

## **BRIEF ON PRIVATE SECTOR – GOVERNMENT CONSULTATIONS IN INDONESIA - 7 JULY 2015**

---

This Asia Group Advisors' (AGA) brief examines the Indonesian private sector's capacity to effectively provide input into the drafting of ministerial regulations. Despite President Joko Widodo's promises for increased transparency and bureaucratic reform, experience from the past eight months suggests that, at the working level, senior-level bureaucrats remain resistant to engaging with the private sector until drafts are near completion. This is a challenge faced not only by foreign companies, but by domestic companies as well. The result has been a continuation of a regulatory approach that ignores or under-emphasizes business sector-input and runs the risk of slowing investment and business activity.

At the same time, peak-level business associations active in the previous Yudhoyono administration have either been discontinued or have become less effective, compounding the lack of access and input being afforded to industry associations. The National Economic Committee (KEN), previously headed by influential industrialist Chairul Tanjung, was seen as a very effective conduit for relaying business-community perspective directly to former President Yudhoyono. President Jokowi declined to extend the KEN's mandate and the committee was shut down.

Apindo, the Indonesian Employers Association, was headed for the past decade by another well-respected business leader, Sofyan Wanandi, who substantially broadened Apindo's remit beyond labor and wage issues, and turned Apindo into an effective, broad-based, cross-business association that gained significant influence. But on 1 December, 2014, Wanandi resigned his Apindo chairmanship to head a new advisory group supporting Vice-President Jusuf Kalla. The new Apindo chairman, Hariyadi Sukamdani, has taken Apindo back towards a more narrow focus on wage and employment issues, and Apindo has in most cases withdrawn from broader debates on economic policy.

The ending of KEN and the muting down of Apindo have opened the door for KADIN, the Indonesian Chamber of Commerce and Industry, to play a more meaningful role representing Indonesian business. As yet, however, it has largely failed to do so. Despite some energetic activity by several of its senior officials, seen for example in KADIN's effective advocacy on behalf of the palm oil industry, to many KADIN remains too beholden to the government to be an effective campaigner on behalf of business interests. A looming leadership contest at KADIN has further distracted the chamber's focus.

The combination of weak or disappearing peak-level business associations, the strengthening of a 'mandarin' mindset within the bureaucracy, and the poor quality of inter-ministerial coordination and performance management by the administration (the shuttering of the effective presidential-office monitoring unit UKP4 now seen as a significant mistake in hindsight), has left businesses scrambling to make their voices heard and led to a rising sense of frustration among business leaders.

An illustrative example of this trend occurred this month in what was billed as a private sector consultation on the Indonesian Ministry of Trade's (MoT) draft government regulation on e-

commerce (RPP e-commerce). During and after the event, industry representatives expressed in no uncertain terms their mounting frustration about the government's poor consultation processes and lack of transparency. At the opening of the consultation forum at MoT, the Director-General for Domestic Trade Sri Agustina said that the RPP had been completed after a number of meetings with key government stakeholders, including government ministries and agencies (such as Bank Indonesia and the Financial Services Authority). This statement was met with strong protests from the roughly 30 private sector participants at the forum.

Private-sector participants angrily complained that they had only been called for consultation after the draft had already been developed. One of the most vocal participants was the representative from Mastel (Indonesian Telematics Society/*Masyarakat Telematika Indonesia*), who voiced strong concern that leading industry associations had not been consulted in the drafting of this RPP, which encompasses very technical issues.

MoT officials responded by saying that even though the regulation has been drafted, there would still be an opportunity for private sector input. However, MoT refused to share a complete draft of the RPP with participants, arguing that the draft could not be released as it was still being discussed by the government. Instead, the Ministry promised to circulate a matrix of key provisions for comments. The exact timeline for providing inputs to the DG of Domestic Trade was left ambiguous.

This caused even greater frustration among core players in the room, including Mastel, Lazada, and Badan Regulasi Telekomunikasi Indonesia (BRTI), all of whom argued that they could not possibly provide comprehensive inputs without seeing the complete document. The representative from Mastel insisted that the MoT not describe this forum to the media as a public-private sector consultation, as that would be “misleading”.

Daniel Tumiwa, head of the Indonesia e-commerce association, idEA, subsequently issued a strong statement to the press on the lack of transparency in the drafting process of the RPP. idEA claimed to have never been consulted in the past two years since the preparation of the RPP started, despite having submitted multiple formal and informal requests. Other observers noted that the invitation for the ‘consultation’ had only been sent to participants one day before the event, giving the event an even more perfunctory feel.

The Director for Trade Business Development at MoT, Fetnayenti, responded to the criticisms by describing them as unfair. She claimed that the team in charge of the preparation of the RPP had conducted seven consultations since early 2014, including with associations. Fetnayenti reiterated that the draft can still be revised after receiving further inputs from the private sector. She did not, however, agree to circulate the current draft of the RPP e-commerce to the business-community participants.

Overall, the debacle during and after the RPP e-commerce ‘consultation’ event highlights a poor public-private consultation process that is not atypical in the preparation of government regulations across Indonesian government agencies. There remains a general lack of awareness among government officials on the need to consult the industry in preparing regulations that will affect

their businesses, and there is not a standard procedure for doing so. This has contributed to the issuance of a series of regulations with stipulations that are surprising to the industry and are counter-intuitive to economic growth.

Senior levels of the administration, including President Jokowi, are aware of this issue and have started sending stronger signals to relevant ministers to engage more effectively with private-sector leaders. In a recent conversation, Jokowi's chief of staff, Gen. Luhut Panjaitan, described reforming 'the mindsets of bureaucrats' as one of his office's priority tasks, although he conceded it will require a long-term effort. We will continue to monitor progress on this front, and update accordingly.