Journal of the Indonesia Infrastructure Initiative

PRAKARSA

Issue 10 / April 2012

Port Development

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Editor's Message

TRANSFORMING INDONESIA'S PORT SYSTEM into a modern and efficient network is a remarkably complex challenge. The Government of Indonesia cannot concentrate on just one area of improvement, because port reinvention is a multidimensional proposition that requires addressing a range of fundamental and interrelated policy questions. Among the most critical of these questions are:

How can competition best be promoted and regulated? State-owned companies manage most of Indonesia's ports, and much of the technical capacity to conduct port operations rests with their personnel. Moving away from state-owned enterprises is a delicate task. The problem of competition extends to labour as well, since local cooperatives currently control provision of all longshoremen services.

How can private investment, in particular Public Private Partnerships, be encouraged and managed? It is estimated that over USD 47 billion is needed to develop Indonesia's ports between now and 2030. Nearly 70 percent of that must come from the private sector, meaning that investment opportunities must be made attractive.

How can the regulatory and operational roles of institutions be defined and implemented? The vision for Indonesia's ports involves new roles for port authorities, which must be able to make independent decisions on structure, marketing, pricing, and manpower. The Ministry of Transportation, on the other hand, has an increasingly important role to play in overall policy development and implementation and in integrating port policy with Indonesia's entire transport system.

How can the interests of national, regional, and local governments be balanced and integrated? Port policy must be managed at the national level to ensure that port hierarchies, the placement of special terminals, and similar decisions reflect national interests. But these choices have tremendous impact on regions and localities. To ensure the best outcomes, stakeholders at all levels must be able to work together effectively.

How can Indonesia compete successfully with its neighbours in the region? Indonesian port planning cannot be done in a vacuum. The best-laid plans for port facilities can be stymied if Singapore or Malaysia offers more efficient services.

How can institutional capacity and human resources be developed? A modern port system requires skilled personnel at all levels. Planners must understand how to forecast and prepare for demand. Managers must have insight into how information technology underpins global supply chains. Dock workers must be incentivised to perform and know how to operate equipment and ensure safety.

What is striking about the above questions is how they apply, to a greater or lesser extent, to nearly every major policy challenge that Indonesia faces, from infrastructure development to promoting trade and investment to improving health and education. Modernisation of Indonesia's ports is an extremely complicated undertaking. But succeeding at this effort will offer lessons that apply to many of Indonesia's endeavours. • CSW

Infrastructure by the Numbers

75%

Worldwide, the portion of the constraints to port system efficiency resulting from government activities such as customs, inefficient use of information technology, and substandard logistics practices.

9.5%

The average annual growth rate projected between 2009 and 2015 in international container traffic at Indonesian ports.

5

The number of terminals planned by Pelindo II at the Kalibaru Terminal at Tanjung Priok. The construction, to be completed by 2017, includes three container terminals and two terminals for petroleum and gas products.

1:1

The approximate ratio of 20-foot boxes to 40-foot boxes handled at the Port of Tanjung Priok, a figure that has remained stable over the past decade. Ports in other countries have seen an increase in 40-foot boxes, but Indonesia has constraints such as narrow roads that impede the use of the larger size.

Rp 1 trillion

The total investment being made for the development of a container port in Sorong, Papua. The port is being developed as a partnership among five shipping companies, Pelindo IV, and the Government of Sorong Regency.

84%

The portion of total container handling executed in Indonesia's five largest ports in 2009. There are over 1700 ports in the country.

75%

The approximate percentage of coal in the dry bulk cargo handled at Indonesian ports.

69%

The portion of the container volume handled in 2009 at the top 50 Indonesian ports that was attributable to foreign trade.

600,000m^3

The volume of sediment settling annually in the waterways of the Port of Pulau Baai in Bengkulu. Pelindo II intends to perform routine dredging, at an initial cost of Rp 70 billion.

Reinventing Port Management in Indonesia

Port reinvention is essential to ensure that ports fulfil their potential to contribute to Indonesia's development. Success requires a well planned transition that emphasises human resource development and industrial clusters. • By Sudjanadi Tjipto Sudarmo

A Batam port scene. New construction will be needed here and at many other Indonesian ports within five years.
Courtesy of Annetly Ngabito

The reform efforts now underway in Indonesia's port sector are urgently needed. In the past, the national port system has suffered from poor administration. As a result, ports have not contributed to Indonesia's economic growth to the maximum extent possible. Indonesian ports are serving only as feeder ports. Figures from 2009 show that every year about 90 percent of the cargo flowing in and out of Indonesia is transshipped through international hub ports in neighbouring countries.

Since their establishment in 1991, the state-owned port companies (Pelindo I through IV) have not been able to operate with maximum efficiency or take initiative to develop international hub ports. This is not entirely the fault of management, since as state-owned companies, each Pelindo must cross-subsidise operations and earn a mandated level of profit to contribute to state revenues.

Further, the Pelindo companies must operate under differing standards set by the Ministry of State-Owned Enterprises (MSOE) and the Ministry of Transportation (MoT). The result is lack of business and legal certainty for port administrators, managers, operators and prospective investors. Multiple interpretations of existing regulations have led to fees being charged without services being provided.

Growth Creates Urgency

These circumstances would serve as a call to action even in a static situation, but the role of ports in the global economy is growing. As worldwide cargo flows have continued to increase over the last decade, the need to reform and develop the Indonesian port sector is ever more urgent.

Studies indicate that over the next 20 years the flow of containers in Indonesia will increase dramatically, up from 8.8 million TEUs[1] in 2009 to a projected 30 million TEUs in 2020, and 48 million TEUs by 2030. Dry and liquid bulk cargoes are expected to increase by 50 percent over the next decade and by another 50 percent from 2020–2030.

At least 17 strategic ports require the construction and development of container terminals. The Ports of Tanjung Priok, Tanjung Perak and Belawan need new facilities immediately; other ports, such as those in Cilamaya, Banjarmasin, Pontianak, Batam, Palembang and Panjang, need new construction within the next five years.

The increased container flow creates a need to construct new hub ports in both Western and Eastern Indonesia. Ports such as the Ports of Kuala Tanjung and Bitung may be candidates for such development, provided that further study shows this will be consistent with market demand.

Reinvention Is the Only Way Forward

With so much investment required, a shared vision of how to move forward is essential. To date, stakeholders have been caught up in discussion and disagreement, with a focus on old paradigms and short term goals. Different stakeholders have different interpretations of how administrative authority should be distributed, especially in light of regional autonomy. But decisions for the future should not be based on whether a port is managed at the local, regional or national government level. Rather, decisions should be strategic, based on the port's potential – in terms of its location, suitability for serving an industrial cluster, and similar characteristics – to contribute to economic growth.

In short, the port system needs to be reinvented. Reinvention means more than just generating a few ideas. It means reformulating the strategic vision, institutional structures and procedures, and the use of information technology. It means changing the corporate culture and developing human resources. Reinvention incorporates three elements: radical policy change, transformation of human resources, and management synergy.

Key Points

The reform efforts now underway in Indonesia's port sector are urgently needed so that ports can make the greatest possible contribution to Indonesia's economic growth. State-owned port companies have not been able to operate with maximum efficiency or take initiative to develop international hub ports. Port administrators, operators and prospective investors face a lack of business and legal certainty. As the role of ports in the global economy grows, addressing these problems becomes ever more urgent. Container and bulk cargo flows are increasing dramatically, requiring new construction and investment.

The only way forward is through reinvention that incorporates radical policy change, transformation of human resources, and management synergy. There must be a clear separation of the regulatory function (delegated to port authorities) and the operator function (which falls to port business entities).

The primary keys to a successful transition are *consistency, transparency and shared perceptions by stakeholders.* Further, it is important to examine past problems, such as the failure to secure Public Private Partnerships (PPP) for port development in Batam, so that lessons can be learned from the experience. Successful implementation of a pilot project using PPP is essential.

The development of human resources is a crucial component of the reinvention process. Port management requires a variety of special skills to ensure proper planning and implementation of spatial issues, technical construction, safety, financing, operations, and integration with other sectors. Competent human resource development will ensure that changes are implemented in a safe, secure, manner that is consistent with regulations.

As an outgrowth of port development, new industries can take root around port working areas, with service centres offering comprehensive packages for industries such as palm oil or coal. The national government must take a leadership role in designating which ports should be developed as industrial parks.

Radical policy change needs to take place in several stages. These are: (a) positioning for change; (b) diagnosis of current processes; (c) redesigning processes; and (d) transitioning to the new policies. In this brief article, the author will take a look at these steps, with a particular focus on how to make transition work in the context of Indonesia's ports, the importance of human resource development (HRD), and the role of industrial clusters.

