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# BUSINESS ENABLING ENVIRONMENT

## MEASURE PLUS: INDONESIA



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# **BUSINESS ENABLING ENVIRONMENT**

## **MEASURE PLUS: INDONESIA**

**Authored by:  
Gary Goodpaster**

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## Executive Summary

The business enabling environment (BEE) is the set of policy, institutional, regulatory, infrastructure and cultural conditions that govern formal and informal business activities. It includes the administration and enforcement of government policy, and national and local institutional arrangements that affect the behavior of relevant actors who, together, comprise many of the important players in the business enabling environment.

This short study focuses on a more narrowly defined set of business enabling environment issues: administrative and regulatory impediments to business development in Indonesia and value chain weaknesses stemming from a lack of networking and appropriate business association activity. It describes the character of Indonesia's business-affecting regulations, including permitting and licensing. It reviews and discusses administrative law, regulatory impact analysis, and SENADA's value chain work. Finally, it reviews reform efforts and notes needed major reforms, strategies to advance them, and the likely, or unlikely, success those strategies may have.

### *Business Permitting and Licensing*

Indonesia lacks a business friendly enabling environment. Its business formalization processes are complicated, time consuming, and costly. Indonesian businesses and business associations have serious concerns about national and local regulations affecting businesses. There are many regulatory authorities, and different authorities regulate the same matter in different, vague, multiplicative and conflicting ways. Many regulations confer unbridled discretion on officials, and provide a basis for opportunistic, discriminatory, or abusive enforcement. Many appear designed solely to raise funds for officials or government functions, and give an opportunity to solicit "informal fees", without the provision of any associated services.

Applicants seeking requisite permits or permit renewals face many difficulties. Depending on the business, as many as eleven (or more) permits may be required. To obtain the permits, an applicant may have to go from one government agency to another, and even the order in which the permits must be obtained may be unclear. Local officials need not act on applications immediately, so application processing times are often arbitrary. Overall the permitting and licensing burden that entrepreneurs face is so great that many entrepreneurs, considering costs and benefits, prefer to remain informal.

There have been two kinds of reform efforts that focus on improving the business enabling environment. One is the creation of One Stop Shops (where all permits and licenses are processed in one place). Indonesian local governments have different versions of OSS, and most are defective. This study recommends the promotion and facilitation of the development of Department level OSS.

The second kind of reform effort focuses on the required permits and licenses and aims to simplify them greatly. The two most troublesome permits are the HO (nuisance permit) and the IMB (building permit). Reform activities directed at these would be most useful. Enactment of zoning law regulations might also simplify the permitting and licensing system.

### *Administrative Framework Law*

Unlike most developed countries, Indonesia lacks an administrative framework law. Administrative framework laws insure that all agencies follow the same set of general procedures in adopting regulations and making decisions. The procedures, which reflect democratic values, aim to make agency regulations and decisions better, insure the rule of law, and help everyone by making agency processes orderly, more or less transparent, and understandable. They make governmental agencies more responsive and accountable to the public, limit the influence of special interests that otherwise would use agencies to advance their interests rather than the public interest.

This study details features such a law should have and suggests ways to further its development.

### *Regulatory Impact Assessment*

The principal aim of regulatory impact assessment (RIA) is to review regulations to determine whether they are the most effective means of achieving stated objectives and how to reduce their adverse impacts on the regulated. RIAs should provide relevant government decision-makers with the information necessary to evaluate the need for, and usefulness of, particular regulations. A principal feature of RIA includes some form of cost and benefit analysis. Of particular concern are the costs that a regulation imposes, for some regulations cost more to implement than they produce in benefits, and some have clear anticompetitive effects

Most Indonesian government agencies, national and local, do little to make use of regulatory review methodology to improve regulatory regimes. Indonesian ministries and other governmental agencies, national and local, do not have the human resources or the technical ability to carry out large-scale and systematic regulatory review. Regulatory review and evaluation are not parts of the ordinary working of Indonesian bureaucracies, and these bureaucracies, for the most part, do not take cost-benefit considerations into account in decisions to regulate, nor do they give much consideration to the best form of regulation.

A few Indonesian national ministries and local governments have adopted RIA methods to analyze regulations. Donors and NGOs have supported and nurtured these efforts. This study describes these activities and recommends top down and bottom up RIA reform strategies, mostly focused on training, capacity building, and socialization.

### *SME Networking and Business Association Capacity Building*

Many Indonesian SMEs suffer from isolation—from each other, from connections to value chains, from domestic and foreign markets—and from a lack of information. SMEs lack information about laws, regulations (including export regulations), business opportunities, marketing, financing possibilities, sources of raw material, and possibilities for collaboration; they lack knowledge of useful technology, product standards, marketing; and they need skills development and enterprise management training. This information may be available, but the costs of acquiring it may be too high for SMEs. They also lack the contacts, or network connections, that are useful in starting, managing, and developing businesses. Business membership associations, such as they are, are weak and do not, for the most part, help SMEs overcome these deficiencies.

To remedy these problems, USAID funded SENADA – a project now completed – to act as a value chain agent. SENADA’s models aimed to upgrade smaller firms, and accomplished this “by developing and strengthening critical market incentives between producers, business development service (BDS) providers, associations, and wholesalers and service stations.”<sup>1</sup> SENADA facilitated the adoption of the models, identified and selected partners, built linkages and market relationships, provided technical assistance, and, when necessary, subsidized financial risk.<sup>2</sup> [It] researched, analyzed, and prepared high-potential, export-led marketing models .... [Followed by] abundant marketing training and skills-building programs to thousands of firms; electronic marketing workshops ... ; and export-readiness training to firms, associations, and government support institutions.”<sup>3</sup>

This study briefly summarizes SENADA’s work and recommends to continue the SENADA linkage, facilitation, and modeling work with selected value chains and business associations, as well as other SENADA development activities.

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<sup>1</sup> USAID SENADA. Automotive Component Value Chain Overview 6 (August, 2007)

<sup>2</sup> Id., paraphrasing the text by putting it in the past tense and making other slight amendments

<sup>3</sup> Smith, Steve, SENADA FINAL REPORT at 13 (USAID, 2009)

## Introduction

Broadly defined, the business enabling environment (BEE) is the entwined set of policy, institutional, regulatory, infrastructure and cultural conditions that govern formal and informal business activities.<sup>4</sup> It includes the administration and enforcement of government policy, and national and local institutional arrangements that affect the behavior of relevant actors: regulatory authorities, entrepreneurs, business and trade union organizations, banks and non-bank financial institutions, and civil society organizations.<sup>5</sup>

This broad, general, and abstract definition of the BEE, while true, and conceptually useful in some respects, is not particularly helpful in an Indonesian context: it lacks concreteness and particularity. If, in an attempt to understand what prevents businesses from starting or growing, we examine the landscape and ecology of business activity in Indonesia we find a complicated web of interacting forces. Aside from the usual suspects of Indonesian history, culture, and societal norms, there are serious physical infrastructure problems, electricity provision, roads, and transportation among them. There are specific arrangements of executive authority; the distribution of power between the national and local governments; the Indonesian legal system and its administration; the nature of Indonesia's civil service; local politics and local government bureaucracies; and entrepreneur hostile or unfriendly laws. Indonesian contract, real property, secured transactions, and competition laws are problematic parts of the BEE, as well as commercial dispute resolution, and the character of Indonesian courts. Businesses face serious labor rights problems. There are negative mechanisms of local government finance; complicated business regulatory requirements; business access to credit problems; and corruption, both official and unofficial, at all levels of government. Business development services are poor, and many entrepreneurs lack the skills, connections or education to navigate the relevant bureaucracies or to grow their businesses.

This short study cannot provide detail on all of these matters.<sup>6</sup> Instead, it focuses on a more narrowly defined set of business enabling environment issues: administrative and regulatory impediments to business development in Indonesia, SME value chain and networking weaknesses, and ineffective business associations. It describes the character of Indonesia's business affecting regulations, including permitting and licensing. It reviews and discusses administrative law, regulatory impact analysis, and SENADA's value chain work. Finally, it reviews reform efforts and suggests needed major reforms, strategies to advance them, and the likely, or unlikely, success those strategies may have.

Short of broad based efforts across many fronts, because the BEE or BDE (business *disabling* environment) is so encompassing, it is unlikely that undertaking any subset of needed reforms will create dramatic, positive changes regarding it, at least in the relatively short term. In other words, there is no set of strategic reforms that can effect to change the existing patterns of the BEE.<sup>7</sup>

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<sup>4</sup> Donor Committee for Enterprise Development, Supporting Business Environment Reforms: Practical Guidance for Development Agencies 2, August 2008; Microlinks wiki.pdf.

<sup>5</sup> *Id.*

<sup>6</sup> Much of the material provided in this study is already known, or available, to USAID in project or grantee reports to USAID Indonesia Economic Growth or from World Bank, ADB, or other donor studies or reports on Indonesia. This study mostly puts it together in one place, but also draws reform possibility conclusions from the reviewed material

<sup>7</sup> In reading this study, consider the issues from the point of view of system actors - business persons and government officials. Keep in mind the broad scope of the BEE and the status quo described, only in part, in this study, and ask whether any proposed reform - without other BEE reforms that USAID will not undertake - will so alter the cost-benefit, incentive calculus of the all the myriad actors that it will change their behavior positively. Given the

## Selected Issues of the Business Enabling and Business Disabling Environment in Indonesia

Indonesia does not have a business friendly enabling environment. Indeed, it may be said to have a business *disabling* environment. In comparison with competitor South East Asian countries, Indonesia's business formalization processes are the most complicated, time consuming, and costly. The regulatory burden that entrepreneurs face is so great that many entrepreneurs, considering costs and benefits, prefer to remain informal. Small entrepreneurs have serious difficulties in obtaining financing; the recognized forms of collateral to secure a loan are quite limited; and Indonesia does not have a secured transactions law that expansively defines what may constitute collateral and that provides for a searchable registry for secured creditor notice filing of claims against collateral.<sup>8</sup> All businesses, regardless of size, face serious labor rights problems. There is widespread petty corruption that preys on businesses, both governmental official corruption and "preman" mafia style corruption. Many business membership organizations, such as they are, are weak and ineffective in their interactions with government officials. Many potential, or operating entrepreneurs, lack the knowledge, skill, contacts, or network connections that are useful in starting, managing, and developing businesses.

Historically, Indonesia had a state led and state dominated economy, and Indonesian regulatory culture viewed - and, for the most part, continues to view - itself as having responsibilities to direct economic activity rather than guide or facilitate it. Before democratization began and before decentralization, the Indonesian government enacted business burdening regulations. Even after these political changes, many of those regulations remain, and local governments added to the regulatory burden, often for the sole purpose of raising revenue rather than to ensure a public benefit or provide services for the fees charged.

