2	2.0	1.6	5.6
15 Base metals and articles thereof	984	7.6	0.0	3.9	1.5	2.2	6.3
16 Machinery, electrical equipment, etc.	2,123	5.2	0.0	0.3	0.3	0.7	2.8
17 Transport equipment	633	16.9	0.0	5.2	14.9	9.3	13.0
18 Precision equipment	329	5.4	0.0	0.0	0.0	0.0	3.2
19 Arms and ammunition	27	6.1	6.1	0.0	6.1	0.6	1.7
20 Miscellaneous Manufactured articles	225	9.5	0.0	0.3	0.6	1.2	7.5
21 Works of art, etc.	14	4.6	3.2	0.0	0.0	0.0	4.2
By stage of processing							
First stage of processing	1,116	5.0	0.3	0.4	0.4	1.3	3.5
Semi-processed products	2,613	6.2	0.2	1.6	1.3	1.0	4.5

Description	No. of lines	MFN applied (%)	ATIGA[a] (%)	AK FTA[b] (%)	AC FTA[c] (%)	AANZ FTA[d] (%)	AI FTA[e] (%)
Fully-processed products	6,283	9.0	1.1	2.3	3.4	3.1	6.8

a ASEAN trade in goods agreement.
b ASEAN-Korea Free Trade Agreement.
c ASEAN-China Free Trade Agreement.
d ASEAN-Australia-New Zealand Free Trade Agreement.
e ASEAN-India Free Trade Agreement.
f ISIC (Rev.2) classification, excluding electricity (1 line).

Note: Calculations include AVEs for specific rates. Original data for AANZFTA and AIFTA was provided in HS2007 nomenclature; base years being 2011 and 2010. For calculation purposes the FTAs were changed into HS2012. The Indonesia-Japan Economic Partnership Agreement was also provided in HS2007 nomenclature but with 2008 as a base year; changing it to HS2012 was not possible.

Source: WTO Secretariat calculations, based on data provided by the Indonesian authorities.

3.1.4 Other charges affecting imports

3.1.4.1 VAT

3.29. VAT continues to be levied at a flat rate of 10%, with a number of exceptions and exemptions (Table 3.6). It is applied equally to imports and domestically produced goods and services. With respect to imports, the VAT is applied on the customs value plus the sum of import duties levied. A 2009 amendment to the Value-Added Tax and Luxury Tax Law gives the Government flexibility to change tax rates to between 5% and 15%, subject to Parliamentary approval.[11] The IMF has commented that while the design of the VAT system is generally sound, efficiency improvements could be made by removing some of the exemptions granted.[12] In 2012, VAT accounted for an estimated 34.4% of total tax revenue.

3.30. VAT exemptions (on imports), and zero-rates (for domestic production) apply for certain machines, goods, and materials, in order to enhance the productivity of the industrial sector. They include: capital goods in the form of machinery and factory equipment; animal, poultry and fish feed and raw materials to make feed; agricultural products; and seeds.[13]

Table 3.6 VAT rates, 2012

General rate	10%
Reduced VAT rates	Factoring (5% on the fees received); package deliveries and travel agents' services (1%)
VAT zero-rated items	All exports of goods Exports of the following services: toll manufacturing; construction services attached to immovable goods located outside the customs area; repair and maintenance services attached to services of movable goods used outside the customs area.
VAT exemptions for goods	Basic necessities (rice, grain, maize, sago, soy bean, salt, meat, egg, milk, fruit and vegetables); mining taken from natural resources; food served in hotels and restaurants including food and drinks provided by catering services; and money, gold, and securities.

[11] This change was introduced by Law No. 42 of 2009, which amends the Value-Added Tax (VAT) and Luxury Tax Law (18/2000). Viewed (in Indonesian only) at: http://mastel.or.id/files/kelompok%20Kerja/Pajak%20dan%20Telekomunikasi/UU_42_Tahun_2009%20-%20PPN.pdf.

[12] IMF (2011).

[13] Government Regulation No. 12/2001 (as amended most recently by Government Regulation No. 31/2007). Viewed at: rulebook-jica.ekon.go.id/English/3006_PP_31_2007_e.html.

General rate	10%
VAT exemptions for services	Medical, social and religious services, postal services; certain financial and insurance services; educational services; entertainment services performed by artists and entertainers; radio and television broadcasting services (other than advertisements); public transportation services; manpower and recruitment services; hotel and boarding house services; government services; parking services; public telephone (coin) services; and food and catering services.

Source: VAT Law No. 42 (2009); Decree of the Minister of Finance No. 231 (2001) as amended by Regulation of Minister of Finance No. 616 (2004) and Regulation of Minister of Finance No. 27 (2012).

3.1.4.2 Luxury Tax

3.31. The Luxury Tax is applied to domestic production and imports of a variety of products deemed non-essential. The tax is collected at the manufacturer level for domestic production; and on the customs value plus the sum of import duties levied for imports. The minimum applied rate is 10% and the maximum is 75%, although a 2009 revision to the Value-Added Tax and Luxury Tax Law gives flexibility for maximum rates to be raised to 200% (Table 3.7). Exports are tax exempt. While the IMF has recommended integrating the Luxury Tax into the VAT, noting its complexity and disproportionately high administrative costs relative to revenue generated, the authorities indicated that the tax remains necessary to balance the tax burden on high and low income individuals.[14] In 2012, luxury taxes accounted for an estimated 1.7% of total tax revenue.

Table 3.7 Luxury Tax rates, 2012

Luxury items subject to sales tax	Tax rate (%)
Perfumery	20
Specified luxury devices using electric power, batteries or gas for household use	10
Photographic and cinematographic devices, video camera, digital camera	10
Electric and non-electric music instruments	20
Transmitters and receivers	10, 20
Luxurious houses, apartments, condominiums, town houses	20
Luxury devices using electric power, batteries or gas for household use and recreation not included in the 10% category	20
Specified sporting goods and games	10, 30, 50
Specified clothes and goods made of leather	40
Suitcases, executive bags and boxes, and purses with an import exceeding Rp 500,000	40
Watches, clocks	40
Carpets made of special material	40, 50
Ships, vessels, and yachts	30, 40, 75
Aircraft (hot air balloons and gliders)	40
Firearms, air and gas weapons, except for national use	40, 50
Goods made of crystal, marble or granite	40
Motor vehicles with a capacity of 10 to 15 passengers	10
Motor vehicles of 1,500 to 2,500 cc with a capacity of fewer than 10 passengers	20
Sedans or station wagons with a cylinder up to 1,500 cc	30
Motor vehicles other than sedans and station wagons with a cylinder up to 1,500 cc	60
Special purpose vehicles for gold	50
Motorcycles with a cylinder capacity of 250 to 500 cc	60
Special purpose vehicles to be used on snow, beach, mountains, and the like	60

[14] IMF (2011).

Luxury items subject to sales tax	Tax rate (%)
Sedans and station wagons with a capacity of more than 3,000 cc	75
Diesel sedans and station wagons with a capacity of more than 2,500 cc	75
Motorcycles with a capacity cylinder of more than 500 cc	75
Caravan trailers and semi-trailers for housing and camping	75

Source: Information provided by the Indonesian authorities.

3.1.4.3 Excise Tax

3.32. Excise Tax is levied on ethanol; beverages and concentrates containing ethyl alcohol; and tobacco products. Legislation governing excise taxes remains the Excise Tax Law (1995), as amended by Law No. 39 of 2007.[15] In 2012, excise taxes accounted for an estimated 7.1% of total tax revenue.

3.33. In 2010, the Excise Tax on alcoholic beverages were increased (and the Luxury Tax on these items removed), with rates ranging from Rp 20,000 per litre to Rp 130,000 per litre. For alcoholic beverages with an ethyl alcohol content of 5% or more, Excise Tax rates on imports are higher than on domestic production (Table 3.8).

Table 3.8 Excise tax rates on alcohol, 2012

Item	Ethyl alcohol content	Excise tax (per litre) Domestic production (Rp)	Imports (Rp)
Ethyl alcohol or ethanol	All	20,000	20,000
Beverages containing ethyl alcohol	Up to 5%	20,000	20,000
	>5% to 20%	30,000	40,000
	>20%	75,000	130,000
Concentrates containing ethyl alcohol	All	100,000	100,000

Source: Ministry of Finance Regulation No. 62/PMK.011/2010.

3.34. New tax rates for tobacco products entered into force in 2012 and are levied per stick or gram of the tobacco product.[16] The authorities explained that excise taxes are applied equally to domestic production and imports for tobacco products that are commercially imported. However, certain low-grade tobacco products, which are domestically produced but not imported, are subject to lower excise tax rates.

3.1.5 Import prohibitions, restrictions, and licensing

3.1.5.1 Import prohibitions

3.35. Since 2007, the only new import prohibition introduced was a certain shrimp species (in 2010).[17] A 2006 regulation on the prohibition of certain ozone depleting substances was replaced in 2012.[18]

3.1.5.2 Quantitative restrictions on imports

3.36. Imports subject to quantitative restrictions are: rice, sugar, animals and animal products, salt, alcoholic beverages and certain ozone depleting substances. The authorities indicated that import volumes are determined annually at ministerial-level coordination meetings that take into

[15] Law No. 39/2007 may be viewed at: http://rulebook-jica.ekon.go.id/english/3003_UU_39_2007_e.html.
[16] Finance Minister Regulation No. 167/PMK.011/2011.
[17] MOT Regulation No. 52/2010.
[18] MOT Regulation No. 3/2012.

consideration domestic production and consumption. Quantitative restrictions are implemented through Indonesia's import licensing system (see below).

3.1.5.3 Import licensing

3.37. Import licensing requirements are in place for a number of reasons, including: for health, safety, security, and environmental purposes; to implement commitments taken under international agreements; to prevent smuggling; and to implement policies that aim to protect domestic production. With respect to the latter, products affected include some goods subject to quantitative restrictions (rice, sugar, animals and animal products, salt), as well as certain textiles and textile products; LPG and LPG gas containers; used capital goods; oil and gas; cloves; sodium tripolpy phosphate; horticultural products, and fertilizer (Table A3.2). Indonesia's most recent notification to the WTO on its import licensing procedures covers the year 2007.[19]

3.38. The Directorate-General of Foreign Trade (DGFT), within the Ministry for Trade (MOT) is responsible for granting import licences to companies to import specific products. These licences are generally approved contingent upon a recommendation being provided by one or more other ministries or agencies with technical competence in the respective area. In some cases import permits are also required on a per shipment basis. The licensing process (applications and approvals) is done through Indonesia's National Single Window system (INSW). According to the authorities, no licensing fees or charges are levied. In most cases importers of goods subject to licensing requirements must submit import implementation reports, and many of these goods are also subject to pre-shipment inspection (see above).

3.39. The authorities indicated that around 2,060 tariff lines are subject to import licensing. This represents around one-fifth of Indonesia's tariff. The number of products subject to import licensing increased significantly over the review period, with new requirements being introduced on: horticultural products (2012); pearls (2012); animal and animal products (2011); used capital goods (2011); sodium tripolpyphospate (2011); fertilizer (2011) oil and gas (2009); non-hazardous and non-toxic waste (2009); LPG and LPG gas containers (2008); certain food, beverages, medicine, cosmetics, clothing and footwear (2008); electronic goods and children's toys (2008); and colour multifunctional machines and colour photocopying and printing machines (2007).

3.40. Various concerns have been raised by WTO Members regarding the complexity, lack of transparency, and trade-impairing effects of Indonesia's import licensing requirements, in particular with respect to horticultural products; animals and animal products; electronics; ready-to-wear clothes; children's toys; footwear; and food and beverages. In addition, Members have requested Indonesia to notify to the WTO its licensing requirements on animal and animal products[20]. In January 2013, the United States requested consultations with Indonesia on measures affecting imports of horticultural products and animals and animal products (Chapter 2).

3.1.6 Contingency measures

3.41. In 2011, Indonesia enacted new rules governing anti-dumping, countervailing, and safeguard measures through Government Regulation No. 34 of 2011.[21] This regulation replaces previous rules in force, with changes intended to reinforce anti-dumping, subsidy and safeguard investigation procedures as well as to bring the regulation of trade remedies under one piece of legislation.[22]

3.42. The Indonesia Anti-Dumping Committee (KADI) is responsible for investigations in relation to anti-dumping and countervailing measures, and the Indonesian Safeguard Committee (KPPI) for investigations in relation to safeguard measures. The Advocacy Centre for Safeguards (a

[19] WTO document G/LIC/N/3/IDN/4, 23 February 2010 (Replies to Questionnaire on Import Licensing Procedures).

[20] WTO document G/LIC/M/35, 6 August 2012; and USTR (2011).

[21] This regulation has been notified to the WTO. See WTO document G/ADP/N/1/IDN/3, G/SCM/N/1/IDN/3, 27 April 2012.

[22] This replaces rules set out in Decree No. 84 of the President of the Republic of Indonesia in 2002 regarding safeguards for the domestic industry against surges of imports and Government Regulation No. 34 of 1996 regarding anti-dumping and countervailing duties.

directorate within the Ministry of Trade) is charged with defending Indonesian exporters facing remedy actions by foreign governments. The authorities noted that institutional restructuring is in progress to merge these institutions.

3.1.6.1 Anti-dumping and countervailing measures

3.43. KADI may undertake anti-dumping and countervailing investigations on its own initiative or launch an investigation based on an application from domestic industry. Regulation No. 34 introduces the requirement that the petitioner or the domestic industry supporting the petition must constitute at least 25% of total domestic production of the like product(s) to be investigated.

3.44. Most of the main procedural deadlines did not change under Regulation No. 34. Where industry applications for an anti-dumping and countervailing investigation are accepted, KADI must inform the government of the exporting country; it then has up to 30 days to review the application and decide whether to initiate an investigation. Investigations must be completed within 12 months (extendable to 18 months in special circumstances). Any provisional measures imposed must be applied no sooner than 60 days from the date of initiation of the investigation and may be applied for a maximum of four months (in specific circumstances they may be applied for up to 9 months). The maximum period for the imposition of anti-dumping and countervailing duties is five years from the date of imposition.

3.45. New procedural deadlines have been introduced or amended in certain areas: (a) where KADI, in the conduct of an investigation, requests information from certain parties, the deadline for their response has been increased from 30 to 40 days (with a possibility of a 30-day extension); (b) there is a new requirement for KADI to report the final determination of an investigation to the various parties within 7 working days of when the investigation ends; (c) any undertaking offers must be submitted within 7 days from imposition of a provisional anti-dumping or countervailing duty or disclosure of the preliminary report of the investigation, and KADI, rather than the Minister of Industry and Trade, now has the authority to approve or reject them; (d) refunds of provisional duties must now be made within 30 days, rather than 90; and (e) interim reviews must be conducted within 12 months of their initiation.

3.46. Other notable changes introduced by the new regulation include: (a) allowing KADI during the course of an investigation, to request information from user industries and consumer organizations, as well as to conduct hearings upon request; (b) amended procedures for imposing provisional and final duties, requiring consideration by relevant government ministries/institutions prior to the imposition of such measures; and (c) the introduction of sunset review procedures.

3.47. Indonesia has never initiated a countervailing investigation. Compared with other WTO Members, Indonesia is a significant, but not a major initiator of anti-dumping investigations and imposer of final measures.[23]

3.48. Indonesia has been active in notifying the status of anti-dumping activity through semi-annual reports, but has not immediately notified all preliminary or final actions taken. Between 2007 and November 2012, 25 new investigations were initiated (Table 3.9). Of these, 13 resulted in the imposition of definitive measures; 7 investigations were terminated without the imposition of definitive measures; and the remaining 5 are still under investigation.

3.49. In 2009, a sunset review regarding uncoated writing and printing paper from Finland, India, the Republic of Korea, and Malaysia resulted in the termination of the measure.

[23] Of the 40 WTO members that undertook anti-dumping investigations over the period 2005-11, Indonesia was the 12th most frequent initiator of investigations (initiating 89 anti-dumping investigations). It was the 14th most frequent in terms of imposing anti-dumping measures (imposing 42 final measures).

Table 3.9 Anti-dumping investigations, January 2007 to November 2012

Country	Product	Investigation (date)	Status
Australia	Wheat flour	17.11.2008	Withdrawal of petition by petitioner. Termination of investigation (13.08.2012)
China	Sodium Tripolyphosphate	29.06.2007	Finding of no causal link. Termination of investigation (16.09.2008)
	Hot rolled plate	05.11.2008	Finding of no injury (29.09.2009)
	Polyester staple fibre	20.04.2009	Definitive duties ranging from 0% to 11.94% imposed on 23.11.2010
	H&I section	30.06.2009	Definitive duties ranging from 6.63% to 11.93% imposed on 23.11.2010
	Hot rolled plate	31.03.2010	Definitive duty of 10.47% applied on 01.10.2012
	Ceramic tableware	21.06.2011	Definitive duty of 87% applied on 24.04.2012
	Cold rolled coil/sheet	24.06.2011	Under investigation
Chinese Taipei	Hot rolled plate	05.11.2008	Finding of no injury (29.09.2009)
	Polyester staple fibre	20.04.2009	Definitive duty of 28.47% imposed on 23.11.2010
	Cold rolled coil/sheet	24.06.2011	Under investigation
India	Polyester staple fibre	20.04.2009	Definitive duties ranging from 5.82% to 16.67% imposed on 23.11.2010
Japan	Cold rolled coil/sheet	24.06.2011	Under investigation
Korea Rep. of	Hot rolled coil	08.04.2009	Definitive duty of 3.8% imposed on 07.02.2011
	Cold rolled coil/sheet	24.06.2011	Under investigation
Malaysia	Hot rolled plate	05.11.2008	Finding of no injury (29.09.2009)
	Aluminium mealdish	11.09.2009	Definitive duty of 27% imposed on 27.08.2010
	Hot rolled coil	08.04.2009	Definitive duty of 48.4% imposed on 07.02.2011
Philippines	Cavendish bananas	23.05.2011	Definitive duty of 35% imposed on 17.11.2011 on all producers/exporters (replaces definitive duty of 49.35% imposed on 28 September 2006)
Singapore	Hot rolled plate	31.03.2010	Definitive duty of 12.33% applied on 01.10.2012
Sri Lanka	Wheat flour	17.11.2008	Withdrawal of petition by petitioner. Termination of investigation (13.08.2012)
Thailand	Bi-axially orientated polypropylene film	09.05.2008	Provisional duties ranging from 10% to 15% applied on 08.05.2009. Definitive duties ranging from 10% to 15% imposed on 16 November 2009
Turkey	Wheat flour	17.11.2008	Withdrawal of petition by petitioner. Termination of investigation (13.08.2012)
Ukraine	Hot rolled plate	31.03.2010	Definitive duty of 12.5% applied on 01.10.2012
Vietnam	Cold rolled coil/sheet	24.06.2011	Under investigation

Source: Semi-annual Reports by Indonesia to the WTO, under Article 16.4 of the Agreement; and information provided by the authorities.

3.50. As of November 2012, Indonesia had 18 definitive anti-dumping measures in force. These included the measures listed in Table 3.9 as well as duties on hot rolled coil from five WTO

Members (China, India, the Russian Federation, Chinese Taipei, and Thailand), imposed in 2008 as the result of an investigation in 2006.

3.1.6.2 Safeguard measures

3.51. The main changes introduced by Government Regulation No. 34 with respect to safeguards rules are: (a) the removal of a 200-day timeframe for investigations; (b) the introduction of a "national interest consideration" whereby the Ministry of Trade reviews KPPI recommendations to ensure that they are in the national interest; and (c) industry may now submit a structural adjustment plan to KPPI as part of the investigation process.

3.52. Since 1995, Indonesia has initiated 18 safeguard investigations (10 were initiated over the review period), and has imposed 11 safeguard actions (9 were imposed over the review period) (Table 3.10). This substantial increase in Indonesia's use of safeguard measures has made it one of the most frequent initiators of safeguard investigations and resulting actions since 2010.[24] Indonesia has attributed its increase in safeguard activity to greater industry awareness of the availability of trade remedies to counter the negative effects of trade liberalization.

Table 3.10 Safeguard activity, 2007-12

Product	Investigation initiation	Investigation outcome
Wheat flour	24.08.2012	Under investigation
Mackerel (excluding fillets, livers and roes (fresh, chilled or frozen)	27.01.2012	In March 2012, KADI proposed the imposition of a safeguard measure for three years. As at November 2012, the Minister of Finance regulation required to enact the safeguard measure had not yet been issued.
Articles of finished casing and tubing	20.01.2012	Under investigation
Articles of iron or steel wire	22.08.2011	In January 2012, KADI proposed the imposition of a safeguard measure for three years. As at November 2012, the Minister of Finance regulation required to enact the safeguard measure had not yet been issued.
Conveyor belts or belting reinforced only with metal of a width exceeding 20cm	03.11.2011	Investigation terminated on 13.04.2012without recommendation to impose a safeguard measure
Tarpaulins, awnings, and sun blinds of synthetic fibres	22.03.2011	Imposition on 02.12.2011 of safeguard measures for three years: Rp 13,643 per kg (from 17.11.2011 to 16.11.2012); Rp 12,643 per kg (from 17.11.2012 to 16.11.2013); and Rp 11,643 per kg (from 17.11.2013 to 16.11.2014). Awnings and sun blinds and various listed developing countries are excluded from the measure.
Conveyor belts or belting reinforced only with metal of a width exceeding 20 cm	03.11.2011	Under investigation
Articles of iron or steel wire	22.08.2011	Under investigation
Polypropylene in granule form	26.04.2011	Investigation terminated on 16.06.2011 without recommendation to impose a safeguard measure
Cotton yarn (other than sewing thread)	25.06.2010	Imposition on 06.06.2011 of safeguard measures for three years: Rp 40,687 per kg (06.06.2011 to 05.06.2012); Rp 38,144 per kg (06.06.2012 to 05.06.2013); and Rp 35,601 per kg (06.06.2013 to 05.06.2014). Certain tariff lines as well as 105 developing countries

[24] WTO online information. Viewed at: http://www.wto.org/english/news_e/news11_e/safe_02may11_e.htm.

Product	Investigation initiation	Investigation outcome
		are excluded from the safeguard measure
Wire of iron and non-alloy steel (plated with zinc, containing carbon less than 25% by weight)	21.01.2010	Imposition on 23.03.2011 of safeguard measures for three years: Rp 6,658 per kg (23.03.2011 to 22.03.2012); Rp 5,643 per kg (23.03.2012 to 22.03.2013) and Rp 4,629 per kg (23.03.2013 to 22.03.2014)
Stranded wire, ropes, and cables (excluding locked coil, flattened strands and non-rotating wire ropes)	30.04.2010	Imposition on 23.03.2011 of safeguard measures for three years: Rp 24,080 per kg (23.03.2011 to 22.03.2012); Rp 21,464 per kg (23.03.2012 to 22.03.2013); and Rp 18,849 per kg (22.03.2013 to 22.03.2014). Various listed developing countries are excluded from the safeguard measure
Stranded wire, ropes, and cables for locked coil, flattened strands, and non-rotating wire ropes	05.02.2010	Imposition on 23.03.2011 of safeguard measures for three years: Rp 18,620 per kg (23.03.2011 to 22.03.2012); Rp 17,326 per kg (23.03.2012 to 22.03.2013); and Rp 16,858 per kg (23.03.2013 to 22.03.2014). Various listed developing countries are excluded from the safeguard measure
Wire of iron and non-alloy steel, not plated or coated	19.01.2010	Imposition on 23.03.2011 of safeguard measures for three years: Rp 7,767 per kg (23.03.2011 to 22.03.2012); Rp 7,216 per kg (23.03.2012 to 22.03.2013); and Rp 6,665 per kg (23.03.2013 to 22.03.2014). 106 listed developing countries are excluded from the safeguard measure
Woven fabrics of cotton	25.06.2010	Imposition on 23.03.2011 of safeguard measures for three years: Rp 116,800 per kg (23.03.2011 to 22.03.2012); Rp 109,500 per kg (23.03.2012 to 22.03.2013); and Rp 102,200 per kg (23.03.2013 to 22.03.2014)
Aluminium foil food containers/ aluminium trays and plain lids	19.01.2010	Investigation terminated on 14.06.2010 without recommendation to impose a safeguard measure
Wire nails and staples and wire of iron or non alloy steel (not plated)	05.11.2008	Imposition on 07.10.2009 of safeguard measures for three years: 145% (01.10.2009 to 30.09.2010); 115% (01.10.2010 to 30.09.2011); and 85% (01.10.2011 to 30.09.2012). Various listed developing countries are excluded from the measure
Dextrose monohydrate (DMH)	14.05.2008	Imposition on 07.09.2009 of safeguard measures for three years from 24 August 2009 to 23 August 2012: first year: Rp 2,700 per kg; second year Rp 2,400 per kg; and, third year Rp 2,100 per kg. Various listed developing countries are excluded from the measure
Porcelain and non-porcelain ceramic tableware	05.06.2008	A safeguard measure in place from 4 January 2006 to 4 January 2009 was extended for a further three years (to 3 January 2012). The rate for the first year is Rp 1,200 per kg; second year: Rp 1,150; and third year: Rp 1,100 per kg. Various developing countries are excluded from the measure

Source: Notifications to the WTO Committee on Safeguards; and additional information provided by the authorities.

3.1.7 Standards and technical regulations

3.53. There have been no changes to the institutions responsible for the setting of national standards (Standard Nasional Indonesia (SNI)) since Indonesia's previous Review, or to the procedures to be followed. The authorities indicated that a Standardization and Conformity Assessment Act is being drafted.

3.54. The National Standardization Agency of Indonesia (Badan Standardisasi Nasional, BSN) remains the governmental institution responsible for coordinating and facilitating standard setting. BSN is also the contact point for cooperation with international standard setting bodies. BSN establishes guidelines for standard development approved by the Technical Management Board for Standard Development (MTPS).[25] This Board comprises experts as well as representatives from regulators, and consumer and producer associations. Technical Committees (TCs) within specific ministries are responsible for the drafting of standards within their spheres competence; the TC chairs and secretariats are appointed by BSN.[26] TCs comprise representatives from government, consumer associations, experts, and industry. The Indonesia Standardization Society (MASTAN) is an independent body open to public membership, whose objective is to broaden stakeholders' participation in the development of national standards.

3.55. The process of developing SNIs generally follows five phases: programming; drafting; national consensus and finalization; the establishment of the SNI; and maintenance of the SNI.[27] The TC submits proposals for new or revised standards to the BSN based on its stakeholder's needs. The BSN reviews the proposal and, if necessary, coordinates with the TC to ensure it is aligned with the TC's scope, before submitting it to the MTPS for approval. Approved proposals are put on the National Programme for Standard Development (PNPS). A draft SNI is then prepared by the TC, which may invite other stakeholders to provide inputs, and is sent to the BSN for circulation to solicit comments, and is posted on the BSN website for comments by MASTAN members (draft (unless draft standards that are identical to international standards are directly subject to ballot approval). Technical experts and other interested parties are invited to examine draft standards and their opinions are taken into account in the redrafting stage for voting on the BSN website. The final draft is subject to electronic ballot approval by the BSN, and information about the issuance of the standard is published on the BSN website (http://websisni.bsn.go.id). The authorities indicated that they have been making efforts to align national standards with international ones and that more than 50% of Indonesian standards are now harmonized.

3.56. The relevant TCs are responsible for periodic reviews of standards. The authorities noted that standards should be reviewed no longer than five years after they are issued. Following the review, the TC may propose revision or withdrawal of a standard if necessary.

3.57. SNIs are voluntary. However those related to national security requirements, the prevention of deceptive practices, protection of human health or safety, animal or plant life or health, and the environment may be adopted to be mandatory.

3.58. Responsibility for the formulation of mandatory SNIs (technical regulations) is with the ministry or agency in charge of the area to be regulated. This ministry/agency is responsible for undertaking a cost/benefit analysis of developing a technical regulation, considering its proposed objectives, consumer needs, and technical infrastructure requirements. It submits the proposal for a technical regulation to BSN to be adopted in the National Programme for Technical Regulations by a Board comprising members from different ministries and associations. There follows a drafting period, involving relevant stakeholders. The draft technical regulation is then notified to BSN and forwarded to the WTO Secretariat. Technical regulations are issued by the relevant ministry or agency and enter into force six months after notification to the WTO.

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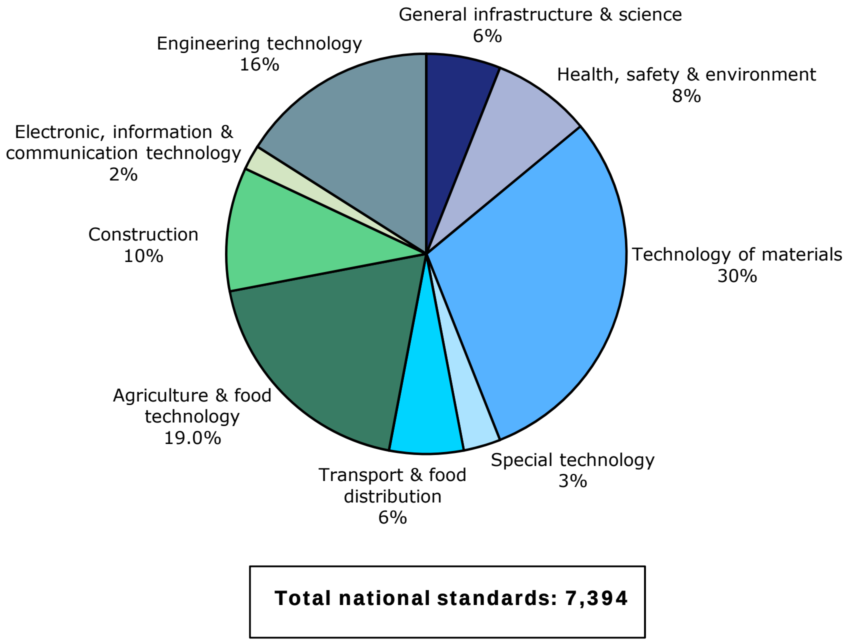
[25] As at end 2012, ten guidelines had been approved. The authorities noted that these are all based on international directives.