First, what does "positioning" mean with regard to the national port system? It means that the government must redefine its role. It must focus on creating policies and regulations that support market mechanisms and fair competition. It must move away from direct intervention, becoming a regulator and fair referee. Whenever possible it should deregulate, eliminate covert monopolies, and clearly define the limits, functions and authorities of port entities, thereby promoting business certainty and encouraging private participation in investment.

The next step in the agenda of reinvention is diagnosing underdevelopment in the port service industry in Indonesia through comparison with other countries, and by examining how well port management is integrated with the rest of the national transport management system as compared with other countries.

Transition With Care

By following the two steps explained above, we can develop a clear vision of how the reinvented port system should look, but how do we get there? Care is required in the redesigning of processes and transitioning to new policies. Change must be properly introduced to avoid creating resistance and the perception that the old bureaucracy is simply being replaced by a new bureaucracy.

A radical change in the reinvented port system is the clear separation of the regulatory function (delegated to port authorities) and the operator function (which falls to port business entities). Until now, port administration by the government through state-owned companies has created a monopoly, along with confusion in anticipating the flow of goods and planning for the future. This radical change must be handled carefully because the port authority acts as the government's representative and shoulders huge responsibilities for, among other functions: ensuring smooth flow of goods; providing land and waters and issuing concessions; guaranteeing security and order at ports; preparing individual port master plans; and designating port working and interest areas.[2]

The primary keys to a successful transition to new policies are *consistency, transparency* and *shared perceptions by stakeholders.* Further, every effort should be made to use lessons learned from past failures, and to implement pilot projects that will offer successful models for the future.

Consistency is essential during the preparation of the implementing regulations, in the form of Government and Ministerial Regulations. The regulations must be written so that they are not subject to multiple interpretations. Prolonged differences in interpretation will result in legal uncertainty and have broad legal consequences with respect to infrastructure and superstructure, human resources, settlement of debts and receivables, and other matters related to cooperation in port service business. The regulations should unambiguously lead to port authorities that are able to ensure rights and obligations proportionately, fairly and free from monopoly, nepotism, discrimination and political intervention.

Each port has different technical characteristics which will affect the port operating system, the amount of investment needed, and maintenance costs. Each port has its own hinterland and access to distribution channels and cross-provincial coverage. But regulations must be consistently applied to all of them in order to motivate port operators and attract investment.

Transparency will also be essential to a successful transition. This is a strategic business measure to attract investors and partnerships. Private participation in port business should be directed to the improvement of service quality and operating efficiency, and not merely to the improvement of infrastructure investment funding.

Port reinvention is aimed at ensuring benefits to the nation as a whole. This highlights the need for *shared perceptions among stakeholders*. All parties must agree to and follow the roadmap elaborated in the integrated action plan in the Final Draft of the National Port Master Plan (NPMP) of 2012–2030, which is currently being disseminated throughout Indonesia. The Action Plan in the NPMP includes strategies that address, in a measurable fashion, improvements to legal, operational, human resources, and technology utilisation processes. Additionally, the Action Plan addresses planning and integration, setting priorities for development, and securing private investment and Public Private Partnerships (PPP). A shared perception of criteria, norms and standards is essential if stakeholders are to successfully optimise existing ports or develop new ones, create individual port master plans, develop road networks from ports to industrial areas, and conform to the national spatial layout plan.

It is important to examine past problems, such as the failure to secure PPP for port development in Batam, so that lessons can be learned from the experience.

Successful implementation of a pilot project using PPP is essential. Development of the Kalibaru Terminal had been identified as a possible pilot for the implementation of PPP, to be followed in other locations in Western and Eastern Indonesia. Recently the Government of Indonesia declared that Kalibaru will be developed by Pelindo II, because of the urgent need for this facility. Nonetheless, the Directorate General of Sea Transport (DGST) is strongly committed to PPP development. The draft NPMP includes as an action plan the development of a port using PPP, with about 70 percent of the investment coming from the private sector.

The Importance of Human Resources

The only way to discard the old bureaucratic culture is to develop human resources. Port management requires a variety of special skills to ensure proper planning and implementation of spatial issues, technical construction, safety, financing, operations, and integration with other sectors. Competent HRD will ensure that changes are implemented in a safe, secure, manner that is consistent with regulations.

Unless managers and the workforce are committed to change, attempts to transform the port system risk rejection, or the disintegration of morale. A demonstration by port workers is understandable if workers have not been shown the benefits of the changes they are being asked to accept. Providing these explanations can counteract the conflicts that arise during the transformation process.

The role of port authorities and port masters is to communicate the vision effectively and lead the process of change. Key actors cannot afford to remain fixed in the old ways of conducting business. They must always act professionally and should conduct extensive socialisation efforts. Port operators should concentrate on maintaining image and service levels. The mindset should be service-orientated, and the need for speed and efficiency should be thoroughly understood.

Throughout the transition phase, in addition to focusing on education and training programmes, HRD specialists must listen to stakeholders and implement the principles of continuous improvement. A Process Improvement Team, complementary to the Bureaucratic Reform Team in the State Ministry for Administrative and Bureaucracy Reform, can be created within the MoT to assist port authorities with the transition.

The Role of Industrial Clusters

As an outgrowth of port development, new industries can take root around port working areas, with service centres offering comprehensive packages for industries such as palm oil or coal. A number of ports around the world illustrate the effectiveness of developing industrial clusters. Examples in the extractive and chemical industries include ports in Rotterdam, Antwerp, Hamburg, Marseilles, Houston, and Yokohama. Rotterdam in particular is a centre of trade, distribution and marketing.

A “blue ocean” approach is an innovative way to think about developing ports with special or dedicated terminals surrounded by industrial parks. The key to a blue ocean strategy is focusing not on battling the competition for market share (a “red ocean” approach) but on creating a “value innovation network” that renders the competition irrelevant. Instead of asking “how can we do the same things that the competition does, only better?” a blue ocean strategist is more likely to say “what can we do that the competition isn’t doing?” In the port sector, one answer is to encourage the growth of new industries by developing service centres capable of offering comprehensive packages for products that require special handling.

Under a blue ocean strategy that focuses on the development of industrial clusters, both port authorities and port business entities will seek to generate economies of scale. Developing special terminals together with industrial clusters will require coordination among technical ministries, MSOE, and regional governments. Integrated planning must take into account each region’s special characteristics. The national government must take a leadership role in designating which ports should be developed as industrial parks, as the optimal allocation of national assets is at stake.

Utilisation of excess capacity at special and dedicated ports should be viewed as complementary to the primary service, rather than competitive. This presents a special challenge and opportunity for the state-owned port companies, which already have production facilities and human resources in place.

Special terminals having comparative and competitive advantages can be considered for transformation into main ports that prioritise vessels related to their industrial specialisation. This should encourage the development of clusters and encourage the closest ports to improve their competitiveness.

This paper touches on only a few of the components of port reinvention, but they are crucial ones. A prudent approach to transition, a focus on HRD, and encouragement of industrial clusters are all in keeping with the overall vision for Indonesian development as expressed in the Master Plan for the Acceleration and Expansion of Indonesia’s Economic Development (MP3EI). Along with the development of international ports and securing private investment, these steps will lead to a port system that is truly "reinvented", not only in its organisational structure and operations but also in its ability to support Indonesia's economic growth. ■

NOTES

1. A TEU is a "twenty-foot equivalent unit", and is used as a measurement of cargo capacity.

2. As defined by Law no. 17/2008, a port working area is the water and land used for port activities; a port interest area is the water area around the working area.

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Faster Movement, Fewer Problems: Reducing Container Dwell Time

Over the next five to ten years, new and expanded ports may help to relieve congestion. Steps to reduce the amount of time that containers spend at the port terminal can improve the situation before new construction begins. • By Natalia Cubillos Salcedo and Henry Sandee

Movement takes time. When a container arrives on a ship, several steps must be completed before the contents leave the port.
Photo by Rahmad Gunawan

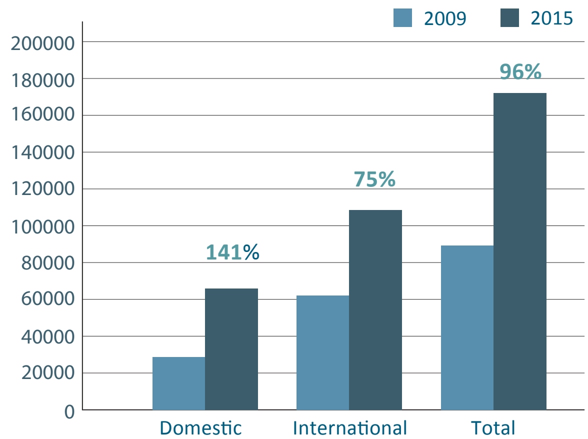
Trade to and from Indonesia is booming. Trade among Indonesia's main islands is forecasted to boom as well. In contrast to countries like China and Vietnam, Indonesia's port capacity is far from sufficient to accommodate the growth of bulk and container trade. To address this, the Directorate General of Sea Transport has drafted a National Port Master Plan, with assistance from the Indonesia Infrastructure Initiative, that lays out the need for investment to extend existing ports and build new ones.