### *Overview of Regulation in Indonesia*

Like the countries that have undertaken regulatory reform, Indonesia has a large regulatory legacy. Indonesia has a huge inventory of regulations, both national and local, accumulated from the long past and still accreting in the present. There are many regulatory authorities, and different authorities regulate the same matter in different, and sometimes, multiplicative and conflicting ways. Many regulations are vague, unclear in objectives, or confer unbridled discretion on officials, and provide a basis for opportunistic, discriminatory, or abusive enforcement - as a way to extract rents, to intimidate, or hamper private sector activities. Many appear designed solely to raise funds for officials or government functions (sometimes called *biaya*). Even when not described as taxes, but as fees (*retribusi*), often - perhaps in most cases - there is no service provided.<sup>9</sup> As stated by The Asia Foundation, with respect to licensing regulations, "local governments in Indonesia often use licenses to generate revenue without

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current BEE in Indonesia - is it, for example, rational for business people to remain informal? Given government officials current culture and incentives, it is rational for them to continue to behave as they presently do? In this situation, what should USAID do to improve Indonesia's BEE? Should it support, or continue to support ongoing marginal, local government reform efforts, support major national and local government reform ideas, or undertake a combination of both approaches?

<sup>8</sup> See section, *infra*, regarding Secured Transactions and Collateral.

<sup>9</sup> Even where there is a putative "service" or public interest regulation, for example the case of weigh stations where trucks are weighed to insure there is no overloading; there is no weighing of trucks. Instead, the pretext of weighing becomes an occasion to stop trucks and charge a fee. This practice has the perverse effect of increasing truck overloading and highway damage since haulers overload in order to make up for the fees charged. Trucking and Illegal Payments in Aceh (World Bank, 2007); Ray, D., and Goodpaster, Gary, Indonesian Decentralization, in Damien Kingsbury & Harry Aveling, *Autonomy and Disintegration in Indonesia* (Routledge Curzon, London, 2003).



providing protection, control, or associated administration services, and often without fully analyzing the impact of a license on business behavior.”<sup>10</sup>

Aside from regulations which governments design to raise fees, however, there are also regulations that do impose more than nuisance costs on businesses, e.g., labor regulations, local hire regulations, employment quotas, and various anticompetitive regulations designed to favor particular local interests.

Indonesian governmental decentralization exposes the size and scope of the regulatory problem. In granting greater autonomy to local governments, and transferring former central government functions to them, Indonesia has enhanced the authority of local governments to enact regulations.

Since decentralization began, the regulatory activity of DPRD's and local administrations has become a focus of business concern. Because the central government does not fully fund local governments, many of the new local regulations impose taxes and fees of various kinds. These taxes have ranged from tariffs on imports and exports from the locality, cargo hauling and loading and unloading levies, forced “contributions” from various kinds of production companies, to road and transport charges. In addition, local governments have added regulatory and quarantine inspection requirements. Some of these many levies and requirements interfere with free domestic trade, and many appear to lack any purpose other than raising money.

In addition to local fund-raising regulations there are also a number of regulations that aim at establishing local monopolies, call for local labor quotas, provide competitive advantages for local businesses, including government owned companies or competitive disadvantages on competitors, and so on.

The total regulatory, formal and “informal”, costs businesses, face, and the costs from governmental failure to regulate or provide services may or may not be small. Nonetheless, they are costs that affect competitiveness where businesses in other countries do not experience similar impositions. As importantly, in business where time is money, both the delay and the business administrative time required to deal with all these regulations and regulatory enforcers, as well as the failure of governments to provide the services that supposedly justify their exactions and might actually benefit business and society, detract from economic competitiveness.

The principle of minimum effective regulation holds that regulations and their implementation should be the minimum necessary to meet regulatory objectives. A recent SENADA Indonesia regulatory study<sup>11</sup> confirmed the findings of other studies that Indonesia's licensing and permitting procedures were complex, overlapping, redundant, and imposed high compliance costs.<sup>12</sup> The study further found that:<sup>13</sup>

- Indonesia required frequent and unnecessary permit renewals;
- Stated regulatory objectives were inconsistent with the content of regulations, e.g., where the stated objective was safe building standards, the content of the regulation focused on fee assessments;

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<sup>10</sup> Making Sense of Business Licensing in Indonesia 11 (The Asia Foundation, 2007).

<sup>9</sup> USAID, REGMAP: Institutionalizing Regulatory Reform in Indonesia (SENADA Summary Report, March 2009).

<sup>12</sup> *Id.* at 23.

<sup>13</sup> *Id.* at 23-24.

- All levels of Indonesian government often regulate when no regulation is called for;
- Regulations gave too much unguided discretion to officials, that is, the regulations did not required decisions based on supporting guidelines or criteria;
- Some regulations were protectionist in compelling private companies to use state or government owned enterprise facilities and services rather those of the private sector.

In another SENADA study of 1,000 national and local government regulations,<sup>14</sup> screened to focus on the most egregious, SENADA researchers found that:

- Local user charges imposed extra costs on the employment of women and foreigners;
- Local unloading-loading fees and local road-use permits functioned as taxes on internal trade;
- Local inspection fees and charges comprised disincentives to install and maintain worker health and safety facilities;
- Provincial regulations imposed fees or otherwise complicated business use of their own electricity generators;
- Regulations taxed the buyers and sellers of industrial waste, and dis-incentivizing recycling;
- Regulations required that new investors contribute to community development;
- There were superfluous or redundant national regulations and procedures on the export of legal wood products;
- National regulations on employee severance requirements increased employment costs for regularly employed workers, giving employers an incentive not to hire in accordance with labor laws;
- National verification requirements for textile and garment imports placed considerable burdens upon SME garment producers and users of textiles from other sectors.<sup>15</sup>

The regulatory burden that Indonesian businesses face is great. Reducing this burden is a BEE reform priority. Major reforms here include an administrative framework law, required regulatory impact assessments; and changes in nationally required permits for business. I discuss these in the reform section below.

### *Business Formalization*

In Indonesia, limited liability companies must apply to the national government for approval to establish their firms. Once they receive approval, they must then get local licenses and permits from the governments in the areas in which they will operate. Other firms - sole proprietors and partnerships - need not apply to the national government, but rather get their licenses and permits from local governments.

Obtaining local licenses and permits is a complicated process. Usually, local governments require business license applicants to obtain permits, of which there may be many, prior to obtaining the business license. Obtaining a business license, the final step of business formalization, is essential if a business wants to obtain bank financing, for banks require business loan applicants to have a trade or a business license. Firms may also have to show legal status to import or export and to contract with larger firms.

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<sup>14</sup> USAID, REGMAP: Institutionalizing Regulatory Reform in Indonesia (SENADA Summary Report, March 2009).

<sup>15</sup> *Id.* at 20.

Except for those relatively few local governments that have aggressively sought to simplify the permitting and licensing process, an applicant seeking the requisite permits faces many difficulties. The permitting requirements are often not clear and the language of local regulations requiring permits is often vague and subject to discrepant interpretations. Obtaining the required permits may require an applicant to go from one government agency to another, and even the order in which the permits must be obtained may be unclear. Local officials need not act on applications immediately, so application processing times are often arbitrary. The government fees for processing permits are generally high, and the “responsible” local officials may also ask for “speed money” to process permits speedily or other bribes to facilitate permitting.

### **Required permits**

Although Indonesia recently enacted a law relating to land use zoning (Law 26, 2007), it remains to be fully implemented, and national law continues to mandate business licensing, permitting and registration. Most approvals for these requirements take place at the local government level. In general, applications and approvals are directed to the relevant government department. Local governments also require the payment of “user” fees (*retribusi*)<sup>16</sup> for each permit, the fee often having nothing to do with the cost of the service, but based on company size, the number of workers employed, square footage, or business income, a coefficient multiplier, and the like. Of course, “informal” fees associated with these permits may greatly increase the applicants’ costs.

While national law requires that local governments issue an IMB permit (see below) within 14 days of application, the governments refuse to accept an application until it is complete. From initial application to completion of all permits processing can take a long time, and the 14 day rule is not a measure of how long it takes to obtain the permit.

Finally, the permitting and licensing process is so complex, particularly for the HO (see below) and the IMB that many investors use third parties as middlemen to negotiate their way through it, adding to the cost of obtaining a permit.

Depending on the kind of business, the requirements are:

- A tax payer ID number obtained from the Ministry of Finance provincial office.
- A location permit (*izin lokasi* or *surat tempat usaha* (SITU)), or showing whether the business is located in a mostly commercial or mostly residential area. (Some local governments call for a nuisance permit instead.) An applicant gets this permit at the sub-district level, and having this permit is a requirement for an HO or an IMB (see 5 and 7 below).
- Advice planning permits (IPPT), essentially a local government land use certificate regarding the planning parameters regarding building on land.
- AMDAL, an environmental impact analysis for large developments; or UKL/UPL, and environmental review for smaller projects
- A nuisance or disturbance permit (HO), renewable periodically (3-5 years). Depending on the nature of the business and local government regulations, many businesses of whatever kind may have to obtain this permit. Issuance of the permit requires consent of from the immediate neighbors of the proposed or continuing business. The law and

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<sup>16</sup> Under Law 32/2004, the Indonesian Ministry of Home Affairs, with a Ministry of Finance recommendation, must approve any local government regulations that levy new fees or taxes before local enactment. Local governments, however, continue to enact such provisions without submitting them for review. In any case, MoHA has a large backlog of such cases.

regulations under it do not define clearly what constitutes a nuisance, and neighbors can refuse to consent on virtually any ground. As neighbors have a veto over the permit, obtaining consent may require the use of an agent and payments to potential veto-ers. Local governments may also use their authority to deny the permit to exact monies for purposes unrelated to any nuisance the business may cause, e.g., monies to help build a mosque.<sup>17</sup>

- Various possible permits regarding liquid waste, underground water, pollution control, and the like.
- A building permit (IMB), required for construction, and obtainable on a showing of land title and a location permit. Getting this permit will likely involve issues of building codes, land and road use, environmental permissions, and neighbor consent. An applicant must also submit supporting documentation - blueprints, site plan analysis, and impact documents.
- For manufacturing firms, a production license - a registration certificate (Tandar Daftar Industri (TDI) for small firms; and an industrial license (Izin Usaha Industri (IUI) for medium and large firms. This is a renewable license (3-5 years, depending on the district), is also required when an existing firm expands production by 30 percent or more.
- A trade license (Surat Izin Usaha Perdagangan or SIUP) - a periodically renewable license required for any business that produces goods or services. Banks require a SIUP in order to consider loan requests, and businesses consider this to be the most important license, more important even than firm registration.
- A central government industry permit required for specific industries that have heavy impacts or use dangerous materials or procedures.
- Certificate of Business Registration (Tanda Daftar Perusahaan or TDP) - this is the final step in the licensing process and is meant to collect data on operating firms.

The most problematic of the foregoing permits, in terms of delay or costs, and lack of standards for issuance are the HO and the IMB. There are also no standards that local governments follow in granting variances to permit requirements that issue being left to the discretion of some high official.