[26] The authorities noted that the main Ministries involved in standard setting are: Industry, Agriculture, Energy and Mineral Resources, Forestry, Fisheries and Marine Affairs, the Environment, and the National Agency for Drug and Food Control within the Department of Health.

[27] These steps are set out in National Standardization Guideline (PSN 01:2007 The Development of SNI).

3.59. As at December 2012, there were 7,394 approved SNIs (Chart 3.3): 97% voluntary, and 3% (i.e. 254) mandatory technical regulations (there were 211 technical regulations at the time of Indonesia's previous Review). The 254 technical regulations are from the Ministry of Industry (79); Ministry of Energy and Mineral Resources (19); Ministry of Marine and Fisheries (80); Ministry of Public Works (57); Ministry of Transportation (14); NFADC (4); and Ministry of Agriculture (1). The authorities indicated that all SNIs are published on the SNI Information System (SISNI) (http://websisni.bsn.go.id).

Chart 3.3 Composition of Indonesian National Standards, 2007-12



Source: Indonesian authorities.

3.1.7.1 Notifications and specific trade concerns

3.60. The BSN is Indonesia's enquiry point and notification body responsible for the implementation of the WTO TBT Agreement. Over the review period, Indonesia made 52 notifications to the TBT Committee of proposed and adopted technical regulations (excluding revisions and addenda). The BSN has established a database for the submission of online enquiries from domestic and foreign stakeholders, as well as a TBT information system. The latter includes Indonesian notifications, incoming notifications from WTO Members, and a list of technical regulations.[28]

3.61. Most of the specific concerns about Indonesia's measures were raised over the current review period (9 during 2007-12, out of 11 since 1995); these related to:

- a new requirement for rubber hoses for LPG gas stoves to be orange. This was raised by the European Union;
- whether a new regulation on zinc coated steel sheet, intended to protect consumers, should apply to certain intermediate goods used in car manufacturing and consumer electronic goods. This was raised by the Republic of Korea;
- the introduction of mandatory certification for hot-rolled steel sheets and coils and zinc-aluminium-coated steel plates and electrolysis-tin-coated thinsteel sheets. Concerns were

[28] BSN online information. Viewed at: http://tbt.bsn.go.id/index.php/notif/usulan/pub/en.

raised by Japan, the Republic of Korea, the European Union, and Chinese Taipei about the rationale for the measure and its implementation, including conformity assessment procedures;

- transparency in the development of a new regulation regarding trade in Halal products, and the absence of a notification to the TBT Committee before its entry into force. Raised by the United States;

- a new requirement limiting the granting of distribution licenses for food, food supplements, drugs, and cosmetics sourced from or contained "un-halal" substances and/or alcohol to emergency situations only. This was raised by the United States and the European Union, which also observed that the measure was not notified to the TBT Committee before entering into effect. The measure was later replaced by a labelling requirement, which was not contested;

- labelling requirements for certain imported goods prior to their entry into the Indonesian customs area, including a requirement for importers (and domestic producers) to submit a sample label to the Ministry of Trade in order to obtain a certification of labelling in the Indonesian language. The European Union, Australia, and the United States argued that these measures were more burdensome than necessary to achieve the stated objectives of surveillance and consumer information, and asked Indonesia to consider other options. Concern was also expressed that this measure had not been notified to the TBT Committee prior to its entering into effect;

- a draft modification to the technical regulation on food categories, raised by Mexico and South Africa; and

- a draft technical specification and mandatory SNI for toy safety raised by the United States and the EU. Both Members raised issues relating to conformity assessment procedures and transparency.

- Import permit regulations for horticultural products from the ministries of Agriculture and Trade raised by the European Union, the United States and South Africa.

3.1.7.2 Testing, inspection, and certification

3.62. Standards are implemented through conformity assessment procedures, including accreditation and certification systems. The National Accreditation Body (Komite Akreditasi Nasional (KAN)) is responsible for accrediting conformity assessment bodies, including laboratories, inspection bodies, and certification bodies.

3.63. KAN is a signatory member of various regional and international mutual recognition agreements (MRAs) such as the Asia Pacific Laboratory Accreditation Cooperation (APLAC), Pacific Accreditation Cooperation (PAC), International Laboratory Accreditation Cooperation (ILAC) and International Accreditation Forum (IAF). Through these MRAs, the equivalence of accredited test reports and certifications from overseas partners are recognized.

3.64. Domestic or overseas producers may apply to product certification bodies within Indonesia accredited by KAN (and, if applicable, appointed by the ministry responsible for the respective technical regulation). For a sub-licence to use the SNI mark, foreign companies also have the option of applying for sub-licences to foreign product certification bodes (FPCBs) within their own country that have been accredited by their domestic accreditation bodies, when there exist a Mutual Recognition Agreement (MRA) between Indonesia and the respective country. The authorities indicated that as at January 2012, 360 producers from 33 overseas jurisdictions held such sub-licences.[29]

[29] These jurisdictions are: Australia; Bangladesh; Brazil; Belarus; Belgium; China; Fiji; Hong Kong, China; Chinese Taipei; Germany; Hungary; India; Italy; Japan; Jordan; the United Kingdom; Malaysia; Egypt; Norway; France; Poland; Portugal; Russia; Singapore; South Korea; Spain; Switzerland; Sri Lanka; Thailand; Turkey; Ukraine; United States; and Viet Nam.

3.1.7.3 Market surveillance

3.65. In general, market surveillance is carried out by the Directorate of Supply Goods and Services within the Ministry of Trade. However for technical regulations, market surveillance is the responsibility of the institution which is designated in the technical regulation itself. These individually designated institutions must coordinate their activities with the Ministry of Trade and must also comply with the rules on Ministry of Trade market surveillance procedures.[30]

3.1.8 Sanitary and Phytosanitary Measures

3.66. There have been no changes to Indonesia's five main regulators for food safety, animal health and plant health since 2007. The Indonesian Agricultural Quarantine Agency (IAQA), the Directorate-General of Livestock and Animal Health, and the Directorate-General of Horticulture fall under the responsibility of the Ministry of Agriculture. The Fish Quarantine and Inspection Agency (FQIA) is part of the Ministry of Marine Affairs and Fisheries. The National Agency for Drug and Food Control (BPOM) falls under the President's responsibility.

3.67. All SPS-related regulations are issued at central government level, following coordination with sub-national governments. The IAQA is Indonesia's national enquiry point and national notification authority for SPS matters. The IAQA has 52 animal and plant quarantine stations at 151 entry points, while the FQIA has 47 fish quarantine stations at 77 entry points throughout the country.

3.68. The main laws concerned with food safety, and animal and plant health are: Law No. 16/1992 on Animal, Fish and Plant Quarantine; Law No. 7/1996 on Food; Law No. 31/2004 on Fisheries; Law No. 18/2009 on Animal Husbandry and Animal Health; and, Law No. 13 of 2010 on Horticulture. A new food law has been drafted and is expected to receive Presidential assent by end 2012. Information was not available on the main changes likely to be introduced.

3.69. Over the period January 2007 to October 2012, Indonesia made 26 notifications to the SPS Committee (excluding revisions), most of which were regular notifications (Table 3.11). Seven regular notifications were notified after the SPS measure had entered into force.[31]

Table 3.11 SPS measures notified by Indonesia, 2007-12

	No. of notifications to the SPS Committee
Total regular and emergency notifications	26
Regular notifications	23
Emergency notifications	3
Objective of notifications[a]	
Food safety	9
Animal health	12
Plant protection	10
Protect humans from animal/plant pest or disease	14
Protect territory from other damage from pests	15

a Most notifications contain more than one objective.

Source: WTO online SPS Information Management System. Viewed at: http://spsims/.wto.org.

3.70. Over the review period, specific concerns have been raised in the SPS Committee about: import restrictions on pork products due to influenza A/H1N1 (raised by Mexico and supported by Australia, Brazil, Canada, the Dominican Republic, and the United States); new meat import conditions (raised by the European Union); import restrictions on poultry meat (raised by Brazil); import restrictions on beef and recognition of the principle of regionalization (raised by Brazil); and

[30] These procedures are set out in Ministry of Trade Regulation No. 20/M/-DAG/PER/5/2009.

[31] See WTO documents G/SPS/N/IDN/44, 1 March 2011; G/SPS/N/IDN/46, 7 May 2012; G/SPS/N/IDN/47, 7 May 2012; G/SPS/N/IDN/48, 7 May 2012; G/SPS/N/IDN/49, 7 May 2012; G/SPS/N/IDN/53, 13 July 2012; G/SPS/N/IDN/54, 13 July 2012.

Indonesia's port closure (raised by the United States and supported by Australia, Canada, Chile, the EU, Japan, the Republic of Korea, New Zealand, and South Africa).

3.1.8.1 Selected SPS-related import requirements and restrictions

3.1.8.1.1 Processed food

3.71. All processed food products (imports and domestic production) for trade in retail packaging must be registered with the National Agency for Drug and Food Control (BPOM) to ensure that they comply with regulations relating to safety, quality, nutrition, and labelling. Registration involves submission to BPOM of product information as well as samples for testing by either government laboratories or laboratories accredited by (or institutions acknowledged by) the national Accreditation Committee. Since 2008, import approval from the head of BPOM has been required for each imported shipment of processed food, raw food materials, food additives, processing aids, and food ingredients.

3.1.8.1.2 Live animals, meat and dairy products

3.72. Imports of live animals and animal products are governed by Law No. 18/2009 on Animal Husbandry and Animal Health and its implementing regulations (Minister of Agriculture Regulations Nos. 50/2011, 51/2011 and 52/2011, as well as Minister of Trade Regulation No. 24/2011). Indonesia requires foreign companies that export animal derived products to Indonesia to prelist their establishments with the Indonesian Ministry of Agriculture. All imported meat and dairy products (except pork) must be accompanied by a halal certificate issued by an approved halal certifying body. The Indonesian Islamic Council (MUI) is responsible for approving Islamic certifying centres in foreign countries. This involves the submission of an application followed by an on-site review by the Indonesian authorities.

3.1.8.1.3 Horticulture

3.73. In 2010, Indonesia enacted a new Law on Horticulture (Law No. 13/2010). According to an external source, the law requires importers of horticultural products to ensure the safety aspect of the imported food, the stock availability of domestic products, and the production and consumption targets of horticultural products. In addition, importers must meet standards for packaging and labelling, and requirements for safety and protection for the health of humans, animals, plants, and the environment.[32]

3.74. Regulations to implement the new law have tightened up import quarantine procedures to prevent the spread of fruit fly. Under previous rules (from 2006), importers of fruit and vegetables had to submit an import plan to the Head of Operational Plant Quarantine prior to loading the goods in the country of origin. [33] In addition, imports of fresh fruit could only enter Indonesia through one of seven designated ports. New regulations relating to fresh fruit and vegetables (MOA Regulation 42/2012) and on bulbs (MOA Regulation 43/2012) limit the number of permitted entry points to three sea ports (in Makassar (Soekarno-Hatta port), Surabaya (Tanjung Perak port) and Medan (Belawan port), one international airport, and free-trade zones. Responding to certain exporter concerns that Jakarta's main port (Tanjung Priok) was excluded from the permissible list of entry ports, port restrictions do not apply to products imported from fruit fly-free sites, and countries with recognized food safety systems (Australia, Canada, New Zealand, and the United States).[34] Recognition of food safety systems for fresh foods of plant origin is governed by Minister of Agriculture Regulation No. 88/PP.340/12/2011. The authorities noted that in order for a country's food safety control system to be recognized by Indonesia, the competent authority from that country must apply to the Indonesian Minister of Agriculture (the application form is annexed to the regulation), who will appoint a team to review the application and conduct on-site verification in the applicant country.

[32] USDA Foreign Agricultural Service GAIN Report No. ID1031, 5 November 2010. Viewed at: http://gain.fas.usda.gov.

[33] The import plan had to contain details of the amount, type of product, brand, type of packaging, type of transportation, container information, country of origin, entrance port.

[34] Ministry of Agriculture Regulation Nos. 42/2012 and 43/2012.

3.2 Measures directly affecting exports

3.2.1 Export procedures

3.75. Minister of Trade Regulation No. 13 (2012), which entered into force in 2012 sets out export procedures as well as the authority of the Minister of Trade to impose export restrictions and prohibitions. It replaces Decree of the Minister of Industry and Trade No. 588 of 1998 (and its various amendments). Exported goods are categorized into (a) free exported goods; (b) restricted exported goods; and (c) prohibited exported goods. Free exported goods may be exported by individuals, institutions and business entities. Restricted exported goods are regulated through specific Ministerial Regulations, the provisions of which vary according to the product. Prohibited exported goods are regulated by Minister of Trade Regulation No. 44 (2012) (see below).

3.76. Various export permits and authorizations are required.[35] For all commercial exports, exporters must submit a declaration to the Directorate-General of Customs and Excise (DGCE), together with a commercial invoice, airway bill or bill of lading, packing list, letter of insurance, and export licence if required. The timeframe for submission of these documents is any time from seven days prior to departure to just before the departure of the export. Export documentation (excluding licences) may be provided electronically through Indonesia's national single window (INSW), as long as the goods are leaving through one of the customs points where the system is operational. The INSW is being upgraded to integrate export licences. Any export duties levied (see below) must be paid at the time documentation is submitted.

3.2.2 Export prohibitions, restrictions, and licensing

3.2.2.1 Export prohibitions

3.77. The Minister of Trade has the authority to prohibit exports by reason of: (a) a national security or public interest threat (including for social, cultural, and moral reasons); (b) protection of intellectual property rights; (c) protection of human life and health; (d) protection of the environment and ecology; and (e) the signature and ratification of international treaties or agreements by the Government. Export prohibitions in effect as at end 2012 are listed in Table 3.12. Indonesia does not prohibit exports to any specific countries.

3.78. As envisaged in Ministerial Regulation No. 34 of 2009, the Government of Indonesia will prohibit mining companies from exporting mineral ore products (currently subject to export licensing and taxes) as of 2014, when they will be required to undertake refining activities onshore.

Table 3.12 Export prohibitions, 2012

Product	Rationale
Raw Rubber	Not provided
Certain wood products including raw and semi-processed rattan	Support domestic processing industry and prevent smuggling
Fish eggs and fry	Not provided
Certain scrap iron and metal	Implementation of commitments under the Basel Convention
Certain mining products	Environmental protection. Implementation of commitments under the Basel Convention

[35] Minister of Trade Regulation No. 13 of 2012. Viewed at: http://rulebook-jica.ekon.go.id/english/4708_13_M-DAG_PER_3_2012.html. Individual exporters must have a taxpayer identification number and other documents required under specific legislation. Institutions or businesses exporting restricted or non-restricted goods must have: a trading business permit (SIUP) or business permit from the technical ministry/non-ministerial government institutions/agencies; company registration; taxpayer identification number; and other documents required under the legislation. To export prohibited goods, business/institutional entities also need: recognition as a registered exporter by and export approval from the Ministry of Trade; a surveyors report; a certificate of origin; and/or other documents required under legislation.

Product	Rationale
Various animals, birds, reptiles, insects, fish, crustaceans, and plants	Implementation of commitments under the CITES Convention
Sand, soil and top soil	Environmental protection
Subsidized urea fertilizer	Improve the effective control of fertilizer from abuse and diversion, and maintain the national availability of fertilizer

Source: Regulation of the Minister of Trade No. 44, 2012 Concerning Goods Subject to Export Prohibition; Regulation of the Minister of Trade No. 48, 2012 Concerning Provisions on the Export of Non-Subsidized Urea Fertilizer; and Regulation of the Minister of Trade No. 2, 2007 Concerning Prohibition of Export of Sand, Soil and Top Soil. Viewed at: rulebook-jica.ekon.go.id. Additional information provided by the authorities.

3.2.2.2 Export restrictions and licensing

3.79. The Minister of Trade may restrict exports for the following reasons: (a) to protect national security or public interest; (b) to protect human health, animals, plants or the environment; (c) the existence of international treaties or agreements signed and ratified by the Government; (d) limited supply in the domestic market or for effective conservation; (e) limited capacity of the market in the country or export destination area; and/or (f) limited availability of raw materials needed by processing industries.[36] Export licences may be obtained through Indonesia's single window facility (INSW). All products subject to export licensing are listed in Table 3.13. Exporters must obtain an authorization to export from the Director-General of Foreign Trade (DGFT) within the Ministry of Trade (MOT); generally, this is contingent upon obtaining a recommendation from another ministry. However, the basis for granting or refusing these recommendations is unclear. Export licences are required for exports of bird nest to China.[37]

Table 3.13 Export restrictions and licensing, 2012

Product	Rationale and requirements
Tin bar	Rationale: (a) prevent excessive exploitation and environmental damage; (b) support sustainable use; (c) fulfil domestic demand; (d) boost competitiveness and improved quality of tin exports. Requirements: tin may only be exported by entities recognized as "ET-Tin" by DGFT. Recognition is valid for three years (extendable) and is, *inter alia*, contingent upon the entity obtaining a recommendation from the local Governor from where the tin originates. Pre-shipment inspection by an authorised surveyor is required.
Rattan products (non-prohibited)	Not provided
Mineral ore products	Rationale: (a) prevent excessive exploitation and environmental damage; (b) fulfil domestic demand; (c) develop the competitiveness of the downstream industry; (d) increase investment in smelter construction and provide job opportunities; and (e) improve surveillance of the mining process and collection of royalty payments. Requirements: exports of 61 mining products may only be exported by mining business permit holders, recognized as registered exporters of mining products. These products are also subject to export duties of 20% (see below). Applications to be recognized as a registered exporter must be made to DGFT, and *inter alia*, must include a recommendation from DG Mineral and Coal (Ministry of Energy and Mineral Resources). Mining companies must submit a work plan for processing and purification development prior to 2014.

[36] Minister of Trade Regulation No. 13 of 2012 (Article 4).
[37] Minister of Trade Regulation No. 51 (2012). Viewed at: http://rulebook-jica.ekon.go.id/English/4827_51_M-DAG_PER_7_2012_e.html.

Product	Rationale and requirements
	Recognition as a registered exporter is valid for two years. Registered exporters must apply in writing to the DGFT for approval to export each shipment. These approvals also require a recommendation from the DG of Mineral and Coal specifying the product, exported amount, duration, port of loading, and export destinations of product. Pre-shipment inspection by an authorized surveyor is required, at the cost of the exporter. Registered exporters must submit monthly written reports to the DGFT.
Non-subsidized urea fertilizer	Rationale: ensure availability of fertilizer for the domestic market and put in place effective controls to prevent abuse and diversion of subsidized urea fertilizer. Requirements: export of non-subsidized urea fertilizer may only be undertaken by certain State-Owned Companies approved by DGFT.
Non-pharmaceutical precursors	Rationale: combat illicit international narcotic and psychotropic distribution, given that precursors may be misused as raw or auxiliary materials in the black manufacture of narcotic and psychotropic drugs. Requirements: listed types of non-pharmaceutical precursors may only be exported by a company recognized as a registered exporter by the Minister of Trade. Companies must submit written applications to DGFT, *inter alia*, attaching a recommendation from DG Manufacturing Industry Base (Ministry of Industry). Registration is valid for 3 years (extendable). For each export, registered exporters must obtain an approval from DGFT, which is based on recommendations from the National Narcotics Agency and the Indonesian police. Approval to export is valid for 180 days (non-extendable). Registered exporters must notify a national shipment plan, and each shipment must be verified by an appointed surveyor. Registered exporters must also submit export reports to the Ministry of Trade every three months.
Silver and gold	Rationale: (a) minimize environmental damaged from uncontrolled mining; (b) meet domestic demand, increase exports of higher-value-added gold and silver products; (c) create business certainty with respect to export rules; and (d) increase investment and provide job opportunities Requirements: exporters require an approval letter to export silver and gold. To obtain an approval letter, exporters must apply to the Director of Export Industry and Mining Products within the Ministry of Trade, with an export plan as well as a recommendation from the Director of Textiles and Various (Ministry of Industry). The approval letter is valid for six months (extendable). Exporters must report on export implementation regardless of whether exports have been made.
Metal rest and scrap[a] (non-prohibited)	Rationale: availability and adequacy of raw materials for the establishment and development of national industries, especially metal and machinery industries Requirements: exporters of certain metal rest and scrap (affecting 18 tariff lines) require a letter of approval. To obtain an approval letter, exporters must submit an application to the Director of Industry and Mining Export Products (Ministry of Trade), *inter alia*, attaching a recommendation from the Director of Metal Base Material Industry (Ministry of Industry). The approval letter is valid for six months (extendable). Exporters must report on export implementation regardless of whether exports have been made. Certain metal rest and scrap items may only be exported from Batam Island (6 tariff lines).
Class C Minerals other than sand, soil and top soil	Rationale: to minimize environmental damage caused by uncontrolled mining and prevent illegal exports. Requirements: pre-shipment inspection by Prior to export, Class C Minerals must be verified by a surveyor approved by DGFT.
Raw Diamonds	Rationale: implementation of commitments under UN Resolution N° 55/56 (2000) on the prevention of violations of trade of diamonds related to armed conflicts and resulting Kimberly Process Certification Scheme (KPCS).

Product	Rationale and requirements
	Requirements: raw diamonds may only be exported by exporters approved by DGFT, which, *inter alia*, is contingent upon obtaining a letter of recommendation from DG Mineral and Coal (Ministry of Energy and Mineral Resources). Such recognition is for three years (extendable). Raw diamonds may only be exported to KPCS participants. Each consignment is subject to pre-shipment inspection and requires the approval of DGFT.
Oil and Gas	Rationale: (a) sovereignty (Constitution, Article 33(3)); (b) sustainable and efficient management of oil and gas as non-renewable natural resources; (c) prevention of excessive exploitation and environmental damage; (d) ensure the exploitation of these resources contributes to the prosperity and welfare of the Indonesian people; and (e) supply domestic demand. Requirements: exporters must be approved by DGFT, which, *inter alia*, is contingent upon their obtaining a letter of recommendation from DG Oil and Gas (Ministry of Energy and Mineral Resources).

a Rest is defined as products that have not been used up in production, or goods that still have the same characteristics but their function has changed.

Source: Minister of Trade Regulations: No. 10 (2005), as amended by No. 25 (2008); No. 3 (2007); No. 29 (2012) as amended by No. 52 (2012); No. 45 (2012); No. 46 (2012); No. 47 (2012); No. 48 (2012); and No. 78 (2012).

3.2.2.3 Export taxes

3.80. Exports are zero-rated for VAT and are exempt from Luxury and Excise Taxes.

3.81. Over the review period, new export taxes have been introduced on leather and wood; crude palm oil; raw cocoa; and mineral ore products (Table 3.14). The main objective of these measures is to encourage value-added processing within Indonesia. Secondary considerations are to secure domestic supply and to safeguard the environment. According to the authorities, this policy seems to have been successful in achieving its objectives. They noted, for example, that the export tax on raw cocoa has succeeded in attracting more than US$200 million in FDI.

Table 3.14 Export taxes, October 2012

Product (date introduced)	Tax Rate
Palm oil, crude palm oil and its derivative products (2011)	Export duties range from 0-40%. Reference prices used to determine the export price are based on the average rates in Kuala Lumpur, Rotterdam, and Jakarta.
Leather and wood (2009)	Rates range from 2-25%
Raw Cocoa (2010)	Export duties range from 0-15%. The reference price for cocoa beans is the New York Board of Trade average c.i.f. price.
Mineral ore products (2012)	20% export tax. The Ministry of Finance (MOF) determines the export benchmark price, based on prevailing domestic factors and international prices. MOF coordinates with the Ministry of Energy and Mineral Resources and consults with mining associations and exporters.

Source: Regulation of the Minister of Finance No. 75 (2012) Concerning Stipulation of Exported Goods Subject to Export Levy and Rate of Export Levy. Viewed at: rulebook-jica.ekon.go.id. Information provided by the authorities.

3.82. With respect to export taxes on mineral ore products, an external source has noted that raising the tax to 50% in 2013 is being discussed, in order to discourage the front-loading of production before the export ban on unprocessed ores enters into effect in 2014 (see above).[38]

3.83. Export taxes are collected by the central Government. They accounted for an estimated 1.9% of total tax revenue in 2012.

3.2.2.4 Export assistance

3.2.2.4.1 Free-trade zones (FTZs)

3.84. Indonesia has one FTZ, situated in the Riau Islands of Batam, Bintan and Karimun. These islands are located to the south of Singapore and have a long history of strong commercial links with Singapore and Malaysia.[39] They were granted Free Port and Free Trade Zone status in 2007 for a period of 70 years, having previously had the status Bonded Zones Plus (see below).[40] The main business sectors operating within the FTZs are technology, medical equipment and electronics, telecommunications, agri-business, textiles, industrial assembly and fabrication, shipbuilding, tourism, and oil and energy services.[41]

3.85. FTZs are governed by Law No. 1 (2000) on Free Trade Zones and Free Ports, as amended in 2007. They are geographically distinct areas located near sea ports and airports, where imported goods may be stored, repacked or processed, free from the imposition of import duties, VAT, Luxury Tax and Excise Tax. Import and export documentation is simpler than for regular imports.

3.86. A 2009 law on Special Economic Zones (see below) foresees that the existing FTZs will either expire within a pre-determined period or will become special economic zones, with broader activities (see below). Once FTZ's have changed status or expired, Law No. 1 (2000) will become null and void.

3.2.2.4.2 Bonded zones

3.87. As at end 2012, Indonesia had 1,557 bonded zones (also known as export processing zones). Minister of Finance Regulation No. 147/2011 (as amended) governs bonded zones, and is implemented by various DGCE regulations.[42]

3.88. Bonded zones are buildings or confined areas used to process goods and materials for export, including design, engineering, sorting and packaging activities. Goods may be imported into a bonded zone and then re-exported without the payment of import duties. Exemptions from VAT, excise and luxury taxes apply. Raw materials purchased from local companies are also exempt from the VAT and Luxury Tax. In addition, businesses are exempt from payment of Corporate Income Tax (see Chapter 2). Companies licensed to operate in bonded zones must export at least two thirds of their production. Importers selling to the domestic market may defer payment of taxes until imported goods are released from the bonded zone into the domestic market. A Bonded Zone Plus has simpler business licensing provisions and import procedures.

3.89. Foreign and domestic investors must apply to the Investment Coordination Board (BKPM) to establish projects in bonded zones. Foreign investors in bonded zones are usually granted privileges for building manufacturing plants in these zones. Incentives include 100% foreign ownership for five years and 95% ownership thereafter, provided 100% of production is exported.

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[38] Economist Intelligence Unit online information. Viewed at: http://portal.eiu.com/index.asp?layout=displayVw&article_id=679009652&geography_id=1810000181&region_id=.

[39] The Riau Islands are Indonesia's part of the Indonesia-Malaysia-Singapore growth triangle (IMS-GT), a partnership arrangement between the three countries signed in 1994 to attract investment to the region by bringing together the different competitive strengths of each country, supported by enhanced infrastructural connectivity. For more information see Wong Poh Kam and Ng Kwan Kee (2009).

[40] Batam was granted FTZ status through Government Regulation No. 46 of 2007. Viewed at: http://www4.bkpm.go.id/file_uploaded/Government_Regulation_No_46_of_2007.pdf.

[41] Riau Islands FTZ online information. Viewed at: http://www.riauislandsftz.com.

[42] Minister of Finance Regulation No. 147/2011 amended by Regulation No. 255/2011 and No. 44/2012. DGCE implementing regulations are: No. 57/2011 as amended by No. 2/2012 and 17/2012.

3.2.2.4.3 Export-orientated production entrepôts (EPTEs)

3.90. EPTEs (otherwise known as stand-alone export-processing units) are the place or building of an industrial company enjoying special tax treatment. They are governed by Minister of Finance Decree No. 855/1993 (as amended). Goods may be imported into an EPTE and re-exported without payment of tariffs and VAT. EPTEs may divert up to 25% (by volume) of their products to Indonesian customs areas, where they are subject to normal procedures and customs duties. Applications for EPTE status are made to the Minister of Finance through the Directorate-General of Customs and Excise.

3.2.2.4.4 Special economic zones (SEZs)

3.91. A key objective in Indonesia's MasterPlan and the 2007 Investment Law is to develop special economic zones (SEZs) throughout the country as centres of economic activity to enhance the competitiveness of Indonesian business and encourage value-added processing activities and exports (see Chapter 2). These zones, must have distinct geographical boundaries, be situated in strategic positions (i.e. close to trade and or maritime routes), and/or be supported by a business cluster or key sector, as well as being linked into well-developed external infrastructure. The concept is that there should be various zones located within the SEZ, including: export-processing zones (assembly and logistics for exports); bonded zones (processing, warehousing, and logistics for goods destined for the domestic market and for export); industrial zones (processing and manufacturing for the domestic market); technology parks; and supporting activities (such as ports, hotels, and housing).