Experience suggests that the amount of time allotted from port planning to construction may be underestimated. One constraint is the need to attract private investment, which has an essential role to play in port development. However, current initiatives suggest that incumbent state enterprises remain the prominent investor. While new construction may face delays, the flow of containers is growing rapidly (see forecasts in Figure 1). Together, these two concepts mean that raising the productivity and efficiency of existing port operations is essential.

While the growth of exports and imports is great news for the economy, Indonesia's main port of entry appears to be buckling under the strain. Recent estimates are that Tanjung Priok handled close to 6 million TEU[1] in 2011. Port experts have estimated that with current equipment and access roads, the port's ideal capacity is slightly more than 5 million TEUs. The Ministry of Transportation recently announced that ships are queuing to berth and, as shipping lines have been informed, can no longer be guaranteed berthing by the port. State-owned port company

Pelindo II estimates that container flow through Tanjung Priok will rise by at least another 2 million TEUs before the end of 2014. At that time, the planned extension of the port may not yet be ready, which means that port congestion will increase. More time will be needed both to move incoming containers out of the port and to move outgoing containers onto vessels, with the former expected to be affected the most.

Figure 1: Container Growth Forecast



Source: National Port Master Plan

Recently, the Government of Indonesia requested that the World Bank estimate import dwell time (DT) – the period from when a container is unloaded until it leaves the terminal gates – at Tanjung Priok and provide short and long term recommendations on how to reduce it.

Key Points

Trade to and from Indonesia, and among its main islands, is booming. New and expanded ports must be developed to accommodate this growth, but it will be five to 10 years before such construction is complete. Meanwhile, existing facilities are being stretched beyond their ideal capacity. The immediate solution is to improve the efficiency of operations through means such as reducing the dwell time (DT). Dwell time is the period from when a container is unloaded until it leaves the terminal gates. In July and August of 2011, the DT at the Jakarta International Container Terminal at Tanjung Priok, which handles over two-thirds of Indonesia's international trade, was six days, a 22 percent increase from the previous year. Other ports in the region, such as Singapore, Malaysia, and Thailand, perform much better.

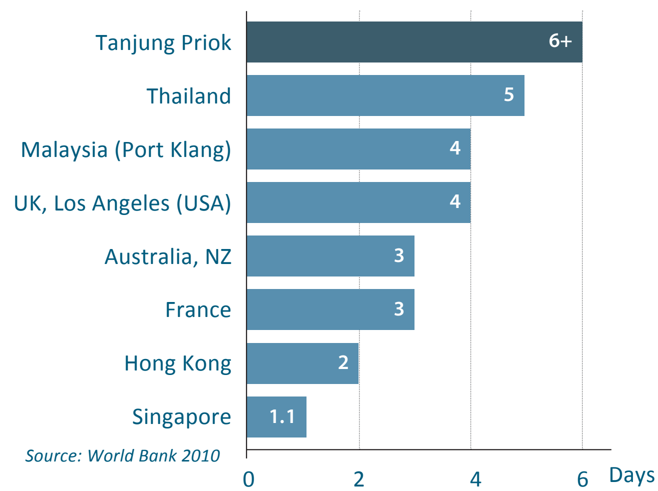
Export-oriented industries face uncertainties due to the delays, reducing the competitiveness of Indonesian products abroad. Bottlenecks and congestion at the port push up costs for domestic businesses and ultimately the prices paid by consumers.

The Government of Indonesia has taken steps to reduce DT, such as supplying customs clearance operations 24/7 and developing an electronic documentation and information system. Additional time-saving efficiencies will need to be found in the very near future if DT is not to deteriorate further. Much of the delay occurs during the pre-clearance stage and is due to regulatory constraints. In contrast to the procedures in most developed countries, Indonesia requires that importers pre-pay taxes and customs duties before submitting paperwork, which they cannot do until ships arrive. In addition, the clearance of goods over the weekend and outside normal business hours is unreliable. Getting all stakeholders to provide flexible 24/7 services and promoting pre-arrival submission of import declarations are both important steps towards a more efficient system for clearing goods.

The estimated DT for incoming containers at the Jakarta International Container Terminal (JICT) at Tanjung Priok during July and August 2011 was six days. This is a 22 percent increase over DT measured in October 2010 (4.9 days), which is worrying given that Tanjung Priok handles over two-thirds of Indonesia's entire international trade, and total container traffic is forecasted to grow by over 160 percent by 2015.

Moreover, using international measures, which include time spent in the port but outside the JICT terminal, Indonesia's DT figure increases by one to seven days. This performance is far worse than that of Indonesia's regional peers, such as Singapore (1.1 days), Malaysia (four days) and Thailand (five days) – see Figure 2. This situation is likely to be even worse at the other terminals of the port.

Figure 2: Dwell Time in Selected Countries



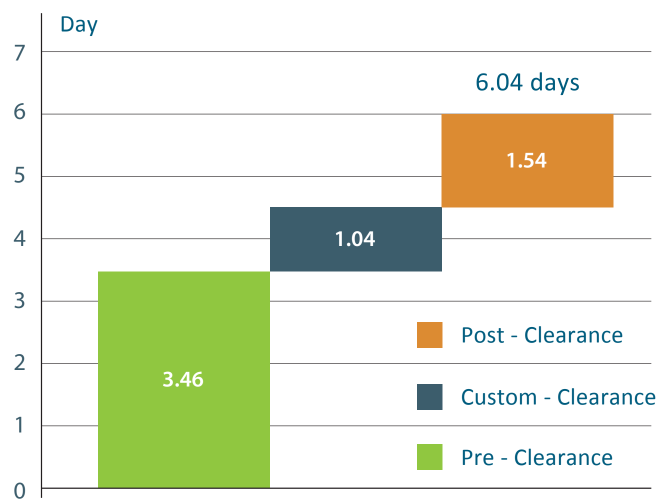
The increased dwell time in Indonesia's most important international port adversely affects the country's economy in two ways. First, export-oriented industries face uncertainties due to the delays, reducing the competitiveness of Indonesian products abroad. Just-in-time manufacturing, in which firms tightly manage their schedules for importing raw materials and re-exporting finished goods, suffers even more, hampering Indonesia's efforts to become an integral part of efficient worldwide supply chains. In all, about 19 percent of the inputs for foreign and export-oriented firms in Indonesia are imported. Second, time is money: the bottlenecks and congestion at the port push up costs for domestic businesses and ultimately the prices paid by consumers.

In an effort to maintain the flow of container traffic and reduce the container build-up at Tanjung Priok, the Government has taken several important steps to reduce DT and keep it low. For example, customs clearance operations now continue on a 24/7 basis, while an electronic documentation and information system is being developed in order to implement a paperless exchange between private operators and public agencies.

These efforts have helped to keep DT at an average of five days over the past two years. But additional time-saving efficiencies will need to be found in the very near future if DT is not to deteriorate further due to projected increases in trade, and to compensate for urban and infrastructure constraints.

Understanding the reasons for the lengthening time needed in clearing and removing containers from the port is essential. DT can be broken down into three components: pre-clearance (the time from when the ship arrives and when import declaration is submitted to Customs); Customs clearance; and post-clearance (the time between completion of Customs clearance and exiting the gates of the JICT). Contrary to widespread perceptions of poor performance by Customs, a recent World Bank study shows that the main cause of the delay is the pre-clearance stage, accounting for 58 percent of DT (see Figure 3).

Figure 3: Dwell Time Components



Source: JICT, DG Customs 2011

The reasons for this relate largely to regulatory constraints, including the pre-payment method that is used in Tanjung Priok. While most developed countries allow for submission of import declarations before a ship arrives and provide a single invoice covering port charges, customs duties and taxes at the end of the process, most Indonesian importers and manufacturers are required to wait for the ship to arrive, and they must pre-pay taxes and customs duties before submitting their paperwork. Since most of the payments take at least one day to be confirmed by the Government's Treasury, delays are exacerbated when vessels arrive on Thursdays and over the weekend – payments from vessels arriving on a Thursday will not clear until Monday at the earliest.