### Sectoral and other licenses

In addition to the foregoing licenses, national or local regulations call for certain businesses to obtain sectoral and other licenses after registration. The sectoral licenses include transportation, trucking, tanneries, wood harvesting and trading, restaurants, tourism, supermarkets and warehouses, and local governments may create others. There are also labor related licenses concerning worker health and safety, using women workers at night, and the like.

### Foreign investor license

Foreign, and some domestic, investors must receive investment approval from the Indonesian Investment Coordinating Board (BKPM). Once approved, foreign investors must form an Indonesian limited liability company following the same licensing process for Indonesian companies. BKPM then purportedly helps the investor to obtain other required licenses, e.g., foreign manpower and permanent business licenses, customs approval letters, and relevant

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<sup>17</sup> With SENADA help, some reform activists drafted, and submitted to the appropriate ministry, a revised and much improved HO regulation, but, to date, it appears that no new regulation has issued. Cf. Elliott, Donald, Building Permits (IMB) and Local Investment 20, SENADA (USAID 2009)

import licenses. Some local governments also call for foreign investors to receive local level investment approvals.

### **“Inspection” visits**

Local government officials often visit businesses to inspect premises for health and safety purposes, and also to examine licenses to operate. These visits may be appropriate or simply pre-textual as a way to extract rents or bribes. The latter is a form of official harassment that also increases the costs of doing business, both because of the amounts paid, but also in the form of transaction costs relating to lost time, business interference, and the like.

### **One Stop Shop Offices**

In an effort to cut through the red tape, costs, delay, and corruption associated with business licensing and permitting, some NGOs began promoting One Stop Shops (OSS). The idea was to consolidate licensing and permitting in one local government office that operated under strict, published guidelines regarding approval times, fees, and service requirements; and the NGOs helped some interested local governments in establishing such OSS. In 1999, the national government issued a directive authorizing all local governments to create OSS offices. While the Ministry of Home Affairs in 2006 issued regulations regarding the structure of OSS offices, the regulations were not mandatory, and local governments were free to define their own structures. Today, over half of Indonesian local governments operate some kind of OSS office. What kind of OSS they operate, and whether they actually improve service and reduce costs and delay are important issues.

In practice, there are three kinds of OSS offices:

- **The Unit:** the OSS office is simply a service window where applicants drop off their permitting and licensing requests. Processing of the requests remains with the normal line departments, so this kind of office simply operates as a distribution and collection point.
- **The Office:** some line department's second staff to the OSS and some processing can be done within the office. Usually, the OSS does not have the authority to issue licenses, but there may be some institutionalized minimum service standards; some simultaneous, rather than consecutive, processing of permit applications for a particular applicant; and human resource and transparency of process improvements.
- **Department:** an infrequent kind of OSS where the office is a separate department within the local government, having its own staff and budget and having authority for approvals.

Of the three kinds of OSS offices, the Department appears to be the best. It is also, however, the most difficult to establish, generally requiring the local parliament to authorize its establishment. Aside from the usual problems of bureaucratic inertia and resistance to change that pose political problems for local parliaments, there are other problems that make parliamentary improvement unlikely. The fees or user charges that applicants must pay form part of locally generated revenues that are a source of discretionary parliamentary funds. In addition, the national government limits the ability of local government to reduce the number of permits and licenses required and how far local governments can go in creating Department OSS offices.

The empirical evidence on the effectiveness of OSS offices in reducing processing time improvements, fee reductions and certainty, simplification, and transparency is equivocal. Some evaluations report improvements; others do not.

## Permitting and licensing reforms

Reforms that address Indonesia's major business formalization problems include:

- National government rationalization of required licenses and permits
- Greatly simplify the entire structure of business licensing so that anyone can simply register a business before seeking appropriate permits
- Reduce the number of required permits
- Radically change the nuisance permit so that an applicant's neighbors cannot veto approval
- Require clear, specific permit conditions and the publication of guidelines regarding regulatory interpretations
- Limit the unguided discretion of local government officials
- Require that locally charged fees reflect actual charges for services provided
- Provide a complaint mechanism under which an independent arbiter can decide whether government permitting action was arbitrary, capricious, or discriminatory
- Eliminate duplicate paperwork
- Require all OSS to adopt the Department Model.

## Strategic Ways to Improve the Indonesian Business Environment

### *The Importance of Regulation as a Reform Target*

All modern states are regulatory states. Governments govern through laws, administrative agencies, and regulations;<sup>18</sup> and most of the detail in governance lies in regulations and administrative interpretations of laws and regulations. Given the immense scope of agency activity, it is obvious that the interactions that most citizens and businesses have with government take place through national and local government administrative agencies. In this respect, administrative agencies are actually more important than courts, although courts certainly have a critical checking role regarding governmental executive action.

### Regulatory reform

In speaking of substantive regulatory reform, we must be clear about exactly what it is that we wish to see reformed. There are different levels of reform, and while the levels are interrelated, reform at one level may or may not take hold because reform is lacking at a more fundamental level. Here are some possible reform levels to consider:

- 1.) Fundamental reform of all agencies through changing the underlying framework that all administrative agencies use to carry out their work;
- 2.) Ad hoc agency reform;
- 3.) Management, personnel changes;
- 4.) Reforming agency regulations, policies, and procedures.

For substantive regulatory reform, the relevant levels of reform to consider are the first and the last, framework reform and reform of regulations themselves.

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<sup>18</sup> For purposes of this discussion, regulation means any government law, regulation, rule, policy, decree, interpretation, ruling, or practice that directly affects peoples' freedom of choice.

## Administrative Framework Laws

Indonesia does not have an administrative framework law. It does have a weak administrative law and administrative courts that can review agency actions, but that do not seem to operate very effectively. This means that each national, and to a somewhat lesser degree, each local, agency can create its own procedures, that there may be little consistency between the operating procedures of various agencies, and that the public may have little knowledge of how agencies operate. In effect, it means that each agency can become a law unto itself and have relatively uncontrolled discretion. Indonesians have little knowledge about how agencies operate, how they issue regulations, how they make decisions.

Many national and local government agencies have great powers to make regulations and decisions. Because they deal with many problems in uncertain and changing environments, they also have large discretion. But great power and great discretion to decide create serious problems. Agencies can make serious mistakes that injure the economy or many people; can be captured by the interests they are supposed to regulate; can abuse their powers, e.g., be corrupt. Because administrative agencies exercise so much governmental power and have a huge regulatory impact on the economy and its various sectors and actors, it is important that agencies operate fairly and efficiently, and transparently and accountably within the law. It is essential to insure that agencies do not abuse their power or discretion and that agency officials do not use their authority to extract bribes from regulated parties. In democracies, it is important that these agencies involve the regulated and the public in their work. This openness and participation greatly improve the work of the agencies and makes them responsive and accountable to the people.

In developed countries, there are usually general framework laws – regulate the regulators laws - concerning administrative procedures. These laws, or administrative procedures acts, lay down the procedural rules that all administrative agencies, except those specially exempted, must follow in carrying out their activities. These laws define the specific procedures to be followed when an agency drafts and issues regulations, conducts investigations, holds hearings, and issues decisions. Such laws usually call for public notice of proposed agency action, an opportunity for citizens or regulated parties to be heard before action is taken, fairness in hearings, decision based on a written record, internal agency appeals from adverse decisions, and a review of final agency action, when called for, by a court. The set of common procedures that these laws create work to insure fairness, efficiency, and lawfulness throughout all government bureaucracies.

Administrative framework laws insure that all agencies follow the same set of general procedures in adopting regulations and making decisions. The procedures, which reflect democratic values, aim to make agency regulations and decisions better, insure the rule of law, and help everyone by making agency processes orderly, more or less transparent, and understandable. They make governmental agencies more responsive and accountable to the public, limit the influence of special interests that otherwise would use agencies to advance their interests rather than the public interest.<sup>19</sup>

Because such laws create a set of procedures common to all administrative agencies, they create efficiency, transparency, responsiveness, and accountability in agency operations. They also greatly facilitate citizen and business interaction with agencies, permit greater executive

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<sup>19</sup> Good administrative framework laws provide for internal review of agency decisions and actions at a higher level within the agency. The permits the agency to correct staff errors and may obviate the need for judicial review. It provides opportunities to educate lower level staff and helps insure policy consistency.

and legislative oversight of agency activities and performance, and enhance coordination between different Ministries.

There is a further important reason for concern about Indonesia's regulatory agencies. Many Indonesian laws are general and direct agencies to fill out the details of the law through regulations. This is highly problematic where there are no standards or established consultative procedures that must be met for regulations to be valid. Where the law itself is ambiguous or vague, as is often the case in Indonesia, regulatory agencies have immense and virtually uncontrolled power.<sup>20</sup>

### Regulatory Reform without Wholesale Administrative Law Reform: Regulatory Impact Assessments

Given the serious potential adverse impacts of improper regulation, Indonesian regulatory agencies should, in addition to following open, transparent, and consultative procedures, analyze the potential social and economic costs the regulations impose. Indonesia should require that its regulatory agencies conduct regulatory reviews and cost-benefit analyses of proposed regulations.

Regulations, even those adopted with the best of intentions, can injure economies, distort entrepreneurial and business decision-making, and add unnecessary costs to doing business. Regulations that reduce competition lead to inefficient and noncompetitive businesses. Competition, by contrast, disciplines firms and impels them to become more efficient and to produce the best products and offer them at the lowest prices. Regulations that unnecessarily increase business costs raise the cost of doing business and make firms less competitive.

In modern states, where a major function of government is to help the economy grow so that all will be better off, regulations that reduce competition, that increase the costs of business or the costs to consumers, or that decrease the competitiveness of firms defeat this aim. Many governments,<sup>21</sup> recognizing the problems of over and inappropriate regulation, have therefore sought to deregulate intelligently, that is, to reduce the burden and direction of regulation while yet insuring the achievement of government aims. Governments now realize that regulations have serious and oftentimes damaging unintended consequences and they have come to understand that they should regulate only when it is essential that they do so. They also understand that when they regulate, they should do so only in ways that insure that the benefits

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<sup>20</sup> Indonesian state and local government-owned enterprises (SOEs) are also a part of Indonesia's regulatory inheritance and landscape. The regulatory point is that in Indonesia SOEs have both governmental and business functions. When these functions are mixed, governments often use their regulatory authority to defend their business interests, often by imposing barriers to competition. Where governments do this, it is a serious problem. Restricting competition in this way not only injures competing businesses, it also insulates the SOE from competition and the discipline of the market, with a consequent loss of efficiency. Ideally, if a government chooses to operate businesses, it should operate them as commercial entities and not as arms of governmental authority. In this way, the government would not use its governmental authority to regulate the market for its own advantage or the advantage of those running government businesses. Unfortunately, this does not seem to be the case in Indonesia. Absent clear separation of the governmental and commercial function, a national competition law that proscribed anti-competitive behavior might also address this problem. Indonesia's competition law, however, does not apply to state-owned enterprises, even those operated by local governments. Substantive regulatory reform should address this problem.