3.92. The Government enacted the Special Economic Zones Law in 2009. Under this law, SEZ proposals must be approved by a National Council, consisting of government ministers and heads of certain other government institutions, which has overall responsibility for administering SEZ's, as well as by the President. Individual SEZ designations are then set out in a Government Regulation. The private sector may be involved in putting forward proposals for and developing SEZs, funding their development and maintenance, and running business activities within them.

3.93. The 2009 law makes provision for various fiscal and non-fiscal incentives in order to attract investors. Fiscal incentives relate to corporate income tax; property tax; import duty, VAT, excise and luxury taxes and local taxes. Non-tax incentives include assistance relating to acquiring land, licensing, immigration, investment, and manpower. These incentives are to be further developed through implementing regulations. Information was not available as to whether any such regulations had been developed. The law specifies that with respect to employment, priority is to be given to Indonesian citizens.

3.94. As at end 2012, two special economic zones were being developed. The Government's objective is to have six in operation by 2014.

3.2.3 Export finance, insurance, and guarantees

3.95. In 2009, the state-owned Bank Ekspor Indonesia (BEI), which had provided pre-shipment and post-shipment financing facilities for exporters, was transformed into the Indonesia Eximbank, governed by new legislation.[43] Its mission is to "promote and develop national export products into excellent and highly competitive products by providing financing, guarantees and local and overseas insurance and consultation services for exporters and to contribute to the development of export-orientated small and medium-sized enterprises (SMEs)". It provides financing in areas that are not entered into by banks or commercial financial institutions (Table 3.15).

3.96. As at 31 December 2011, the value of export financing to 224 debtors was Rp 20,541.08 billion. Nearly half of this went to the industrial sector (particularly crude palm oil, textiles, and oil, gas and mining). Export guarantee values were Rp 347.85 billion, with 317 certificates issued. There were 22 buyers of export insurance for a value of Rp 38.58 billion).[44]

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[43] Export Financing Law (2009). Viewed at: http://www.setneg.go.id/index.php?option=com_perundangan&id=2195&task=detail&catid=1&Itemid=42&tahun=2009 (in Indonesian only).

[44] Indonesia Eximbank (2011).

3.97. The state-owned Asuransi Ekspor Indonesia (ASEI) offers export credit insurance to exporters for all products other than oil and gas, in the event that they do not receive payment from the buyer, and to banks, in the event that exporters fail to repay their loans. Commercial and political risks are covered.[45] ASEI may reimburse up to 85% of losses, while the remaining 15% is borne by the exporter. The premium is calculated based on country repayment risks; terms of payment associated with the transaction; and the credit term. In May 2012, ASEI established a Sharia Insurance Unit, offering sharia compliant insurance products. The authorities noted that there is no regulation forbidding domestic insurance companies (including ASEI) from providing their services to foreign clients.

Table 3.15 Eximbank services, 2012

Service	Product
Financing	
Domestic	Export investment loan Export working capital loan Bills discounting Supplier bill purchasing SME financing Import letter of credit Project financing Buyer's credit
Overseas	Project financing
Bank	Bank financing Export loan refinancing Export bills discounting
Guarantee and insurance	Indonesia Eximbank guarantee (standby letter of credit; tender guarantee/bid bond; advance payment guarantee; performance guarantee; payment guarantee; maintenance guarantee; and customs bond) Trade credit insurance
Consultation services	Export consultation services Export technical assistance

Source: Indonesia Eximbank Annual Report 2011. Viewed at: http://www.indonesiaeximbank.go.id/en/system/files/AR%202011.pdf.

3.3 Measures affecting productions and trade

3.3.1 Government procurement

3.98. There are no concrete figures on the total value of government procurement in Indonesia. However, the authorities indicated that around 30% of the state budget is allocated to procurement, with the Ministries of Public Works, Transportation, Energy and Mineral Resources and National Education generally accounting for the bulk of central government purchasing. According to external sources, on average 60% of fund available from development assistance is used for procurement.[46]

3.99. Indonesia became an observer to the WTO Government Procurement Agreement (GPA) in 2012. At the time of Indonesia's previous Review, a number of Members asked when Indonesia planned to adhere to the GPA. The authorities responded that Government intended to study GPA accession further.[47]

3.100. There is no centralized government procurement body in Indonesia. Public procurement is undertaken by numerous entities, including by the 34 national ministries; 28 national agencies;

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[45] Commercial risks include importer insolvency, importer default, and importer refusal to accept the goods. Political risks include prohibition of foreign exchange transfers, import quota restrictions, revocation of import licences, and acts of war or other hostile situations in the importing country.

[46] Transparency International and the Center for International Private Enterprise (2011).

[47] WTO document WT/TPR/M/184/Add.1, 16 October 2007.

33 provinces; 438 regencies; and 117 municipalities, as well as by state-owned enterprises. According to the OECD, given the substantial powers and public expenditures transferred to regions through its decentralization reforms, the task of monitoring its public procurement system is huge, and far more complex than in countries with a more centralized government.[48]

3.101. As a result of regulatory reforms in 2011 (see below), each procuring entity must organize its procurement arm into three separate units so as to introduce stronger management controls: a Budget Authority to plan and carry out procurements; a Procurement Service Unit to implement individual procurements (including defining tender specifications, evaluating bids, and awarding contracts); and a Project Result Receiver Committee to evaluate contracted outcomes.[49] A compulsory certification system for public procurement officials was introduced in 2003 to ensure a basic level of competency.[50] The authorities indicated that more than 10,000 procurement officials have been examined and certified. Officials are now also required to study international best practices.

3.102. Presidential Instruction No. 17/2011 made e-procurement mandatory as of 2012. Each entity must also set up its own electronic procurement services system (LPSE). As at mid-October 2012, 503 LPSEs had been established and over 97,500 auctions had been completed online, at a value of over Rp 152 trillion.[51] Procurement announcements with accompanying tender documentation for public tenders are available online at the Inaproc portal (in Indonesian only).[52]

3.103. The National Public Procurement Agency (NPPA), established in 2007 based on Presidential Regulation No. 106/2007 is responsible for: developing strategy, policies, and regulations; conducting monitoring and evaluation, and developing and implementing e-procurement; developing and improving the capacity of procurement practitioners; and providing advice, recommendations, and complaint resolution.[53] In December 2007, the Centre for the Development of Public Procurement which was under the responsibility of BAPPENAS, was subsumed under the NPPA's responsibilities.

3.104. The Indonesia Competition Commission (KPPU) is responsible for addressing tender conspiracies (bid rigging), which are prohibited under Article 22 of the Competition Law (see section 3.3.3.1). In carrying out its mandate, the KPPU regularly cooperates and exchanges information with the Anti-Corruption Commission (KPK) (see Chapter 2), and when cases arise, the KPPU will deal handle the collusion aspects of the case, while leaving corruption aspects to the KPK.[54]

3.3.2 Legislative and regulatory framework

3.105. Indonesia does not have a procurement law. The main source of procurement rules is Presidential Regulation No. 54/2010 (PR54), which entered into force on 1 January 2011, replacing previous regulations.[55] PR54 was revised by Presidential Regulation No. 70/2012 (PR70) which allows central government ministries and agencies to start their tendering processes in advance of budget disbursements, and sets out the main steps in the public procurement process (see below). An analysis of Indonesia's new procurement regime, as governed by PR54 was undertaken by Transparency International (TI) and the Centre for International Private Enterprise (CITE) in 2011, benchmarking it against APEC procurement standards. This analysis, *inter alia*, draws attention to

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[48] OECD document DAF/COMP/GF(2010)6, "Snapshot Assessment of Indonesia's Public Procurement System as at June 2007". Viewed at: http://www.oecd.org/development/aideffectiveness/39254688.pdf.

[49] Presidential Regulation No. 54/2010, Articles 8 and 11.

[50] Presidential Decree No. 80/2003.

[51] LKPP Smart Report. Viewed at: http://www.inaproc.lkpp.go.id (in Indonesian only).

[52] Inaproc online information. Viewed at: http://www.inaproc/kpp.go.id.

[53] Presidential Decree No. 106/2007.

[54] OECD Document DAF/COMP/GF(2010)6. Viewed at: http://www.oecd.org/development/aideffectiveness/39254688.pdf.

[55] Presidential Regulation No. 54/2010. Viewed at: http://www.setneg.go.id/index.php?option=com_perundangan&id=2593&task=detail&catid=6&Itemid=42&tahun=2010 (available in Indonesian only). PR54 replaces Presidential Decree No. 80/2003, as revised by Presidential Decree No. 8/2006.

the need for a comprehensive national procurement law and improved audit procedures. These issues were also highlighted in a 2007 OECD review.[56]

3.106. PR54 (as revised): (a) increases the limit for direct procurement (sole sourcing) from Rp 50 million to Rp 100 million (except for consultancy services); (b) drops the requirement for a bid security deposit in certain circumstances; (c) requires the disclosure of the estimated price of a tender; and (d) introduces direct appointment of one provider for goods and services that have a well-known price list, such as hotels.[57]

3.107. PR54 covers procurements: (a) by ministries, institutes, regional units, and other institutions funded from central or regional government budgets; (b) funded entirely or in part from domestic loans or grants received by the government; and (c) financed in part or entirely from international loans or grants. The boards of directors of state-owned enterprises have the freedom to regulate their own procurement, unless their purchases are financed by the central Government, in which case provisions in PR54 apply.[58]

3.108. Rules on bidding for procurement of goods and services are set out in appendices to PR54. There are three forms of contracting process: a public tender; direct appointment of one provider (used for emergency and defence situations and where prices are public available); and direct procurement (procurement of a maximum value of Rp 200 million). According to the authorities, public tenders are the standard form of procurement practice. Evaluation criteria need to be stipulated in the tender documents. According to external sources, while there are different evaluation methods, the most widely used gives price a weight of between 70% and 90% of the total evaluation. The main steps in the public procurement process are:

- announcement of pre-qualification process (if applicable, 15 working days);
- announcement of request for proposal (at least 7 days before proposals are due);
- tender clarification session to answer bidders' questions (at earliest 3 working days after invitation to tender);
- submission of proposals by bidders (at least 8 working days);
- opening and evaluation of technical proposals (no stipulated timeframe);
- opening and evaluation of financial proposals (no stipulated timeframe);
- announcement of winner (after financial evaluation is finished);
- period for objection (5 working days after announcement of winner and 5 more working days if there is an appeal); and
- award of contract and publication of the awardee's name, and minutes from the evaluation process (6 working days after announcement of winner).[59]

3.109. The authorities indicated that they have started to develop e-catalogues for purchases of certain goods, such as government vehicles, based on offers made by manufacturers.

3.110. Government policy is focused on developing the national market. As stipulated in PR54 (Article 104), foreign companies may only bid in cooperation with a national company (unless no national company has the ability to provide the goods and services requested) and only on bids that exceed a certain threshold: Rp 100 billion for construction services, Rp 20 billion for goods and other services and Rp 10 billion for consulting services. Information was not available on the number and value of contracts awarded to foreign companies. PR54 (Article 97) mandates the use

[56] OECD document DAF/COMP/GF(2010)6. Viewed at: http://www.oecd.org/development/aideffectiveness/39254688.pdf.
[57] Transparency International and the Centre for International Private Enterprise (2011).
[58] SOE Law No. 19/2003 and Ministry of State-owned enterprises Regulation No. 5/2008.
[59] PR70.

of domestic products in government procurement if there are providers offering goods or services with a local content exceeding 40%.

3.111. According to external sources, each procuring entity is required to establish a complaint mechanism to allow bidders to submit a written objection after the list of qualified bidders is published and after the winning bidder is announced, if they find a violation of the procedures, improper technical specifications, or abuse of authority by the respective Procurement Services Unit. These objections are reviewed by the Procurement Services Unit itself, within five working days of receipt of the objection. The only (and final) avenue for appeal is the head of the procuring entity, and the complainant must provide a bond equal to 1% (down from 2% as of 2012) of the value of the contract or a maximum of Rp 50 million. The bond is only returned if the complainant wins the appeal. The NPPA may provide advice to the head of the procuring entity during the appeal process but the final decision rests with the latter.

3.112. Other laws containing provisions on government procurement are the Construction Services Law (Law No. 18/1999), the Law on State-Owned Enterprises (Law No. 19/2003), and the Anti-Monopoly Law (Law No. 5/1999).

3.113. Indonesia no longer operates a countertrade policy, which was in place at the time of its previous Review. This policy linked procurement-related imports by ministries, public-sector institutions, and SOEs with exports of non-oil commodities.

3.3.3 State-trading, state-owned enterprises, and privatization

3.3.3.1 State-trading

3.114. Indonesia's latest WTO notification on state trading was in 2009 (new and full notification).[60] It covers the rice trading operations of the state logistics agency, Perum BULOG, which was established in 2003 as a state-trading enterprise with the purpose of supporting domestic rice producers and stabilizing the price of rice at consumer and producer levels (see also Section 3.3.4.2). Perum BULOG does not have a monopoly on the importation of rice, its role relates to its mandate to maintain a buffer stock of rice (between 5-10% of total monthly domestic production). When there are buffer stock shortages, the Government instructs Perum BULOG to import rice, and these imports are subject to customs duties. Perum BULOG does not export rice. Private companies may import rice but under licensing conditions (section 3.1.5.2). These imports are subject to customs duties.

3.115. The Government is considering expanding Perum BULOG's mandate as a buffer agent to include sugar and soybeans.

3.3.3.2 State-owned enterprises and privatization

3.116. At the time of Indonesia's previous Review, SOEs were estimated to account for around 40% of Indonesia's GDP. The legislation governing SOEs is Law No. 19/2003.

3.117. In 2012, Indonesia had 141 state-owned-enterprises, under the responsibility of the Ministry of State-Owned Enterprises, (139 in 2007).[61] These include 18 SOEs listed on the Indonesian stock exchange; 108 non-listed SOEs; and 15 "special purpose entities". In numerical terms, SOEs are most active in: manufacturing; agriculture, forestry and fishing; financial and insurance activities; and transportation and storage (Chart 3.4). The Government's share in its major SOEs, in terms of the value of their assets, is set out in Table 3.16. The authorities indicated that, in addition, several SOEs are directly controlled by the Ministry of Finance.

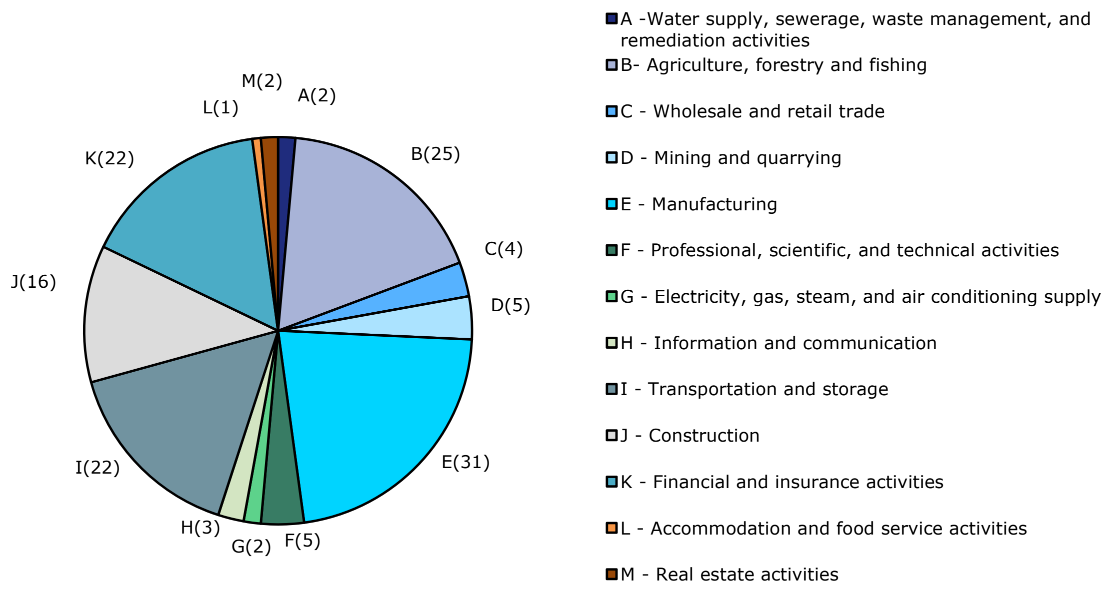
[60] WTO document G/STR/N/11/IDN, G/STR/N/12/IDN, 9 February 2009. Questions regarding this notification were posed by Australia, Turkey, and the United States in the WTO Working Party on State Trading Enterprises (WTO documents G/STR/Q1/IDN/11, 1 October 2009; G/STR/Q1/IDN/12, 5 October 2009; and G/STR/Q1/IDN/13, 21 October 2009). The questions from Australia and Turkey were responded to by Indonesia (WTO documents G/STR/Q1/IDN/14, 22 October 2009 and G/STR/Q1/IDN/15, 22 October 2009).

[61] For a list of SOEs, see Indonesian Government online information. Viewed at: http://indonesia.go.id/en/state-owned-enterprises.html.

3.118. According to the authorities, by the end of 2011, the state had partially divested ownership in various industries including: cement, telecommunications, mining, energy, pharmaceuticals, construction, highways, steel manufacturing, airlines, and banks. The authorities noted that Indonesia's privatization policy aims to promote SOEs sustainable growth, and hence privatization activities are influenced by the respective company's prospects and performance. It was also noted that Law 19/2003 restricts SOE privatization in certain sectors or activities, including state defence and safety; services provided for the public benefit; and prohibits SOE privatization in the natural resource sector. In addition, privatization may not take place where there is a legal requirement for SOEs to operate in a particular sector.

3.119. An SOE monopoly on the import of alcoholic beverages was terminated in 2010. Registered importers of alcoholic beverages are now allowed to import duty-paid alcoholic beverage products, which was previously the preserve of two state-owned companies (PT Perusahaan Perdagangan Indonesia (Indonesia Trading Corporation) (until 2007) and PT Sirinah (Persero)). Private companies must obtain an import permit from DGFT, which is contingent upon them having substantial import and distribution links. The permit is valid for three years (extendable). Each year the Ministry of Trade determines the type and amount of imports of alcoholic beverage products. Imports may only enter Indonesia through international airports and four designated ports and there are restrictions on distribution and sale of alcohol once it is within the customs territory. PT Sirinah (Persero) retains its import monopoly on duty-free alcoholic beverages.

Chart 3.4 SOEs based on sectors, 2011



Note: Figure in brackets refers to the number of SOEs. Classification based on Indonesian Standard Industrial Classification (KBLI) which refers to ISIC.

Source: Ministry of State-Owned Enterprises.

Table 3.16 Major state-owned enterprises, 2012

Firm	Activity	State ownership 2007 (%)	State ownership 2012 (%)
PT Perusahaan Listrik Negara	Electricity	100.00	100.00
PT Bank Mandiri Tbk	Banking	69.96	60.00
PT Bank BRI Tbk	Banking	57.57	56.75
PT Pertamina	Oil and gas	100.00	100.00
PT Bank BNI Tbk	Banking	76.36	60.00
PT Jamsostek	Insurance	100.00	100.00
PT Taspen	Insurance	100.00	100.00
PT Telkom Tbk	Telecommunications	51.19	53.24
PT Bank BTN Tbk	Banking	100.00	71.85

Firm	Activity	State ownership 2007 (%)	State ownership 2012 (%)
PT Pupuk Indonesia	Fertilizer	100.00	100.00
PT PGN Tbk	Oil and gas	55.33	56.97
Perum Pegadaian	Financial services	100.00	100.00
Perum Bulog	Logistics	100.00	100.00
PT Krakatau Steel Tbk	Steel	100.00	80.00
PT Semen Gresik Tbk	Cement	65.00	51.01
PT Jasa Marga Tbk	Highway	70.00	70.00
PT Garuda Indonesia	Airlines	100.00	69.14
PT Antam Tbk	Mining	65.00	65.00
PT Askes	Insurance	100.00	100.00
PT Bukit Asam Tbk	Mining	65.02	65.02
PT Pelabuham Indonesia II	Sea port management	100.00	100.00
PT Angkasa Pura I	Airport management	100.00	100.00
PT Angkasa Pura II	Airport management	100.00	100.00
PT Wijaya Karya Tbk	Construction	68.30	66.37

Source: Information provided by the Indonesian authorities.

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.120. The legal framework for competition policy in Indonesia remains Law No. 5/1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Competition Law).[62] Enforcement of the law is the responsibility of the Indonesia Competition Commission (KPPU). There have been no changes to the Competition Law since Indonesia's previous Review in 2007. An implementing regulation on merger review was issued by the Government in 2010 giving the KPPU new authority to supervise mergers and acquisitions.[63] The KPPU has published 22 guidelines to help stakeholders understand the Competition Law's various provisions.

3.121. The Competition Law covers the wide spectrum of anti-competitive behaviour.[64] It, *inter alia*, prohibits abuse of dominance as well as vertical restrictions on competition and any deals or contracts allowing for monopolies, oligopolies, price fixing, cartels, trusts, and geographical designations of markets between suppliers. The Law also prohibits business actors from conspiring with other parties (including government bodies, state-owned enterprises, and other private companies) to bid-rig in tender awards. Among the exemptions to the Competition law are agreements related to intellectual property rights and the production and marketing of goods and services "affecting the livelihood of society at large" as stipulated in law and as implemented by state-owned enterprises. Indonesia's competition legislation has recently been scrutinised in detail by the OECD, drawing on an early analysis by UNCTAD. The OECD notes that Indonesia's Competition Law contains all of the core elements that are necessary, in order to be fully effective. Nevertheless, it puts forward specific suggestions for strengthening and clarifying certain aspects.[65] The authorities also identified some shortcomings with respect to existing rules: the KPPU lacks the power to obtain evidence, which is particularly problematic for cartel-related cases; investigation time-frames are too short; penalties for bid-rigging (the bulk of the KPPU's work) are weak; and some legal provisions overlap and need to be rationalized.

[62] Law No. 5/1999. Viewed at: http://eng.kppu.go.id/law-and-regulation/competition-law/.

[63] Government Regulation No. 57/2010 on Merger that May Cause Monopolistic Practices and Unfair Business Competition. This implements Articles 28 and 29 of the Competition Law and stipulates that any mergers meeting a specified threshold must be notified to the KPPU within 30 days of the merger being effective.

[64] WTO (2007).

[65] OECD document DAF/COMP(2012)/REV1, 24 May 2012, "Competition Law and Policy in Indonesia".

3.122. The KPPU investigates anti-competitive practices on the basis of reports from the community, or on its own initiative. The maximum period from preliminary investigation until the execution of a decision is 180 days. The KPPU is authorized to impose administrative actions against any business actors who have violated the law.[66] Objections to the KPPU's decisions may be taken first to the District Court and thereafter appealed to the Supreme Court.[67]

3.123. Over the period 2007-10, the KPPU received 895 reports of anti-competitive practices.[68] It launched 162 preliminary investigations and undertook 14 own-initiative investigations (Table 3.17). Nearly 70% of the KPPU's cases during 2000-12 related to bid-rigging in procurement processes, with a peak in this type of case in 2007-10.[69] According to the authorities these cases may involve government officials as well as businesses. Other big cases have related to cartel activities with respect to aviation fuel surcharges, salt, cement, flour, cooking oil, telecommunications (relating to SMS tariffs); pharmaceuticals; and health checking services for Indonesian employees going abroad.

3.124. Own-initiative investigations are often based upon prior studies undertaken by the KPPU. The authorities indicated that they have looked into the logistics sector, rice distribution, telecommunications, pharmaceuticals, the retail sector, the oil and gas sector, and the air transport sector. These studies are publically available at their official website in Bahasa Indonesian.

Table 3.17 KPPU case-load, 2007-12

	Reported cases						Own-initiative cases					
	2007	2008	2009	2010	2011	2012	2007	2008	2009	2010	2011	2012
Verdicts/ decisions												
No indications	1	15	3	4	0	0	0	1	0	1	0	0
Behavioural changes	2	4	0	0	0	0	1	0	0	0	0	0
Guilty	24	41	26	28	6	2	1	1	5	2	4	0
Not guilty	1	6	1	7	3	1	1	0	0	0	0	0
Recommendations/ considerations	0	0	0	0	0	0	0	0	0	0	0	0
Ongoing cases	0	0	0	0	0	3	0	0	0	0	0	1
Total	28	66	30	39	9	6	3	2	5	3	4	1

Source: KPPU.

3.125. In addition to Competition Law enforcement responsibilities, the KPPU has a competition advocacy role. At the invitation of a ministry, or on its own initiative, it may undertake competition impact assessments of proposed or existing laws and regulations, and issue policy recommendations.[70] According to the OECD, over 2001-10, Indonesia issued 91 recommendations; one quarter were related to transport. Thereafter the main policy areas were telecommunications and trade policy. Regrettably, the proportion of the KPPU's recommendations adopted by Government appears to be declining.[71] To ensure the KPPU's recommendations have the greatest chance of being implemented, the OECD recommends adoption of a more systematic approach to integrate competition analysis into national law making, including making the KPPU's recommendations formally available to Ministers as part of the Cabinet process, as well as to Parliament at the time the bills are being debated. The OECD also suggests that substantial priority should be accorded to reviewing and reforming existing legislation to remove unnecessary

[66] These may take the form of: (a) an order to stop the anti-competitive agreement or activity; (b) the cancellation of a merger, consolidation, or share acquisition; (c) the imposition of compensation for damages; and (d) the imposition of administrative fines, which may range from Rp 1 billion to Rp 25 billion.

[67] For detailed case-handling procedures (including timeframes), see KPPU's online information. Viewed at: http://eng.kppu.go.id/enforcement/complaint/.

[68] KPPU (2011).

[69] In 2007, 23 out of 31 cases related to bid-rigging; in 2008, 52 out of 68; in 2009, 24 out of 35; and in 2010, 11 out of 13.

[70] Article 35(e) of the Competition Law allows the KPPU to provide advice and opinions on government policies identified as potentially harming competition.

[71] The OECD notes that while 43% of KPPU recommendations had been adopted since 2001, only 33% of recommendations were adopted from 2008 to 2011.

regulatory impediments to competition; noting that much of the stock of legislation passed before Indonesia's reform programme in the late 1990s contains significant anti-competitive provisions.[72]

3.126. Indonesia does not have extensive bilateral agreements on competition. There is a competition chapter in the ASEAN-Australia-New Zealand FTA, focusing mainly on capacity building to support the creation of a fairer business environment in the signatory countries. The authorities indicated that a competition chapter is being negotiated in the context of the Indonesia-EFTA Comprehensive Economic Partnership Agreement (IE-CEPA), and in the context of bilateral FTA negotiations with South Korea. On bilateral basis, there is a competition chapter in the Indonesia-Japan Comprehensive Economic Partnership Agreement (IJ-CEPA) signed in 2007 that mostly relates to exchanges of public information, notification on enforcement activity, and capacity building.

3.3.4.2 Price controls

3.127. The Government is involved in stabilizing the price of rice through Perum BULOG's guaranteed purchase of rice from domestic producers at a set procurement price as well as through its import activities (Section 3.3.3.1). The procurement price for rice purchases is usually determined before the planting season (around October) and takes into account factors such as levels of water concentration; impurities; broken grains; and whitening agents. Perum BULOG is required to purchase rice for distribution through RASKIN, a targeted rice-for-the-poor programme, that has given the Government flexibility to allow a steady increase in the price of rice but at the cost of increasing budgetary expenditure to finance the programme. Consumer prices for rice are determined by market forces. However, when market prices at the consumer level increase by 10% or more than the normal price, the Ministry of Trade instructs Perum BULOG to import. Consideration is being given to assigning Perum BULOG additional responsibilities for stabilizing prices for soybean and sugar.[73]

3.3.5 Intellectual property rights

3.128. Indonesia is a net importer of IPR-intensive goods. In 2011, Indonesia's imports of these goods were estimated at US$16.4 billion, representing 9.2% of total imports. The respective value of exports for the same year was estimated at US$5.8 billion (2.8% of total exports).[74]

3.3.5.1 WTO and other international agreements and arrangements

3.129. Indonesia is an active participant in the WTO Council for Trade-Related Aspects of Intellectual Rights (TRIPS Council). In this forum Indonesia has advocated for the incorporation into the TRIPS Agreement of a requirement for disclosure of origin of genetic resources and/or associated traditional knowledge. Indonesia is in favour of strengthening the mutual supportiveness of TRIPS and the Convention on Biological Diversity (CBD) and, in particular, it's recently created Nagoya Protocol, arguing that developing countries are not benefiting from the exploitation of genetic resources and traditional knowledge and are paying more for new inventions created by others while using these assets.[75] The authorities noted that Article 7 of Indonesia's patent law prohibits the patenting of living creatures, other than micro-organisms, and of any biological process that is essential in producing plants or animals, other than non-biological or microbiological processes.

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[72] OECD Document DAF/COMP(2012)/REV1, 24 May 2012, "Competition Law and Policy in Indonesia".

