



**Asia-Pacific
Economic Cooperation**

2014/CTI/WKSP7/001a

Welcoming Remarks and Workshop Overview

Submitted by: Indonesia



**Workshop on Provisions of Regional Trade
Agreements and Free Trade Agreements in the
Asia-Pacific Region Concerning Safeguards,
Including Transitional Safeguards
Surabaya, Indonesia
10-11 June 2014**



**Welcoming Remarks and Workshop Overview
Director General of International Trade Cooperation
Ministry of Trade of the Republic of Indonesia**

**At the Opening Session of
APEC Workshop on Provision of RTAs/FTAs in the Asia-Pacific Region
Concerning Safeguards, Including Transitional Safeguards**

Surabaya, Tuesday, 10 June 2014

Time: 09.00 – 09.15

**Distinguished Speakers and Participants,
Ladies and Gentlemen,**

Good morning to you all.

On behalf of the Government of Indonesia, I would like to extend to you our warmest welcome to Surabaya. Some of you came from a far, some others came from rather close distance from Indonesia, and the rest of you have travelled from Jakarta and within the city of Surabaya.

In that regard, let me express our appreciation to all of you for coming to this workshop to discuss the safeguard provisions of RTAs and FTAs in the Asia-Pacific Region.

It is right in order for me to convey the deepest regret that our Vice-Minister of Trade, H.E. Bayu Krisnamurthi who was supposed to officially mark the commencement of this workshop, was unable to leave Jakarta and to be with us this morning due to unforeseen development. Nonetheless, he conveyed his wishes that this workshop will be highly productive and result in a much better understanding of the issue at hand.

We all appreciate that our workshop is meant to enhance our understandings on safeguard and transitional safeguard provisions being negotiated or completed under various RTAs and FTAs. It should allow us to increase our capacity in negotiating such provisions in the future, in operationalizing such provisions

effectively, and at the same time contributing to the establishment of more or less standardized provisions of safeguards and transitional safeguards in the Asia-Pacific region.

Earlier in our time, safeguards were infrequently used as government preferred to protect their industries through “grey area” measures such as the voluntary export restraint. However, as part of the WTO deal, Members gave up these “grey area” measures and adopted instead a specific WTO Safeguard Agreement.

Simply put, safeguard is a restraint on international trade to protect home industries from foreign competition. Under the WTO system, a member is given the right to take safeguard action, such as restricting imports of a product temporarily, to protect a domestic industry from an increase in import that causes, or threatens to cause, injury to domestic production. This can be done so long as the requirements are met and the procedures are followed through.

In the context of world trade to date, safeguards are supposed to be used only in very specific circumstances, with compensation, and on a universal basis. Exceptions to such a non-discriminatory rule are provided for in the Agreement on Safeguard itself, as well as in some ad hoc agreements.

RTAs and FTAs have their own rules pertaining to safeguards. Some safeguard measures can also be resorted to in the area of services. But why is it so important for us to discuss the safeguard provisions across different RTAs and FTAs if the WTO has settled the issue once and for all?

Most agreements contain a dual system of regional and global safeguards. The dispute resolution body of the WTO, however, will not be able to give specific decisions concerning regional dispute and, in addition, the WTO will not be the appropriate forum.

In looking at the application of safeguards within certain agreements, it is apparent that not all global safeguard initiations lead to safeguard measures being taken. Moreover, the global safeguard mechanism is not always used when a country is seeking to implement trade remedies against a contracting party to an RTA or FTA. Some agreements maintain the rights of Member States to use global safeguards, while others do not allow the application of safeguards between member countries at all.

The WTO Agreement on Safeguards provides clear guidelines and strict procedural obligations which must be adhered to. Although there are some

systemic differences between the global and regional safeguards, similar provisions to those found under WTO law are included in the regional trade agreements. Many of regional agreements include identical provisions to those found in the WTO Agreement on Safeguards, while several others make direct reference to the procedure and obligations contained in WTO rules.

Safeguard provisions provide for discriminatory treatment in two instances. First, when they exclude partner countries from global safeguard actions and, two, when they exclude third countries and only imposing regional safeguard actions on partner countries. Such exclusions are common in RTAs and FTAs, but this has never been tested for WTO compatibility, although this is a crucial deviation from one of the guiding principles of the WTO Agreement on Safeguard, namely that of non-discriminatory application irrespective of sources.

Ladies and Gentlemen,

The workshop is part of an important undertaking in the context of APEC Capacity Building Needs Initiatives. The aim is to help APEC economies gain more insights, knowledge and capacity in negotiating an RTA or FTA. This is especially the case if we bring in the new development that APEC may soon start discussions on the establishment of a Free Trade Area of the Asia-Pacific where safeguard and transitional safeguards could be an area of FTAAP negotiations.

APEC has become one of the most dynamic regional economic cooperation in the Pacific Rim. APEC could and should lead the way to address the ambiguous language of GATT Article XIX when it comes to its interface with safeguard provisions under different RTAs and FTAs. A study by ICTSD suggests that in negotiating an RTA or FTA, countries should, among others:

First, strike a balance between applying safeguard measures and strive for the objective of trade liberalization;

Second, provide for a consultative process crucial for arriving at an amicable solution;

Third, pay special attention to the protection of sensitive sectors, most notably the agriculture industry which is volatile by nature;

Fourth, state that the application of safeguards has to comply with the GATT 1994 and the Agreement on Safeguard;

Fifth, include clear and transparent provisions regarding the use and duration of any mechanism within the agreement in a not-too--ambiguous language;

Sixth, ensure that provision is made for safeguard measures to be invoked if a certain volume or price trigger for the concerned products are reached; and

Seventh, regard regional safeguard measures only as temporary measures, with developing countries focusing on strengthening the capabilities to implement the global safeguard mechanism.

I am confident that with the participations of distinguished panelists and moderators, our workshop today and tomorrow will result in better understanding on how we in APEC can address relevant issues I mentioned earlier in the future RTAs and FTAs, including under the possible FTAAP.

Now, the much easier part of my job before all of you, the overview of the workshop.

The workshop will be held in two days. Three sessions will be organized today while one session will be held tomorrow before we conclude the workshop by holding a wrap-up session.

The first session will focus on the fundamental issues and procedures under the WTO safeguard mechanism. What are the pluses and the minuses, and how does the safeguard really work? We will also bring in the RTA/FTA's safeguard provisions in the APEC Region under the first session.

The second session will be focusing on sharing experience from the government perspective on the implementation of safeguard and transitional safeguard provisions by developed and developing economies. We would like to learn how such provisions are implemented? What are the challenges? Do they meet the very objective of providing temporary protection to relevant industries?

On the third session we will hear from the perspective of business sector whether safeguard and transitional safeguard really work for them. Are they considered effective in addressing injuries or potential injuries stemming from the surge of import? Are they better off after government imposed safeguard or transitional safeguard? What other measures government should take in parallel with the imposition of safeguard or transitional safeguard for business to enhance their capacity to compete in an open market?

On the second day, and based on lessons learnt from the three sessions we hold today, we propose that participants discuss possible recommendations to enhance APEC roles in the implementation of safeguards and transitional safeguards in the region.

With that, I will conclude my remarks by wishing you all a very productive, capacity-enhancing workshop on this specific issue. I would also like to suggest that you spend some time of your stay in Surabaya to taste the local culinary and admire local products, thus contributing to the local economy.

Thank you for your attention.