<sup>21</sup> Today, many countries are undertaking this kind of regulatory reform. These efforts include both reducing direct government management of economic actors and establishing a review process for existing and proposed regulations to determine their competitive impact and cost-effectiveness. The countries undertaking regulatory reform and deregulation include those in the former Soviet bloc – former command and control economies – as well as countries with advanced market economies, such as the United Kingdom, Canada, the United States, Australia, New Zealand and those comprising the European Economic Community.



of the regulation exceed the costs. Finally, they have decided that it is important to review regulations prior to adoption to insure that their benefits are greater than their costs and that they do not injure competition or competitiveness.

This process of reviewing regulations is appropriately called regulatory review or regulatory impact assessment (RIA), and its principal aims are to optimize policy and reduce regulatory burdens. It involves particular kinds of policy analysis and aims to provide relevant government decision-makers with the information necessary to evaluate the need for, and usefulness of, particular regulations. That information should include a real understanding of the problem the regulation addresses, the legal and policy basis for government action, the expected economic costs and benefits of the regulation and alternatives ways of solving the problem, and any other factors that will affect the effectiveness of the regulation. Of particular concern are the costs that a regulation imposes, for some regulations cost more to implement than they produce in benefits. In addition, there is also a major concern about the anticompetitive effects of a regulation. In free market economies, there is a presumption in favor of competition, and if a regulation injures the ability of parties to compete, it may injure the economy.

The benefits of regulatory reform through RIA are optimized policy, better governance, more efficient and better regulation, more competitive businesses, and a more efficient, lower cost economy. The large benefits RIA delivers arise, however, only when governments institutionalize impact assessments and make them a part of ordinary governmental functioning.

Given these benefits, Indonesia should consider requiring its governments to use regulatory assessment tools, as other governments have done. Thus far, however, the Indonesian national government has not yet undertaken wholesale regulatory reform as a goal. As regulatory reform is so important for Indonesia, it is essential to discuss how this might come about.

### *Regulatory review in Indonesia today*

Regulatory impact analysis was introduced to the Indonesian national government, via the then Ministry of Industry and Trade by the 2002 ADB Deregulation and Competition Project. The Project produced a training manual and trained a cadre of Ministry officials in the methodology. The manual was translated into Bahasa Indonesia, and the manual, along with considerably revised Indonesian iterations of it, remains in circulation.<sup>22</sup> Through this effort, the idea of regulatory review and regulatory impact analysis secured a small foothold in at least one ministry.<sup>23</sup>

Because of the transfer of government authority to localities through decentralization and increased local regulation, several donor funded projects or agencies, for example, The Asia Foundation, GTZ, SwissContact, and SENADA<sup>24</sup> among others, took on the cause of regulatory review in Indonesia and have conducted numerous trainings in regulatory impact analysis for local governments, for Bappenas, which now has a RIA unit, and for the DPR Secretariat, where RIA is now used to help analyze draft legislation.

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<sup>22</sup> Indeed, The Asia Foundation has just published the most recent version.

<sup>23</sup> The research arm of the current Ministry of Trade, Litbang, has used this form of cost/benefit thinking in its policy analytic work. To date, it has conducted at least two substantial regulatory impact analyses, one on rattan and the other on cocoa. More importantly, it has adopted a cost-benefit mindset in its consideration of regulations. Finally, the Ministry of Finance and the Ministry of Trade currently have RIA teams, manned by University of Indonesia economists, working on RIAs for a few complex proposed regulations.

<sup>24</sup> SENADA is a USAID-funded project, and also received some funds for RIA work from USAID.

TAF, GTZ, and SwissContact encouraged and assisted local governments to adopt the RIA methodology as a part of their ordinary operations, and, where they were receptive, to assist them in institutionalizing the practice.<sup>25</sup> To further assist localities, TAF helped conduct a regulatory impact analysis of two local business licensing regulations for each kabupaten participating in its trainings, and these analyses are available for use by the localities. In addition, TAF has recently published a set of RIA materials in Bahasa Indonesia, including an RIA primer for policy-makers; and a RIA manual.<sup>26</sup> TAF also funded a two week RIA Training of Trainers workshop for selected Indonesian economists, lawyers, and political scientists.

In addition to TAF, GTZ, SwissContact, and SENADA, there are other institutions involved in the supply of RIA services. The Institute of Economic and Social Research, Faculty of Economics, University of Indonesia (LPEM-FEUI) has an informal RIA unit that currently provides RIA analyst teams to the Ministries of Finance and Trade, and also provides RIA trainings. Among these trainees have been the Bappenas staff of the Directorate of Law and Regulations (DAPP), which itself plans to take an active role in RIA activities.

### **Associational regulatory review activities**

While Indonesian governments, have been slow to embrace and use regulatory impact analysis, NGOs and the Indonesian private sector have been more active in noticing and complaining about regulatory problems and in seeking reform. The Asia Foundation and the Indonesian Chamber of Commerce (Kadin) and its research arm on decentralization, KPPOD, have collected and examined local government regulations adversely affecting businesses and have published annual surveys regarding the business friendliness of localities in Indonesia. Most of the regulations compiled imposed taxes, fees, or increased business licensing requirements. These surveys have been useful for the information provided, for the pressure they put on local governments to improve their regulatory regimes, and for the competition for rankings they have created among local governments.

Notwithstanding this positive NGO and private sector deregulatory activity, Indonesian regulatory reform work has just begun. Indonesian NGOs and associations have thus far played a valuable, yet limited, role in a systematic and ongoing review of regulations.

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<sup>25</sup> To date, Pare Pare, Solak, Gorontalo, and Blitar are among the localities that have embraced regulatory review. Yogyakarta also engages in some regulatory review, and it has been reported that the Yogyakarta provincial government, as an intermediary between the national government and local governments, may use RIAs to assess local perda. While institutionalization efforts have so far been less successful in other localities, there are encouraging signs that other local governments have noticed what their “competitor” governments have done with RIA and are seeking assistance to develop their own regulatory assessment systems.

GTZ, with its RED project in Central Java, has also conducted a number of regulatory impact analyses in Solo and six local districts. In each area, there is a local RIA committee that works on reviewing regulations, and there is a plan to develop a regional RIA committee. SwissContact, in conjunction with its Indonesian SME project and RED, has also introduced RIA in central Java, particularly in Sragen and Yogyakarta, and has reported positive impacts: RIA institutionalization through inclusion in local government budgets; greater interaction between governments and stakeholders; increased public-private dialogue; the provision of technical RIA assistance by RIA-enabled governments to other local governments; and a request by other local governments that SwissContact provide them with similar assistance.

<sup>26</sup> Other evidence of local government use of RIA and the positive impacts of its use is not difficult to come by. Pare Pare and Solok have general regulations requiring regulatory impact assessments, and a number of local governments, including the province of West Java, and the kota Gunungkidul, have formed RIA teams, and other local governments, such as Sragen, regularly undertake regulatory impact assessments. In addition, there have been an increasing number of local media reports on RIA and its use by governments, and some of these reports have been written by faculty in local universities. This latter fact is important because it indicates that academics are developing an interest in RIA, and this suggests they may introduce it to their students, thus expanding the base of RIA aware and knowledgeable people.

### **Donor regulatory review activities**

Development donors in Indonesia have conducted many analyses of Indonesian governments, economy, and society. Many of these reports are reform-oriented diagnostic and advisory reports. They usually focus on major problem areas and provide data and useful ideas for reform. For the most part, these documents, when they address regulatory issues, discuss classes of regulations and do not reach specific local level regulations except as such regulations are nationally mandated or permitted.

### **Domestic research institutions and NGOs**

Indonesia has a number of well-respected research and advocacy institutions, such as CSIS and SMERU, some University research institutions, such as LPEM, and there are many NGOs, both domestic and foreign, operating in Indonesia. These institutions sometimes provide detailed policy analysis and more often take policy and advocacy positions. The research institutions, if not independently funded, sometimes does research on contract, often on donor, government, or even private party hire. While these institutions can be an important source of policy analysis and advocacy, it is not clear how effective they presently are, what their access to government is, or how they go about their policy advocacy work. Nonetheless, they are a source of policy ideas and critique and are players in the competition for policy.

### *Positive developments; more to be done*

These are quite positive and encouraging national and local developments in Indonesian regulatory reform. However, most Indonesian governments still do little in the way of using regulatory review methodology to improve regulatory regimes. It is also fair assessment to say that, by and large, Indonesian ministries and other governmental agencies, national and local, do not have the human resources, or the technical ability, to carry out large-scale and systematic regulatory review. Regulatory review and evaluation are not parts of the ordinary working of Indonesian bureaucracies, and these bureaucracies, for the most part, do not take cost-benefit considerations into account in decisions to regulate, nor do they give much consideration to the best form of regulation.

Those Indonesian ministries and local governments that use RIA methodology do so because they have found it valuable as a tool for informed decision-making and as a way to help create a business enabling environment. In general, those who understand this governance tool are committed to its use and think it highly desirable that RIAs become a standard government practice throughout Indonesia. How can this be accomplished? To answer this question, it is essential to specify what it is that should be institutionalized, that is, the targets for regulatory review, the form Indonesian regulatory review should take, and potential constraints on institutionalization.

### **The problem of existing regulations**

There is an important issue that forward looking plans for regulatory impact assessments of proposed regulations do not reach. There is an immense inventory of national and local regulations. Thus far, the only efforts to assess portions of the stock of existing regulations have been the donor supported projects mentioned above, and the principal and most rigorous effort has been the SENADA RegMAP.<sup>27</sup> Some local governments have conducted regulatory impact assessments of select existing regulations, but no government, thus far, has had the ambition

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<sup>27</sup> Op. cit. note 10, *supra*.

even to collect and inventory them, much less assess them.<sup>28</sup> SENADA, a USAID value chain project, did collect 1000 national and local government regulations, applying a series of “filters” reduced these to a manageable number, for which it then conducted simple RIAs. The exercise was particularly useful in finding regulatory patterns across jurisdictions that impacted the most heavily on the BEE.

While highly desirable, comprehensive regulatory inventories and reviews may not be necessary. National and local businesses are clearly in a position to know what regulations impact them the most adversely. In addition, as the SENADA RegMAP research has shown, many regulations that adversely affect businesses, without providing compensatory benefits, are similar across local government jurisdictions. Business supported research, such as the KPPOD surveys, also identifies troublesome regulations, as do business associations independently of research. Thus there is available information on which local governments could act to undertake reform of existing regulations if either mandated to do so or voluntarily choosing to do so.

### **Constraints**

There are some important constraints on realizing a goal of making regulatory reform and regulatory impact assessment a standard practice in all Indonesian governments. Any strategy aiming at this goal must either operate within these constraints or overcome them.

Aside from Indonesian government buy in, the principal constraint is a lack of resources, that is, an ample supply of personnel capable of conducting regulatory impact assessments. As the methodology is new to Indonesia, there are relatively few people that understand it and fewer that can carry it through. This is certainly a limitation on how widespread RIA can become throughout Indonesian governments. For several reasons, however, this is a constraint that can be overcome. Overcoming it may, to a certain degree, also depend on the strategy followed to make RIA a standard practice.