[73] Perum Bulog online information. Viewed at: http://www.bulog.co.id/eng/berita/37/3626/10/9/2012/Bulog-To-Manage-Buffer-Stocks-For-Rice,-Sugar-And-Soybean.html.

[74] For these purposes, IPR-intensive goods include (a) the goods listed in Attachment A of the Ministerial Declaration on Trade in Information Technology Products (WTO document WT/MIN(96)/16). In this regard, no adjustment has been made for partial subheadings (ex-lines) and as such there is a risk that the overall figures for both imports and exports may be exaggerated; (b) HS30 (pharmaceutical products); (c) HS22 (beverages, spirits and vinegar, excluding HS2209 (vinegar); (d) HS49 (books and other printed media); HS3706 (motion picture films); HS3705 (other developed films); and HS8524 (records, CDs, software and other recorded media).

[75] Paragraph 19 of the Doha Declaration gives a mandate to WTO Members to review Article 27.3(b) and examine the relationship between the TRIPS Agreement and the CBD and the protection of traditional knowledge and folklore. Indonesia is a proponent of amendments to the TRIPS Agreement as set out in WTO documents TN/C/W/52, 15 April 2011, and TN/C/W/59, 19 April 2011. This issue has been raised by Indonesia in several meetings of the WTO TRIPS Council (see WTO document IP/C/M/69, 15 May 2012).

3.130. Indonesia has also expressed concerns about implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (relating to the ability of countries without sufficient manufacturing capacity in the pharmaceutical sector to make effective use of compulsory licensing under the TRIPS Agreement).[76] Indonesia is of the view that procedures agreed in 2005 (as set out in the Protocol Amending the TRIPS Agreement) are cumbersome, and that the criteria applying to the importing and exporting Members are complicated to follow.[77] Nevertheless, Indonesia notified acceptance of the Protocol Amending the TRIPS Agreement in October 2011.[78]

3.131. Indonesia has signed and ratified the WIPO Convention; Paris Convention; Berne Convention; Patent Co-operation Treaty; Trademark Law Treaty; WIPO Copyright Treaty; and WIPO Performances and Phonograms Treaty.[79] It is still in the process of ratifying the Madrid Protocol, the Nice Agreement, the Lisbon Agreement for the Protection of Appellations of Origin; the Locarno Agreement for industrial designs; the Singapore Treaty on the Law of Trademarks; and the Budapest Treaty on the International Recognition of the Deposit of Microorganisms.

3.132. Indonesia is also in the process of joining the ASEAN APSEC (ASEAN Patent Examination Cooperation) Program, a work-sharing arrangement with other ASEAN Members in the field of patent search and examination.

3.3.5.2 Institutional framework

3.133. The Ministry of Law and Human Rights has overall responsibility for IP policy formulation, with IPR administration being carried out by its Directorate-General of Intellectual Property Rights (DGIPR). The DGIPR has 33 regional offices responsible for receiving IP applications. In 2010, the DGIPR established a Directorate of Investigation with a mandate to investigate right-holder reports of suspected IPR infringements; working with the Police, it may seize the suspected goods. Information was not available on cases handled and seizures made. The DGIPR has established a Monitoring Team on Optical Discs as part of a wider effort to prevent piracy of optical media, which has been of long-standing concern in Indonesia (see below) and is one of the reasons that Indonesia remains on the United States' Special 301 Priority Watch List.[80] The monitoring team coordinates its efforts and cooperates with the Ministry of Industry, Ministry of Law and Human Rights, the Ministry of Trade, and the customs and police departments.

3.134. A National Task Force on Tackling IPR Infringement was established in 2006. It reports directly to the President, and coordinates activities between different offices and agencies at the national and regional levels.[81] According to the authorities, it has been working to respond to Priority Watch List-related issues; it has reported on progress in IP enforcement (including blocking websites due to digital piracy); monitoring activities relating to optical discs; illegal camcording; and cable piracy; it has also helped to develop regulations on customs; market access for pharmaceutical products and films; data protection; unfair commercial use; and revisions to the Copyright Law.

3.135. IPR enforcement is the responsibility of the Attorney-General, the DGIPR Directorate of Investigation, and Patent and Trademark Appeals Board, Police, Customs and the courts (see below).

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[76] For more information, see WTO online information. Viewed at: http://www.wto.org/english/tratop_e/trips_e/implem_para6_e.htm.

[77] WTO document IP/C/M/63, 4 October 2010.

[78] Protocol Amending the TRIPS Agreement. Viewed at: http://www.wto.org/english/tratop_e/trips_e/wtl641_e.htm. Indonesia's letter of acceptance may be viewed at: WTO document WT/Let/831, 20 October 2011.

[79] WIPO online information. Viewed at: http://www.wipo.int/treaties/en/summary.jsp.

[80] USTR (2012).

[81] Presidential Decree No. 47/2006 (27 March, 2006). The aims of the Task Force are to formulate a national policy to prevent IPR infractions; determine national efforts needed to prevent IPR violations; assess and determine measures for resolving IPR infractions, including prevention and law enforcement activities in accordance with the main duties of participating agencies; educate related government institutions and society about IPR matters through various activities; and improve bilateral, regional, and multilateral cooperation to prevent IPR violations.

3.3.5.3 Legislative and institutional framework

3.136. No changes were made to legislation governing intellectual property rights over the review period. Existing laws have been in place since between 2000 and 2002 and their main features were discussed in Indonesia's two previous Trade Policy Reviews (in 2003 and in 2007). The terms of protection and maximum penalties set out in these laws are contained in Table A3.3). A key concern raised in Indonesia's previous TPR with regard to its IPR legislation was that the Patent Law (Article 17) requires an inventor, after being granted the patent, to physically produce a product or utilize a process in Indonesia. The authorities explained that the purpose of the provision is to encourage transfer of technology, investment, and employment.

3.137. The authorities indicated that Indonesia is at an advanced stage in drafting amendments to several IPR laws in order to reflect IPR developments. Key issues with respect to copyright reform relate to implementation of the Beijing Treaty, internet piracy, and royalty collection. Reforms with respect to trade mark legislation are focused on streamlining application and publication procedures as well as introducing the possibility to apply to the Madrid system. Revisions to the Patent law include incorporating a disclosure requirement in patent applications related to genetic resources and traditional knowledge, as well as provisions to implement Paragraph 6 of the Protocol Amending the TRIPS Agreement. With respect to industrial designs, a key change is to introduce criteria on the similarity of design.

3.3.5.4 Regulatory developments (2007-12)

3.138. Government Regulation No. 51/2007 (GR 51) on Geographical Indications, enacted in 2007, sets out procedures for registration of geographical indications (GIs), implementing Article 56(9) of the Trade Mark Act.[82] Applications must be made to the Trade Mark Office within the DGIPR. Administrative and substantive examinations are undertaken. Thereafter there is a publication stage to allow third parties to oppose and applicants to rebut the application, which may lead to a substantive re-examination. As at end 2012, Indonesia had 16 registered GIs, of which 13 were domestic.[83]

3.139. Over the review period Indonesia used compulsory licensing on two occasions, in 2007 and in 2012, to permit Government use of pharmaceutical patents in order to produce certain antiviral and antiretroviral drugs.[84] In all instances, Government use of these patents is until their expiry.[85]

3.140. Two regulations have been introduced with the objective of preventing piracy of optical media. One imposes restrictions on film imports with the objective of deterring film piracy and increasing efficiency of enforcement of the Censorship Law. Celluloid film may only be imported in the form of negative film master or negative film dupe (reproduction of the master negative film), but may include a copy of the finished product. This Regulation has been somewhat controversial; it is contended that, in requiring manufacture in Indonesia of films prints and home videos, this constitutes an onerous market access barrier.[86] The other, Minister of Trade Decree No. 11 of 2010, introduces an import surveillance mechanism for certain products, such as machines and machine equipment, raw materials, blank optical discs, and loaded optical discs for IPR protection purposes.

3.3.5.5 IP applications

3.141. In 2012, DGIPR launched an IP automation system for trade marks which enables regional offices to file IPR applications online into a database, and can be accessed by IPR examiners. Work

[82] Trade Mark Act. Viewed at: http://www.jpo.go.jp/shiryou_e/s_sonota_e/fips_e/pdf/indonesia_e/e_shouhyou.pdf.

[83] kopi arabika kintamani bali (coffee)(2008); champagne (2009); mebel ukir jepara (furniture); lada putih muntok (spices); kopi arabika gayo (coffee); pisco (2010); tembakau hitam sumedang (tobacco); tembakau mole sumedang (tobacco); parmegiano reggiano; susu kuda sumbawa (milk); kangkung lombok (vegetable); madu sumbawa (honey) (2011); kopi arabika flores bajawa (coffee)(2012); Purwaceng Dieng (herbal drink)(2012); Carica Dieng (fruit)(2012); and Vanili Kepulauan Alor (vanilla)(2012).

[84] Indonesia's Patent Act (Articles 99 to 103) allows the Government to self-exploit a patent for reasons of defence and security of the State or if there is an urgent public-interest need.

[85] Presidential Decrees Nos. 6/2007 and 76/2012 list the active substances subject to compulsory licensing, the names of the respective patent holders and the duration of the patent.

[86] IIPA (2010).

to create a similar system for industrial designs and patents will commence in 2013/14. Indonesia has also established an Intellectual Property Digital Library (IPDL), which allows IP examiners, IP applicants, and the general public to search for information on IPR applications and protection granted.

3.142. In 2009, the Government introduce an IP registration fee; it is collected by the DGIPR and managed by the Ministry of Finance. DGIPR may use up to 25% of the funds collected for IPR-related activities such as IPR socialization, campaigning, education, enforcement, and improving the IPR registration service.[87]

3.143. Over the review period, while trade mark applications were consistently dominated by residents, the reverse is true for patent applications (Table 3.18).

Table 3.18 IP applications, 2007-11

	2007	2008	2009	2010	2011
Copyright					
- Resident	-	-	5,009	4,854	5,501
- Non-resident	-	-	40	28	41
- Total	-	-	5,049	4,882	5,542
Trade mark applications[a]					
- Resident	36,621	41,617	37,854	43,835	51,157
- Non-resident	4,120	4,032	4,964	4,527	2,569
- Total	40,741	45,649	42,818	48,362	53,726
Industrial designs applications					
- Resident	-	-	600	2,987	2,738
- Non-resident	-	-	3,601	1,060	1,458
- Total	-	-	4,201	4,047	4,196
Patent applications (PCT)					
- Resident	5	11	2	11	8
- Non-resident	4,357	4,278	3,761	4,596	4,839
- Total	4,362	4,289	3,763	4,607	4,847
Patent applications (non-PCT)					
- Resident	279	375	413	497	533
- Non-resident	493	469	342	401	458
- Total	772	844	755	898	991
Utility model applications					
- Resident	209	214	247	251	236
- Non-resident	34	34	38	38	56
- Total	243	248	285	289	292

.. Not available

a Includes both new applications and renewals.

Note A resident filing refers to an application filed in the country by its own resident; a non-resident filing refers to the one filed by a foreign applicant.

Source: DGIPR.

[87] Government Regulation No. 38/2009.

3.3.5.6 Enforcement

3.144. Chapter X of the Customs Law (as amended in 2006) provides for border measures with respect to trade mark and copyright violations, not only on imports (as required by TRIPS) but also on exports. At the request of the trade mark or copyright holder the Chairman of the Commercial Court may issue a warrant to Customs to temporarily suspend the release of imported goods into or exported goods from Indonesia on the basis of sufficient evidence of IPR violations.[88]

3.145. Provisions to combat IPR infringements are:

- A request may be filed with the Commercial Court to issue a provisional decision in order to: (a) prevent the continuation of infringement, particularly to prevent the entry of products allegedly infringing the IPR into the trade channel, including importation; (b) keep the evidence relating to the infringement of the IPR, in order to prevent the elimination of evidence; and (c) request the party that might suffer a loss to provide evidence that it is truly entitled to the IPR and that such rights are being infringed.[89]

- A lawsuit may be filed with the Commercial Court against an IPR infringement. A request may be made to: (a) confiscate the infringing goods or the result of reproduction of the IPR; (b) issue an order for the delivery of all or part of income generated from the infringement; and (c) issue an order to stop any activities or publishing and/or reproduction of works or goods that resulted from the IPR infringement.[90]

- The infringement may be reported to the police and/or a DGIPR civil servant investigator.[91]

Maximum penalties for IPR infringements are listed in Table A3.3.

[88] Law No. 17 (2006). Viewed at: http://rulebook-jica.ekon.go.id/english/7201_UU_17_2006_EN.html.

[89] Industrial Design Law (Article 45); Patent Law (Article 125); Trade Mark Law (Article 85); and Copyright Law (Article 67).

[90] Industrial Design Law (Article 46); Trade Secret Law (Article 11); Layout Design and Integrated Circuit Law (Article 38); Patent Law (Article 117); Mark Law (Article 76).

[91] Trade Secret Law (Article 16); Industrial Design Law (Article 53); Layout Design and Integrated Circuit Law (Article 41); Patent Law (Article 129); and Mark Law (Article 89).

4 TRADE POLICIES BY SECTOR

4.1 Introduction

4.1. Indonesia is the fourth most populous country in the world, the UN estimated the population to have risen to 242.3 million by mid-2011. With substantial deposits of petroleum, natural gas, and other minerals, as well as the capacity to produce a wide range of agricultural commodities, Indonesia is richly endowed in terms of natural resources.

4.2 Sectoral structure of the economy

4.2. In terms of overall sectoral development in the economy, there was little change during the review period (Table 4.1). Agriculture, forestry, and fishing contributed 14.7% of GDP in 2011 and engaged an estimated 35.9% of the employed labour force, continuing to provide employment to more than 40 million persons. Principal crops for domestic consumption include rice, cassava, and maize. Indonesia is the world's most important palm oil producer, ahead of Malaysia, the second largest natural rubber producer, after Thailand, and the third largest rice producer after China and India. A large percentage of Indonesia’s land area remains covered by tropical rainforests. However, widespread illegal logging practices have led to serious environmental damage.

Table 4.1 Share of main sectors in GDP and employment, 2007-11
(%)

	2007	2008	2009	2010	2011
Share of main sectors in current GDP					
Agriculture, fisheries and forestry	13.7	14.5	15.3	15.3	14.7
Food crops	6.7	7.1	7.5	7.5	7.1
Mining and quarrying	11.2	10.9	10.6	11.2	11.9
Oil and gas mining	5.9	5.7	4.5	4.5	5.2
Manufacturing	27.0	27.8	26.4	24.8	24.3
Oil and gas manufacturing industries	4.6	4.8	3.7	3.3	3.4
Electricity, gas and water	0.9	0.8	0.8	0.8	0.7
Construction	7.7	8.5	9.9	10.3	10.2
Services	39.5	37.5	37.1	37.7	38.1
Wholesale and retail trade	11.9	11.1	10.5	10.9	11.1
Hotels and restaurants	3.1	2.8	2.8	2.8	2.6
Transport and communication	6.7	6.3	6.3	6.6	6.6
Finance	3.6	3.4	3.3	3.3	3.2
Real Estate	2.8	2.7	2.6	2.6	2.6
Business services	1.4	1.3	1.3	1.4	1.4
Private services	4.9	4.5	4.6	4.7	4.7
Government services	5.2	5.2	5.7	5.5	5.8
Share of sectors in total employment (as at August)					
Agriculture, forestry, and fishery	41.2	40.3	39.7	38.3	35.9
Mining and quarrying	1.0	1.0	1.1	1.2	1.3
Manufacturing	12.4	12.2	12.2	12.8	13.3
Electricity, gas, and water	0.2	0.2	0.2	0.2	0.2
Construction	5.3	5.3	5.2	5.2	5.8
Services	40.0	40.9	41.5	42.3	43.5
Wholesale and retail trade, restaurants and hotels	20.6	20.7	20.9	20.8	21.3
Transportation, storage and communications	6.0	6.0	5.8	5.2	4.6
Financing, insurance, real estate and business Services	1.4	1.4	1.4	1.6	2.4
Community, social, and personal services	12.0	12.8	13.4	14.7	15.2

Source: Statistics Indonesia online information. Viewed at: http://www.bps.go.id/ [30 August 2012].

4.3. Indonesia’s principal mineral resource is petroleum, and the country is a leading exporter of liquefied natural gas. Proven reserves of petroleum are sufficient to sustain production at current rates for nearly 12 years. Indonesia enjoys a cost advantage over its main competitor, Australia, in coal for power stations, another commodity where demand, led by China and India, is expected to grow significantly. Indonesia is also one of the world’s largest producers of tin and bauxite; nickel, copper, gold, and silver are also mined.

4.4. Manufacturing contributed 24.3% of GDP in 2011, down from 27% at the beginning of the review period, and engaged an estimated 13.3% of the employed labour force. Apart from petroleum refineries, the main branches of the sector include food products, textiles, clothing and footwear, transport equipment, electrical machinery and electronic equipment. According to ADB data, manufacturing GDP increased by an average of 4.6% per year during 2001–10. Construction contributed 10.2% of GDP in 2011, and engaged 5.8% of the employed labour force. From the 1980s Indonesia broadened the base of its energy supplies to include gas, coal, hydroelectricity and geothermal energy, in addition to the traditional dependence on petroleum.[1] In 2008, of total electricity produced, coal accounted for 41.1%, petroleum for 28.8% and natural gas for 16.9%.

4.5. Services provided 38.1% of GDP in 2011, a share that has remained relatively stable during the review period, and engaged 43.5% of the employed labour force. The engine of economic growth shifted from manufacturing to services during 2001-10, when the services sector grew at almost twice the rate of manufacturing and agriculture, and replaced manufacturing to comprise the largest share of GDP in real terms. During the review period, transport and communication services and business services grew most rapidly (Table A4.1).

4.6. Indonesia's formal private sector, which is estimated to contribute about 60% to GDP and supports nearly 70% of total employment, is dominated by large business conglomerates, foreign investors and state-owned enterprises (SOEs). Through the SOEs, the Government continues to own large parts of the economy, including financial companies, energy companies, utilities, infrastructure companies and manufacturers. Indonesia's new mining law makes the Government the owner of all oil and other hydrocarbons in the ground. According to the authorities, there are 140 state-owned enterprises under the Ministry of SOEs, as well as several SOEs (such as PT Sarana Multi Infrastruktur and PT Sarana Multigriya Finansial) directly controlled by the Ministry of Finance.

4.3 Infrastrucutre

4.7. As a large country with a complex archipelagic structure, Indonesia confronts considerable difficulties in establishing the extensive infrastructure of transport, communications and public utilities that is essential for its economic and social development.[2] Years of under-investment have left Indonesia's infrastructure network crumbling. Roads are congested, ports are bottlenecked, and many Indonesians do not have access to either potable water or reliable electricity. Inadequate infrastructure has also contributed to poor distribution systems, which have resulted in high logistics costs. Shipping costs are an estimated 50% and 80% higher than elsewhere in the region. Efforts to draw up a master plan for port development have been hampered by the decentralized structure of government and the competing interests of provincial and district governments.

4.8. In an attempt to address the increasingly serious shortcomings of the country's infrastructure, a private company, PT Indonesia Infrastructure Finance (IIF), was formally inaugurated in August 2010 with the objective of providing long-term financing for the development of facilities such as telecommunications, energy and transport networks. One of the biggest impediments to infrastructure project implementation - particularly for roads - has been land acquisition and the protracted price negotiations. In December 2011, Indonesia's parliament

[1] Plans for the construction of a nuclear power plant on the island of Bangka, to the east of Sumatra, were confirmed in 2011. Construction work on the plant, which was expected to supply 40% of electricity needs in Sumatra, Java and Bali, is to commence in 2015.

[2] According to World Economic Forum, Indonesia is ranked only 82nd out of 139 countries in infrastructure development. Overall, Indonesia's business environment continues to rank poorly in international comparisons. According to World Bank (2012), it ranked 129 out of 183 economies in 2011.

passed the land acquisition law[3], under which land prices are set by an independent appraiser, in the hope that this will expedite procurement and expropriation; the law needs an implementing presidential regulation. The Government is also planning six special economic corridors[4], each expected to focus on a particular industry, including infrastructure development, to support those industry clusters (Chapter 2).

4.4 Agriculture, fisheries, and forestry

4.9. The agriculture sector is made up of state-owned estates called PT Perkebunan Nusantara (PTPN), large-scale private plantations, and small hold farmers. The sector is divided into four main subsectors: food crops (most important in terms of income and employment generation), horticulture crops, cash/estate crops, and animal husbandry (with fishing and forestry under different ministries).

4.10. In terms of agricultural output, Indonesia is the world's largest producer of crude palm oil and the second largest producer of rubber, and cocoa beans, with both foreign and domestic investors currently active in cocoa production. Imports are diversified with high volumes of sugar and soybean, and a high proportion of milk and rice. The country is still heavily reliant on imports for staple goods, such as wheat, soybeans, and sugar which have raised the issue of food security on the national agenda as world food prices have continued to climb. Although the world's third-largest rice producer with annual production of over 40 million tonnes of milled rice, Indonesia is among the biggest rice importers, with annual imports averaging more than one million tonnes.

4.4.1 Agricultural policy

4.11. An important feature of the agricultural policy framework is the establishment of medium term (5-year) plans. While the Ministry of Agriculture has the main responsibility for policy development and implementation, several other central government ministries and agencies are involved, as are local government agencies since decentralization in 2001. Agricultural policy priorities are driven by concerns over food self-sufficiency, food consumption and production diversification, value-added and competitiveness, and the welfare of farmers. The Government is seeking a balance between supporting producers and ensuring affordable prices of essential foods for poor consumers. Rice is the most important food crop and the preferred staple of the great majority of Indonesians, who get nearly half their calories from rice, so maintaining stable and low rice prices has always been a major policy aim of the Indonesian Government.[5] The rice subsector also plays a dominant role in generating employment: 40 million of Indonesia's labour force is in agriculture, and 21 million households or about 10% of the Indonesian population, are engaged in rice production. Important laws and regulations concerning the administration of agriculture sector, include the Basic Agrarian Law No. 5/1960 (Table 4.2). Separate laws have been established to control, *inter alia*, the production of livestock, estate crops, and horticulture.

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[3] Law No. 2/2012 of 14 January 2012 concerning Acquisition of Land for Development in the Public Interest.

[4] Sumatra corridor- to focus on production and processing of agricultural commodities, such as crude palm oil, and energy; *Java corridor* - for industry and service sectors; Kalimantan corridor - for mineral production and processing; Sulawesi corridor - production and processing for fisheries, plantation and agricultural products; Bali corridor - to serve as a tourism gate; and Papua-Maluku corridor - natural resource processing.

[5] In 2007, Indonesia launched the National Programme to Increase Rice Production with the objective of increasing annual national rice production by 2 million tonnes of milled rice (or 3.5 million tonnes of paddy) for 2007, and achieving comparable increases in 2008 and 2009 in order to assure rice self-sufficiency in the country. According to Central Bureau of Statistics (BPS), there has been a surplus in national rice production since 2008. However, Indonesia continues to import rice mostly from Viet Nam and Thailand. In August 2012, Indonesia signed an additional contract with Cambodia to import 100,000 tonnes of rice. In 2011, the Minister of Finance issued Decree No. 65/PMK.011/2011 introducing a new import tax for rice (Rp 450.00 /kg). Prior to this decree, the import tax for rice was zero.

Table 4.2 Major laws, regulations and decrees affecting the agro-food sector

Topic	Laws	Regulations/Decrees
Land	Law No. 5/1960 Basic Agrarian Law	Presidential Decree No. 24/1997 on Land Registration
	Law No. 41/1999 on Forestry	Presidential Regulation No. 36/2005 on Land Procurement for Development for Public Purposes
	Law No. 32/2009 on Environmental Management	Presidential Decree No. 10/2006 concerning Land administration at national, regional and sector levels
	Law No. 41/2009 on Protection for Agricultural Land and Sustainable Food	Government Regulation No. 10/2010 on the Procedure for Changing Forest Status and Functions
	Law No. 2/2012 on Land Procurement for Public Interest	Government Regulation No. 11/2010 on Control and Use of Abandoned Land
Water	Law No. 7/2004	Government Regulation No. 20/2006 on Irrigation
Food	Law No. 7/1996	Government Regulation No. 69/1999 on Food Labelling and Food Advertisement Government Decree No. 68/2002 on Food Security Government Regulation No. 28/2004 on Food Safety, Quality and Nutrition
Quarantine	Law No. 16/1992 on Animal, Fish and Plant Quarantine	Government Regulation No. 82/2000 on Animal Quarantine Government Regulation No. 14/2002 on Plant Quarantine
Extension	Law No. 16/2006 on Extension System for Agriculture, Fisheries and Forestry	Government Regulation No. 43/2009 on the Financing, Development and Supervision of Extension Services Minister of Agriculture Regulation No. 26/2007
Investment	Law No. 25/2007 on Investment	Presidential Regulation No. 36/2010 on List of Business Fields Closed to Investment and Business Fields Open with conditions to Investment
Production of specific commodities	Law No. 18/2009 on Livestock and Animal Health Law No. 18/2004 on Estate Crops Law No. 13/2010 on Horticulture Law No. 18/2010 on Cultivation	Minister of Agriculture Regulation No. 26/2007 on Guidance on Licensing Plantation Business Minister of Regulation No. 39/2007 on Guidelines of Food Crops Business Permits

Source: OECD (2012), *OECD Review of Agricultural Policies: Indonesia 2012*, p. 143.

4.4.2 Domestic policy instruments

4.12. Key policy objectives are pursued through a wide range of input subsidies on fertilizer and seeds, and credit is used to support producers. The fertilizer subsidy was increased to Rp 16.3 trillion in 2011, twice as high as the subsidy given in 2007. The increasing amount of subsidy is related to the sharp climb of gasoline prices as well as Indonesia's food security policy which is the priority in the National Medium-Term Development Plan 2010-2014. The fertilizer subsidy is divided into a gas subsidy to the nitrogen/urea factories and Fertilizer Direct Aid (BLP). The gas subsidy reduces factory prices, enabling smallholder farmers to afford fertilizers. The Government also provides food crop seeds subsidy for rice, maize, and soybean although the amount is significantly lower than the fertilizer subsidy. In the second half of 2012, the Government revised the Budget and decreased the fertilizer subsidy from Rp 16.9 trillion to Rp 13.9 trillion, and the seed subsidy from Rp 279 billion to Rp 129 billion.

4.4.3 Trade policy instruments

4.13. Import monopolies, licensing requirements, and export restrictions on agricultural products were removed in the economic reforms of 1997-98. However, quantitative import restrictions have been maintained for rice, sugar, and salt and introduced for animals and animal products (Section 3.1.5.2). Import requirements imposed for food safety, SPS, and cultural reasons appear to have become more stringent. A variable export tax regime has been introduced on crude palm oil and derived products, and more recently on cocoa. An overview of trade measures reported to the WTO is given in Table A4.2.

4.14. In the agriculture sector, tariffs on more than 1,300 products are bound at 40% or above. Tariffs on fresh potatoes, for instance, are bound at 50% although applied rates are 20%. The large gap between bound and applied rates, combined with seemingly arbitrary changes in applied rates, creates uncertainty for foreign companies seeking to enter the Indonesian market. Specific tariffs are levied on sugar and rice (Table A3.1). The Government also introduced new import tariffs (from zero to 5%) for raw materials for processed milk products (milk powder and processed milk).

4.15. Since 2008, companies must be approved by the Ministry of Trade as registered importers to import processed products including meat, cereal, sugar, and cocoa. This policy also applies to animal and animal products, as stipulated in 24/M-DAG/PER/9/2011.

4.16. Indonesia has lowered its import quotas for beef (from 73,000 tonnes in 2010 to 50,000 tonnes in 2011 and 34.000 tonnes in 2012) and similar policy is applied to cattle products. In addition, Decree of Minister of Agriculture No. 60/Permentan/OT.140/1/2012 on Horticultural Product Import Recommendation introduced an import quota system on fresh and processed fruits and vegetables. Indonesia bans salt imports during the harvest season. It requires salt importers to be registered and to source products locally. Indonesia applies quantitative import limits to imported wines and distilled spirits.

4.17. The authorities noted that animal-based food must have an import recommendation from the Ministry of Agriculture's Directorate General of Livestock and Animal Health Service or the National Agency of Food and Drug Control (BPOM) and be accompanied by a halal certificate. The Government also reduced the number of entry points (selected seaports equipped with stricter quarantine centres) for certain food products, i.e. preparations of meat; sugars; cocoa; preparations of cereals, flour, starch or milk; and preparations of vegetables, fruit, nuts or other plants[6]. The Government also requires that Indonesia's food and drug agency (BPOM) approve every shipment of processed food, food raw materials, and other food-related ingredients.

4.18. In 2007, the Government replaced the flat rate export tax regime on crude palm oil with a variable regime whereby the export tax increases as the international price of crude palm oil increases. Crude palm oil is taxed at a higher rate than its derived products to boost domestic processing (Section 3.2.2.3). However, in 2011, the Government reduced export tariffs (from 25% to 22.5%). Effective April 2010, Indonesia applies export tariffs (from 0 to 15%) on raw cocoa.