Although 24/7 port services (i.e. Customs and terminal services) have been in place for almost two years now, the clearance of goods over the weekend and outside normal business hours remains unreliable. While Customs and terminal staff may be on duty, other services, such as banking transactions, updated exchange rate information from Bank Indonesia, cashiers and administrative services at the shipping lines, and even container depots, are usually closed by 5 p.m. on Friday. Getting all stakeholders to provide flexible 24/7 services and promoting pre-arrival submission of import declarations are both important steps towards a more efficient system for clearing goods. Such changes do not call for any large financial investment. What these changes require is strong political will to change the impeding regulations.

Although expansion of Tanjung Priok and major investment in a brand new container port are envisioned, it will likely take at least five and 10 years, respectively, for these plans to come to fruition. However, the situation is already critical given the rate at which the Indonesian economy continues to grow and the fact that container trade underlies a large part of this growth. If Indonesia is to make the most of the opportunities afforded by its stellar economic growth and pass those benefits on to all segments of the community, it is paramount to improve the efficiency of Indonesia’s principal international port of entry. ■

This is an expanded version of an article that originally appeared in the Jakarta Globe *on 16 February, 2012*.

NOTES

A TEU is a “twenty-foot equivalent unit”, and is used as a measurement of cargo capacity.

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Labour at Indonesia's Ports: The Role of Cooperatives

Longshoremen's cooperatives at Indonesia's ports are well established. While they are useful to protect the interests of workers, they can lead to monopolistic practices. A new approach focusing on improving skills and competition is needed in the future. • By Jasief Sutopo Putrahardja

A port worker wears his vest from the local cooperative.
Courtesy of Annetly Ngabito

Shipping Law no. 17/2008 declares that each element of Indonesia's transport system must be developed to its maximum potential to ensure that Indonesia has an effective and efficient transport system. A seemingly straightforward component of this system is the act of moving cargo, whether it is being transferred between vessels and the dock (stevedoring), moved between the dock and port warehouses (cargodoring), or being moved between warehouses and trucks (receiving/delivery). This unskilled labour is performed by longshoremen (referred to in Indonesian as *tenaga kerja bongkar muat*, or TKBM).

While it may seem simple, the work these longshoremen perform is conducted within a complex web of sometimes contradictory rules, regulations, and visions regarding the importance of efficient cargo movement and the protection of the welfare of workers who toil at the docks. These workers belong to local TKBM cooperatives (KTKBM). The framework within which KTKBM operate has given rise to demands for increased productivity by KTKBM labourers, as well as concerns regarding the effective KTKBM monopoly.

Historically, labour cooperatives for longshoremen were created in response to concern over the well-being of workers. Since the only requirement for longshoring work is physical strength, there are many job seekers, which drives down wages. Acting individually, labourers have little power over their wages, assignments, or working conditions. They can negotiate from a position of greater strength as an organised group.

Forming the KTKBM

To gain insight into the goals and operation of the TKBM cooperatives, it helps to understand the laws and regulations that underpin their establishment. The forerunner of the cooperatives came into existence in 1978, when a Joint Decree by the Ministry of Manpower, Transmigration and Cooperatives and the Ministry of Transportation established a foundation (Yayasan Usaha Karya, or YUKA) to organise longshoremen.

Key Points

Longshoremen, referred to as "TKBM" in Indonesian, belong to local cooperatives. The legal framework governing cooperatives has given rise to demands for increased productivity by labourers, as well as concerns regarding the cooperatives' effective monopoly.

A Joint Decree in 1989 mandated cooperatives at every seaport so that workers could manage themselves, promote their own welfare, and participate in the smooth flow of goods at seaports. The Joint Decree of 2002 that replaced it retained these concepts but added an article that effectively gave the cooperatives a monopoly on stevedoring labour.

TKBM cooperatives must also follow Indonesia's laws with respect to cooperatives in general, which emphasise promotion of member welfare. Further, Law no. 5/1999 is designed to prevent monopolistic behaviour but it exempts the business activities of cooperatives that are intended to serve members. Minister of Transportation Decree no. 14/2002 contains provisions that have been interpreted to mean that all stevedoring activity must involve TKBM cooperatives.

As a result of these laws, TKBM cooperatives have not faced any competitive pressures, leading to low productivity and poor performance. A further concern is that the cooperatives charge fees even when operations are conducted using conveyors and pipeline systems, and no longshoremen are involved.

On 29 December 2011, a new Joint Decision, SKB/2011, replaced the 2002 decree. Under SKB/2011, the business units of the KTKBM may form sub-units and/or work groups. The purpose of this provision was to allow KTKBM agencies from one port to offer services at other ports, thereby promoting competition and minimising monopolistic practices. However, this measure will not yield an optimum result if the sub-units jointly control the market.

There are concerns that SKB/2011 can be cited to justify charging TKBM fees even when the activities are mechanised and do not use TKBM. Further, any stevedoring activities that occur outside of the port working area or interest area must be conducted by the KTKBM in the nearest seaport.

The regulations seem to provide excessive protection. Cooperatives are not being prepared to face open competition. Longshoremen should be helped to increase their skill levels so they can productively participate in stevedoring activities that increasingly involve the use of mechanical equipment. To prevent harmful monopolistic practices, longshoremen should be managed by more than one worker placement cooperative, which are independent at every seaport.

The KTKBM must adopt a new mindset and understand that the cooperative that offers the best value to customers is the one that will succeed.

A further Joint Decree by the same ministries, along with a Presidential Instruction, dissolved YUKA in 1985. At that time, a temporary entity to represent longshoremen was established at every seaport, reporting to the port administrator. This structure was confirmed by additional legislation in 1989, in particular SKB/1989[1] SKB/1989 stated the necessity for immediate development of a longshoremen's cooperative at every seaport so that workers could manage themselves, promote their own welfare, and participate in the development of activities to ensure the smooth flow of goods at seaports.

SKB/1989 affirmed the solidarity of longshoremen and stated that the longshoremen's cooperative had two main activities:

- Operational administration, including registering longshoremen, organising them into working groups, providing longshoremen services, and arranging shifts.
- Welfare services, including provision of breakfast/lunch/dinner, provision of transportation, health care, etc.

SKB/1989 was superseded by SKB/2002[2] but the above principles remained intact. However, some provisions of SKB/2002 introduced new or different concepts. The 2002 decree specified a Stevedoring Service Business Unit (Unit Usaha Jasa Bongkar Muat, or UUJBM) under the auspices of the cooperatives. The UUJBM were established to support the smooth loading and unloading of goods at seaports. Thus, the business of longshoring was relegated to one unit of the cooperative, not as the cooperative's core business, which, as stated in Article 3, was to improve the welfare of its members.

Further, and most significantly, Article 9 of SKB/2002 laid out terms that effectively gave the cooperatives a monopoly on stevedoring labour. This article says that cargo handling companies operating in the port working area and interest area[3] must collaborate with TKBM cooperatives by using TKBM labour.

SKB/2002 was in force until very recently. New legislation took effect in December 2011, and will be discussed later in this article.

Laws Regarding Cooperatives

In addition to legislation related to TKBM in particular, the TKBM cooperatives must also follow Indonesia's laws with respect to cooperatives in general. Since 1989, the operation of the KTKBM has been subject first to Law no. 12/1967 on the establishment of cooperatives, then to the law that superseded it, Law no. 25/1992.

The 1967 law defined a cooperative as: *a people's economic organisation with social characteristics, whose members are individuals or legal entities and which constitutes an economic arrangement as a joint endeavour based on the principle of solidarity*. The 1992 law defined a cooperative as: a business entity whose members are individuals or cooperative legal entities and whose activities are based on the principles of cooperation and which at the same time serves as a people's economic movement based on the principle of solidarity. The 1967 and 1992 laws contain similar language stating that the objective of cooperatives is to promote the welfare of their members in particular and the community in general. The laws further state that members join voluntarily.

Based on the wording of these laws, it can be concluded that a cooperative is a business entity established in a bottom-up manner. As explicitly stated in Article 17 of the 1992 law, *members of a cooperative are the owners and at the same time the users of the services of the cooperative*. This Article makes it clear that the cooperative is to be used as a facility for “mutually improving the welfare” of the members.

With respect to KTKBM, the 1992 law indicates that there are two distinct services provided by the cooperative. The first is welfare services for members, which should be funded by “contributions” from longshoremen that they collect from the companies employing them.