Firstly, supply generally follows demand. Indonesia now has some RIA practitioners and has some RIA trainers who can teach people RIA methods. Given sufficient real demand, it should not be difficult to increase the number of RIA-capable personnel. Secondly, depending on the sophistication required for standard RIAs, the necessary resources vary. It is one thing to conduct a qualitative or simple quantitative cost-benefit analysis and quite another to conduct a deep and thorough economic study. For the purposes of introducing the basic RIA discipline to Indonesia governments, it is neither necessary nor desirable to start at highly sophisticated levels. What is most important is that governments consider regulatory options and

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<sup>28</sup> In a few other countries, notably Korea, there have been efforts to clean the Augean regulatory stables with one dramatic flush. Efforts such as these are referred to as a regulatory “guillotine” This is a term apparently coined by Scott Jacobs, Managing Director, Jacobs and Associates, an international consulting firm focused on regulator reform. The idea is that a country commits itself to review all its regulations that affect businesses negatively within a set period of time. The country appoints a special body to do that and may set up default rules that ease the process, such as a rule that the proponent for retaining the regulation has a substantial burden of proof that it is necessary; if that burden isn’t met, the regulation is automatically revoked. The aim of the effort is to inventory the relevant regulations and make well considered decisions whether to revoke, retain, or amend them.

Obviously, to conduct a guillotine on any level of government requires the decision, and commitment, of the highest level of that government to do so. To the degree that national laws and regulations do not require particular conforming regulations, this is a process that Indonesian local governments could follow for regulations within their complete jurisdiction, assuming they could find the budget to do so. In current circumstances, without some central government requirement that they do so – itself an improbability – few local governments are likely to undertake this dramatic effort at reform. There is, of course, the possibility that donor development institutions might have a interest in supporting at least some local governments in efforts to inventory and carefully review their existing stocks of regulations.

consequences, and conduct informed cost-benefit analyses using information coming from consultations with potentially affected parties.

Finally, and perhaps most importantly, it isn't necessary that all Indonesian governments conduct their own regulatory assessments. What is essential is the assessment of their regulations. For example, if Indonesian provincial governments, which are the local representative of the national government, were tasked to conduct regulatory assessments of local *perda*, the RIA resource requirement would be to place RIA staff with provincial governments. While each provincial RIA unit might require a number of personnel to handle all the *perdas* arising from lower level governments, there are only thirty three provincial governments, as opposed the vastly larger number of lower level governments.

A second constraint, on which the resource constraint itself somewhat depends, is the relative lack of demand on the part of local governments for RIA services. That lack of demand is not a simple matter of local governments not wanting to conduct regulatory impact assessments. They need to allocate funds to do so and thus would have to include this activity in their budgets. This, however, means they have to convince the DPRD's that this is an important and worthwhile activity. Not only that, but that it is an essential activity of government that must become a part of the annual budget.

### *Two paths to Indonesian regulatory reform*

There appear to be two general routes to regulatory reform in Indonesia: a top-down route, i.e., a national government law or presidential decree; and a bottom-up route, i.e., spread of reform practices through local governments and interest groups interacting with Indonesian governments.

#### **A top-down mandate strategy for regulatory review**

The best means for achieving wholesale regulatory reform in Indonesia is through a national law or presidential decree. Ideally, such a mandate would create an administrative framework law applicable to all regulatory national and local agencies. Such a mandate could include a requirement that agencies subject all proposed regulations to a regulatory impact assessment.

There would, however, remain the problem of the existing stock of regulations. The best way to deal with these would be for the national government to create a ministerial level regulatory reform body, staffed by experts, with inter-ministerial coordination powers and with the power to require regulatory agencies to take actions. This body would be tasked to oversee major regulatory reform in Indonesia. As other countries that have undertaken large scale regulatory reform have done, it would require all regulatory agencies to inventory and review their regulations. This would include regulations that have not been revoked or superseded, even if not used; as well as regulations that were technically inconsistent with national laws, yet still in use. The aim of such an exercise is not only to learn what regulations there are, but also to review them in accordance with established criteria, e.g., consistency with higher law, effects on competitiveness, a net of benefits over costs, clarity, limitation of discretion, ease of administration, etc. The default rule would be that unless the agency could justify the regulation in accordance with the criteria, the regulation would be revoked.

Short of this national commitment and effort, there are other possibilities for substantial regulatory reform in Indonesia. It is within the authority of individual ministries to review their own regulations and to conduct regulatory impact assessments of proposed regulations (as, indeed, two ministries are doing).

For local government regulations, there are two ministries that have the authority to mandate some form of regulatory review. These are the Ministry of Home Affairs, which has the authority, as well as the duty, to review local regulations. There is also the Ministry of Finance, which currently reviews local regulations for financial impacts. Because both ministries now review local regulations, they may have an interest both in shifting the burden of review downward and in insuring that there are fewer problematic local government regulations.<sup>29</sup>

There is also a third national agency that could, in a rather different manner, work to develop a national mandate concerning regulatory impact assessments. This is Bappenas, the national planning agency. As a planning and development agency, Bappenas is tasked to conduct research concerning constraints that affect Indonesian development adversely, and it has the authority to recommend changes in laws, regulations, and practices. Bappenas has substantial concerns about how the legal system, laws, and regulations affect development and potential planning, and it has created the Directorate for the Analysis of Laws and Regulations (DAPP). DAPP has significant concerns about the legal and regulatory system, about conflicts and inconsistencies among laws and regulations, about legal certainty and harmonization, and about the regulatory burdens that make Indonesian businesses less competitive than they might otherwise be. The Directorate staff has had RIA training and understands the utility of using regulatory impact assessment to improve the legal and regulatory environment. At present, DAPP, which is not greatly resourced, is in the process of working out what role it should play in regulatory impact assessment in Indonesia. From the outside, it appears that DAPP, as a division of a planning agency, is better positioned to recommend the creation of regulatory review structures and the adoption of RIA techniques than to take on itself the role of actually reviewing regulations. What it should ultimately recommend and advocate for remains to be worked out in detail. In this sense, DAPP presents a RIA development possibility that parties promoting RIA should seriously consider.<sup>30</sup>

### **Bottom-up strategy for spreading regulatory impact assessment in Indonesia**

RIA advocates, such as TAF, GTZ, SwissContact, and SENADA, have followed an institutionalization strategy that is a combination of training, socialization, guided practice in selected locales, and demonstration effects. In other words, they have pursued a supply and

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<sup>29</sup> Were either Ministry to fashion a decree simply to require that there be RIAs on local perdas, it need not also require that all local governments conduct the assessments themselves. Where local governments did not do so, this task could be assigned to the provincial governments. If provincial governments were called upon to conduct RIAs of all perdas, in cases where local governments did their own, the provincial government task would simply be to review the local RIA to determine whether it was adequately done. If so, it would pass it on to national ministry; if not, it could redo it or perhaps return it to the lower level government for further work.

<sup>30</sup> Naskah Akademis as a route to RIA: There is a background formal requirement for the creation of national laws in Indonesia. This is the Naskah Akademis, or academic document. This is a formal study that provides a background for the proposed law and states what matters it is important for the law to address. Usually, this study does not provide detail regarding the specific articles to be included in the law. For regulatory review purposes, the Naskah Akademis is of limited utility. Firstly, it is required only for national laws, not for regulations. Secondly, these documents appear to be formal legal studies rather than practical documents that consider the potential impacts of legislation and alternative ways of going about regulating. Finally, consultations with potentially affected stakeholders are not required in the preparation of the Naskah Akademis.

Notwithstanding these limits, the Naskah Akademis, with necessary changes made, has the potential of playing a role in regulatory review. Were the law on Naskah Akademis itself changed to require that a preparatory report accompany all regulatory proposals; that potentially affected parties be consulted in its preparation; and that the document consider regulatory options and include a basic cost-benefit analysis, then the Naskah Akademis would essentially be a RIA document. Such a revision would, of course, entail changes in the provision of Naskah Akademis services from primarily legal sources such as law faculties or bureaus to include broader sources, including economists and other researchers.

demand side strategy, where the training provides the supply of persons capable of conducting regulatory assessments, and where the socialization and demonstration effects serve to help generate demand. This strategy, which has had some success, calls for reasonably intensive efforts with select governments. Both TAF and GTZ, have ongoing programs in Indonesia, and may expand their RIA work to additional local governments.<sup>31</sup> Of course, both of these organizations are donor supported, and there are significant limits on the number of local governments they can reach. Each, however, has created local RIA models, fitted to Indonesian circumstances and capacities that can be replicated elsewhere.

The supply of RIA services, while currently provided by RIA entrepreneurial agents, is likely to grow with increasing demand. One appropriate strategy to spread RIA throughout Indonesia, in the absence of a national governmental decree, therefore, is to increase demand through targeted publicity. There are a sufficient number of local government RIA success stories to demonstrate that local governments that use RIA create a better business climate and enjoy greater public support than governments that do not. Indonesian local governments are, in some ways, in competition with one another to attract business, grow their economies, and demonstrate excellent local government leadership. RIA is a useful tool in such a competition. For local governments to realize this, however, they must be aware of RIA, what benefits it can provide, what models they can emulate, and what assistance they can get to undertake RIA.

### **Socializing RIA; associations, universities, and interest groups as publicity and training targets**

Indonesia has at least six local government associations that hold meetings. There are associations of Kota, Kabupaten, and Propinsi, and there are associations of the DPRD's of Kota, Kabupaten, and Propinsi. A well-targeted way to spread knowledge of RIA and RIA benefits is to provide substantive RIA presentations at these association meetings. Such presentations would explain RIA, its purposes and benefits, and ideally would involve officials from local governments that use RIA to discuss how and why they implemented RIA and the value they find in it as a tool of governance.

Indonesia also has a large number of business associations. It would be useful to offer them RIA presentations – or even RIA training if they wanted it. There are sectoral associations, such as API (textiles association), APRISINDO (footwear association), and ASMINDO (furniture association), and a whole host of product associations too numerous to mention; function associations such as APINDO (employers' association), IIEA (importers and exporters association), ALI (logistics association), KADIN (chamber of commerce association), and others; and some of these associations have national and provincial or local chapters.

Another way to increase both the supply of, and the demand for, RIA services, is to offer RIA training to faculty in Indonesian law schools and economics departments. RIA is relevant to a number of law and economics courses, and this faculty could include the RIA methodology in their teaching. Equally important, faculties in these departments often serve as consultants or advisors for local governments, and thus are positioned to introduce RIA to their clients. In addition, it is possible to offer RIA training to law and economics students outside or regular classes.<sup>32</sup>

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<sup>31</sup> SENADA, a term-limited project has ended. It did, however, have an association with BAPPENAS and the RIA unit there, and BAPPENAS has "inherited" SENADA's RIA work.