4.4.4 Fisheries

4.19. International recognition of the concept of the archipelagic state in 1982 permitted Indonesia to declare the waters separating its many islands to be an exclusive economic zone (EEZ), thereby giving the country effective control over the huge marine fisheries resources of this sea area. These resources began to be developed in 1987, both through issuing licences to foreign fishing fleets, and encouraging private (including foreign) investment in the fishing industry, especially in shrimp and tuna fisheries. These developments notwithstanding, productivity in the sea-fishing industry has remained low, while overfishing in some areas is threatening to deplete fish stocks, especially in the western parts of the archipelago. Illegal fishing, by foreign and domestic operators, also remains a serious problem, causing considerable environmental damage and substantial revenue losses to Indonesia.

[6] The Ministry of Agriculture has announced that, in order to comply with priorities set by the Ministry of Trade, the port of Jakarta and several other major ports will be closed to horticulture exports to Indonesia, beginning in March 2012.

4.20. Indonesia is the biggest tuna-producing country in the world, contributing an estimated 14.4% (577,000 tonnes) of global tuna production in 2010. Tuna products comprise the second largest Indonesian fishery export after shrimp. Efforts have been made to enhance the potential of Indonesia's freshwater fisheries, which provide the bulk of animal protein consumed in Indonesia, through the promotion of freshwater shrimp hatcheries and a nucleus fishpond scheme, similar to the expansion programme for cash crops.

4.21. Fisheries management is the responsibility of the Ministry of Marine Affairs and Fisheries, which has the stated aim of managing the marine ecosystem in a sustainable manner. Fisheries management is regulated by the Fisheries Act No.45/2009. The Act regulates, *inter alia*, subsidies, support, and incentives to small-scale and artisanal fisheries, including fuel subsidies as stipulated in Presidential Regulation No.15/2012. Effective management of fisheries is difficult to achieve due, *inter alia*, to the lack of enforcement capabilities (in the face of illegal, unreported and unregulated catches) and inadequate fisheries management at the provincial level.

4.4.5 Forestry and forest products

4.22. Indonesia has vast forest resources. According to the authorities, approximately 130 million hectares, or around 70% of its total land area, is forested. A major part of Indonesia's forest area, or 56 million hectares, is designated as a protection and conservation area. Forest management is a key concern regarding responsible investment in agriculture. Agricultural growth has relied to a large extent on converting forested areas into agricultural land, which has caused a loss of biodiversity, and generated carbon emissions and higher rates of soil erosion. The principle of sustainable forest management is the basis of Ministry of Forestry Regulation P.645/Menhut-II/2012, which also states that timber industries and exporters must obtain a Timber Legality Certification to ensure that timber and timber products in the domestic and international market are legal and produced from sustainable and legal sources.

4.23. Government efforts to protect the country's forestry resources, through the introduction of restrictions on logging and through reforestation programmes, have been only partially successful, in part owing to widespread forest fires in Sumatra and Kalimantan that have become an almost regular phenomenon since the mid 1990s. Many of these fires, which generate huge clouds of smoke that are carried over much of South-East Asia, are started deliberately, by subsistence farmers practising traditional "slash-and-burn" methods of cultivation, and by large-scale plantation owners seeking to clear the forest for new cash crop estates. Several legislative changes have been made[7], but the legal framework for forest management remains inconsistent and allows for unsustainable practices. Reducing Emissions from Deforestation and Forest Degradation (or REDD) was launched in Indonesia in 2010 and the Government declared a 2-year forest moratorium in 2011. In a positive development, the Government recently approved the country's first project under the REDD scheme.[8]

4.24. Illegal logging and the smuggling of timber remain serious problems, and the Government has supplemented its domestic enforcement efforts by signing international agreements with the European Union (EU), Malaysia, Japan, and the People's Republic of China to ban the import of illegal logs from Indonesia. The Australian Government is currently legislating to exclude illegally logged timber from imports and from domestic processing.[9] In its comments on the proposed legislation, the Indonesian Government requests Australia to recognize the Timber Legality and Assurance System (Box 4.1), a national system designed to provide legal verification needed for regulations such as the proposed Australian law, as well as those of the United States and the EU.

[7] Including Regulation Inpres RI No. 16/2011 on the Improvement of Forest and Area Fire Control.

[8] Indonesia is a large emitter of carbon due mainly to logging. REDD pays developing countries not to cut down trees. In this project, called Rimba Raya, forest area in Borneo will be preserved for endangered species.

[9] Submission by the Indonesian Government to the relevant Australian Senate Commission containing comments on Australia's draft Illegal Logging Prohibition Bill, 2011. Viewed at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=rrat_ctte/logging_2011/submissions.htm.

Box 4.1 The Timber Legality and Assurance System: SVLK (System Verifikasi Legalitas Kayu) certification

The SVLK is a well-established national system that provides a simple method through which Indonesian exporters and international importers can be assured that the timber and timber products produced and processed in Indonesia are legally sourced and in full compliance with relevant Indonesian laws and regulations, through independent auditing and civil society monitoring. Moreover, under the system, the Indonesian Ministry of Forestry, along with the provincial and district forest offices are responsible for legal verification of timber supply chains and the checking of related documents (e.g. annual work plans, log balance sheet reports, transport documents, logs/raw-material/processed products balance sheet reports, and production tally sheets). In the event of inconsistencies, forestry officials are empowered to withhold approval of the control documents resulting in a suspension of operations. This certainty provides a low-cost method of legality assurance.

The SVLK is recognized under Voluntary Partnership Agreement (VPA) between Indonesia and the European Union, and other international systems.

Source: Submission by the Indonesian Government to the relevant Australian Senate Commission containing comments on Australia's draft Illegal Logging Prohibition Bill, 2011. Viewed at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=rrat_ctte/logging_2011/submissions.htm.

4.25. Indonesia has instituted a number of policy measures to discourage or ban log exports. The aim has been to encourage processing industries within Indonesia. The export contribution of forestry, i.e. unprocessed logs, is deemed negligible. In 2011, Indonesia banned exports of raw and semi-processed rattan (used for traditional furniture). The measure was designed to encourage rattan furniture production but instead seems to be pushing rattan prices down. Certain rattan may only be exported by firms holding export licences for forestry products. The exports require an independent surveyor for technical and preshipment verification. On the other hand, processed wood and wood manufactures (including finished products such as furniture) make an important contribution to Indonesia's exports.

4.5 Mining

4.26. Indonesia continues to be an important supplier in the global mining industry, with significant levels of coal, copper, gold, tin, and nickel production.[10] Indonesia is among the world's largest exporters of thermal coal. The Ministry of Energy and Mineral Resources regulates Indonesia's mining industry. Mineral and coal mining activities are governed under the Law on Mineral and Coal Mining No. 4/2009 of 2009 (Mining Law). This replaced Mining Law No.11/1967, which provided the framework for all of Indonesia's pre-2009 mining concessions. The 2009 Mining Law is dependent on a number of implementing regulations, some of which are still to be issued (Table 4.3).

Table 4.3 Key implementing regulations under the Mining Law

Regulation	Entry into force
Government Regulation No. 22/2010 regarding Mining Zone	1 February 2010
Government Regulation No. 23/2010 regarding Mineral and Coal Enterprises Activity	1 February 2010
Government Regulation No. 55/2010 regarding Supervising and Controlling Mining Activity	5 July 2010;
Government Regulation No. 78/2010 regarding Reclamation and Post Mining	20 December 2010;
Government Regulation No. 9/2012 regarding Tariff and Type of Non Tax State Revenue of Ministry of Energy and Mineral Resources	6 January 2012
Government Regulation No. 24/2012 regarding Modified of Government Regulation No. 23/2010 on Mineral and Coal Enterprises Activity	21/02/2012
Ministry of Energy and Mineral Resource Regulation No. 28/2009 regarding Coal and Mineral Mining Service Activity	30 September 2009

[10] Indonesia ranks in the top ten globally for its minable reserves of gold, copper, tin and nickel ore, and in the top 20 for coal reserves.

Regulation	Entry into force
Ministry of Energy and Mineral Resource Regulation No. 34/2009 regarding Prioritization of Mineral and Coal Supply for the Domestic Needs	31 December 2009
Ministry of Energy and Mineral Resource Regulation No. 17/2010 regarding Procedure of Coal Sales Benchmark Price	23 September 2010
Ministry of Energy and Mineral Resource Regulation No. 12/2011 regarding Procedure of Determination Mining Business Area and Mining Area Information System	11 August 2011
Ministry of Energy and Mineral Resource Regulation No. 7/2012 regarding Procedure of the Mineral and Coal Added Value Through Mineral and Coal Processing and Refining Activity	6 February 2012
Ministry of Energy and Mineral Resource Decree No. 1991.K/30/MEM/2011 on Needs Determination and Minimum Percentage on Coal & Sales for Domestic Needs of 2012	25 August 2011
Ministry of Energy and Mineral Resource Decree No. 0617. K/32/MEM/2011 on the Price of Coal to State Owned Electricity Company in Order to Steam Powered Operation	3 March 2011

Source: Information provided by the Indonesian authorities.

4.27. The law has made significant changes to the way the industry operates, including licensing procedures and use of sub-contractors.[11] Changes include: (i) replacement of the old mining licences, called Contracts of Work (CoW) and Coal Contracts of Work (CCoW), with area-based mining licences to be issued by competitive tender by local, provincial or national governments; (ii) equality given to foreign and domestic investors (foreign investors may now own mining licences); (iii) mandate to give priority to Indonesian mining service and equipment suppliers; (iv) requirement to process and refine mineral products domestically; (v) requirement for companies to undertake at least some of their own mining activities rather than wholly subcontracting to third parties; where subcontracting is permitted, priority must be given to Indonesian owned companies; (vi) requirement after five years to divest 20% of shareholding to an Indonesian entity or national; (vii) no legal certainty for large-scale mining projects (previously covered under CoWs); (viii) miners are required to allocate a portion of their production to the domestic market; and (ix) benchmark prices for key base and precious minerals will be established to prevent miners from selling at prices viewed as too low. The coal price benchmark was established in 2009, and monthly benchmarks for other key minerals were started in 2011.

4.28. As a result of the new mining legislation, mining firms operating in Indonesia will face new restrictions in exporting unprocessed ore. The legislation will require them to process the ore in Indonesia before shipping it abroad. The policy is intended to support the expansion of value-added activities, including the smelting industry.

4.29. The Indonesian Government recently issued Government Regulation No. 24/2012 (amending Government Regulation No. 23/2010) on the Implementation of Minerals and Coal Mining Activities. The regulation's preamble explicitly states that one of its rationales is to allow more Indonesians to participate in mining. The significant change brought about by the new regulation is a requirement for foreign investors in the Indonesian mining sector to divest a minimum of 51% of the equity in the mining licence holding entity by the tenth year of production, in accordance with a divestment schedule. For many foreign investors, this will mean a mandatory divestment of equity. The share must first be offered for purchase to the central Government. If the central government is not prepared to purchase the share, it is to be offered to the provincial government or city/county government. If they also refuse, the shares are to be offered by auction to (in order of priority) a state-owned enterprise, and regional state-owned enterprise or a national company.

4.30. Failure to divest according to this schedule may lead to suspension of production and even a revocation of the mining licence. The concept of divesting foreign interests in Indonesian mining enterprises is not new. The 2009 Mining Law required a divestment after five years of production, but did not specify the required amount of divestment. The 2010 regulation required that Indonesian participants hold 20% equity in foreign-owned mining operations after five years of

[11] See in PWC (2012).

production, but did not require further divestment. The new regulation requires divestment of a majority share.

4.31. Another recent policy is the regulation of exports of 65 mining commodities including nickel, tin, gold, copper, silver, lead, zinc, chromium, platinum, bauxite, iron ore, and manganese. These commodities are subject to a 20% export duty, which has been applied since May 2012 (Section 3.2.2.3).[12] Also, to be legally eligible to export these 65 commodities, miners are required to be registered exporters and all exportation must be verified by surveyors. A company must apply to the Ministry of Trade to become a registered exporter, having first secured a recommendation from the Ministry of Energy and Mineral Resources.

4.6 Manufacturing

4.32. Indonesia's strong recent GDP performance has been driven by services and commodities, not manufacturing. In fact, the role of manufacturing has declined significantly or stagnated in its value added, its share of exports, and its share of employment. Indonesia's export growth was driven by robust global commodity prices, thanks in part to China's seemingly insatiable appetite for raw materials.

4.33. Manufacturing nevertheless remains one of Indonesia's biggest contributors to GDP, in subsectors ranging from textiles to automotive parts. Citing the country's relatively low labour costs compared with the rest of Southeast Asia, and the large domestic market, the Government has been pursuing investors in sectors such as electronics manufacturing. However, inadequate infrastructure remains an obstacle for investors.

4.6.1 Incentives

4.34. Indonesia offers numerous incentives to attract foreign direct investment, including bonded or free-trade zones, and exemptions on tax and import duties. To take advantage of these incentives, investors must meet certain conditions stipulated in the 2007 investment law, such as locating in rural or border regions, employing a large workforce, or undertaking research and development.

4.35. Tax facilities in the form of income tax exemptions or reductions were announced by the Government through Minister of Finance Regulation No. 139/2011. The tax facilities are provided to firms in pioneer industries that have a wide range of connections, provide additional value and high externalities, introduce new technologies, and have strategic value for the national economy. Currently, this is applicable to: basic metal industry; oil refinery and/or base organic chemicals sourced from oil and gas; renewable energy; machinery; and telecommunications. Eligible taxpayers may enjoy the income tax exemption for five to ten years from the start of commercial production. At the end of the tax holiday, the taxpayers are given a 50% income tax reduction for a further two tax years. Only Indonesian legal entities with a minimum investment value of Rp 1 trillion (US$120 million) are eligible for the facilities.

4.36. New investors (foreign or domestic), or existing investors who are expanding their production by at least 30% or diversifying into new products, are granted relief from duties on the importation of capital goods (machinery, equipment, spare parts, and auxiliary equipment) for two years, and on the importation of raw materials and manufacturing components for two years of production. Car and motorcycle assembly (except for components) does not qualify for this incentive.

4.37. Investors manufacturing for export also qualify for certain tax breaks, including refunds on import duties (which normally range from 0% to 150% on the customs value of imported goods) paid on raw materials; exemption from the 10% VAT and the sales tax on luxury goods (ranging between 10%-75% imposed at point of import or manufacture) on materials purchased domestically for use in manufacturing. There is also no restriction on the import of raw materials regardless of the availability of comparable domestic products. Other incentives include: a reduction in taxable income of up to 30% of the capital investment spread over six years; accelerated depreciation and amortization; a loss carry-forward facility for a five-year period with a

[12] Minister of Finance Regulation No. 75/PMK.011/2012.

possible extension of an additional five years (though the length of extension depends on the type of investment); and a 10% income tax on dividends (possibly lower if stipulated in the provisions of an existing tax treaty).

4.38. The Government offers incentives to foreign and domestic industrial companies that locate in any of Indonesia's designated special economic zones, free trade zones and bonded zones (Section 3.2.2.4).

4.6.2 Trade-related measures

4.39. Most tariffs are bound at 40% although tariff bindings exceed 40% or remain unbound on automobiles, iron, steel, and some chemical products. Motorcycle imports are severely restricted by the combined effect of a 60% tariff, a luxury tax of 75%, a 10% VAT, and the prohibition of motorcycle traffic on Indonesian highways. Indonesia periodically changes its applied rates: in 2010 and 2009, increases in applied rates were implemented for a range of goods that compete with locally manufactured products, including chemicals, electronic products, electrical and non-electrical milling machines, cosmetics, medicines, iron wire and wire nails, and a range of agricultural products including milk products, animal or vegetable oils, fruit juices, coffee, and tea.

4.40. Luxury goods (defined as goods not considered necessities), imported or locally produced, may be subject to a luxury tax of up to 200%, although the current range is 10% to 75% for goods listed in the implementing regulations as subject to the luxury tax (Section 3.1.4.2). The luxury sales tax on 4,000 cc sedans and 4x4 Jeeps or vans is 75%, while the rate on automobiles with smaller engine capacities (of 1,500 cc or less) ranges from 10% to 30%. Passenger cars of less than 1,500 cc comprise 40% of the market, including a large group of vehicles predominantly produced in Indonesia that are taxed at a rate of 10%. The luxury tax rate on motorcycles of 250 cc to 500 cc is 60%. In addition to a 10% VAT and an import duty of 150%, Indonesia charges luxury taxes on imported distilled spirits at 40% to 75%. The combined effect of these measures, which produces an effective rate of protection of over 200%, is to place imports at a significant disadvantage in Indonesia’s market.

4.41. Exporters to Indonesia must comply with numerous import licensing requirements (Section 3.1.5.3 and Table A3.2). The Government implemented a wide-ranging regulation in 2009[13] imposing import licensing procedures on a broad range of products, including electronics, household appliances, textiles and footwear, toys, and food and beverage products. Indonesia maintains non-automatic licensing requirements on certain textiles and textile products under which, *inter alia*, only approved local garment or textile producers may import fabrics covered by the regulation, and these fabrics may only be used as inputs in domestic production, not for resale or transfer.

4.42. Ministry of Trade Regulation No. 45/M-DAG/PER/9/2009 (as amended and clarified by Regulation No. 17/M-DAG/PER/3/2010) introduced a requirement that companies may only import goods for further distribution or for their own manufacturing, but not for both. Under these regulations, companies are permitted only one kind of licence; companies that need both kinds of licence need to separate into manufacturing and trading businesses. Effective 1 January 2011, under Regulation No. 39/MDAG/ PER/10/2010, Indonesia introduced a new kind of importer licence, called a PI Licence, which permits companies to import certain finished products not used in the production process provided they help the development of the company' s business in Indonesia. A 2008 Health Ministry decree requires local and foreign pharmaceutical companies operating in Indonesia to manufacture locally in order to get drug approvals.[14]

4.43. Minister of Finance Regulation No. 75/2012 implements an export duty on a range of products, including leather and wood; cocoa beans; palm oil, crude palm oil and its derivatives;

[13] Decree 56 was extended by Ministry of Trade Regulation 57/M-DAG/PER/12/2010 in December 2010 until 31 December 2012. The extended decree included additional products under the scope of the licensing restrictions, including cosmetics, while retaining a requirement for preshipment verification by designated surveyors at importers' expense, and a restriction that restricted entry of imports to a limited number of designated ports and airports.

[14] Ministry of Health Decree No. 1010/MENKES/PER/XI/2008 requires foreign pharmaceutical companies to manufacture locally or entrust a company already registered as a manufacturer in Indonesia (a potential competitor) to obtain drug approvals for them.

and mineral ore. This is in line with Indonesia's policy of increasing domestic value added, as simply exporting raw materials would not create the types of jobs necessary to improve living standards (Section 3.2.2.3).

4.7 Services

4.44. Trade in services (imports + exports) accounted for 6.3% of GDP in 2011, down from over 12% in 2000. During the review period, Indonesia showed a net services trade deficit (Table 4.4)[15]. Travel services, which largely represent the tourism sector, dominate exports, with over 37% of Indonesia's services exports in 2011. Computer and information services are the second largest services exports (27%) followed by transportation services (16.1%), and communication services (7.6%). Indonesia has latent comparative advantages in several services sectors, including skilled labour services, technology deployment, and business processing outsourcing. On the import side, transportation services (particularly in freight and sea) account for 37% of services imports, followed by travel services (22.4%), and computer and information services (19.9%).

Table 4.4 Trade in services, 2007-11
(US$ million and %)

	2007	2008	2009	2010	2011
Services balance	-13,614.0	-14,624.6	-11,096.4	-10,102.1	-11,319.2
Export of services	12,561.5	15,400.6	13,227.7	16,831.0	21,242.2
of which in %					
Transportation	17.6	18.2	18.4	15.8	16.1
Passenger	3.9	5.0	3.4	3.9	4.9
Freight	10.9	10.2	11.3	8.8	8.6
Other	2.8	3.0	3.7	3.1	2.6
Travel	42.6	47.9	42.3	41.3	37.4
Business	12.8	14.4	13.7	13.3	12.1
Personal	29.8	33.5	28.6	28.0	25.3
Construction	3.7	4.3	4.4	3.1	2.6
Communication	11.8	8.3	8.7	7.4	7.6
Computer and information	17.4	14.2	19.1	25.6	27.0
Insurance	0.2	0.1	0.2	0.1	0.1
Finance	2.3	2.0	1.3	2.0	1.9
Royalties and licence fees	0.2	0.2	0.3	0.4	0.4
Personal, cultural and recreational	0.4	0.5	0.6	0.6	0.7
Manufacturing services on physical inputs owned by others	0.0	0.0	0.0	0.0	3.0
Maintenance and repair services n.i.e.	0.6	1.0	0.5	0.4	0.3
Government	3.3	3.3	4.1	3.3	2.8
Import of services	26,175.5	30,025.2	24,324.1	26,933.1	32,561.4
of which in %					
Transportation	36.3	46.3	26.8	32.2	37.3
Passenger	6.4	10.8	6.5	7.6	7.4
Freight	28.6	34.2	19.3	23.5	28.6
Other	1.3	1.3	0.9	1.1	1.3
Travel	18.7	18.5	21.9	23.7	22.4
Business	5.9	5.9	6.4	7.4	7.0
Personal	12.9	12.6	15.5	16.3	15.4
Construction	2.8	2.5	3.3	2.2	1.5
Communication	5.0	5.0	4.5	4.2	4.7
Computer and information	20.6	12.8	22.7	20.3	19.9

[15] The figures reflect balance of payments transactions and may not be representative of the full scope of GATS-covered trade.

	2007	2008	2009	2010	2011
Insurance	2.5	2.3	5.4	4.3	4.0
Finance	1.4	1.1	1.7	1.7	1.9
Royalties and licence fees	4.1	4.4	6.3	6.0	5.5
Personal, cultural and recreational	0.4	0.4	0.5	0.5	0.7
Manufacturing services on physical inputs owned by others	6.1	5.2	4.8	2.3	0.0
Maintenance and repair services n.i.e.	1.0	0.7	1.1	0.8	0.6
Government	1.0	0.8	1.1	1.8	1.6

Source: IMF, Balance of Payment Statistics. IMF online information. Viewed at: http://elibram-date.imf.org/.

4.45. According to the Indonesian Economic Development Acceleration and Expansion Master Plan 2011-2025, the tourism sector is to be expanded mostly to the Bali-Nusa Tenggara Region through development of the necessary infrastructure in terms of transport facilities and electricity. The information technology sector is to be developed mostly in all regions outside Java Island to create connectivity within all regions in Indonesia.

4.46. The authorities noted that the principal differences between Indonesia’s trade policy on goods and trade in services might reflect, to a certain degree, the distribution of competencies among relevant ministries and agencies that regulate trade. Trade in goods is relatively centralized under the domain of Ministry of Trade, with the support of the ministries of Industry, Agriculture, and others. In trade in services, the Ministry of Trade is the focal point for international services trade negotiations through the Directorate of Trade in Services Negotiations (DPPJ), located in the Directorate General of International Trade Co-operation, and coordinates the views and positions of the various technical ministries and stakeholders involved. Domestic policy aspects of services trade sectors tend to be in the exclusive domain of the ministries and agencies that technically govern and control the sectors.

4.7.1 WTO and other agreements

4.47. Indonesia's services schedule under the GATS covers 45 out of some 160 service subsectors, which is about average for developing countries (41). Indonesia's schedule covers a variety of business services, virtually all telecommunication services, construction services, financial services, tourism services and maritime transport services. Indonesia has scheduled a foreign equity ceiling of 49% on a horizontal basis, which is reduced to 35% in economically important sectors such as telecommunications.

4.48. Indonesia's initial offer of April 2005 in the DDA negotiations contains a limited number of new sector inclusions and removals of existing limitations. Indonesia has not submitted a revised offer. Indonesia's initial GATS offer would provide for new commitments on educational services and health services. Foreign-equity ceilings for construction would be raised to 55% but remain unchanged for telecommunications. Indonesia has received collective requests in the following sectors and modes: legal services, architectural/engineering/integrated engineering, computer services, postal/courier services, telecommunications, audio-visual, construction, distribution, education, environmental services, financial services, maritime transport, air transport, logistics, energy, cross-border trade (mode 1), and commercial presence (mode 3). Indonesia makes its offer conditional on the outcome of negotiations stipulated by the GATS, including negotiations on the question of emergency safeguard measures.

4.49. Indonesia's requests emphasize mode 4 commitments in a number of sectors, including services incidental to agriculture, mining, manufacturing, construction, computer and related services, hotel and restaurant services, and human health services. The authorities indicated that Indonesia is preparing a new set of requests, which are subject to on-going discussions between interested parties. Regarding Indonesia's participation in regional (including ASEAN) trade, services initiatives are based on a GATS-type commitment structure (Table A4.2).

4.7.2 Financial services

4.50. Indonesia's financial system was resilient during the global financial crisis that commenced in 2007. This is in large part attributable to the stability of the banking sector, which remains small relative to Asian neighbours like India and China. Total financial sector assets were 66% of GDP in June 2012, with the ratio of total bank assets to GDP at 50%. According to the authorities, although around 50% of the Indonesian population saves at banks, many Indonesians lack access to formal financial services and bank deposits have declined relative to GDP since 2007. Increasing access to formal financial services remains a priority, with the focus on lower income groups. However, the financial sector has been relatively slow to develop over the past decade, which affects the ability of domestic financial institutions and markets to support economic growth and poverty reduction. The lack of diversity in the financial sector and limited capital markets development to some extent call into question Indonesia's ability to address its long-term financing requirements and domestic resource mobilization to support investment.

4.51. Bank Indonesia[16] (BI), which sets Indonesia's monetary policy, is also responsible for supervising and regulating the banking sector, which consists of commercial and rural banks. BI is the bank supervisor, issuing regulations, licences and permits, and imposing prudential sanctions where necessary. Non-bank financial institutions involved in capital markets, pension funds, insurance, and multifinance are supervised by the Capital Market and Financial Institution Supervisory Agency (Bapepam - LK), under the Ministry of Finance.

4.52. The current supervisory structure is due to change. In November 2011, Indonesia established the financial services uuthority (Otoritas Jasa Keuangan, OJK) through Law No. 21/2011. The establishment of an independent body overseeing the financial sector was mandated in a 2004 amendment to the law on Indonesia's central bank. The OJK is intended to become the sole regulatory agency for all financial services institutions (banks, securities companies, insurance companies, pension funds, and multi-finance companies). To a certain extent, this new government body appears to be modelled after the United Kingdom's FSA, and its authority will include bank licensing, bank operations, setting policy on banking liquidity, and banking supervision, all of which it will take over from BI at the end of 2013. The OJK will start supervising and regulating banks in January 2014.

4.53. According to the authorities, in order to facilitate the process of the OJK assuming its new roles, a transition period has been established for transferring functions, duties, and authority in regulation and supervision of the financial service sector from BI and Bapepam-LK to OJK: (i) as of 31 December 2012, all regulatory and supervisory functions of non-bank financial institutions (i.e. capital market, insurance, pension funds, leasing companies, and other financial services companies) will be handed over from the Ministry of Finance and Bapepam-LK to OJK; (ii) as of 31 December 2013, all regulatory and supervisory functions of banks will be handed over from BI to OJK; (iii) OJK's Board of Commissioners is set up at the latest eight months after the OJK Law is enacted and no more than one month after OJK's Board of Commissioners is set up, a transition team is to be established in collaboration with BI and MOF; (iv) during the transition period, some existing employees of BI and Bapepam-LK will be assigned to work in OJK, for three years and one year, respectively. As the assignment period is concluded, they will be given the option to stay at the OJK or return to BI or Bapepam-LK; and (v) the existing laws and regulations regarding banking and non-banking financial institutions still apply until the new laws and regulations are introduced. Currently, no implementing regulations are being prepared by the OJK, as banking supervisory and regulatory authority remain under BI up to end 2013.

4.54. When the OJK takes over, BI's authority over banks will not be abolished entirely. The FSA will still be required to coordinate with BI in setting banking policies. These policies will concern the capital adequacy ratio for banks, an integrated banking information system, receiving foreign exchange, offshore funding and commercial loans, banking products, derivative transactions, and

[16] The country's central bank, Bank Indonesia, was established under the Central Bank Act No. 13/1968, as amended by the Central Bank Act No. 23/1999 and most recently by Act No. 6/2009. It acts as an independent institution, with autonomy to formulate and implement monetary policy. Bank Indonesia is also responsible for regulating the payment system and the nation's banks. Bank Indonesia regulates and implements monetary policy with the objective of maintaining the stability of the Indonesian rupiah. Policy direction is based on inflation rate targeting, taking into consideration short-, medium- and long-term macroeconomic targets.

other banking activities. BI may also conduct special investigations on banks after informing the OJK, and the results of these investigations must be conveyed to the OJK. According to the authorities, no implementing regulations are being prepared, as banking supervisory and regulatory functions remain under BI's authority. The OJK is currently developing its organizational structure and preparing the transfer of capital market and non-bank supervisory functions from Bapepam-LK.

4.7.2.1 Banking

4.55. Law No. 7 of 1992 on Banking as last amended by Law No. 10 of 1998 (the Banking Law) generally regulates banks in Indonesia. The Banking Law applies to both commercial banks and rural credit banks. Indonesia has a dual banking system, conventional and shariah-based, the latter being governed under Act No. 21/2008 on Islamic Banking. A bank must obtain central bank approval to operate its business. BI approval is also required to open branch offices and for mergers, consolidations or acquisitions. The bankruptcy and liquidation of banks is regulated separately.