The second service is the business product – the stevedoring and related labour that the cooperative sells to nonmembers of the cooperative. According to the 1992 law, these regular business products are subject to general rules of business conduct.

Law no. 5/1999 Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition specifically addresses cooperatives. This law defines monopolies and sets forth regulations designed to prevent monopolistic behaviour. However, Article 50 of this law states that business activities of cooperatives intended specifically for serving their members shall be excluded from the provisions of the Anti-Monopoly Law.

Other Related Laws

Other laws that do not specifically address cooperatives also have an important impact on the roles and functions of KTKBM. Minister of Transportation Decree no. 14/2002 concerning the Organisation and Operation of Longshoring Business Activities defines a longshoring company *(Perusahaan Bongkar Muat, or PBM) as a business entity specifically established for conducting the loading and unloading of goods from and to vessels at a seaport by* ***using equipment*** *and* ***longshoremen*** *in compliance with the applicable provisions*. This has been interpreted to mean that all stevedoring activity must involve TKBM cooperatives.

Law no. 13/2003 on Manpower has implications related both to training and recruitment. Article 12 of this law mandates that employers are responsible for the improvement and/or development of their workers’ competence through training. The business units of the KTKBM are considered to be employers of the longshoremen.

The law also states that employers may independently recruit the workers they require or use the services of placement agencies. PBM and terminal operators who use special equipment for certain types of goods can use this provision as the basis for independently recruiting workers who are trained for operating such special equipment.

Impact of the Laws

Many of the laws and regulations described above were designed to protect the interests of labourers who otherwise might be vulnerable to exploitation. Unfortunately, these laws have had some unintended negative effects. Because the TKBM cooperatives have not faced any competitive pressures, they have not needed to optimise the quality of the services they provide. There have been numerous complaints about the low productivity of longshoremen provided by the cooperatives. From the standpoint of PBM, their performance has become increasingly poor and has failed to meet expectations.

As reported by *Bisnis Indonesia* in an article on 23 June 2010, a coalition of PBM formally complained about the 2002 decree stipulating that longshoremen cooperatives must be involved in all loading and unloading activities. The Indonesian National Ship Owners' Association submitted a complaint to the Commission for the Supervision of Business Competition (Komisi Pengawas Persaingan Usaha, or KPPU), claiming that its provisions effectively created a monopoly and that productivity levels at a number of seaports were unacceptably low.

A further concern is that the cooperatives charge fees even when operations are conducted using conveyors and pipeline systems, and no longshoremen are involved. These fees have been charged despite Presidential Instruction no. 5/2005 on Empowerment of the National

Raising Port Labour Productivity: Some Findings From the Ministry of Transportation

Note: the following commentary is excerpted from the findings of a review carried out by the Ministry of Transportation. The material was presented on 2 March 2012 at a round table discussion on port labour and human resources sponsored by MoT.

There is a perception in the industry that port labour (TKBM) cooperatives act as monopolies in their provision of services. The result is low productivity, longer turn-around times for ships, and the potential for increased logistics and other costs. In light of these concerns, the Presidential Working Unit for Supervision and Management of Development (UKP4) has undertaken a review of the Joint Decree (SKB/2002) along with Ministry of Transportation (MoT) officials.

The findings of MoT include:

- There is no match between the volume of work and the number of labourers. Usually the workers are oversupplied.
- TKBM work an average of nine days per month, earning a wage that is below the legal minimum.
- Almost 60 percent of the workers in the cooperatives are past retirement age.
- Skill levels and specialisation of port workers are inadequate.
- Cooperatives do not operate enough education and training programs or try to reduce the number of workers.
- Performance is slow and labour productivity is generally low, to the point that costs are unnecessarily high.

Revisions to the SKB/2002 include the following:

- Labourers should meet minimum requirements and develop a mindset focused on productivity and competitiveness.
- A balance should be achieved between the number of TKBM and the volume of work to be done.
- Age limits should be imposed.
- Qualifications should be established for TKBM managers.
- TKBM should be employed for 21 days per month.
- Benefits such as health and retirement insurance and training should be offered.
- Sanctions should be imposed against TKBM who do not reach performance standards.
- There should be an explicit ruling clarifying whether labour from cooperatives must be used outside of port working areas and port interest areas.
- TKBM should receive wages in keeping with their qualifications and the amount of work performed.

Allowing different cooperatives to compete with each other at the same port can have a number of beneficial, anti-monopolistic impacts. Work can be assigned on a competitive basis, spurring each cooperative to raise the quality of its services and ultimately improving worker welfare. A group of professional port managers will be created, especially at the larger ports. Each business using cooperative labour can determine the number and qualifications of the labourers that it will use.

Shipping Industry. According to this instruction, seaport services' fees charged without the rendering of any service should be eliminated.

New Developments

On 29 December 2011, a new Joint Decision, SKB/2011[4], replaced SKB/2002. Under SKB/2011, the business units of the KTKBM may form sub-units and/or work groups in accordance with the conditions and needs at the seaports. As explained by a team member involved in formulating SKB/2011, the purpose of including this provision was to allow KTKBM agencies from one port to offer services at other ports, to promote competition and minimise monopolistic practices. However, this measure will not yield an optimum result if the sub-units jointly control the market.

SKB/2011 also amends SKB/2002 to say that stevedoring activities that require conveyors, pipelines, floating cranes or similar equipment can only be conducted by TKBM who have the necessary skills and qualifications, and the "required number" of TKBM must be used. The decree also says that these activities shall be conducted based on the demands of service users, and the business unit shall only receive TKBM wages in accordance with the qualifications and number of TKBM who do the work. These provisions can be construed to say that the skilled workers conducting stevedoring activities by using conveyors, pipelines, floating crane and or similar mechanical equipment must be members of a TKBM cooperative. There are concerns that these provisions can be used as a reason to continue charging TKBM fees even when the activities do not use TKBM.

Article 9 of SKB/2011 specifies that any stevedoring activities that occur outside of the port working area or interest area must be conducted by the KTKBM in the nearest seaport. This article also says that stevedoring activities at special terminals must use TKBM. Together with Article 4, which defines TKBM as members of the cooperative, this means that no stevedoring activity anywhere can be conducted without involving the cooperative.

Author's Suggestions

Longshoremen play an important role at seaports and must be supported. But the regulations currently in force seem to provide excessive protection. Cooperatives are not being prepared to face open competition. The support given to longshoremen, the cooperatives, and the business units within the cooperatives, should develop skill levels and prepare longshoremen to participate in stevedoring activities that increasingly involve the use of mechanical equipment.

To prevent harmful monopolistic practices, longshoremen should be managed by **more than one** worker placement cooperative, which are independent at every seaport.

For the business activities of cooperatives to thrive, the KTKBM must adopt a new mindset. They must understand that the cooperative that offers the best value to customers is the one that will be the most successful. ■

NOTES

1. Keputusan Bersama Direktur Jenderal Perhubungan Laut, Direktur Jenderal Bina Hubungan Ketenagakerjaan dan Pengawasan Norma Kerja, serta Direktur Jenderal Bina Lembaga Koperasi No. UM 52/1/9-89, KEP.103/BW/89, 17/SKD/BLK/VI/1989 tentang Pembentukan dan Pembinaan Koperasi Tenaga Kerja Bongkar Muat.

2. Keputusan Bersama Direktur Jenderal Perhubungan Laut, Direktur Jenderal Pembinaan dan Pengawasan Tenaga Kerja, dan Deputi Bidang Kelembagaan Koperasi dan UKM No. AL.59/II/12-02, No.300/BW/2002 dan No. 113/SKB/Dep-S/VIII/2002 tentang Pembinaan dan Pengembangan Koperasi TKBM di Pelabuhan.

3. As defined by Law no. 17/2008, a port working area is the water and land used for port activities; a port interest area is the water around the working area.

4. Keputusan Bersama Direktur Jenderal Perhubungan Laut, Direktur Jenderal Pembinaan Pengawasan Ketenagakerjaan, dan Deputi Bidang Kelembagaan Koperasi dan Usaha Kecil dan Menengah no. UM.008/4.1/DJPL-11, no. 93/DJPPK/XII/2011, no. 96/SKB/DEP.1/XII/2011 tentang Pembinaan dan Penataan Koperasi TKBM di Pelabuhan.

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Jasief Sutopo Putrahardja is currently a Lecturer on Nautical and Shipping Management Studies at the Indonesia Merchant Marine Institute. He is also a member of the technical faculty at the State University of Jakarta, where he is a Lecturer on Sea Transportation Studies. He began his career in 1966, first serving as a deck officer aboard merchant and naval ships, then managing operations in various capacities at the Port of Tanjung Priok. He has also worked in a managerial capacity with Pelindo II and PT EDI Indonesia, as well as for AKR Corporindo at the Guigang Port in Guang Xi, China. Over the past decade much of his work has focused on training human resources.