<sup>32</sup> This has been done with success in Yogyakarta. Universitas Depongoro in Semarang initiated a faculty-based RIA unit in October 2009. It is presently unclear what vitality it has. As regulatory impact assessments can involve both legal and economic analysis, and as students are often idealistic, reformist minded, and sometimes participate in

Another strategy to spread RIA is to train interest groups in RIA techniques. There are thousands of public interest foundations and NGOs in Indonesia, working at both the national and local levels of government. Some are international NGOs working in Indonesia; most are home grown. Some work on general social and economic development, some for particular, yet large, causes, e.g., environmental protection, human rights, women's rights, worker's rights, indigenous people's rights, forest protection, climate change, and so on; some are educational; some religious; some quite particularized and working on a particular sector, like mining, or a particular locality.

All interest groups – foundations, NGOs and private business associations – that interact with, or lobby, the government regarding desired policies can benefit greatly from their own regulatory impact assessments. This would have several effects. Firstly, it would improve the ability of these groups to make an effective case for their desired policy changes. Secondly, it would spread the use of a fundamentally important analytical tool. Thirdly, it would provide governments with information and policy analyses they currently do not have.<sup>33</sup>

#### The role of associations<sup>34</sup> in the development of regulatory review in Indonesia

Regulatory impact analysis is primarily a governmental discipline, although not uniquely so. It is certainly a kind of policy analysis, but one that seeks to consider policy choices from the point of view of all affected stakeholders. It is properly a governmental role to aggregate, consider, reconcile, and balance interests, and, ideally, to make policy choices that are in the best interests of society as a whole. When stakeholders other than the government undertake policy analysis, they usually undertake it only from their own point of view, and one can reasonably expect that their policy analysis and prescriptions will be tailored to their own interests and unlikely to take into account the interests of other stakeholders. We thus should distinguish between governmental regulatory impact analysis and stakeholder policy analysis that must be presumed to be much more self-interested.

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groups that want to better government, these students, they can be ideal RIA trainees, proponents, and practitioners. Such training would provide them with a useful analytic tool that fits their disciplines, and allow them to provide concrete services to interested groups and governments. It would increase the number of RIA capable analysts and indirectly increase demand for RIA services through creating expectations that governments should conduct RIAs as an essential step in regulatory activity.

<sup>33</sup> In this way, Indonesian governments may learn the utility of regulatory impact assessments and eventually, in an evolutionary process, will be driven to conduct their own. This latter result arises because interest group regulatory assessments are likely to be biased, and where there are multiple interest groups supplying regulatory impact assessments regarding the same policy issues, there will be conflicting assessments. While a government could merely be an arbiter of these varying assessments, eventually it must position itself to assess the partisan advice it gets regarding policy. It can do this only if it conducts an independent, objective regulatory impact assessment.

<sup>34</sup> The term "associations" is meant to include all public and private interest groups: foundations, NGOs, and business associations. The distinction between governmental regulatory impact analysis and stakeholder policy analysis comes more sharply into view as one considers the role of the public interest groups and private sector in governmental policy-making. Simply put, we should not expect associations to take responsibility for the overall public interest, as governments should do. Public interest groups do claim to act in the public interest, as seen from their point of view, but, in taking policy positions, they certainly do not consider all relevant viewpoints. Business associations should represent the interests of their members, and these may not always coincide with the public interest. Business associations, however, have a stake in regulations that affect their members, so they have an important role as significant stakeholders in regulatory review. They also can play this role through policy advocacy and analysis. Where the government fails to improve the regulatory regime, there is a greater need for the public interest and private sectors to step in and to use competent policy and regulatory analysis and advocacy to prompt positive changes. It is in the interests of Indonesian associations to undertake ongoing policy analysis and advocacy. As parties affected by regulation, they are stakeholders in government policies and regulations. They are also best positioned to assess and uncover the costs and other losses or disadvantages the government's policies impose.



In a well-ordered policy competition and governmental policy decision-making process, concerned stakeholders would promote their particular policy positions with supporting information, while the government would review all policy claims independently and on the basis of its own analysis. Stakeholder analyses would help inform the government, as stakeholders have knowledge that the government does not have, but would not control governmental policy decisions. In this sense, stakeholder policy analysis serves the governmental consultative interest in the process of making good policy. Were Indonesian associations to undertake these kinds of policy analysis and advocacy activities, they could significantly help to transform the regulatory environment in Indonesia.

Businesses need to analyze governmental policies and regulations to determine exactly how they negatively impact business operations and competitiveness, and to effectively advocate policy and regulatory changes. The most promising private sector vehicles for undertaking such analyses and advocacy are private sector business associations.

If regulatory impact analysis were a standard government practice in Indonesia, national and local governments would consult with private sector actors when any proposed regulation affected them. For the most part, Indonesian governments, however, do not effectively consult with non-governmental stakeholders in government policies and regulations.<sup>35</sup>

## **Value chain networks,<sup>36</sup> clusters, business associations and SENADA**

Many small and medium enterprises succeed or fail because they are, or are not, parts of value chain networks and manufacturing or service clusters. Business associations that promote members' interests, provide training and services, lobby effectively, and that work to strengthen relationships among different levels of value chain networks or among members of clusters are also important elements of a positive business enabling environment.

The importance of such relationships and entities has been recognized in the recently concluded, and apparently reasonably successful, SENADA value chain and regulatory reform project.<sup>37</sup>

### *Networking*

#### **SME Weaknesses**

Many studies have shown that SMEs suffer from isolation—from each other, from connections to value chains, from domestic and foreign markets—and from a lack of information. SMEs lack information about laws, regulations (including export regulations), business opportunities, marketing, financing possibilities, sources of raw material, and possibilities for collaboration; they lack knowledge of useful technology, product standards, marketing; and they need skills development and enterprise management training. This information may be available, but the transaction costs of acquiring it may be too high for SMEs.

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<sup>35</sup> There appear to be some legal requirements regarding public consultation, particularly at the local level. Experience suggests, however, that it is the letter, rather than the spirit, of such laws that is followed. Consultation is seen as a formality, rather than as a means of securing better regulations.

<sup>36</sup> Networking, as used here, involves the use of a networking agent or broker; that is, someone or some agency that intervenes and works with SMEs to develop a network where none exists. Hereafter in the text, I shall use the term "networking" to refer both to networking and clustering or networks or clusters

<sup>37</sup> See, Smith, Steve, SENADA Final Report (USAID, 2009)

These study conclusions match the problems reported by larger, established businesses that would like to contract with SMEs in developing countries. Large businesses complain that SME products and services lack quality and reliability, that SMEs respond inadequately to tender invitations, lack the capacity and technology to add value to their products, lack management skills, cannot finance their work, and cannot meet supply deadlines.

### **Networking as a Solution to Business Enabling Environment Problems**

Although not all SME deficiencies stem from isolation and a lack of information and knowledge, many do<sup>38</sup>. The following diagnosis of SME problems points to networks and clustering as solutions.

Individually, SMEs are often unable to capture market opportunities which require large production quantities, homogenous standards, and regular supply. They experience difficulties in achieving economies of scale in the purchase of inputs, such as equipment, raw materials, finance, consulting services, etc. Small size also constitutes a significant hindrance to the internalization of functions such as training, market intelligence, logistics and technology innovation - all of which are at the very core of firm dynamism. Furthermore, small scale can also prevent the achievement of specialized and effective internal division of labor, which fosters cumulative improvements in productive capabilities and innovation. Finally, because of the continuous and fierce struggle to preserve their narrow profit margins, small-scale entrepreneurs in developing countries are often locked in their routines and unable to introduce innovative improvements to their products and processes and look beyond the boundaries of their firms to capture new market opportunities.<sup>39</sup>

There are different kinds of networking to consider: networking among SMEs, which clustering facilitates, and networking of SMEs (assuming they are qualified) to other parts of value chains of production, marketing, and sales. Networking of both kinds fills some of the information and knowledge gaps that SMEs have. Networking and clustering also create synergies that combine the flexibility of small firms with opportunities for economies of scale, facilitating cooperation and division of labor among SMEs as well as the transfer of knowledge, technology, and information.

### **Networking Problems**

Although networking has great value for SMEs, creating new networks is difficult. Networking requires trust; and building trust, if it does not come from ethnic or other affiliation or from prior acquaintance or association, requires third-party intervention, either by some entrepreneur, NGO, or government agent.<sup>40</sup> For this reason and because finding network partners and

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<sup>38</sup> A recent diagnostic report of the USAID ADVANCE ASEAN Competitiveness Enhancement (ACE) project noted "Inefficient information flows appear to be a common constraint on competitiveness and supply chain collaboration." USAID ADVANCE ASEAN Competitiveness Enhancement Project, Evaluation of Proposed Target Sectors (June 2008), 7.

The report specified some of the problems:

A lack of awareness among manufacturers and service providers of the producers of materials and services available in ASEAN member states (weak business-to-business knowledge)

A lack of knowledge about the advantages of ASEAN member states as alternatives to China, Korea, and Taiwan for sourcing materials

A lack of understanding of the logistical advantages of working within ASEAN (e.g., reduction in lead time for Cambodian firm to source fabric from Malaysia rather than Taiwan or China.

Id. At 9.

<sup>39</sup> SME Cluster and Network Development in Developing Countries: The Experience of UNIDO, UNIDO Private Sector Development Branch, Working Paper No. 2. at p. 1.

<sup>40</sup> SME Cluster and Network Development in Developing Countries: The Experience of UNIDO, UNIDO Private Sector Development Branch, Working Paper No. 2. at 3.

developing relationships with them entails high transaction costs, and because of potential free rider problems as well, networks in developing countries rarely arise naturally. They can arise incrementally, however, through a guided trial-and-error learning process in which the members of a potential network or cluster get to know one another—their strengths, weaknesses, complementary skills, appropriate roles—in a process of building trust.

A network is a cooperative system that generally needs a catalyst to form. The catalyst is a network broker or system integrator that facilitates the network-forming process. In other words, an actor outside a potential network or cluster perceives the creation of a network or cluster as an entrepreneurial opportunity, has a vision of the gains for joint action, and works to bring the disparate parts into a whole.<sup>41</sup> In fact, the recently concluded USAID SENADA value chain project took exactly this approach:

“[SENADA] provided strategic guidance, skills training, and concrete tools to strengthen Indonesia’s international marketing capacities. [It] researched, analyzed, and prepared high-potential, export-led marketing models ... [Followed by] abundant marketing training and skills-building programs to thousands of firms; electronic marketing workshops (using websites, blogs, Twitter, and search engine optimization techniques); and export-readiness training to firms, associations, and government support institutions.”<sup>42</sup>

SENADA’s models aimed to upgrade smaller firms, and accomplished this “by developing and strengthening critical market incentives between producers, business development service (BDS) providers, associations, and wholesalers and service stations.”<sup>43</sup> SENADA facilitated the adoption of the models, identified and selected partners, built linkages and market relationships, provided technical assistance, and, when necessary, subsidized financial risk.<sup>44</sup>

The SENADA final report on its work to value chain networks in Indonesia made, *inter alia*, the following findings:

- The competitiveness of Indonesia’s SMEs depends on basic improvements in business knowledge and skills<sup>45</sup>
- “Very few SMEs used supply chain management, inventory management, and production management systems”<sup>46</sup>
- SMEs used internet primarily for email, not for market research or customer management<sup>47</sup>

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<sup>41</sup> Successful networking often leads to individual small firm restructuring, efficiency, and improvements in performance so that they meet standards, improved skills, technology transfer, increased income, and SME growth.