4.56. The Banking Law distinguishes commercial banks from rural banks by the scope of their services. Commercial banks may provide an extensive range of financial services, including raising funds from the public in order to offer loans, trading negotiable instruments, providing bank guarantees, issuing credit cards, and settling and receiving foreign currency payments. In contrast, rural banks have a very limited scope of services. They may raise funds from the public, provide loans and extend credit, but may not be involved in foreign currency transactions or in direct clearing settlements. Neither type of bank may engage in the insurance business, except through a bancassurance arrangement with a licensed insurance company. Commercial banks may establish a separate shariah business unit to provide financial services based on Islamic banking principles. Rural banks may also operate as shariah banks.

4.57. The financial system is dominated by banks, accounting for 76% of financial sector assets as of June 2012. Other players in the financial industry, such as insurance companies, pension funds, finance companies, securities companies and pawn shops, have small shares within the market. Commercial banks, four of them state-owned[17], account for most banking sector assets. Foreign banks (including branches, joint venture banks, and foreign-owned local banks) play an important role in the sector, with an increasing share in banking assets. Since 1999, up to 99% of a bank's shares may be held by foreign entities or individuals. Indonesia has revised its WTO financial services commitments to 51% foreign ownership in its GATS schedule (previously 49%); new bank licences are unbound.

4.58. A new regulation on commercial bank ownership was issued in 2012 and is intended to improve the resilience of banks through better governance. The regulation minimizes ownership dominance in a bank as this may have a negative effect on a bank's operations. The regulation applies to all shareholders, Indonesians and foreign. Permitted ownership of banks up to 99% by foreign nationals remains unchanged (Box 4.2)

4.59. BI regulations stipulate that foreign banks seeking to establish operations, including opening a branch in the country, must: be rated "A" by a leading international rating agency; rank among the 200 largest banks in the world, by total assets; have paid-up operating funds of at least Rp 3 trillion; and have permission from their home market regulator. Foreign banks are allowed to establish branches and sub-branches in 12 major cities in Indonesia.

4.60. The single-presence policy, introduced in 2006, prevents any person or company from owning a controlling stake in more than one bank. The Government was granted an exemption from the rule for the state-owned banks. As noted above, in 2012 BI limited share ownership by any single shareholder or corporate group (domestic or foreign) so as to reduce their influence over Indonesian banks. The authorities indicate that the single-presence policy will be adjusted according to the policy on bank share ownership.

[17] Bank Mandiri, Bank Rakyat Indonesia, Bank Negara Indonesia, and Bank Tabungan Negara. Cited in: Economist Intelligence Unit (2011), p.13.

Box 4.2 Bank ownership

A new regulation on bank ownership, issued by the BI applies to national banks and foreign-owned banks in Indonesia. Its aim is to provide incentives for banks to bolster governance. In the face of regional and global dynamics and economic developments, the national banking industry needed to enhance its resilience through more robust implementation of prudential principles and good corporate governance. Regulations regarding the shareholding structure of banks were deemed necessary, and limits were imposed on bank ownership in order to reduce dominance and avoid the adverse effects ownership dominance may bring.

Under the new provisions, the maximum bank ownership limit depends on: (a) categories of shareholders, and (b) the nature of linkages between shareholders. The maximum share ownership for each category of shareholders is set out:

• 40% of bank capital for shareholders under the legal entity of financial institutions and non-bank financial institutions. However, banks may hold more than 40% of bank capital, with approval from Bank Indonesia. Considerations by BI to provide approval include the bank's rating and whether its stocks are listed in the capital market.

• 30% of bank capital for shareholders under the legal entity of a non-financial institution;

• 20% of bank capital for individual shareholders. For sharia banks, the limit is 25% of the bank's capital.

Source: Bank of Indonesia.

4.61. These measures are intended to shield Indonesia from the effects of the international credit crisis by reducing the impact of foreign banks and their risky investment practices. Indonesia's banking sector escaped relatively unscathed from the recent banking crisis thanks to limited exposure to the complex derivatives and other financial products that so devastated U.S. and European banks. Total commercial bank lending to the United States and Europe is estimated to be well below the total value of Indonesian bank assets.

4.62. In addition to reviewing its policy on ownership, BI is also reviewing its licensing policy. With the growing complexity of the banking business, there have been proposals for example to switch from the current one-size-fits-all single licence to a policy of multiple banking licences.[18] The authorities note that as of December 2012 no final regulatory framework has been decided.

4.63. In implementation of the Basel II Accord, Indonesian commercial banks and rural credit banks are required to maintain a statutory capital adequacy ratio (CAR) of at least 8% of their risk-weighted assets. The capital adequacy ratio of banks is well above the regulatory minimum (17.2% in 2012 according to BI). BI may require banks to reserve more capital if it deems this necessary in order to anticipate potential losses, depending on the risk profile of the bank. In calculating this percentage, BI determines what should be classified as capital and what constitutes risk-weighted assets.

4.7.2.2 Non-bank financial sector

4.64. The non-bank financial sector remains small and under-developed, accounting for less than 10% of GDP. It includes insurance companies, pension funds, mutual funds, finance companies, securities companies, and pawnshops. The insurance, mutual funds, and pension industries are growing, albeit from a low base.

4.65. The insurance sector is the largest among the non-bank financial institutions, accounting for 6% of GDP. Indonesia still has one of the lowest life insurance ratios in Asia, with a penetration rate of about 1.2% as of mid-2011, according to the Indonesia General insurance Association. There were 45 life insurance companies licensed in Indonesia at end-2010, with the top 5 insurers holding over 50% of the market in terms of gross premiums.

4.66. The 2007 Negative Investment List placed a new of 80% foreign ownership limit on loss insurance, life insurance, reinsurance, and brokerage insurance. Foreign insurance agents are obliged to partner with a local entity and may hold a maximum 65% ownership. Many foreign

[18] OECD (2012), *Economic Surveys: Indonesia*, Paris, September 2012, p.19.

insurers gained entry into the market by acquiring local companies or by establishing joint ventures with local companies.

4.67. Insurance companies operate under legislation introduced in 1992 (Insurance Law No. 2) and subsequent regulations, which provide, *inter alia*, for prudential conditions, investment areas for insurance, and insurance in the context of the establishment of a social security system and health insurance.

4.7.3 Telecommunications services

4.68. The telecommunications sector is governed primarily by Law No. 36/1999 (Telecommunications Law), which sets guidelines for industry reforms, including liberalization, facilitation of new entrants, and enhanced transparency and competition. The law is implemented through numerous government regulations and ministerial regulations. Indonesia has committed to the WTO Basic Telecommunications Agreement, which provides for fair competition under the transparent supervision of an independent regulator.

4.69. The independent regulator - the Indonesian Telecommunication Regulatory Body (Badan Regulasi Telekomunikasi Indonesia or BRTI) - was established by the Ministry of Communication and Information Technology' (MCIT) through Ministerial Decree No. 36/2008 with the purpose of ensuring transparency, independence, and fairness in the telecommunication industry. BRTI functions to regulate, supervise, and guarantee the implementation of fair competition through transparent, predictable, and accountable policy and regulation including the licensing process. The authorities note that the BRTI is not part of, or responsible to, any operators. BRTI reports directly to the Minister of Communication and Information Technology (MoC) every three months. The BRTI consists of officials from the Directorate General of Posts and Telecommunications (DGPT) and the Committee of Telecommunications Regulations Competition).

4.70. Despite the termination of exclusive rights, the Government does not prohibit or discourage operators from attaining a dominant position with regard to telecommunications services. However, it does prohibit operators from abusing a dominant position. MoC Decree No. 33/2004 sets forth measures to prohibit the abuse of a dominant position by network and service providers. Specifically, the decree prohibits a dominant provider from engaging in practices such as dumping, predatory pricing, cross subsidies, compelling consumers to use that provider's services (to the exclusion of competitors), and hampering mandatory interconnection. The enactment of KPPU Regulation No.1/2009 on Pre-Notification of Mergers, Consolidations and Acquisitions, along with implementing guidelines, are considered to provide further legal certainty for the business environment, in particular by controlling anti-competitive M&A activity.

4.7.3.1 Investment in the telecoms industry

4.71. Telecommunications providers face a number of investment restrictions (Table 4.5). Indonesia permits up to 65% foreign ownership in value-added and mobile telecommunications services and up to 49% for fixed networks. While this foreign ownership level goes beyond Indonesia's current commitments in its WTO GATS schedule, the new limits on fixed services appear to represent a step backward from recent practice, where up to 95% ownership was permitted. Foreign ownership of up 95% is allowed for suppliers of certain data communication system services, and foreign firms have obtained licences in this sector.

4.72. A Ministry of Communications and Informatics decree issued in 2008 closed the construction, management, and ownership of cell towers to foreign investment. Only 100% locally owned companies may own and manage towers. Telecom companies with foreign investment such as PT Telkom, PTIndosat, PT Hutchison Indonesia, and PT Excelcomindo Pratama were affected by this decree as they have built and managed their towers since the beginning of their operations. However, as a compromise, companies publicly listed in the Indonesian Stock Exchange were to be considered locally owned. Some foreign firms were forced to exit the market. The decree also reiterates a 2008 ruling that gives local governments the power to control the number of towers located in its territory, as well as where they are built.

Table 4.5 Limitations on foreign participation in telecom services

Services	Ownership
Network operation:	
Fixed networks with circuit-switched or packet-switched technology	Maximum ownership 49%
Closed fixed network	Maximum ownership 65%
Mobile network	Maximum ownership 65%
Service operation:	
Internet service provider (ISP)	Maximum ownership 49%
Data communication services	Maximum ownership 95%
Voice over Internet protocol/VoIP	Maximum ownership 49%
Internet interconnection services (network access provider)	Maximum ownership 65%
Other multimedia services	Maximum ownership 49%

Source: Presidential Decree No. 36,2010 Concerning the List of Closed Business and Opened Business Fields with Certain Requirements in Capital Investment, Annex II.

4.7.3.2 Market developments

4.73. In 2002, the Government ended Telkom's exclusive rights to provide fixed-line services in Indonesia but as of today the company still acts as the principal player and also provides interconnection, network, and internet services. Also in 2002, the Government sold 42% of its shares in Indonesian Satellite (Indosat), Indonesia's second-largest mobile-phone operator, to Temasek Holdings, the state-owned investment arm of the Government of Singapore. Indosat's monopoly on international calls ended in 2003. By 2007, Temasek Holdings, through various subsidiaries[19], held stakes in Indonesia's two largest telecom operators and controllers of 80% of the Indonesian market, Indosat and Telkomsel. Citing these holdings, the Business Competition Supervisory Commission (KPPU) found Temasek guilty of anti-competitive practices through cross-ownership, levying a fine and mandating Temasek's divestment of Telkomsel and Indosat within two years.[20]

4.74. During the review period, Indonesia's telecommunications market continued to expand and has settled into a healthy development phase. Fixed-wireless technology has provided a fresh basis for expansion in the development of the country's fixed-line network. Wireless has become the dominant component within the fixed-market segment, and by 2011 accounted for an estimated 80% of the total fixed-line subscriber base, with teledensity reaching 17% by early 2012; it has provided much needed basic telephone services to previously unserved communities. Telkom is the largest provider of fixed wireless service, followed by Bakrie Telecom, Indosat and Nobile 8.

4.75. The number of mobile subscribers increased from 104 million in 2007 (37% penetration rate) to an estimated 249 million by early 2012, with a penetration rate of over 100%. As penetration passed the important 100% milestone, there was still considerable potential for further market growth, with consumer interest shifting to the 3G services offered by the operators.

4.76. According to the authorities, currently there are 11 mobile operators. Telkom is still the most dominant telecommunications player and is publicly traded, with the Indonesian Government owning 51% of the shares. Telkomsel, the leading cellular operator in Indonesia, is jointly owned by Telkom (65%) and SingTel (35%). Indosat is also publicly traded, with the Government owning 15% and Qatar-Telecom (QTEL) 65%. Telkomsel, Indosat, and XL own 75% of the cellular subscriber market in Indonesia. The rapid growth has attracted a number of foreign investors to the country, including Singapore Telecommunication Ltd (Sing Tel) and Singapore Technology Telemedia (STT), Telekom Malaysia and Maxis Communication Bhd from Malaysia, Qtel from

[19] Via a 54% stake in SingTel group, Temasek owned a 35% stake in Telkomsel, and through STT Communications (its wholly owned subsidiary) held a 75% stake in Asia Mobile Holdings, which is a 42% owner of Indosat.

[20] A 2008 district court decision upheld the KPPU decision but lowered the fine and moderated the divestment requirement to 50% of Temasek's holdings in both Indosat and Telkomsel, or 100% of the holdings in a single operator. The company complied with the ruling in 2008 by completing the sale of its entire stake in Indosat to Qatar Telecom.

Qatar, and Hutchison CP Telecommunication, a Thai-Hong Kong joint venture. Canadian IT companies are exporting to the market, but have no significant investments.

4.77. The fixed-wireless sector is partially competitive, five licensees provide services, two of which are the two main companies, PT Telkom and PT Indosat. Wireline remains a virtual monopoly of the incumbent (Telekom). Regarding competition in the broadband sector, there are no restrictions on providing internet services; there were 217 internet service providers (ISPs), in March 2012. However, ISPs must purchase international bandwidth from the monopoly provider PT Indsat, and local infrastructure from PT Telkom, both of which are competitors in the broadband market.

4.78. Internet usage is also expanding, reaching an estimated 30 million by end-2011, a 50% increase from 2007. Most Indonesians access the internet from their mobile phones. Indonesia has become one of the biggest markets in the world for social media, with the second largest population in the world on Facebook and more Blackberry users than any other country in Asia. Fixed-line growth has been leapfrogged by fixed-wireless and mobile technologies. While internet penetration at home is relatively low (7% of households in 2010), internet-enabled mobile phones and *warnets* (internet café) have allowed Indonesians to access the internet at relatively low cost.

4.79. Both the Government and the private sector are investing heavily to expand capacity. Under its Universal Service Obligation programme, the Government plans to supply telephone and internet service, mainly through satellite terminals, to more than 38,000 rural villages around the country between 2010 and 2015. Private operators are also planning to maintain or ramp up capital expenditures, as low tariffs and expanding demand is putting significant pressure on network capacity.

4.7.4 Transport

4.80. The Government's national transport growth strategy is guided overall by the Sistranas plan.[21] The development plan for 2010–2014 emphasizes enhanced domestic connectivity through major infrastructure development and transport sector reform. The specific objectives for the transport sector development include: improving capacity of transport infrastructure and reducing backlogs and bottlenecks in transport services; achieving a 90% stable road network: increasing domestic sea transport market share to 100%, and railway freight and passenger market shares by 7% and 23%, respectively; and improving the level of transport safety (to reduce transport accidents by 50% by 2014). Transport infrastructure and services are under national, provincial, district, or city agency control, depending on the level of infrastructure or service. Targeting funding to specific purposes is difficult because of the decentralized governance.

4.81. Between 2004 and 2009, laws governing transport were changed to create a more efficient framework for transport network development, including to break the monopolistic role of the SOEs and allow increased competition from the private sector in the delivery of transport services.[22] As a result, air and road transport services are now considered to be more competitive, offer good service, and are mainly constrained by limitations in infrastructure. Railway operations are still going in transition, as private operators are selectively encouraged to build special railways to carry resources like coal or timber.

4.7.4.1 Road transport

4.82. The road subsector has continued to dominate the other modes in absolute value and in passenger- and freight-km. In units moved, estimated modal shares for passengers are: road 90%, rail 8%, sea 1%, and aviation 1%; and those for freight are road 90%, sea 9%, and rail and aviation under 1%. In service delivery provided, 70% of passenger-km and 82% of tonne-km are transported via road. Transport services, by truck or by bus, are operating in competitive

[21] Minister of Transportation Regulation No. KM 49/2005 on the National Transportation System (SISTRANAS). This is an aspirational national transport plan within the framework of the Government of Indonesia's 20-year National Development Plan (Law No. 17/2007: 2005–2025 National Long-Term Development Plan [RPJPN 2005–2025]).

[22] Road and Toll Road Law No. 13/1980 to Law No. 38/2004; Railway Law No. 13/1992 to Law No. 23/2007; Sea Transport and Port Law No. 21/1992 to Law No. 17/2008; Air Transport Law No. 15/1992 to Law No. 1/2009 and Land Transport Law No. 14/1992 to Law No. 22/2009.

markets. Entry to the industry is largely unrestricted and tariffs are determined by market forces, with the exception of fares for low-income passenger bus services, which are set by the Government for interprovincial services and by provincial authorities for services within provinces.

4.83. The Directorate General of Highways (DGH), part of the Ministry of Public Works, has responsibility for the management and development of the national road network. Provincial and municipal (*kabupaten)* roads are the responsibility of provincial and municipal governments, respectively, although DGH is responsible for the planning of provincial highways. The Toll Road Regulatory Agency (BPJT) is responsible for the regulation and management of toll roads, with DGH responsible for network system planning and definition of technical standards.

4.7.4.2 Rail transport

4.84. Railway operations are the responsibility of an SOE, P.T. Kereta Api Indonesia (PTKA), which reports to the Ministry of State-Owned Enterprises (MSOE), while overall management of the sector is left to the Directorate General of Railways of the Ministry of Transport (MOT). Although rail infrastructure is formally the responsibility of the government, PTKA maintains the track under an infrastructure maintenance obligation that exactly matches the cost of maintenance carried as a track access charge. Until the enactment of the new Railway Law (Law No. 23/2007), the MOT remained responsible for sector policy, planning, and regulation, and the provision of rail infrastructure and signalling, while PTKA had the mandate to operate and provide all services, and maintain the infrastructure. However, the law allows the private sector, the local government, and the community to be involved in the provision of railway services in the form of special-purpose railways. It also allows freedom in freight and passenger rates. New institutional arrangements are being designed and will form part of the Railway Master Plan.

4.7.4.3 Maritime transport

4.85. The Directorate General of Sea Transportation of the Ministry of Transport has overall responsibility for sea transportation, which includes (i) issuance of licences for ships and maritime services; (ii) management and operation of navigation equipment; and (iii) responsibility for maritime safety and training of seafarers. It is also the regulator of port activities whether publicly or privately operated. Until recently, ports were exclusively managed by Indonesian Port Corporation SOEs (Pelubahan Indonesia, abbreviated to Pelindo), which covered separate regions of Indonesia and exercised monopolistic control over operations and development.[23] This changed with the 2008 Shipping Law and its subsidiary regulations, which facilitated a "port authority" structure with each Pelindo becoming a port operator competing with other private operators. However, all port land is registered to the Pelindos and is carried as an asset on their financial statements, which complicates the full transition to port authorities, which should own and manage the port lands.

4.86. Efficiency in the major Indonesian ports is questionable, by international standards.[24] When comparing container terminal productivity with ports in Southeast Asia and Europe, Indonesian ports suffer from excessively high berth occupancy and excessively low twenty-foot equivalent unit (TEU) productivity per berth.

4.87. The country's largest container terminal is in Tanjung Priok, Jakarta. Tanjung Priok dominates container throughput, accounting for 44% of the country's total throughput and more than 60% of Indonesia's exports. In 2010, container flows through Tanjung Priok were estimated at 5 million TEUs, and the number of containers that it handles is expected to double in the next five years. Like other aspects of Indonesia's infrastructure, investment in port facilities has not matched the rapid growth of traffic moving through them. Bottlenecks are common, cargo handling is delayed, and main shipping lines report that vessels must often leave Tanjung Priok before they are fully loaded in order to keep to their published schedules.

[23] There are approximately 1,700 ports in Indonesia—725 under government jurisdiction and close to 1,000 private special-purpose ports. Of the government ports, 111 are commercial ports under the jurisdiction of the Pelindos (I, II, III, and IV) which, as state-owned enterprise (SOE), report to the MSOE.

[24] The OECD notes that an assessment of the operational performance of Indonesia's ports is difficult due to the lack of readily available data. See the chapter on "Regulatory and competition issues in ports, rail and shipping": OECD (2012c).

4.88. According to the World Bank, the cost of exporting and importing containers in Indonesia in 2009 was significantly higher than in neighboring Malaysia or Thailand, primarily due to the high transport costs between factory and port.[25] Tanjung Priok also lags other ASEAN ports in terms of average turnaround time and number of crane movements.

4.89. A new Shipping Law enacted in 2008 broke the monopoly of the Pelindos, redefined the cabotage policy, and better defined the distinction between regulatory functions and operations. Key issues revolve around the ownership of the port lands, which now rests with the Pelindo and which, in the future, should be transferred to the new port authority.

4.90. Indonesia's 2008 shipping law requires all vessels operating in Indonesian waters to be flagged domestically and manned by Indonesian crews; cabotage regulations were due to apply that law to all offshore activities beginning May 2011.[26] Implementation of such a requirement could be a particular problem for foreign investors in Indonesia's energy sector, which will no longer be permitted to bring in the sophisticated rigs and specialized equipment needed to develop large upstream projects. Subsequently, the Ministry of Transportation issued Regulation No. 22/2011 allowing certain classes of non-transportation vessels to be eligible for a three-month renewable waiver from the domestic-flag requirements when there is no suitable Indonesian-flagged vessel available. Exceptions included drill rigs, seismic vessels, and other vessels unique to the oil and gas industry, as well as cable-laying ships. These exceptions delay implementation of a broad-based local-content effort, but are time limited and scheduled to phase out over the next few years.

4.91. Under Article 8 of the Shipping Law, domestic sea transportation is to be carried out by national shipping companies, using Indonesian-flagged vessels manned by an Indonesian crew. Similarly, a foreign vessel is prohibited from transporting passengers and/or goods between islands or ports in Indonesian territory. Further, Article 341 of the Shipping Law requires the cabotage principle to be applied fully three years after enactment of the law (i.e. by 2011). The cabotage principle boosted the national shipping industry, during the first five years of implementation, as the number of Indonesian-flagged vessels has increased significantly. Moreover, the domestic sea transportation of commodities, as set out in the ministerial road map, has been fully carried out by national shipping companies using Indonesian-flagged vessels, e.g., the transportation of general cargo, wood products, cement, rice, crude palm oil, fresh products, liquids and other chemical products, farming products, and coal.

4.92. To exempt offshore oil and gas vessels from the cabotage principle, Regulation 22 provides that foreign-flagged vessels may engage in activities other than the transportation of people and goods within Indonesian territory such as: (1) conducting an oil and gas survey; (2) drilling; (3) offshore construction; (4) support of offshore operations; and (5) dredging and salvage and underwater work. In order to use a foreign-flagged vessel, it must be demonstrated that no Indonesian-flagged vessel is available or, if one is available, that it is not sufficient for the proposed activity. Foreign-flagged vessels still require a permit from the Minister of Transportation. Regulation 22 is further implemented by Minister of Transportation Regulation No. 48 of 2011, which regulates the use of foreign-flagged vessels for offshore oil and gas activities, including the time period of operation, the permit procedures and the permitted uses. It provides that the permit may only be granted if Indonesian-flagged vessels are not available or are not sufficiently available.

4.93. Foreign-flagged vessels may operate in Indonesia with varied exemptions expiring between December 2012 and December 2015, depending on the type of activity and vessel. For example, oil and gas vessels for seismic surveys, geophysical surveys, and geotechnical surveys are limited to operations until December 2014. Drilling activities are generally permitted to operate until

[25] World Bank (2010).

[26] Under the cabotage principle, domestic sea transportation shall be the full right of coastal nations. In practice, each coastal nation is entitled to prohibit foreign-flagged vessels from transporting and/or operating within its territory. The cabotage principle was introduced in Indonesia by Presidential Instruction No. 5 of 2005 (Empowerment of the National Shipping Industry). The Instruction was addressed to the 13 ministries as well as governors/regents/mayors throughout Indonesia, and requested implementation of the cabotage principle to empower the national shipping industry. The purpose of Indonesia’s cabotage regulation is to prevent or lessen the dependence of the national economy on foreign shipping companies and foreign-flagged vessels.

December 2015. Barring additional exemptions, no foreign-flagged vessels will be permitted to operate within Indonesian territory past 2015.

4.7.4.4 Air transport

4.94. Establishment of aviation policy and administration is the responsibility of the Director General of Civil Aviation in the MOT. A new Aviation Law was issued in 2009; the required Air Master Plan, which will guide implementation of the law, has not yet been prepared. The intent of the aviation law is to open provision of infrastructure services more fully to the competitive private sector. However, currently, the air services infrastructure is under the direct authority of the Angkasa Pura I and II (Persero). The air subsector is evolving rapidly, with strong growth in air travel resulting from highly competitive, low-cost air service. Angkasa Pura I and II (Persero) are responsible for operating 25 air terminals divided equally between west and east Indonesia. They retain a monopoly over air terminal capacity, with the ability to limit private-sector investment, resulting in cases of overcrowded terminals and poor international flight safety standards.

4.95. There are 186 airports in Indonesia, 24 of which are registered as international airports. In a few international airports (besides the ones with the highest traffic), capacity improvements and modernization are required. This might be hampered by the low airport charges, which may not be able to cover new investment costs. Also, in many domestic airports, air navigation equipment is clearly in need of updating. Four major airports (Bali, Jakarta, Medan, and Surabaya) capture almost all international traffic and more than half of the domestic traffic.

4.96. With liberalization and an open-sky policy dating back to 1999, civil aviation in Indonesia, especially domestic travel, has increased rapidly, along with the number of air carriers. However, air safety and security issues are somewhat limiting the smooth expansion of commercial civil aviation in Indonesia.[27]

4.7.5 Tourism

4.97. Tourism is seen as important in Indonesia given its contribution to the national economy. The latest data from 2010 suggest that the tourism sector contributes 4.1% to GDP, down from a peak of 5.3% in 2005, and employs 6.9% of the workforce.[28]

4.98. International arrivals totalled 7.6 million in 2011, representing strong average annual growth, at 9.5% since 2006 (Table 4.6). In 2010, the five leading origin markets – Singapore, Malaysia, Australia, China and Japan together accounted for approximately 62% of total arrivals. However, the average length of stay declined between 2007 and 2011. International travel receipts totalled US$8.5 billion in 2011, an increase of more than 12% over 2010. The average expenditure per visitor also increased slightly (2.9%) on the 2010 figure. Hotel room occupancy averages around 51%.

Table 4.6 Inbound tourism, 2007-12

International visitors			Average length of stay (day)	Average expenditure per person (US$)		Revenue		Number of hotel rooms
Year	Total	Growth (%)		Per day	Per visit	Total (million US$)	Growth (%)	
2007	5,505,759	13.02	9.02	107.70	970.98	5,345.98	20.19	303,376
2008	6,234,497	13.24	8.58	137.38	1,178.54	7,347.60	37.44	325,218
2009	6,323,730	1.43	7.69	129.57	995.93	6,297.99	-14.29	334,817
2010	7,002,944	10.74	8,04	135.01	1,085.75	7,603.45	20.73	353,138
2011	7,649,731	9.24	7.84	142.69	1,118.26	8,554.39	12.51	381,457
2012	5,895,288[a]	5.01	..	..	..	..	..	..

.. Not available.

a Preliminary figures for January - September 2012

Source: Information provided by the Indonesian authorities.

[27] In 2007, the European Union issued a blanket ban for all Indonesian airlines. This ban was lifted in 2009 for Garuda and Mandala (plus two charter companies). The International Civil Aviation Organization has issued no less than 600 safety recommendations to Indonesia.

[28] OECD (2012c).

4.99. In 2011, the Ministry of Culture and Tourism became the Ministry of Tourism and Creative Economy. Cultural development affairs are now under the responsibility of the Ministry of Education and Culture.

4.100. The principle law governing the tourism industry was passed in 2009 and acts as the main regulator of national tourism development. Tourism Law No. 10 of 2009 adopted the Global Code of Ethics for Tourism and principles of sustainability.[29] Tourism policy is further articulated in Government Regulation No. 50/2011 concerning the National Tourism Development Master Plan 2010-2025. Government policy on tourism is based on sustainability criteria and on four key principles: pro-poor, pro-growth, pro-job, and pro-environment. In this regard, four priority activities for the development of the tourism sector provide support to: the tourism industry; tourist destinations; tourism promotion and marketing; and tourism resources and institutions. According to the authorities, the Government has taken several significant measures that include: destination management organization; empowerment of local communities related to tourism village development; and identification of 50 national tourism destinations that contain 88 national tourism strategic areas across Indonesia, including culture and heritage, nature and ecotourism, sports, cruises, shopping and gastronomy, wellness and spa, and meetings/conventions.

4.7.6 Other services

4.7.6.1 Legal services

4.101. The legal profession in Indonesia is regulated by the Ministry of Law and Human Rights. Only Indonesian citizens may practice as lawyers. Foreign lawyers may only work in Indonesia as "legal consultants" and must first obtain the approval of the Ministry of Law and Human Rights. Foreign lawyers may work in an Indonesian law firm as employees or as experts in international law but are not permitted to appear in court or undertake legal proceedings. A foreign law firm seeking to enter the market must establish a relationship with a local firm.