Educating a Maritime Nation

More than any other country, Indonesia is a nation powered by the quality of its port system. So that Indonesian port operations can meet global standards, citizens ranging from school children to dockworkers to administrators and policy makers should be educated on why ports matter, and how to make them work. • By Amba Mpote-Bigg

Indonesia's geography makes it easy to see why school children should learn about the role that ports play in their nation's development. *Courtesy of IFPRI-Images*

How does a strategically located archipelago island nation like Indonesia ready itself for dramatic expansion in port traffic over the next two decades? By making education the cornerstone of its national port reform policy, experts say.

Indonesia is the world's largest archipelago nation and relies heavily on its over 1700 ports for economic growth. From 2009–2020, Indonesia's GDP is projected to grow at an overall average of 6.5 percent. By 2020, its container traffic will be more than double 2009 volumes and this will double again by 2030.

The National Port Master Plan Decree that followed Law no. 17/2008 on Shipping is mandated to bring about that reform by creating an "efficient, competitive and responsive port system for Indonesia."

The sweeping legislation encompasses integration, port efficiency, safety, competition and a redefinition of port authority. Its goal is to ensure that Indonesia's port management structures are revitalised and efficient, to boost private sector investment, improve technology and manpower – in short to make Indonesia a world class, competitive port nation.

While legislation still requires clarification or expansion in some parts, reform is underway and the law clearly mandates the need to develop the port human resources sector.

Manpower Development

The development of manpower is essential to all aspects of port reform.

"The national port management reinvention is a fundamental transformation process … accordingly, it's particularly important that human resources are competent," said Prof Sudjanadi, a port adviser, researcher and lecturer at the Institute of Transport Development and Management. (For more on Prof Sudjanadi's vision for port development, see "Reinventing Port Management in Indonesia" on page 3.)

Organisational, legal, administrative and policy aspects of the reform process depend on the right human resources to execute them effectively, according to advisers. Policy makers and administrators must be well versed in competition, economic and operational regulation, tariff analysis, environmental planning, and human resource development, to name a few key areas.

Prof Sudjanadi, an advocate for curriculum reform and training for Indonesia's port workers, is currently developing a new training curriculum for the country's port and sea management personnel in partnership with the Port of Bremen in Germany. The courses will cover a broad spectrum of topics from understanding port management and port authorities to instituting good business practices and policies.

Key Points

As the world's largest archipelago nation, Indonesia relies heavily on its over 1700 ports for economic growth. Law no. 17/2008 on Shipping mandates that Indonesia must develop an "efficient, competitive and responsive port system." Education must be the cornerstone of this reform.

Policy makers and administrators must be well versed in competition, economic and operational regulation, tariff analysis, environmental planning, and human resource development, to name a few key areas. Port adviser, researcher, and lecturer Prof Sudjanadi is an advocate for curriculum reform and training who is currently developing a new training curriculum for the country's port and sea management personnel.

Other means of training include university level courses in the maritime industry as well as a number of independent maritime institutes. Indonesians also take advantage of scholarships offered by Australia and other nations to undertake Ph.D. and post graduate studies overseas.

Port-related education could begin much earlier, with school children learning about the importance of maritime concerns and opportunities they have to pursue careers in the port sector.

Developing skills in computer and information technology is key to advancing human resources. The port sector must also be promoted as a rewarding work environment with opportunities for career development.

Strategies must extend to dockworkers as well. They can be certified in specialities such as handling techniques, labour safety, and equipment operation. Quality incentive systems, cross training, and an established system for career progression are means to instill pride and improve worker performance.

The new curriculum would start by defining not only the role, duties and responsibilities of a new Indonesian port authority, but would also equip personnel to handle the challenges of an expanding volume of port activity.

Management (including strategic planning, budget management, and financial analysis), marketing, planning/engineering (from port master planning to project development to terminal operations to managing maintenance), and contracts and regulation are among the areas where curriculum development is needed.

"The existing training facilities available are not enough," Prof Sudjanadi declares.

Indonesia currently has university level courses in the maritime industry as well as a number of independent maritime institutes. Indonesians also take advantage of scholarships offered by Australia and other nations to undertake Ph.D. and post graduate studies in port management and marine studies.

Learning Starts at a Young Age

Some experts believe education could come much earlier than the tertiary level.

"Considering Indonesia's status as probably the most port reliant nation in the world, there does not seem to be an innate relationship between the people and their ports. … There appears to be not a lot of attention to promoting a career in ports," said Dr Paul Kent, an international consultant working with the AusAID funded Indonesia Infrastructure Initiative (IndII). (Dr Kent's article on competition and regulation can be found on page 26.)

"First there has to be an appreciation of ports at a very young age. Children could become attuned to ports as early as primary school level."

Although in the US on a national scale there are very few programmes solely dedicated to the port sector, Dr Kent said, some maritime states like Oregon produce coloring books for elementary school kids to help foster awareness about the importance of ports. A simple message like that emphasises the relevance of ports to everyday life.

Skilled manpower and a revitalised labour force are crucial if Indonesia's port operations are to match global standards. A competitive port system is dependent on attracting and nurturing the right people in all areas of the maritime industry.

"Human resources in the new institutions not only have to be competent but are required to be agents of change," says Prof Sudjanadi. "They must produce a sense of urgency to avoid dead wood and slipping back into old patterns."

Information Technology

One key area is computer and information technology. Globally, systems that use cutting edge electronic technology are being used to manage production, marketing, transportation and distribution. In order for Indonesian port activities to be integrated into these systems, port personnel – and others throughout the greater transport network – must develop and maintain the needed technological skills.

"These changes in how businesses operate have significant implications for transportation, as pressures mount for greater scale and efficiency in infrastructure systems that support major trade flows," notes the *Academic Paper to Support the Port Master Plan Decree prepared by IndII*.

Attract Manpower, Enhance Labour Competitiveness

Developing human resources also requires promoting the port sector as a safe and rewarding work environment with opportunities for career development. Currently, pursuing a lifetime career at Indonesia's ports is rarely seen as a viable career path.

"We need to attract the best business graduates," says Dr Kent.

Research also shows that women do not figure prominently enough in the nation's port sector workforce, although they are visible in the engineering and maritime fields. The Ministry of Transportation has been given the role of recruiting and retaining women at the ports.

Traditional port labour continues to be an area of concern. Currently, Indonesia's port sector is characterised by monopolistic practices. (See "Labour at Indonesian Ports: The Role of Cooperatives" on page 14.) Regulations that oblige the use and payment of longshoremen from labour cooperatives, coupled with lack of opportunities to advance, sap worker motivation.

"There is no real incentive to go beyond the stereotypical notion of dockworker's usefulness being more for brawn than brains," says Dr Kent.

Labour cooperatives may resist mechanisation because they fear it will translate into a lessened need for manpower and therefore fewer earning opportunities, but a new approach is needed. Workers need to be provided with training opportunities and made to feel like a part of a new competitive workforce that meets global standards. They can be certified in specialties such as handling techniques, labour safety, and equipment operation.

Quality incentive systems, cross training, and an established system for career progression are means to instill pride and improve worker performance.

"Dockworkers need to offer value … to develop more of a business sense," says maritime legal expert Hidayat Mao, a Jakarta based maritime law consultant. "They need to be given the full benefit of the new regulations which focus on development."

Looking Ahead

Another key to success will be how well Indonesia can "think ahead" and be proactive about future challenges and direction for its ports. The Shipping Law itself requires continuous clarification and redefinition, and any evaluation of progress must come from qualified personnel who are in a position to make a clear-eyed evaluation. Strategic thinking should translate into effective action for human resources development.

Unless there is a commitment to change, attempts to transform the port system will fail or stagnate, says Prof Sudjanadi. "The role of port authorities and port masters is to communicate the vision effectively and lead the change. The strategic vision of [Indonesia's] future port requirements … cannot be developed without manpower." ■

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Amba Mpote-Bigg is an experienced journalist and businesswoman whose background includes serving as Dow Jones bureau chief in Côte d'Ivoire and writing for the *Wall Street Journal.*

Port Competition and the Need to Regulate for Anticompetitive Behaviour

Indonesia aspires to create a competitive port sector. Meeting this goal will call for overcoming a few hurdles and instituting "light touch" regulation to promote competition. • By Paul Kent

Containers at Tanjung Perak in Surabaya
Photo by Andre Susanto

As part of its overall economic development strategy, Indonesia passed Law no. 17 on Shipping in 2001. The Law calls for a paradigm shift in how ports are administered and operated in Indonesia. It establishes a system of port authorities to undertake a regulatory role, calls for an end to the state-owned monopoly control of port services, and requires the preparation of national and local port master plans. Altogether, these requirements contribute to creating a competitive port services environment in Indonesia. The country is now entering the sphere of modernised port systems characterised by a system of landlord port authorities and private provision of port services. But to benefit from this new paradigm, Indonesia must concern itself with how to safeguard port competition.