Network brokers or system integrators introduced to remedy market failure provide a business development service that often succeeds.<sup>7</sup> See SME Cluster and Network Development in Developing Countries: The Experience of UNIDO, UNIDO Private Sector Development Branch, Working Paper No. 2, which details the experiences of Honduras, Nicaragua, Mexico, and Jamaica Successful interventions of this kind, however, require that some actor (often the state or a public-private partnership) take responsibility for the intervention and continue the intervention over the period it takes to develop a real network that can manage itself. This actor bears the responsibility of designing and promoting the networking strategy in a given country; identifies the sectors/regions to address depending on their potential; carries out extensive awareness building among the small-scale enterprises and the local institutions; trains network brokers; manages the available funds, devising and implementing a sustainability strategy; monitors the development and impact of the networking initiative; and provides feedback to the various actors involved. *Ibid.*, 17–18.

<sup>42</sup> Smith, Steve, SENADA FINAL REPORT at 13 (USAID, 2009)

<sup>43</sup> USAID SENADA. Automotive Component Value Chain Overview 6 (August, 2007)

<sup>44</sup> *Id.*, paraphrasing the text by putting it in the past tense and making other slight amendments.

<sup>45</sup> *Id.* at 18

<sup>46</sup> *Id.* At 23

- Indonesian government supported BDS services were not effective<sup>48</sup>
- ICT curricula in universities and business vocational schools and business curricula should emphasize real world ICT applications and solutions and incorporate business software applications.<sup>49</sup>
- Business associations evidenced varying degrees of capacities and performance, but most were quite weak. Among the problems SENADA noted were<sup>50</sup>
  - Lack of standard operating procedures;
  - Lack of professionalism;
  - Lack of systems to assess members needs or to communicate with members;
  - Ad hoc, rather than strategic or planned, operations;
  - Lack of systematic policy analysis, development of policy reform proposals, and well organized advocacy programs
  - Failure to provide basic services regarding:
    - Data collection and analysis
    - Linking and communication between members
    - Market information
    - Training and technical assistance
    - Uneven efforts to support trade show participation and too much reliance on government support for these efforts.

### *Possible reform activities*

These findings state the reform activities that should be followed up on in the SEADI project.<sup>51</sup> Essentially, these are to:

- Continue the linkage, facilitation, and modeling work with selected value chains and business associations
- Improve business education
- Enhance ICT training to include real world business applications and relevant software
- Study, and report on, the effectiveness of Indonesian government BDS and SME support services
- Facilitate the improvement of select Indonesian business associations in:
  - Organization
  - Operations
  - Services to members
  - Policy analysis and advocacy

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<sup>47</sup> Idem.

<sup>48</sup> Op. cit., supra n. 7, at 13.

<sup>49</sup> Op. cit, supra, n. 1, at 25.

<sup>50</sup> Id. at 27.

<sup>51</sup> The Chart, SENADA Followup Reform Activities, *infra*, provides greater detail on these items.

## Program Level BEE Reform Activities by Category

### *Regulatory Impact Analysis (RIA)*

Activity	Intended Result
Training of Trainers	Cadre of skilled RIA trainers
RIA socialization	RIA completely socialized in Indonesia
RIA training	Cost and benefit analysis of regulations always taken into account
Support NGO and university RIA work	RIA actually applied to local and perhaps national regulations
Conferences and workshops	Develop critical mass for RIA reforms
Inventory of regulations	All relevant regulations inventoried, categorized, indexed in searchable database
Draft regulations to require national and local RIAs	MoHA and MoF take the lead in regulatory review activity

### *Permitting and Licensing Reform (P&LR)*

Activity	Intended Result
Convene working group for permitting and licensing reform	
Collect models from other Indonesia competitor countries	
Draft P&L law revisions	Complete revision of P&L in Indonesia
In lieu of the first activity, focus on radically revising the HO and IMB permits	
Models from other countries	
Draft HO and IMB revisions	Revision of most problematic permits
In conjunction with either of the above, or both, work on implementing regulations for the recently enacted “zoning” law	Zoning law replacement for most location, building, environmental, etc., permits and licenses

*Administrative Law Reform (ALR)*

Activity	Intended Result
Select planner/convener/coordinator	
Convene discussion group	
Translate Administrative Procedures Laws into Bahasa Indonesia	
Study tours for relevant, most influential stakeholders	
Continue meetings as called for	
Create discussion group subcommittees to work on discrete elements of reform law	
Resolve issues within subgroups	
Subgroup drafts of relevant portions of law	
Reconvene plenary working group for discussion of drafts	
Work out final draft, make available to DPR	Wholesale Indonesian administrative law reform

## **Annex 1: Annotated Bibliography**

**Asian Development Bank. August 10, 2009. Indonesia Country Diagnostic Study (PowerPoint Presentation). Jakarta, Indonesia.**

This presentation introduces an upcoming Indonesia Country Diagnostic Study to be undertaken by the Government of Indonesia, the ADB and the ILO. Length: 31 pages.

**The Asia Foundation. December 11-12, 2007. “Monitoring and Evaluation Challenges for Licensing Reform Programs” (PowerPoint Presentation). International Finance Corporation.**

This PowerPoint presentation briefly describes the Asia Foundation’s economic growth program in Indonesia, which focuses on microeconomic and institutional issues. It then draws a case study – the creation of one-stop shops (OSS) – from that program, as a foundation for presenting issues in the evaluation of programs centered on microeconomic and institutional issues. Length: 20 pages.

**The Asia Foundation. September 2005. “Indonesian Provincial SME Development, Final Report: Book 1: SME Development in Indonesia”. Report #ADB TA 4281 INO. Asian Development Bank.**

This book, the first of a two-book study on SME development in Indonesia, examines the nature and prospects of SME development in the country. It notes the role of the state as a key factor of influence over the industry and business, and its implications for the SME sector, and argues that the business enabling environment, rather than the state, should drive the economy to help SMEs grow. Length: 123 pages.

**The Asia Foundation. September 2005. “Indonesian Provincial SME Development, Final Report: Book 2: Project Proposals”. Report #ADB TA 4281 INO. Asian Development Bank.**

This book is the second of the two-book study on SME development in Indonesia. It presents guidance for evaluating and selecting SME development project proposals. It also contains a series of proposals that illustrate the criteria and principles outlined as guidance. Length: 92 pages.

**Booz Allen Hamilton. November 2007. “Southeast Asia Commercial Law & Institutional Reform and Trade Diagnostics – Indonesia”. Final Report. US Agency for International Development.**

This is the final and fifth report under the Southeast Asia Commercial Law and Institutional Reform and Trade Diagnostic Activity (SEA CLIR Trade). The project aims to explore and present the context relevant to potential commercial law and trade reform initiatives in five emerging economies of Southeast Asia, among which Indonesia, on which this report focuses. It examines company law and corporate governance; contract law and enforcement; real property; secured transactions; bankruptcy law; competition law and policy; commercial dispute and resolution; court administration; foreign direct investment; international trade law and policy; the flow of goods and services, money, and people; financial crimes; and intellectual property. Recommendations are given for each dimension. Length: 202 pages.

**Burris, Rick C., and Robert E. Howard. December 2009. “The ‘To Be’ Vision”. Strategic management: The business process transformation framework.**

This is the first of a series of three articles focusing on Enterprise Resource Planning (ERP). It introduces an emerging process improvement technology called the Business Process

Transformation Framework (BPTF), with the hope that its utilization will limit the number of business process reform failures. Length: 4 pages.

**Burris, Rick C., and Robert E. Howard. January 2010. "Using the Dictionary". Strategic management: The business process transformation framework.**

This is the second of a series of three articles focusing on Enterprise Resource Planning (ERP). It article further describes the Business Process Transformation Framework (BPTF) and illustrates it with a value chain scenario developed in ValueScape, an enabling modeling tool which consists of a pre-defined extensible resource model (XRM). Length: 4 pages.

**Burris, Rick C., and Robert E. Howard. February 2010. "People, Behaviors, Processes, and Tools". Strategic management: The business process transformation framework.**

This article discusses the steps required to correctly use the Business Process Transformation Framework (BPTF), and highlights the importance of including stakeholders when using the business process transformation framework (BPTF). Length: 31 pages.

**Business Growth Initiative Project. April 2010. "Enterprise Development Diagnostic (MEASURE) Tool". US Agency for International Development.**

This flyer provides the development theory underpinning the MEASURE tool, and describes how MEASURE works and the results it provides to practitioners interested in designing programs in the field of enterprise development in specific countries. Length: 2 pages.

**Brown, George. April 2009. "Value Chains, Value Streams, Value Nets, and Value Delivery Chains". The Value Chain Group.**

This paper discusses the evolution and use of concepts used in business process change, such as value chains, value streams, value nets, and value delivery chains. Length: 12 pages.

**Chaudhuri, Shubham. April 2010. "Indonesia Economic Quarterly: Building Momentum". PowerPoint Presentation.**

This presentation examines the state of the Indonesian economy with an emphasis on 2009 and makes projections for 2010 and 2011. It describes the outlook for 2010-2011, external and fiscal risks, and policy challenges. It concludes with a series of recommendations aimed at realizing Indonesia's development potential. Length: 25 pages.

**Donor Committee for Enterprise Development (2008 Edition). August 2008. Supporting Business Environment Reforms: Practical Guidance for Development Agencies.**

This volume is intended as a guide for donor agencies through the process of business environment reforms, adopting a practical focus geared towards development staff involved in the design, implementation and monitoring of the business environment reform programs they implement. Length: 48 pages.

**Fleisig, Heywood, Mehnaz Safavian, and Nuria de la Peña. 2006. "Reforming Collateral Laws to Expand Access to Finance". The World Bank.**

This book argues that access to finance is constrained in many countries because legal systems prevent borrowers from offering certain assets to collateralize their loans, resulting in large amounts of dead capital while interest rates are high and loan amounts are low. It is directed towards donors, development practitioners, and policymakers, and provides guidance on the importance of reforming these legal systems and how to do it. Length: 120 pages.



**International Finance Corporation. 2006. “Simplification of business regulations at the sub-national level: A Reform Implementation Toolkit for Project Teams”. Small and Medium Enterprise Department – The World Bank Group.**

This report focuses on Sub-national political entities and their function in the shape of the business environment. It examines the removal of barriers to doing business at subnational and municipal levels, in particular the case of simplification as an essential aspect of regulatory reforms. Length: 162 pages.