4.102. Foreign lawyers are obliged to provide free law services for purposes of education, research and capacity building. The number of foreign lawyers in an Indonesian firm is limited to 20% of the total number of lawyers or five (whichever is the lower).

4.7.6.2 Audit and accounting services

4.103. Foreign accountants may operate in Indonesia if they have a licence from the Ministry of Finance and membership of the Indonesia Institute of Certified Public Accountants. Foreign public accounting firms must be affiliated with a local public accounting firm to conduct business in Indonesia. Foreign accounting firms must use the name of their local affiliate in addition to their firm's name in presentation and disclosure. Indonesia allows a maximum of 10% of foreign national staff for each level of management in the affiliated local accounting firm. In affiliated accounting firms, the ratio of foreign audit-signing partners to local signing partners may not exceed one to four.

4.104. Foreign firms may not practice under international firms' names, although terms such as "in association with" are permissible. Foreign accounting firms must operate through technical assistance arrangements with local firms. Foreign agents and auditors may act only as consultants and may not sign audit reports. Foreign directors, managers, and technical experts/advisors, unless mentioned otherwise, are allowed a maximum stay of two years, with a possible one-year extension. Licensed accountants must be Indonesian citizens. A Ministry of Finance decree requires a five-year limit on general audits by a single accounting firm.

[29] The law states that there are eight principles in establishing tourism: respecting religion and culture; respecting human rights, cultural diversity, and local wisdom; benefiting people's prosperity and promoting justice; protecting the environment and promoting conservation; empowering local communities; integrating sectoral activities between central government, provincial and regional levels, and other stakeholders; adopting and implementing world tourism's code of ethics; and strengthening the unity of the people of the Republic of Indonesia.

4.7.6.3 Construction, architecture and engineering

4.105. Foreign construction firms are only permitted to be subcontractors or advisors to local firms in areas where the Government believes that a local firm is unable to do the work. In addition, for government-financed projects, foreign companies must form joint ventures with local firms.

4.7.6.4 Health services

4.106. Hospital services are mostly closed to foreign investment according to Indonesia’s Negative List for Foreign Investment, although Indonesia does allow for a maximum of 65% foreign ownership in hospital services in the cities of Medan and Surabaya. Indonesia also restricts foreign healthcare professionals from practicing in Indonesia. Foreign-trained physicians are only allowed to supervise and perform procedures in the course of educating Indonesian physicians.

4.107. Changes to the negative list of foreign investment restrictions in 2010 allow for 67% foreign ownership of private specialist hospitals in all regions of Indonesia, while the previous regulation limited foreign investors to the cities of Medan and Surabaya. Under Doctors' Practice Law No. 29/2004 and Minister of Health Regulation No. 512/2007, foreign doctors should be permitted to practice in Indonesia. However, the situation is unclear as a 2004 technical note from Indonesia's Investment Coordinating Board (BKPM) bans foreign doctors from practicing in Indonesia. In practice, it is almost impossible to obtain a licence due to strong opposition from the Indonesian Doctors' Association. Most foreign healthcare professionals act only as consultants and trainers for Indonesian healthcare professionals.

4.7.6.5 Education services

4.108. The Law on Education Legal Entities does not allow foreign investment in higher education in the form of a limited liability company, in conflict with provisions of the existing Investment Law. In addition, in order to provide educational services, foreign nationals must be authorized by the Ministry of Education and the Ministry of Manpower. Authorization is granted on a case-by-case basis and only when there are no Indonesian instructors capable of filling the position.

4.7.6.6 Logistics and postal services

4.109. In 2009, the Indonesian legislature introduced a new law with restrictions on the provision of postal services, broadly defined to include courier, express delivery, and other logistics services. According to the authorities, the law requires postal service providers to be majority-owned by Indonesians and foreign providers limit their activities to provincial capitals with international airports and seaports. The Ministry of Communication and Information has said that joint ventures will be able to service cities with international airports and seaports, as well as supporting economic areas of provincial capitals with international airports and seaports.

4.7.6.7 Audiovisual services

4.110. In 2008, the Minister of Culture and Tourism issued a regulation requiring all local and imported films – both theatrical prints and home video copies – to be duplicated locally, with penalties on exhibitors for failing to do so. Foreign investment is prohibited in broadcast and media sectors, including film and video production and distribution, and cinema construction and operation. Foreign investment is also prohibited in the provision of radio and television broadcasting services, radio and television broadcasting subscription services, and media print information services.

4.111. In 2009, the Indonesia Parliament enacted a new Film Law, which law includes a 60% local-content requirement for local exhibitors, unspecified import restrictions to achieve that quota, prohibitions on the dubbing of foreign films, and prohibitions against foreign companies distributing or exhibiting films. The law also restricts vertical integration across segments of the film industry, which could have unintended consequences in reducing business efficiency and in making the market a less attractive destination for foreign investment. In 2010, the Minister of Culture and Tourism issued a two-year postponement of the 2008 regulation requiring local replication. A subsequent deferral, until end-2012, was issued.

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5 APPENDIX TABLES

Table A1. 1 Foreign direct investment by sector, 2007-12
(US$ million and %)

	2007	2008	2009	2010	2011	2012[a]
Total (US$ million)	10,387.3	14,795.2	10,363.1	16,214.8	19,474.5	18,252.0
	(% of total)					
Agriculture, forestry and fishing	2.4	0.9	0.9	5.1	6.5	7.3
Mining	3.0	1.3	1.7	13.6	18.6	17.3
Manufacturing	45.8	31.6	37.6	20.6	34.9	47.1
Food	6.3	4.1	4.4	6.3	5.7	6.3
Textiles	1.3	1.4	2.7	1.0	2.6	2.1
Leather goods and shoes	0.9	1.0	1.2	0.8	1.3	0.7
Timber	1.2	0.9	0.6	0.3	0.3	0.1
Paper and printing	6.2	2.1	0.6	0.3	1.3	5.9
Chemicals	16.5	4.2	12.7	4.9	7.5	13.6
Rubber and plastics	1.5	1.8	2.0	0.6	1.9	3.2
Non-metal minerals	0.3	1.7	0.2	0.2	0.7	0.7
Basic metal, machinery and electronics	7.2	8.9	6.3	3.6	9.1	7.0
Medical and precision instruments	0.1	0.1	0.0	0.0	0.2	0.0
Transport equipment	4.0	5.1	5.7	2.4	4.0	7.2
Other	0.3	0.3	1.2	0.2	0.3	0.4
Electricity, gas and water	1.1	0.2	1.7	8.8	9.6	5.9
Construction	4.7	1.8	5.1	3.8	1.8	1.1
Services	43.0	64.2	53.1	48.1	28.7	21.4
Trade and repair	4.6	3.9	5.1	4.8	4.2	2.2
Hotels and restaurants	1.3	1.1	3.0	2.1	1.2	4.0
Transportation, warehouse, and telecommunication	31.8	57.1	40.3	31.3	19.5	10.3
Housing, industrial area, and offices	0.6	1.2	3.0	6.5	1.0	1.8
Other services	4.6	0.9	1.8	3.4	2.7	3.2

a FDI figures up to end-September only.

Source: Data provided by the Indonesian authorities.

Table A1. 2 Foreign direct investment by origin, 2007-12
(US$ million and %)

	2007	2008	2009	2010	2011	2012[a]
Total (US$ million)	10,387.3	14,795.2	10,363.1	16,214.8	19,474.5	18,252.0
	(% of total)					
Combined countries	43.7	20.4	48.5	23.6	29.9	29.6
Singapore	8.7	52.4	8.8	34.3	26.3	19.1
EU27	17.5	5.0	16.2	7.2	11.1	10.2
Japan	5.7	8.5	6.6	4.4	7.8	9.8
Korea, Rep. of	6.1	2.6	5.9	2.0	6.3	6.8
Other countries	3.2	0.7	1.2	2.4	0.4	4.9
United States	0.6	1.1	1.0	5.7	7.6	4.0
British Virgin Islands	1.0	1.2	2.7	10.0	2.7	4.0
Australia	1.8	0.2	0.8	1.3	0.5	3.6
Chinese Taipei	0.6	1.3	0.3	0.3	1.2	3.5
Malaysia	2.0	2.3	1.1	2.9	3.2	2.4
Hong Kong, China	1.2	0.9	0.2	3.5	0.7	0.7
China	0.1	0.9	0.5	1.1	0.7	0.5
Seychelles	2.7	0.4	1.6	0.1	0.4	0.4
India	0.1	0.2	0.3	0.1	0.2	0.4
Thailand	0.6	0.0	0.5	0.3	0.4	0.1
Mauritius	2.2	0.3	1.5	0.1	0.4	0.0
Mauritania	0.0	0.0	0.0	0.7	0.2	0.0
Indonesia	2.2	1.5	2.4	0.0	0.0	0.0

a FDI figures up to end-September only.

Source: Data provided by the Indonesian authorities.

Table A1. 3 Merchandise exports by product group, 2007-11
(US$ million and %)

	2007	2008	2009	2010	2011
Total exports (US$ million)	114,100.9	137,020.4	116,510.0	157,779.1	203,496.6
	% of total				
Total primary products	57.1	60.9	59.1	62.2	65.3
Agriculture	20.9	24.0	21.7	22.8	23.7
Food	14.6	17.6	17.2	16.2	16.2
4222 Palm oil, fractions	6.9	9.0	8.9	8.5	8.5
4224 Palm kernel oil, fractions	0.9	1.0	0.9	1.1	1.0
Agricultural raw material	6.2	6.4	4.5	6.5	7.5
2312 Natural rubber excluding latex	4.3	4.4	2.8	4.6	5.8
2515 Chemical wood pulp, soda/sulphate bleached	0.9	1.0	0.7	0.9	0.8
Mining	36.3	36.9	37.4	39.4	41.6
Ores and other minerals	6.9	4.4	5.7	6.3	4.4
2831 Copper ores and concentrates	3.7	2.4	4.4	4.4	2.3
Non-ferrous metals	3.8	3.5	3.4	3.5	3.4
6821 Copper anodes; alloys; unwrought	1.6	0.9	1.5	1.4	1.3
6871 Tin and tin alloys, unwrought	0.9	1.4	1.1	1.1	1.2
Fuels	25.6	29.0	28.3	29.6	33.9
3212 Other coal, whether or pulverized, not agglomerated	5.8	7.6	11.8	11.5	12.5
3431 Natural gas, liquefied	8.6	9.5	6.4	6.7	8.8
3330 Crude oils of petroleum and bituminous minerals	8.1	9.1	6.7	6.6	6.8
3432 Natural gas, in the Gaseous state	0.0	0.0	1.1	1.8	2.3
3354 Petroleum bitumen/coke/mixtures, n.e.s.	0.9	1.7	1.2	1.1	0.9
3222 Lignite, whether or not pulverized (excluding jet)	0.0	0.0	0.0	0.2	0.8
Manufactures	42.3	38.5	40.1	37.0	33.6
Iron and steel	1.4	1.6	1.1	1.1	1.0
Chemicals	5.6	5.0	5.0	5.2	5.7
5989 Chemical products and preparations, n.e.s.	0.1	0.3	0.2	0.4	0.8
Other semi-manufactures	8.0	7.2	7.4	6.7	5.8
6412 Paper and paperboard, uncoated of a kind used for writing	1.5	1.4	1.5	1.3	1.0
6251 Tyres, pneumatic, new, for cars	0.7	0.6	0.8	0.7	0.8
Machinery and transport equipment	13.3	12.7	13.8	12.4	10.7
Power generating machines	0.5	0.5	0.4	0.3	0.3
Other non-electrical machinery	2.1	2.1	2.3	1.3	1.3

	2007	2008	2009	2010	2011
Agricultural machinery and tractors	0.0	0.0	0.0	0.0	0.0
Office machines & Telecommunication equipment	4.6	4.2	5.3	5.1	3.9
7638 Sound/video recording/ Reproducing apparatus	0.8	0.9	1.6	1.2	0.7
Other electrical machines	3.0	2.7	2.7	2.9	2.5
Automotive products	1.9	2.0	1.6	1.6	1.4
Other transport equipment	1.2	1.1	1.5	1.4	1.2
Textiles	3.4	2.7	2.8	2.6	2.4
Clothing	5.1	4.6	5.1	4.3	4.0
Other consumer goods	5.4	4.7	5.0	4.7	4.1
8512 Sports footwear	1.0	0.9	1.0	1.0	0.9
Other	0.6	0.6	0.8	0.8	1.1
9710 Gold, non-monetary (excl. gold ores and concentrates)	0.6	0.6	0.8	0.7	1.1

Source: UNSD Comtrade database, SITC Rev.3.

Table A1. 4 Merchandise imports by product group, 2007-11
(US$ million and %)

	2007	2008	2009	2010	2011
Total imports (US$ million)	74,473.4	129,244.1	96,829.2	135,663.3	177,435.6
	(% of total)				
Total primary products	47.4	38.1	34.6	35.3	39.2
Agriculture	14.1	10.3	11.7	11.5	12.6
Food	10.6	7.3	8.9	8.5	9.4
0412 Other wheat (including spelt) and meslin, unmilled	1.6	1.5	1.4	1.0	1.2
0611 Sugars, beet/cane, raw, solid, no added flavour/colour	0.8	0.1	0.5	0.5	0.9
0423 Rice, milled, semi-milled	0.6	0.1	0.1	0.3	0.8
0813 Oil-cake, oilseed residues	1.0	0.8	1.1	0.9	0.8
Agricultural raw material	3.5	3.0	2.8	3.1	3.2
2631 Cotton (other than linters), not carded or combed	1.1	0.9	0.8	0.8	1.0
Mining	33.3	27.8	22.9	23.8	26.6
Ores and other minerals	1.8	2.1	1.5	1.5	1.6
Non-ferrous metals	2.0	2.0	1.7	2.0	2.0
Fuels	29.5	23.7	19.7	20.3	23.0
3330 Crude oils of petroleum and bituminous minerals	12.2	7.8	7.6	6.3	6.3
Manufactures	52.5	61.9	65.3	63.2	59.7
Iron and steel	5.9	6.9	5.5	5.5	5.3
6726 Semi-finished iron/steel products <0.25% carbon	1.3	1.4	0.9	1.0	0.8
Chemicals	13.5	12.3	12.2	12.3	12.5
5623 Mineral/chemical Fertilizers (excl. crude natural potassium salts)	0.5	1.0	0.4	0.6	0.8
5751 Propylene polymers or of other olefins	0.5	0.5	0.6	0.6	0.8
5112 Cyclic hydrocarbons	1.4	0.9	0.9	0.8	0.8
Other semi-manufactures	3.9	4.2	4.6	4.5	4.2
Machinery and transport equipment	25.6	33.1	37.0	34.6	31.6
Power generating machines	1.1	1.7	2.5	2.0	1.5
Other non-electrical machinery	9.5	9.6	10.2	10.3	10.3
7232 Mechanical shovels, etc., self propelled	0.5	0.6	0.5	0.7	0.9
Agricultural machinery and tractors	0.1	0.1	0.1	0.1	0.1
Office machines & telecommunication equipment	4.7	8.9	8.7	8.3	7.2
7649 Parts and accessories for apparatus of division 76	0.6	2.4	1.9	1.9	1.7
7643 Radio or television transmission apparatus	1.5	1.3	2.0	1.7	1.4
7764 Electronic integrated circuits and microassemblies	0.2	0.7	0.9	0.9	0.9
Other electrical machines	2.0	3.5	4.0	4.2	3.9

	2007	2008	2009	2010	2011
Automotive products	3.9	5.0	3.9	4.1	4.2
7821 Goods vehicles	0.9	1.4	1.2	1.0	1.3
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.1	2.0	1.1	1.4	1.3
7812 Motor vehicles for the transport of persons, n.e.s.	1.0	0.9	0.9	1.0	1.0
Other transport equipment	4.4	4.4	7.7	5.7	4.5
7924 Aeroplanes, etc. (excl. helicopters), >15,000 kg unladen	1.9	1.3	3.1	2.2	1.5
7932 Ships, boats, etc. (excl. pleasure craft, tugs, etc.)	0.4	0.5	1.9	0.9	0.8
Textiles	1.1	2.5	2.9	3.1	3.2
Clothing	0.2	0.2	0.3	0.3	0.2
Other consumer goods	2.3	2.6	3.0	3.0	2.8
Other	0.1	0.0	0.1	1.5	1.1

Source: UNSD Comtrade database, SITC Rev.3.

Table A1. 5 Merchandise exports by destination, 2007-11
(US$ million and %)

	2007	2008	2009	2010	2011
Total exports (US$ million)	114,100.9	137,020.4	116,510.0	157,779.1	203,496.6
			(% of total)		
America	12.4	11.7	11.5	11.7	10.5
United States	10.2	9.5	9.3	9.1	8.1
Other America	2.2	2.2	2.2	2.6	2.4
Brazil	0.7	0.7	0.8	1.0	0.9
Europe	13.0	12.4	12.5	11.8	10.9
EU(27)	11.8	11.3	11.7	10.9	10.1
The Netherlands	2.4	2.9	2.5	2.4	2.5
Germany	2.0	1.8	2.0	1.9	1.6
Italy	1.2	1.4	1.4	1.5	1.6
Spain	1.7	1.2	1.6	1.5	1.2
United Kingdom	1.3	1.1	1.3	1.1	0.8
EFTA	0.3	0.4	0.2	0.1	0.1
Other Europe	0.9	0.7	0.6	0.7	0.7
Turkey	0.9	0.6	0.6	0.7	0.7
Commonwealth of Independent States	0.6	0.6	0.6	0.7	0.7
Africa	2.2	2.4	2.3	2.3	2.8
South Africa	0.5	0.5	0.4	0.4	0.7
Middle East	3.1	3.6	3.0	2.6	2.5
United Arab Emirates	1.2	1.2	1.1	0.9	0.9
Kingdom of Saudi Arabia	0.8	0.9	0.8	0.7	0.7
Asia	68.7	69.3	69.9	70.9	72.6
China	8.5	8.5	9.9	9.9	11.3
Japan	20.7	20.2	15.9	16.3	16.6
Six East Asian Traders	26.7	27.0	29.1	30.1	30.2
Singapore	9.2	9.4	8.8	8.7	9.1
Korea, Rep. of	6.6	6.7	7.0	8.0	8.1
Malaysia	4.5	4.7	5.8	5.9	5.4
Chinese Taipei	2.3	2.3	2.9	3.1	3.2
Thailand	2.7	2.7	2.8	2.9	2.9
Hong Kong, China	1.5	1.3	1.8	1.6	1.6
Other Asia	12.7	13.5	15.0	14.4	14.5
India	4.3	5.2	6.4	6.3	6.6
Australia	3.0	3.0	2.8	2.7	2.7
Philippines	1.6	1.5	2.1	2.0	1.8
Viet Nam	1.2	1.2	1.2	1.2	1.2
Memorandum:					
ASEAN	19.5	19.8	21.1	21.1	20.7

Source: UNSD, Comtrade database.

Table A1. 6 Merchandise imports by origin, 2007-11
(US$ million and %)

	2007	2008	2009	2010	2011
Total imports (US$ million)	74,473.4	129,244.1	96,829.2	135,663.3	177,435.6
			% of total		
America	9.9	9.6	10.8	10.3	9.9
United States	6.4	6.1	7.3	6.9	6.1
Other America	3.5	3.5	3.5	3.3	3.7
Canada	1.4	1.4	1.0	0.8	1.1
Brazil	0.9	1.1	1.1	1.3	1.1
Argentina	0.6	0.5	0.7	0.7	0.9
Europe	11.9	9.7	10.1	8.1	7.9
EU(27)	10.3	8.2	9.0	7.3	7.0
Germany	2.7	2.4	2.5	2.2	1.9
France	1.9	1.3	1.7	1.0	1.1
Italy	0.9	0.8	0.7	0.7	0.7
EFTA	0.6	0.6	0.6	0.6	0.5
Other Europe	1.0	0.9	0.6	0.2	0.3
Commonwealth of Independent States	1.5	2.0	1.7	2.0	2.4
Azerbaijan	0.1	0.1	0.8	0.7	1.0
Russian Federation	0.6	1.0	0.5	0.8	0.9
Africa	3.1	1.7	2.1	1.8	2.3
Nigeria	0.8	0.1	0.5	0.7	0.9
Middle East	7.3	6.3	6.0	5.8	5.7
Kingdom of Saudi Arabia	4.5	3.7	3.2	3.2	3.1
Kuwait	2.3	1.4	1.5	1.0	0.8
Asia	66.2	70.7	69.2	72.0	71.8
China	11.5	11.8	14.5	15.1	14.8
Japan	8.8	11.7	10.2	12.5	11.0
Six East Asian Traders	34.5	38.1	35.8	36.2	37.5
Singapore	13.2	16.9	16.1	14.9	14.6
Korea, Rep. of	4.3	5.4	4.9	5.7	7.3
Thailand	5.8	4.9	4.8	5.5	5.9
Malaysia	8.6	6.9	5.9	6.4	5.9
Chinese Taipei	2.0	2.2	2.5	2.4	2.4
Hong Kong, China	0.6	1.8	1.8	1.4	1.4
Other Asia	11.5	9.1	8.8	8.2	8.6
Australia	4.0	3.1	3.5	3.0	2.9
India	2.2	2.2	2.3	2.4	2.4
Viet Nam	1.3	0.6	0.7	0.8	1.3
Memorandum:					
ASEAN	31.9	31.7	28.7	28.8	28.9

Source: UNSD, Comtrade database.

Table A2. 1 MP3EI priority sectors and regional economic corridors

Main economic activity	Sumatra Centre for production and processing of natural resources and as nation's energy reserves	Java Driver for national industry and service provision	Kalimantan Centre for production and processing of national mining and energy reserves	Sulawesi Centre for production and processing of national agricultural, plantation, fishery, oil, gas, and mining	Bali-Nusa Tenggara Gateway for tourism and national food support	Papua-Kep. Makuku Centre for development of food, fisheries, energy, and national mining
Steel	X		X			
Food & beverages		X				
Textiles		X				
Transportation equipment		X				
Shipping	X	X				
Nickel				X		X
Copper						X
Bauxite			X			
Palm oil	X		X			
Rubber	X					
Food agriculture				X		X
Tourism					X	
ICT		X				
Coal	X		X			
Oil and gas			X	X		X
Jabodetabek area		X				
Sunda straits national strategic area	X					
Defence equipment		X				
Animal husbandry					X	
Timber			X			
Cocoa				X		
Fishery				X	X	X

Source: Master Plan for the Acceleration and Expansion of Indonesia's Economic Development (MP3EI) 2011-2015. Viewed at: http://www.ekon.go.id/media/filemanager/2011/07/06/m/p/mp3ei-english_final.pdf.

Table A2. 2 Notifications to the WTO, 1 January 2007 to 1 July 2012

Legal provision	Description of requirement	Frequency	WTO document (most recent or series)
General Agreement on Tariffs and Trade 1994			
Article XXIV.7	Customs unions and free-trade areas	Ad hoc	WT/REG284/N/2, 9 May 2012 WT/REG284/N/1, 9 April 2010 WT/REG241/N/1, 2 July 2008
Understanding on the Interpretation of Article XVII of the GATT 1994 (State Trading)			
Article XVII:4(a)	State-trading activities	Annual	G/STR/N/12/IDN, 9 February 2009
Agreement on Agriculture			
Article 5.7 and 18.2	Special safeguard	Annual	G/AG/N/IDN/28, 17 July 2009
Articles 10 and 18.2	Export subsidies	Annual	G/AG/N/IDN/27/Corr.1, 22 July 2009
Article 12.1(b)	New export restrictions	Ad hoc	No notification made
Article 18.2	Imports under tariff quotas	Annual	G/AG/N/IDN/29, 16 July 2009
Articles 18.2 and 18.3	Domestic support	Annual and ad hoc	G/AG/N/IDN/30, 6 March 2012
Agreement on the Application of Sanitary and Phytosanitary Measures			
Article 7 and Annex B	Proposed SPS regulations (including proposed or emergency measures)	Ad hoc	20 new notifications as well as 1 revision to and 2 addenda to existing notifications
Annex B, paragraph 3	Enquiry point	Once, then changes	No new notification
Annex B, par. 10	National notification authority	Once, then changes	No new notification
Agreement on Technical Barriers to Trade			
Articles 2, 3, 5 and 7	Proposed and adopted technical regulations	Before or immediately after the measure is taken	52 notifications (excluding revisions/addenda)
Article 10.1 and 10.3	Enquiry point	Once, then changes	No new notification
Article 15.2	Implementation and administration measures	Once, then changes	G/TBT/2/Add.3/Rev.4, 20 August 2010
Agreement on Trade-Related Investment Measures (TRIMs)			
Article 5.1	TRIMs not in conformity with the provisions of the Agreement	Once	No new notification
Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping)			
Article 16.4	Anti-dumping actions taken over the past six months	Biannual	G/ADP/N/223/IDN, 2 April 2012
Article 16.5	Investigating authority	Once, then changes	No new notification
Article 18.5	Laws and regulations	Once, then changes	G/ADP/N/1/IDN/3, 27 April 2012
Agreement on Implementation of Article VII of the GATT 1994 (Agreement on Customs Valuation)			
Article 22.2	Legislation	Once, then changes	No new notification
Decision of the Committee on CV (12.5.95)	Responses to the checklist of issues	Once	No new notification
Agreement on Preshipment Inspection			
Article 5	Laws or regulations notified	Once, then changes	No new notification
Agreement on Rules of Origin			
Article 5.1	Rules, judicial decisions	Once	No new notification
Article 5.2	Changes in non-preferential rules of origin	Ad hoc	No new notification
Annex II	Preferential and non-preferential rules of origin	Once, then changes	No new notification
Agreement on Import Licensing Procedures			
Articles 1.4(a), 8.2(b)	Laws and regulations.	Once, then changes	No new notification
Article 5	Import licensing procedures	Ad hoc	G/LIC/N/2/IDN/4, 30 April 2012; G/LIC/N/2/IDN/4/Corr.1, 3 May 2012; G/LIC/N/3/IDN/4, 23 February 2010; G/LIC/N/2/IDN/2, 15 May 2009; G/LIC/N/2/IDN/2/Corr.1,

Legal provision	Description of requirement	Frequency	WTO document (most recent or series)
			20 May 2009; G/LIC/N/2/IDN/2/Add.1, 6 July 2009
Article 7.3	Questionnaire	Annual	G/LIC/N/3/IDN/4, 23 February 2010
Agreement on Subsidies and Countervailing Measures			
Article 25.1	Article XVI:1 of the GATT 1994 and Article 25 of the SCM Agreement	Full notifications every three years; annual updating	No new notification
Article 25.11	Countervailing duties applied over the past six months	Biannual	No new notification
Article 25.12	Investigating authority, domestic investigation procedures	Once	No new notification
Article 32.6	Laws and regulations	Once, then changes	G/SCM/N/1/IDN/3, 27 April 2012
Agreement on Safeguards			
Article 12.6	Laws and regulations	Once, then changes	G/SG/N/1/IDN/3, 22 December 2011
Article 12.1(a)	Initiation of an investigation	Ad hoc	15 new notifications.
Article 12.1(b); Article 9.1 footnote; Article 12.4	Finding	Ad hoc	16 new notifications under Article 12.1(b) and 9 new notifications under Article 9.1(footnote).
Article 12.1(c)	Decision	Ad hoc	11 new notifications
Decision of the Committee on Safeguards of 6 November 1995	Termination	Ad hoc	3 new notifications.
General Agreement on Trade in Services (GATS)			
Article III:3	Legislation	Ad hoc	No new notification
Article III.4 and IV.2	Enquiry and contact point	Once, then changes	No new notification
Article V.7(a)	Economic integration agreements	Once only	S/C/N/545/Add.1, 9 May 2012 S/C/N/560, 8 July 2010 S/C/N/545, 9 April 2010 S/C/N/462, 2 July 2008 S/C/N/463, 2 July 2008
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)			
Article 63.2	Laws and regulations	Once, then changes	No new notification
Article 69	Contact points	Once, then changes	No new notification
Decision of the Council for TRIPS of 21 November 1995.	Checklist of issues on enforcement	Once, then changes	No notification made
Other			
G/L/59	Notification procedures for quantitative restrictions	Biennial	No notification made

Source: WTO Secretariat.