Without competition, prices will be higher than what market conditions dictate. In addition, productivity will likely be less. The higher prices mean that importers and exporters will incur higher costs to use the monopoly port. Lower productivity means the ship will have to stay longer in ports. This is considered idle time where the ship is not generating revenue. So the longer the stay, the higher the direct operational costs as well as the opportunity cost.

From a consumer's point of view, the impact of competition (or the lack of it) is felt in the retail market. Indonesian consumers may pay more for a television imported from Japan than a Thai consumer pays for the same product, due to monopolies at Indonesian ports. The problem affects exports too – textiles produced in Indonesia can be more expensive than textiles produced in Pakistan (where private terminal operators compete in the ports of Karachi and Qasim) because of higher port costs and freight rates associated with a monopoly port operator.

Expanding competition requires coordination between the desire to increase competition, the master planning process, and regulatory oversight. As the demand for port services increases, and therefore capacity must be expanded, the expansion plan should be reviewed in the context of how competition can be induced.

A hypothetical scenario can be used to demonstrate this. Assume that a port has two container terminals that handle international cargo. Both are controlled by the same operator. When utilisation of the terminals approaches 70 percent, it is time to expand the facilities to accommodate growing demand. The expansion can be designed as a separate "stand-alone" terminal where one operator controls the entire berth-to-gate operation. A concession can be created to attract a new operator to invest in the additional terminal. Competition between two operators is now emerging.

Key Points

The absence of competition in the port sector leads to higher prices and lower productivity. Indonesians pay more for imported goods and Indonesian exports are more expensive than exports from countries with more efficient ports.

Expanding competition requires coordination. For example, when port expansion is needed the facilities and concessions can be planned so that new operators are attracted, creating competition with existing operators.

While the new Shipping Law calls for expanded competition, there are still some hurdles. State-owned port companies (Pelindos) still have control over lands, and private terminal operators are only permitted to offer public cargo handling services under extremely restrictive conditions. Indonesia limits foreign investment in the port sector, which can dissuade global operators from investing in terminals. Pelindos, on the hand, are exempt from Indonesia's competition law.

Competition regulators are established to ensure that firms behave competitively. When a complaint is filed, regulators often begin by examining the extent to which a market is dominated by only a few firms. Markets in countries with the world's most successful Public Private Partnership programs in the port sector generally have just one or a few dominant firms. Therefore, even if Indonesia lowers the hurdles to competition, the likely outcome will still be a market dominated by a very few firms.

When regulators eventually pursue a case, the investigation ultimately focuses on whether consumers or shippers have choices.

The oligopolistic setting that will ultimately emerge in Indonesia suggests the need for a regulatory framework to oversee competition at ports. Indonesia's port policy supports "light touch" regulation. Instead of setting prices, regulation can be carried out by monitoring operational performance, tariff levels, financial performance, and determining the extent to which shippers and carriers have options. The Ministry of Transportation can assume responsibility for promoting port competition and monitoring competitive behaviour.

As the new terminal approaches 70 percent utilisation, another opportunity arises to expand competition by giving the concession for another terminal to a third operator. This kind of approach can be incorporated into the master plan when port planners are contemplating how the port will serve projected demand. Along with this, planners can introduce separate gates and provide sufficient berthing and storage areas to create one or more separate terminals.

However, planning terminal construction to allow for several operators is not enough to assure a thriving competitive environment. More safeguards are needed.

Limits to Expanded Competition

While the new Shipping Law clearly calls for expanded competition, it leaves intact some hurdles to achieving this. For example, the Law creates confusion by seeming to preserve the status quo for the state-owned port companies (Pelindo I through IV). While the law allows private sector operators to enter the arena, the Pelindos are given de facto control over lands where they currently operate. There is no time limit on how long this control lasts. Additionally, while private terminal operators are permitted to offer public cargo handling services, they can only do so under exceptional circumstances: in case of emergency or ineffective/inefficient port facilities and services. If private operators are granted a permit, it is for five years (after which they must surrender key assets to the state) and can only be extended if the initial circumstances have not changed. These restrictions make it virtually impossible to secure financing of a costly special container terminal.

Indonesia's negative investment list restricts foreign investment in the port sector to 49 percent. This can dissuade global operators, who prefer to control terminals to ensure good performance, from entering the market. Further, the Pelindos are exempt from Indonesia's competition law so they can behave in an anticompetitive fashion. Unlike other countries that impose limits on the extent of ownership (e.g. Chile limits the percent of other terminals that current terminal operators may own) or the number of concessions (e.g. Mexico limits the number of concessions a terminal operator may have on either coast), Indonesia puts no such restrictions on the Pelindos. Theoretically, it is therefore possible for the Pelindos to exercise their dominance by engaging in predatory pricing and creating circumstances that prevent easy market entry. Moreover, given their current monopoly pricing practices, they have the financial resources to outbid non-Pelindo interests for the right to operate terminals elsewhere. So while the Law clearly shows the desire to expand port sector competition, the competitive playing field is not yet level.

Modern Competition Policy

Competition regulators are established to ensure that firms behave competitively. Their policies are typically based on an understanding of market structures. Theoretically, if a firm (or port operator) breaches a threshold that defines a dominant firm, this raises a red flag to the regulator, as the firm has the potential to behave monopolistically.

When competitors don't behave fairly, a player in the markets (or a buyer of services) may file a complaint. Before responding, the regulator will first assess the merits of the complaint. Often, they will first try to see the extent to which a market is concentrated. If it is highly concentrated, it is composed of one or more dominant firms. Regulators may initially attempt to measure the market by calculating "concentration ratios". This test combines information about the number of firms and their size, or their "concentration". Concentration ratios measure the percentage of total sales in an industry made by a specified number of the largest firms. In the context of ports, this might mean the percentage of containers handled by the largest terminal operator or the largest group of operators. "CR_n" refers to the *n* largest terminal operators in that industry. (So if the three largest operators handled 90 percent of the containers, we would say the market has a CR_3 of 90 percent.) Of course, the measure of the concentration is applied to terminal operators competing in the same market. This market could be the hinterland that the ports serve.

Alternatively, regulators may use the Herfindahl-Hirschman Index (HHI). Like the CR test, the HHI attempts to measure market concentration, but it also considers the market share of each of the largest players to draw a more accurate picture of the competitive dynamics of the market. A market with a CR_4 of 80 percent is likely to perform one way if each of the top four members have 20 percent of the market, and in a completely different way if one member has 50 percent and each of the other three has only 10 percent. The HHI is determined by adding the squares of the market shares.

Different countries use different criteria to determine if a market is highly concentrated. The United States uses the HHI and considers a score exceeding 1800 indicative of highly concentrated markets. In the initial screening process in Germany, there is a presumption of market dominance when a firm's share is at least one-third. The United Kingdom assumes a company holds a monopoly or dominant position if it controls at least 25 percent of the market. In Australia, the antitrust authority would investigate a proposed merger/acquisition if the CR_4 would supply 75 percent or more of the market (with the merged firm having at least 15 percent of the market), or if the merged firm would have a market share of 40 percent or more.

Applying any of these standards to the world's most successful Public Private Partnership programs in the port sector (Colombia, Argentina, Malaysia, and the United Kingdom) shows that the markets for each country are characterised as having a dominant firm, or are moderately to highly concentrated if the United States' HHI test is used. Therefore, even if Indonesia lowers the hurdles to competition described earlier, the likely outcome will still be a market dominated by a very few firms.

Because these tests focus on market structure, and not market performance, they do not determine the extent to which consumers (or shippers and carriers) have viable alternatives. Consumer choice (or shippers' options) is in fact the most critical factor in determining if there are antitrust concerns, while other factors, such as rates of return or profitability, are less important, although economic regulators tend to focus on these in utility regulation today (presumably because the consumer has no choice or extremely limited ones). When the regulator eventually pursues a case, the investigation ultimately focuses on this critical issue.