**International Finance Corporation. 2009. “The SME Banking Knowledge Guide. IFC Advisory Services (Access to Finance)”.**

This guide addresses SME banking in low- and middle-income countries. It describes the state of SME banking, its potential for growth, and strategies currently used by the banking sector to make the most of the growing opportunities offered by the SME banking market. It concludes by providing recommendations for banks wishing to also enter that market. Length: 80 pages.

**Layton, Caesar and Januar Rustandie. August 2007. “Automotive Component Value Chain Overview: Market Justification and Strategies for Domestic Component Market Upgrading”. SENADA Competitiveness Project. US Agency for International Development.**

This report, part of a descriptive series on the SENADA competitiveness project, addresses the growing level of penetration of the automotive industry by Indonesian SMEs, characterized by the existence of several tiers of players resulting in fierce price competition among them and the growth of a new mid-value domestic market. Recognizing the potential for assistance presented by this development, the SENADA project launched the Second and Third-Tier Automotive Component Supplier Upgrading Models, which this report describes. Length: 32 pages.

**Love, Inessa, and Leora Klapper. December 2010. “The Impact of Business Environment Reforms on New Firm Registration”. Policy Research Working Paper 5493. The World Bank, Development Research Group, Finance and Private Sector Development Team.**

This research paper uses econometric techniques to measure and test the impact of business environment reforms on new firm registrations. Their results argue in favor of making large, multi-pronged reforms as opposed to smaller and more targeted ones. Length: 30 pages.

**Mercer, Tom, Dennis Groves, and Vasco Drecun. October 2010. “Part II - BPTF Architectural Overview”. BPTF Framework 2010-Part 2.**

This paper builds on Part 1 of a two-part paper on the BPTF (Business Process Transformation Framework), which explained its three dimensions (Value Chain Segmentation, Building Blocks, and Continuous Improvement Programs). It describes requirements necessary to include and communicate with the people involved in the BPTF process, including the inclusion of the five views of transformation (organizational, process, application, data, and infrastructure) in the process, without which transformation quality may be poor. Length: 9 pages.

**Parchman, James P. July 2007. “Footwear and Leather Industry Competitiveness Report (Footwear and Leather Industry Overview)”. SENADA Competitiveness Project. US Agency for International Development.**

This report is part of the SENADA – Indonesia Competitiveness Program. It outlines the issues related to increasing the competitiveness of the domestic Indonesian footwear/leather industry. It outlines several drawbacks in the sector that limit its positive impacts despite high potential. The report then outlines recommendations to address the issues identified. Length: 23 pages.

**Ray, David, and Efrulwan. March 2009. "REGMAP: Institutionalizing Regulatory Reform In Indonesia Summary Report. SENADA Competitiveness Project. US Agency for International Development.**

This report presents the SENADA Competitiveness Project's RegMAP initiative. Developed by USAID, RegMAP is a tool for mapping and reviewing regulations on a sectoral or value chain basis. Five industry value chains were analyzed. The report concludes by describing efforts by towards the adoption and institutionalization of RegMAP by the Indonesian government. Length: 37 pages.

**Rozdeiczner, Lukasz, and Alejandro Alvarez de la Campa. November 2006. "Alternative Dispute Resolution Manual: Implementing Commercial Mediation". Small and Medium Enterprise Department - The World Bank Group.**

This report serves as a manual centered on the practice of mediation and alternative dispute resolution (ADS) processes focusing on resolving commercial disputes. It is geared primarily at the World Bank Group, other donors, as well as NGOs. It takes a field-based rather than a theoretical approach so that it can be easily used by practitioners and managers in the field. Length: 178 pages.

**SENADA Competitiveness Project. March 2009. "Regulatory Impact Assessments and the Private Sector in Indonesia". US Agency for International Development.**

This report begins with a chapter that explains the importance of the role that the private sector can play in the regulatory review process and outlines efforts to institutionalize regulatory reform in Indonesia. It then presents thirteen Regulatory Impact Assessments (RIA) carried out by Indonesian private sector actors during trainings carried out as part of the SENADA Competitiveness Project. Length: 69 pages.

**Snodgrass, Donald. September 2009. "Indonesia's Economic Prospects and Challenges". US Agency for International Development.**

This brief report takes a macroeconomic approach to present the situation and challenges faced by the Indonesian economy in the context of the 2008-2009 global recession. Length: 5 pages.

**Truex, Rory, and Tina Søreide. December 2010. "Why Multi-stakeholder Groups Succeed and Fail". Policy Research Working Paper 5495. Sustainable Development Network; Finance, Economics and Urban Development Unit.**

This research paper examines the appeal of multi-stakeholder groups (MSGs) in anticorruption initiatives and seeks to determine factors of failure and success in the use of MSGs. Using examples from the Construction Sector Transparency Initiative, the paper draws conclusions and recommendations. Length: 20 pages.

**US Agency for International Development. "AgCLIR Lessons From the Field: Dealing with Licenses". Briefing on the Agribusiness Enabling Environment.**

This briefer uses an analytical framework based on the World Bank Group's Doing Business series and adopted by USAID's BizCLIR project. Focusing on the agribusiness sector, it outlines recommendations for licensing systems that work for agribusinesses and foster efficiency and competition. In doing so, the briefer describes key areas of focus, such as supporting and implementing institutions, the legal framework, and social dynamics. Length: 4 pages.

**Wallace, William. November 2009. "East Asia-Pacific Economic Update: Clearing skies" (PowerPoint Presentation). The World Bank.**

This presentation examines the state of Indonesia's economy against the backdrop of the 2008-2009 global recession, describes its outlook, and outlines challenges and recommendations. Length: 21 pages.

**World Bank and Public-Private Infrastructure Advisory Facility (PPIAF). 2004. "Labor Issues in Infrastructure Reform: A Toolkit. Module 1".**

This is the first module of a seven-part Labor Toolkit that focuses on the labor impacts of infrastructure reforms with a focus on private participation in infrastructure (PPI). The module is geared towards assisting policymakers who design and implement these reforms to handle the sensitivity of their labor dimension. Length: 46 pages.

**World Bank and Public-Private Infrastructure Advisory Facility (PPIAF). 2004. "Labor Issues in Infrastructure Reform: A Toolkit. Module 2".**

This is the second module of a seven-part Labor Toolkit that focuses on the labor impacts of infrastructure reforms with a focus on private participation in infrastructure (PPI). This module aims to guide project implementers through PPI reforms as they face obstacles related to the employees working in enterprises about to undergo privatization. Length: 30 pages.

**World Bank and Public-Private Infrastructure Advisory Facility (PPIAF). 2004. "Labor Issues in Infrastructure Reform: A Toolkit. Module 3".**

This is the third module of a seven -part Labor Toolkit that focuses on the labor impacts of infrastructure reforms with a focus on private participation in infrastructure (PPI). This module describes steps to be taken to assess the size and scope of labor restructuring before carrying out the privatization process. Length: 24 pages.

**World Bank and Public-Private Infrastructure Advisory Facility (PPIAF). 2004. "Labor Issues in Infrastructure Reform: A Toolkit. Module 4".**

This is the fourth module of a seven -part Labor Toolkit that focuses on the labor impacts of infrastructure reforms with a focus on private participation in infrastructure (PPI). This module presents the different strategic issues related to labor restructuring in the context of privatization, and offers options to tackle them. Length: 28 pages.

**World Bank and Public-Private Infrastructure Advisory Facility (PPIAF). 2004. "Labor Issues in Infrastructure Reform: A Toolkit. Module 5".**

This is the fifth module of a seven -part Labor Toolkit that focuses on the labor impacts of infrastructure reforms with a focus on private participation in infrastructure (PPI). After the stakes and strategic of labor restructuring have been addressed in previous modules, this one provides guidance on the design of labor reform programs. Length: 80 pages.

**World Bank and Public-Private Infrastructure Advisory Facility (PPIAF). 2004. "Labor Issues in Infrastructure Reform: A Toolkit. Module 6".**

This is the sixth module of a seven -part Labor Toolkit that focuses on the labor impacts of infrastructure reforms with a focus on private participation in infrastructure (PPI). This module addresses the importance and methods of engagement of stakeholders in the labor restructuring process. Length: 20 pages.

**World Bank and Public-Private Infrastructure Advisory Facility (PPIAF). 2004. "Labor Issues in Infrastructure Reform: A Toolkit. Module 7".**

This is the seventh module of a seven -part Labor Toolkit that focuses on the labor impacts of infrastructure reforms with a focus on private participation in infrastructure (PPI). This module

describes how to conduct the financial and economic benefit-cost analysis of labor restructuring programs. Length: 22 pages.

**The World Bank. June 2010. “How to Reform Business Licenses”. Investment Climate Advisory Services.**

This handbook presents a step-by-step walkthrough for practitioners interested in designing and implementing licensing and regulatory reform projects. It focuses on a top-down and comprehensive approach, the implementation of which necessitates the completion of five main stages. In addition to a description of each stage, project documents and resources are provided to assist practitioners with project implementation. Length: 98 pages.

**The World Bank. December 2006. Unlocking Indonesia’s Domestic Financial Resources: The Role of Non-Bank Financial Institutions. Poverty Reduction and Economic Management; Finance & Private Sector Development; Indonesia Country Management Unit.**

This report by the World Bank, spurred by the observation that nearly 80% of financial system assets in Indonesia are owned by banks, examines non-bank financial institutions (NBFIs) in that country and their potential role in Indonesia’s long-term development. The report looks at cross-sectoral issues, and analyzes equity and bond markets; mutual and pension funds; the insurance sector; the leasing industry; and the venture capital industry. Recommendations are made for each sector. Length: 229 pages.

**The World Bank. November 2006. “Business Licensing Reform: A Toolkit for Development Practitioners”. Small and Medium Enterprise Department.**

This toolkit by the World Bank is designed to guide business licensing reforms in transitional and developing countries. It focuses on reforms at the national rather than sub-national levels. Divided into three parts, the report provides the definition and principles of reform; the process of business licensing reform; as well as case studies. It also contains resources for practitioners working on implementing such projects. Length: 91 pages.

**The World Bank and International Finance Corporation. 2009. “Doing Business in 2010: Reforming Through Difficult Times”.**

This is the seventh of the annual Doing Business reports, a compendium of quantitative indicators on business regulations and the protection of property rights comparable across 183 economies. This report places itself in the context of the 2008-2009 global recession and its implications for businesses in the countries examined. Length: 231 pages.

**The World Bank and International Finance Corporation. 2010. “Doing Business in 2011: Making a Difference for Entrepreneurs”.**

This is the eighth of the annual Doing Business reports, a compendium of quantitative indicators on business regulations and the protection of property rights comparable across 183 economies. This report describes the changes and reforms in the business environment that have taken place in 2009/2010. Length: 267 pages.

**U.S. Agency for International Development**

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

**[www.usaid.gov](http://www.usaid.gov)**