Table A2. 3 Free-trade agreements, 2007-12

FTAs that entered into force over the review period	
ASEAN Members, Australia and New Zealand (AANZFTA)	
Title	Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area
Parties	ASEAN, Australia, New Zealand
Date of signature/entry into force	February 2009/January 2012
End of transition period for Indonesia (goods)	2026
Services covered	Positive list approach to scheduling of services sectors in Annex 3 of the FTA. Specific commitments made in 8 out of 11 sectors identified in the Services Sectoral Classification List (GATT document MTN.GNS/W/120, 10 July 1991). No commitments made on: distribution; environmental; and recreational, cultural and sporting services. Other commitments made on energy services
Selected features	Advance origin/classification/valuation ruling on request; trade in services; investment; movement of natural persons; dispute settlement; intellectual property
WTO consideration status	Factual presentation not distributed
Indonesia's merchandise trade with Australia and New Zealand (2011)	Australia: 2.9% of total imports; 2.7% of total exports New Zealand: 0.4% of total imports; 0.2% of total exports
WTO document series	WT/REG284/N/1 and S/C/N/545, 9 April 2010
ASEAN member countries and India	
Title	Agreement on Trade in Goods (falling under the Framework Agreement on Comprehensive Economic Co-operation between ASEAN and the Republic of India,2003, as amended in 2009)
Parties	ASEAN, India
Date of signature/entry into force	October 2009/June 2010
End of transition period for Indonesia (goods)	2021
Selected features	Agreement applies to goods only
WTO consideration status	Factual presentation not distributed
Indonesia's merchandise trade with India (2011)	2.4% of total imports; 6.6% of total exports
WTO document series	WT/COMTD/N/35, 23 August 2010
ASEAN member countries and Japan	
Title	Agreement on Comprehensive Economic Partnership Among Japan and Member States of ASEAN
Parties	ASEAN, Japan
Date of signature/entry into force	March 2008/not yet in force.
End of transition period for Indonesia (goods)	Information not provided
Selected features	Agreement applies to goods only; provisions on services and investment subject to future negotiations
WTO consideration status	Factual presentation not distributed
Indonesia's merchandise trade with Japan (2011)	11.0% of total imports; 16.6% of total exports
WTO document series	WT/REG277/N1, 14 December 2009, and WT/REG277/N2, 27 July 2011.
ASEAN member countries and Korea	
Title	Agreement on Trade in Goods (falling under the 2005 Framework Agreement on Comprehensive Economic Co-operation among the Governments of the Republic of Korea and ASEAN)
Parties	ASEAN, Korea
Date of signature/entry into force	Goods: August 2006/ January 2010 Services: November 2008/ May 2009
End of transition period for Indonesia (goods)	2016

FTAs that entered into force over the review period	
Services covered	Positive list approach to scheduling of services sectors in Annex/SC1 of the FTA. Specific commitments in 8 out of 11 sectors identified in the Services Sectoral Classification List (GATT document MTN.GNS/W/120, 10 July 1991). No commitments made on: distribution; environmental; and, recreational, cultural and sporting services. Other commitments made on energy services
Selected features	Transitional safeguard; dispute settlement
WTO consideration status	Factual presentation not distributed
Indonesia's merchandise trade with Korea (2011)	7.3% of total imports; 8.1% of total exports
WTO document series	WT/REG287/N/1; WT/COMTD/N/33; S/C/N/559; S/C/N/560, 8 July 2010. S/C/N/559/Add.1; S/C/N/560, Add.1, 3 May 2011
Japan-Indonesia	
Title	Agreement between Japan and the Republic of Indonesia for an Economic Partnership
Parties	Japan, Indonesia
Date of signature/entry into force	August 2007 / July 2008
Transition for full implementation by Indonesia (goods)	2023. At end of transition period 618 tariff lines will remain dutiable, representing 7.1% of Indonesia's tariff; these 618 tariff lines cover agricultural and industrial products. Average final tariff on dutiable items ranges from 1.7% to 134.4%, the latter applying to prepared foods
Services covered	Positive list approach to scheduling of services sectors in Annex 8 of the FTA. Specific commitments made in 9 out of 11 sectors identified in the Services Sectoral Classification List (GATT document MTN.GNS/W/120, 10 July 1991). No commitments made on: environmental; and recreational, cultural and sporting services. Other commitments made on energy services
Selected features	Bilateral safeguard measures; investment (negative list approach to scheduling of liberalization commitments); intellectual property rights; sector specific provisions on energy and mineral resources; dispute settlement
WTO consideration status	Factual presentation completed
Indonesia's merchandise trade with Japan (2011)	11.0% of total imports; 16.6% of total exports
WTO document series	WT/REG241

Source: WTO Secretariat.

Table A2. 4 Investment framework, 2012

Investment-related legislation and agreements
Domestic legislation
Law on Arbitration and Alternative Dispute Resolution (Law No. 30, 1999).
Domestic arbitral institutions
Indonesian National Board of Arbitration (BANI); National Mediation Centre; Indonesian Institute for Conflict Transformation; Capital Market Arbitration Board
Free-trade agreements containing investment provisions
ASEAN Comprehensive Investment Agreement (ACIA); ASEAN-Australia-New Zealand FTA; Agreement on Investment of the Framework Agreement on Comprehensive Economic Co-operation between ASEAN and the People's Republic of China; ASEAN-Korea Investment Agreement; and Economic Partnership Agreement between Japan and Indonesia
Bilateral investment treaties
In force (date of entry into force): Argentina (2001); Australia (1993); Bangladesh (1999); Belgium-Luxembourg (1972); Bulgaria (2005); China (1995); Cuba (1999); Czech Republic (1999); Egypt (1994); Finland (2008); France (1975); Germany (1975 & 2007); Hungary (1996); India (2004); Italy (1995); Jordan (1999); South Korea (1994); Kyrgystan (1997); Laos (1995); Malaysia (1999); Mauritius (2000); Mongolia (1999); Morocco (2002); Mozambique (2000); Netherlands (1995); Norway (1994); Pakistan (1996); Poland (1993); Romania (1999); Slovakia (1995); Spain (1997); Sudan (1997); Sweden (1993); Switzerland (1976); Syria (2000); Thailand (1998); Tunisia (1992); Turkey (1998); Ukraine (1997); UK (1977); Uzbekistan (1997); Venezuela (2003); and, Viet Nam (date not available) *Signed but not yet in force:* Algeria; Cambodia; Chile; Croatia; Denmark; Guyana; Iran; Jamaica; North Korea; Libya; Philippines; Qatar; Russia; Saudi Arabia; Singapore; Sudan; Suriname; Tajikistan; Turkmenistan; Yemen; and Zimbabwe *Under negotiation:* Information not available
Membership of international arbitral conventions/bodies
Contracting State to the International Centre for the Settlement of Investment Disputes (ICSID); and signatory to the United Nations Conventions on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)
Other
Member of the Multilateral Investment Guarantee Agency (MIGA)
Double taxation agreements
Algeria, Australia, Austria, Bangladesh, Belgium, Brunei Darussalam, Bulgaria, Canada, China, Czech Republic, Denmark, Egypt, Finland, France, Germany, Hungary, India, Italy, Japan, Jordan, North Korea, South Korea, Kuwait, Luxembourg, Malaysia, Mexico, Mongolia, Netherlands, New Zealand, Norway, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Seychelles, Singapore, Slovakia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syria, Chinese Taipei, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom, Ukraine, United States, Uzbekistan, Venezuela, and, Viet Nam

Source: Information provided by the authorities; and OECD (2010).

Table A3. 1 Non *ad-valorem* (specific) MFN applied tariffs and *ad valorem* equivalents of their specific duty component, 2011

HS code[a]	Description	MFN[a]	AVE (%)
1006101000	Rice in the husk, suitable for sowing	Rp 450,-/kg	30
1006109000	Rice in the husk, other than suitable for sowing	Rp 450,-/kg	30
1006201000	Husked brown rice	Rp 450,-/kg	30
1006209000	Husked brown rice	Rp 450,-/kg	30
1006303000	Semi-milled or wholly milled rice	Rp 450,-/kg	30
1006304000	Semi-milled or wholly milled rice	Rp 450,-/kg	30
1006309100	Semi-milled or wholly milled rice	Rp 450,-/kg	30
1006309900	Semi-milled or wholly milled rice	Rp 450,-/kg	30
1006401000	Broken rice	Rp 450,-/kg	30
1006409000	Broken rice	Rp 450,-/kg	30
1102901000	Rice flour	Rp 450,-/kg	30
1701120000	Beet sugar	Rp 790,-/kg	40
1701130000	Cane sugar	Rp 550,-/kg	30
1701140000	Cane sugar	Rp 550,-/kg	30
1701910000	Other sugar	Rp 790,-/kg	40
1701991100	Other sugar	Rp 790,-/kg	40
1701991900	Other sugar	Rp 790,-/kg	40
1701999000	Other sugar	Rp 790,-/kg	40
2203001000	Beer	Rp 14.000,-/Ltr	40
2203009000	Beer	Rp 14.000,-/Ltr	40
2204100000	Wine, sparkling	Rp 55.000,-/Ltr	150
2204211100	Wine	Rp 55.000,-/Ltr	150
2204211300	Wine	Rp 55.000,-/Ltr	150
2204211400	Wine	Rp 55.000,-/Ltr	150
2204212100	Wine	Rp 55.000,-/Ltr	90
2204212200	Wine	Rp 55.000,-/Ltr	90
2204291100	Wine	Rp 55.000,-/Ltr	150
2204291300	Wine	Rp 55.000,-/Ltr	150
2204291400	Wine	Rp 55.000,-/Ltr	150
2204292100	Wine	Rp 55.000,-/Ltr	90
2204292200	Wine	Rp 55.000,-/Ltr	90
2204301000	Wine	Rp 55.000,-/Ltr	150
2204302000	Wine	Rp 55.000,-/Ltr	150
2205101000	Vermouth and other wine	Rp 55.000,-/Ltr	150
2205102000	Vermouth and other wine	Rp 55.000,-/Ltr	150
2205901000	Vermouth and other wine	Rp 55.000,-/Ltr	150
2205902000	Vermouth and other wine	Rp 55.000,-/Ltr	150
2206001000	Cider or perry	Rp 55.000,-/Ltr	150
2206002000	Sake	Rp 55.000,-/Ltr	150
2206003000	Toddy	Rp 55.000,-/Ltr	150
2206004000	Shandy	Rp 55.000,-/Ltr	90
2206009100	Other rice wine	Rp 55.000,-/Ltr	150
2206009900	Other fermented beverages	Rp 55.000,-/Ltr	150
2208205000	Brandy	Rp 125.000,-/Ltr	150
2208209000	Other spirits obtained by distilling grape wine	Rp 125.000,-/Ltr	150
2208300000	Whiskies	Rp 125.000,-/Ltr	150
2208400000	Other spirits obtained by distilling fermented sugar-cane products	Rp 125.000,-/Ltr	150
2208500000	Gin and geneva	Rp 125.000,-/Ltr	150

HS code[a]	Description	MFN[a]	AVE (%)
2208600000	Vodka	Rp 125.000,-/Ltr	150
2208700000	Liqueurs and coridals	Rp 125.000,-/Ltr	150
2208901000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
2208902000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
2208903000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
2208904000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
2208905000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
2208906000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
2208907000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
2208908000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
2208909000	Other alcoholic beverages	Rp 125.000,-/Ltr	150
3706109000	Cinematographic films	Rp 21.450,-/mnt	10
3706909000	Cinematographic films	Rp 21.450,-/mnt	10
8523298410	Magnetic media	Rp 21.450,-/mnt	10
8523298900	Magnetic media	Rp 21.450,-/mnt	10
8523491910	Optical media	Rp 21.450,-/mnt	10
8523519010	Semi-conductor media	Rp 21.450,-/mnt	10

a Based on the 2012 tariff schedule in HS12 nomenclature.

Source: Information provided by the authorities.

Table A3. 2 Products subject to import licensing requirements, 2012

Product(s)	Rationale and procedures	Legislative basis
Sugar (raw, refined and plantation white sugar)	Rationale: achieve food security and economic growth in Indonesia and create self-sufficiency and improve the competitiveness and income of sugarcane farmers and the sugar industry. Companies wanting to be recognised by importer-producers of sugar (IP Sugar) must apply to DGFT enclosing recommendations from the Ministry of Industry. Recognitions granted set out the volume and type of sugar to be imported as well as the destination port. Plantation white sugar can only be imported: (a) outside of the milling season (one month prior, during, and two months after the milling season); (b) if the price of sugar exceeds Rp 5,000/kg; and/or (c) local production of sugar is insufficient to meet demand. It may be imported by registered sugar importers (IT Sugar) or by other companies appointed by the Minister of Trade. Companies seeking to be registered as IT sugar must obtain at least 75% of their cane from local cane farmers. Approval for each shipment of plantation white sugar must be obtained from DGFT. This, *inter alia*, sets out the volume of sugar and destination port.	MOT Reg. No. 527/2004 (as amended by Reg. No. 19/2008)
Rice	Rationale: food security, protection of the welfare of rice farmers and national economic stability Procedures: the type of rice produced in Indonesia (HS 1006 3090 00) may only be imported by a state-owned enterprise (BULOG) with the approval of the Minister of Trade. This approval specifies the volume to be imported and destination port. Imports may only take place outside of the harvest period. BULOG may import itself or may instruct private companies, registered as special rice importers to undertake such imports on its behalf. Other types of rice may be imported by registered special rice importers with the approval of DGFT. This approval is contingent upon their obtaining a letter of recommendation from the Ministry of Agriculture.	MOT Reg. No. 12/2008 (as amended by Reg. Nos. 8/2009 and 2/2012)
Salt	Rationale: food security, public health and the welfare of salt farmers Procedures: salt (for consumption and industrial use) may only be imported for use as a raw material in the production process by importer-producers approved by DGFT, or by BUMN (a state-owned enterprise that may import salt to meet the needs of industries that do not import directly). To obtain such approval, importers must, *inter alia*, provide a plan of their salt requirements for the year, as well as a recommendation from the Ministry of Industry. Imports must enter Indonesia through the port located closest to the factory of the importer. Importers approved to import consumption salt must procure at least 50% of their salt from domestic sources or from companies that cooperate with local salt producers. Consumption salt may not be imported: (a) one month prior to, and two months after the Indonesian harvest period (this period may be extended or shortened depending on domestic production and national need) or (b) if the average price of bulk salt on the truck at collection points is below a	MOT Reg. No. 58/2012

Product(s)	Rationale and procedures	Legislative basis
	certain threshold. The total amount of salt that may be imported each year is determined at ministerial level taking into account domestic production and consumption. Importers are allocated quantities based on the quantity of domestically produced salt that they buy. There is no limit on the amount of industrial salt that may be imported. Importers approved to import industrial salt require an import permit for each shipment, which is based on a recommendation from the Ministry of Industry and, *inter alia*, sets out the quantity to be imported and port of destination.	
Ethylene	Waste management, facilitation of the procurement of goods, and reasonable protection for domestic companies. Procedures: import of ethylene can only be done by importers who have received recognition as importer manufacturers.	MOIT Reg. No. 230/1997
Precursors	Rationale: health and safety, prevention of smuggling and illegal circulation and to ensure precursor supplies for legitimate industries and purposes Procedures: under Government Regulation 44/2010 permits are required for the import of precursors. Implementing regulations have yet to be developed.	Government Reg. No. 44/2010
Lubricants	Not provided	MOIT Decree No. 233/2001
Optical discs (empty and filled) and machines and materials used to produce them	Rationale: protection of intellectual property rights Procedures: goods may only be imported by importers recognized by DGFT. In order to be recognized the importer must, *inter alia*, submit recommendations from the Ministry of Industry and the Ministry of Law and Human Rights, an import and distribution plan, and a copy of the licence from the copyright holder for the import of filled optical discs. Approval must be obtained for each shipment.	MOT Reg. No. 5/2005
Textiles and textile products (TPT)	Rationale: fulfil demand for goods not available from domestic sources for production processes and national consumption, and to keep domestic production of textiles and textile products Procedures: certain TPTs (12 tariff lines at the HS 4-digit tariff line level) may only be imported by registered importers (IP Textile) as raw materials for their production processes. These products may not be traded or transferred. Exceptions relate to imports destined for bonded and free-trade zones and imports for certain specified purposes.	MOT Reg. No. 15/2008
Ozone depleting substances	Rationale: implementation of Vienna Convention and Montreal Protocol Procedures: ozone depleting substances (that are not prohibited) may be imported subject to a maximum national volume as decided by the Ministry of Environmental Affairs. Imports may only be undertaken by producer importers (IP-BPO) (i.e. registered importer manufacturers) or approved importers (IT-BPO) (registered trading/distribution companies). To be registered as an IP-BPO or IT-BPO requirements include submission of a production plan for 1 year and recommendations from the Ministry of Environmental Affairs and Ministry of Industry. Registration is valid for	MOT Reg. No. 03/2012

Product(s)	Rationale and procedures	Legislative basis
	one year. Imports must take place through one of 7 designated seaports.	
Nitro cellulose	Rationale: public safety and security Procedures: importers must be approved by DGFT and approval is required for each shipment.	MOIT Reg. No. 418/2003 (as amended by Reg. No. 662/2003)
Hazardous materials	Rationale: control of hazardous materials Procedures: importers must be approved by DGFT, which involves obtaining recommendations from certain other government agencies. Imports may only enter Indonesia through 5 designated sea ports or through international airports.	MOT Reg. No. 44/2009 (as amended by Reg. No. 23/2011)
Alcoholic beverages	Rationale: protection of public health, tranquillity, law and order, and morals Procedures: annual import volumes are determined by an inter-ministerial committee. Only registered importers, or certain state and/or regional-owned companies (BUMN and/or BUMD) may import alcohol. At end 2012 there were 12 registered importers. The distribution of volumes to be imported for the first year of operation of the licensing system was on a pro-rata basis and thereafter distribution has been based on past performance. Imports into the Indonesian customs area (i.e. not including FTZs) may only take place through 5 designated seaports or any international airport.	MOT Reg. No. 43/2009 (as amended by Reg. No. 54/2012)
Industrial explosives	Rationale: public safety and security Procedure: explosive materials for industrial purposes may only imported by PT. Dahana with an approval from Police Department.	Presidential Decree No. 14/1997
Hand tools	Not provided	Not provided
Colour multi-functional machines, colour photocopying and printing machines	Rationale: prevention of illegal reproduction of banknotes and security instruments. Procedures: may only be imported by registered importers. Each import requires prior approval from DGFT, which are based on recommendations provided by MOT (including particulars such as quantity, type, destination, and loading ports).	MOT Reg. No. 15/2007 (as amended by Reg. No. 07/2012)
LPG and LPG gas containers	Rationale: security and implementation of the Government's policy on the conversion plan for the use of LPG allocated for home necessities and micro businesses Procedures: the Government is responsible for assigning a company as the importer of LPG together with the 3 kg LPG container specially used in the context of the conversion plan. Imports may only take place if domestic production is insufficient. In order to obtain import approval from DGFT, the importer must provide a recommendation from the Ministry of Energy and Mineral Resources (for imports of LPG) or from the Ministry of Industry (for imports of 3 kg LPG containers). These recommendations set out the type, number of goods, and the import period.	MOT Reg. No. 01/2008
Non-hazardous and non-toxic waste	Rationale: not provided Procedures: waste may only be imported by companies that undertake industrial business activities and are recognized importers. To become a recognised importer, recommendations need to be obtained from the Ministry of Industry and the State Ministry of	MOT Reg. No. 39/2009

Product(s)	Rationale and procedures	Legislative basis
	Environmental Affairs. Recognition as an importer contains the quantity and kind of waste that may be imported. Recognition is for one year (extendable).	
Used capital goods	Rationale: need for the provision of capital goods in order to increase the capacity, efficiency, and productivity of domestic industry, where the availability of such goods cannot be fulfilled from domestic sources. Procedure: used capital goods may only be imported by companies holding specific types of business licence. All imports (except into bonded zones) must be approved by DGFT. In some cases, applications for approval require a recommendation from another ministry. This regulation expires on 31 December 2013.	MOT Reg. No. 48/2011
Oil and gas	Rationale: to support domestic production and domestic need. Procedures: oil and gas may only be imported by a corporate body (for oil and gas downstream business activities) or by a direct user. Import approvals are required by importers. Applications for import approval must be made to DGFT, *inter alia*, including a recommendation from the Minister of Energy and Mineral Resources. This recommendation sets out the types and quantities that may be imported, and is based on the Minister's evaluation of domestic supply and need.	MOT Reg. No. 42/2009
Plastic	Rationale: not provided Objective: not provided	MOIT Reg. No. 230/1997
Saccharin	Not provided	Not provided
Cloves	Rationale: to protect domestic producers from an anticipated sharp increase in the import of cloves and a resulting price decline Procedure: affects 2 lines at the HS 9-digit level. Cloves may be imported by registered clove importers only for use in the production process. Approval is required for each shipment. This approval specifies the quantity and kind of clove imported as well as the timing of the import.	MOT Reg. No. 528/2002
Rough diamonds	Rationale: implementation of Kimberly Process Certification Scheme Procedures: rough diamonds may only be imported by importers certified by DGFT. Approval required for each shipment.	MOT Reg. No. 10/2005 (amended by Reg. No. 25/2008)
Cyclamate	Not provided	Not provided
PMCX	Not provided	Not provided
Pearl	Rationale: generate economic growth and create a fair, conducive, and certain business environment. Procedures: in order to import pearls (6 tariff lines), importers must obtain an import approval from DGFT, which is contingent upon obtaining a recommendation from DG Processing and Marketing of Fishery Products (Ministry of Marine and Fisheries). Import approvals are valid for 6 months. Imports must enter through Jakarta Intl. or Surabaya Intl. airports.	MOT Reg. No. 02 /2012.
Animals and animal products (including dairy)	Rationale: food security and sovereignty (implementation of Law No. 18/2009, which specifies that imports of live animals and animal products may only take place if domestic production and supply is not adequately available for public consumption at reasonable prices)	MOT Reg. No. 24/2011

Product(s)	Rationale and procedures	Legislative basis
	Procedures: the national allocation for the import of fresh animal and animal products is stipulated annually at ministerial level. Only registered importers of animal and animal products may import these goods, with importer allocations being stipulated twice per year. Imports of carcass meat, offal (and/or their derivative products) may only be destined for industries, hotels, restaurants and catering services. An import permit, granted by DGFT, is required for all imports. Importers must first obtain a letter of recommendation from the Ministry of Agriculture and importers of processed animal products must obtain a letter of recommendation from the National Agency for Food and Drug Control (BPOM).	
Sodium Tripolpy-phospate (STPP)	Rationale: allows businesses to import STPP when domestic production is insufficient to meet business needs. Procedures: STTP may only be imported by companies for use in production processes. An importer must be recognized by DGFT as a producer importer of STPP (IP-STTP). This, *inter alia*, involves obtaining a recommendation from the Ministry of Industry. Recognition is valid for one year.	MOT Reg. No. 41/2011
Horticulture (fresh and processed)	Rationale: food security, national economic stability and protection of consumer interests Procedures: horticultural products may only be imported by importers recognized by DGFT as either (a) importer producers of horticultural products (IP Horticultural products) where imports are used as raw or auxiliary materials in the production process, or (b) registered importers of horticultural products (IT-Horticultural products) for imports that are traded or transferred to a distributor (not directly to consumers or retailers). IT Horticultural products require an import approval from DGFT for each shipment, which involves obtaining a recommendation from the Minister of Agriculture. Permits are only granted if the Ministry of Agriculture determines that domestic production is insufficient.	MOT Reg. No. 30/2012 (as amended by Reg. No. 60/2012)
Fertilizer	Rationale: to improve the efficient procurement and distribution of subsidized fertilizer to support the national food supply Procedures: in the event that domestic production of fertilizer is insufficient, PT Pupuk Sriwidaja (Pereso) may import fertilizer. It needs the approval of DGFT which is based on a recommendation from the Ministries of Industry and of Agriculture.	MOT Reg. No. 17/2011
Mixture concentrate containing alcohol	Not provided	Not provided
Food and beverages, traditional and herbal medicine, cosmetics, clothing, footwear, electronic	Rationale: to address smuggling and safeguard health and safety through the development of an effective tracking system. Procedures: importers must apply to be registered with the Ministry of Trade and, *inter alia*, must provide an import plan for 1 year covering the goods to be imported (quantity, kinds of goods, and tariff heading) and the port of entry. Imports must enter Indonesia through one of 5 designated sea ports, or through any	MOT Reg. No. 44/2008 (as amended by Reg. No. 56/2008 (extended by Reg. No. 57/2010)

Product(s)	Rationale and procedures	Legislative basis
goods and children's toys	international airport.	

Source: Notifications to the Committee on Import Licensing; information provided by the authorities; and online information, "Ekon Trade Related RuleBook". Viewed at: http://rulebook-jica.ekon.go.id.

Table A3. 3 Intellectual property rights protection Indonesia, October 2012

Legislation	Term of protection	Penalties
Copyrights and related rights Copyright Law (Law No.19, 2002)	• Lifetime of the author plus 50 years (literary, educational and scientific volumes; architecture; maps; dramatic, musical and artistic work) • 50 years (computer programs; phonograms; performances; broadcasting works and cinematography works) • 25 years from first publication: photography works	Maximum Rp5 billion fine Maximum seven year prison sentence
Patents Patent Law (Law No. 14, 2001)	Products and production processes are protected for 20 years, with a possible 2 year extension	Maximum Rp 500 million Maximum four year prison sentence
Industrial designs Industrial Designs Law (Law No. 31, 2000)	Protection for 10 years for new industrial designs	Maximum Rp1 billion fine Maximum five year prison sentence
Trademarks and geographical indications Law on Trademarks (Law No. 15, 2001)	Protection for 10 years (extendable) for trade marks Protection for GIs lasts as long as the goods retain the relevant defining characteristics	Maximum Rp1 billion fine Maximum five year prison sentence
Layout designs of integrated circuits Law on Layout designs of integrated circuits (Law No. 32, 2000)	Protection for 10 years from date of filing or first commercial exploitation (not renewable)	Maximum Rp300 million fine Maximum three year prison sentence
Trade secrets Trade Secrets Law (Law No. 30,2000)	Protection remains in force as long as the trade secret is maintained and not disclosed to the public	Maximum 2 years imprisonment and/or a fine of Rp300 million
Plant variety Plant Variety Law (Law No. 29,2000)	20 years for seasonal plants and 25 years for annual plants.	Maximum imprisonment of 5 years and a maximum fine of Rp1 billion

Source: WTO Secretariat, based on information provided by the authorities of Indonesia.

Table A4. 1 GDP by economic activities at constant 2000 prices, 2007-11
(Annual percentage change)

	2007	2008	2009	2010	2011
Agriculture, fisheries and forestry	3.5	4.8	4.0	3.0	3.0
Food crops	3.4	6.1	5.0	1.6	1.3
Mining and quarrying	1.9	0.7	4.5	3.6	1.4
Oil and gas mining	-1.2	0.4	0.1	0.4	-1.0
Manufacturing	4.7	3.7	2.2	4.7	6.2
Oil and gas manufacturing industries	-0.1	-0.3	-1.5	0.6	-0.9
Electricity, gas and water	10.3	10.9	14.3	5.3	4.8
Construction	8.5	7.6	7.1	7.0	6.7
Services	9.0	8.7	5.8	8.4	8.5
Wholesale and retail trade	9.4	7.0	0.0	9.7	10.0
Hotels and restaurants	6.7	6.1	7.4	4.1	5.3
Transport and communication	14.0	16.6	15.8	13.4	10.7
Finance	8.0	7.6	3.6	5.1	7.0
Real Estate	7.9	8.9	5.2	5.5	6.2
Business services	8.2	9.0	9.7	7.4	7.3
Private services	7.3	7.7	7.4	7.1	7.8
Government services	5.4	4.5	5.1	4.6	5.4

Source: Statistics Indonesia online information. Viewed at: http://www.bps.go.id [30 August 2012].

Table A4. 2 Selected ASEAN service agreements

Name of the Trade Agreement	Parties involved	Commited/Offered Sectors	Indonesia's commitments
ASEAN Framework Agreement on Services (AFAS)	ASEAN countries: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand	Business services Communication services Construction services Distribution services Education services Health services Environmental services Tourism services Financial services Transport services Other services	In AFAS 8th package, Indonesia has committed 86 subsectors: business services (professional services, computer and related services, research and development services, rental and leasing services without operator, and other business services), communication services, construction and related engineering services, distribution services, education services, environmental services, healthcare and social services, tourism and travel-related services, recreational, cultural and sporting services (other than audiovisual services), transport services, and other services (energy and spa services) Indonesia has completed the target of AFAS 8 by committing full commitment for mode 1 and mode 2 in 86 subsectors, 18 priority integrity sector (PIS) for mode 3, and 40 non-PIS for mode 3. Meanwhile, mode 4 commitments of AFAS are listed in a separate schedule under the ASEAN MNP agreement. The PIS sectors are air transport, e-ASEAN, healthcare, and tourism.
ASEAN-China Free Trade Agreement (AC-FTA)	ASEAN countries and China	Communication services Construction services Environmental services Tourism services Financial services Transport services Other services	In the consolidated 2nd package of Indonesia's Schedule of commitments under the ASEAN-China Trade in Services Agreement, Indonesia has committed 28 subsectors in: construction and related engineering services, tourism and travel-related services, energy services, financial services (non-banking), and transport services ndonesia committed in four mode of supply with mostly full commitments (none) for modes 1 and 2. It gives partial commitments for modes 3 and 4, applying certain market-access and national-treatment limitations.
Indonesia-Japan Economic Partnership Agreement (IJ-EPA)	Indonesia and Japan	Business services Communication services Construction services Distribution services Education services Health services Environmental services Tourism services Financial services	Indonesia has committed: business services (professional services, computer and related services, research & development services, other business services), communication services (telecommunication and audiovisual services), construction and related engineering services, distribution services, educational services, financial services (banking and non-banking), health-related and social services,

Name of the Trade Agreement	Parties involved	Commited/Offered Sectors	Indonesia's commitments
		Transport services Other services	tourism and travel-related services, and transport services. Indonesia gives GATS+ commitments, offering more services sectors and higher commitments in four modes of supply.

Source: Information provided by the Indonesian authorities.

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