How Port Competition Can Be Regulated

The oligopolistic setting that will ultimately emerge in Indonesia suggests the need for a regulatory framework to oversee competition at ports. Indonesia's port policy supports "light touch" regulation. So instead of setting prices, which itself is a challenge in terms of determining what the fair price should be, we can regulate by monitoring port competitive behaviour. This can be done with the regulator monitoring operational performance, tariff levels, financial performance, and determining the extent to which shippers and carriers have options (by calculating total transport costs between the terminal and hinterland point). Carriers prefer to avoid poorly operated terminals, and will choose other options if possible. If the regulator determines that profitability is high, but that the tariff charged is "competitive", then there may be no cause for concern. But if profits are high, and operational performance is poor, then the regulator can assume the operator is exercising monopoly behaviour. In any event, by monitoring behaviour based on these factors, then the regulator will have some basis for determining first, if a complaint may have merit, and second, if further investigation is warranted.

By monitoring the factors that determine how operators compete, Indonesia can avoid the more difficult challenge of having to set prices. The regulator instead would require the terminal operators to file tariffs, report specified operational indicators, and submit annual financial reports and other financial information relative to profit or rate of return. Service agreements, which are contracts between operators and carriers, should also be filed under confidentiality rules to assure discriminatory behaviour is not occurring. And operators should also be compelled to report their intents to merge with or acquire other operating companies.

The Ministry of Transportation would be responsible for promoting port competition and hence may serve to monitor competitive behaviour. Where circumstances suggest, either as a result of monitoring or from a complaint received, that anticompetitive behaviour may be occurring, then the Ministry can forward the matter to Indonesia's Competition Commission. By relying on the submission of information that is normally readily available, then the Ministry would conform to the light touch policy objective for regulation.

As earlier noted, Indonesia still needs to address ongoing constraints to the development of competition. Not addressing them in the near future means that the current players in the market can further exercise their dominance by controlling lands that might otherwise be available to new operators, or to leverage monopoly prices to further their dominance. The Ministry has a clear role for assuring a competitive playing field. Not addressing the monopoly position of terminal operators can also have the effect of discouraging investment in other economic sectors as well. ■

About the author:

Paul Kent is Senior Vice President, Infrastructure Planning and Economics at Nathan Associates. Dr. Kent is a leading authority on port privatisation and regulation who has directed or participated in port and logistics projects in nearly 45 countries. He has developed decision support tools for policymakers, regulators, and the private sector. His dissertation on port competition regulation formed the basis for much of the regulatory module of the World Bank's Port Reform Toolkit. A frequent contributor to trade and scholarly journals, Dr. Kent is the only American to have received a doctorate from Russia's Central Scientific Institute for Water Transport Economics and Operations in Moscow. Before joining Nathan Associates, Dr. Kent was Associate Director of the National Ports and Waterways Institute of Louisiana State University.

A Director's View

Port specialist Kemal Heryandri discusses the outlook and challenges for the Government of Indonesia as it develops the port sector.

Kemal Heryandri
Courtesy of Annetly Ngabito

Kemal Heryandri is the Director of Ports and Dredging at the Directorate General of Sea Transportation (DGST). He has undertaken a postgraduate degree in Port Planning and Engineering at the International Institute of Hydraulic Engineering, IHE-Delft Technology University, in the Netherlands. Prior to his current position, he was the Secretary for DGST from 2010–2011.

Kemal spoke with **Prakarsa** while in Batam to take part in a series of workshops designed to socialise the National Port Master Plan (NPMP) with local and regional government officials.

In your opinion, what is the best strategy for implementing the National Port Master Plan, especially considering that 70 percent of the funding for port development will need to be sought from the private sector?

We really have to prepare well-thought-out documents to support us in marketing these projects. If we can offer that, then hopefully we can attract private investment. For example, the development of the Kalibaru Port in North Jakarta. Thirty-three companies expressed interest in the prequalification stage. They have learned that Tanjung Priok is over capacity and urgently needs to be developed. Private investors requested information on the supporting documents, feasibility studies, what is the real potential, and so on. They can figure out in their head: if a city doesn't have a port but there's growing industry in the surrounding areas, the goods have to be taken to a port that is far away. If there's a port nearby these industries, port users would definitely go to the nearest one.

We have to demonstrate to investors that our ports are ready to be developed and will generate revenues. Private companies base their decisions on how much profit they can gain. We should be able to convince them that if you build this port, you will gain significant profit. That's the key. Let them know how big the cargo potential is. That's the first strategy.

The second strategy is that we have to guarantee that we will honour the contracts with the investors. There will be no instances in which, for example, within two years the contract is terminated. Security and legal certainty are very important. This is a long term investment, around 30–50 years. Investors need to be assured that the Government will guarantee that they can operate the ports until the contract ends.

Our regulations now enable the Government to provide guarantees to investors. However, there are not many concrete examples yet. Although, the cooperation with Hutchinson in Tanjung Priok Port can be used as an example to show how the government honours the contract.

The partnership with Hutchison [Hutchison Port Holdings, which operates the Jakarta International Container Terminal] is different than the Public Private Partnerships [PPP] schemes actively offered by the Government. So far no PPP projects for ports have been secured, is this correct?

Well, yes. Hutchinson is rather different. Their partnership is directly with Pelindo [the state-owned port operating company]. There are no pure PPP projects for ports yet. We have been encouraging IndII to work together with us to achieve this.

Since we are in Batam, could you tell me why none of the projects here have secured funding from private investors?

It's not that there has been no interest [from private investors], but the local authority has not been able to develop an attractive offer. That's what I think.

Do you think the local authority in Batam might benefit from improved policies at the national government level? What are the obstacles to developing PPP?

The Batam Authority actually prepared the necessary documents a long time ago. Before people were talking about PPP, Batam had already started getting ready. They have offered tenders, which unfortunately were not successful, due to lack of support in terms of strong regulations by central government.

For example, when the investors asked for 50 years, our regulations – at that time – only allowed a maximum of 30 years. There was no clear guidance on concessions and no incentives offered. Now the Government has established the Indonesia Infrastructure Guarantee Fund. This is a good move. There are also other companies who could provide guarantees and there's a new land acquisition law.

But the new land acquisition law has not been issued yet?

Not yet, but it will be one of the regulations that can support PPP.

According to the MP3EI [Master Plan for Acceleration and Expansion of Indonesia's Economic Development], Kuala Tanjung is the most suitable area for becoming an international hub – not Batam.

Yes, Kuala Tanjung is being prepared. It has the potential to become an international hub.

Kuala Tanjung is considered greenfield compared to Batam. What are the reasons behind this choice, when even Batam has not been successful in securing any investors?

As I have explained during socialisation efforts, we cannot proclaim that a port will be a hub. What makes it a hub is the market.

It's the same as if we were building a hotel. We don't know if the hotel is going to reach 100 percent occupancy levels. It is up to the market. However, in order to attract guests, the hotel has to be equipped with good facilities and services. The same principle applies to ports. The most important thing is that we are committed to build Kuala Tanjung as an international port. Whether it's going to be a hub is up the market.

Kuala Tanjung has the potential to become a hub because first, in order to become an international port, it has to have products. Sei Mangkei Industrial Estate is located near Kuala Tanjung. The industries there produce a large volume of goods, which means large cargo potential. In the nearby Belawan port, there are no adequate facilities. For example, the port channel and basin have to be dredged every year. With a large volume of cargo coming in, this is not adequate and efficient. Ships above "minus 9"[1] will not be able to enter. Kuala Tanjung has a larger potential depth and can accommodate larger ships.

Batam also has the potential to become a hub. It is acceptable to have two potential hubs. Malaysia has the Port of Tanjung Pelepas and Port Klang serving two slightly different segments, in my observation. One has an industrial estate; the other is just strategically located.

Kuala Tanjung is also strategically located in the Strait of Malacca. If either Kuala Tanjung or Batam can become an international hub, it is good news. However, we are still projecting that both ports can be international ports with the potential to become a hub. Malaysia has two and Singapore has only one.

In your opinion, is one of the reasons why Batam is not yet an international port because of pressures from Singapore and Malaysia?

I believe the pressures are simply competition. People often misinterpret the situation. We have not been able to compete but we are blaming it on other people, claiming that others have put up barriers. Now tell me, who can prevent us from building ports or from building piers? It is our land. If we have the funds, we can build our own ports and provide facilities without anyone telling us otherwise.

When the Port of Tanjung Pelepas was built, who could put a stop to it? It is the Malaysian's own territory. Singapore feels the impact of less cargo since the Port of Tanjung Pelepas began operation. The same thing will happen if Batam becomes an international port. The problem is that Indonesia does not have the funding and we are still relying on investors.

It is appropriate for Singapore to say to investors, I will give you discounts if you don't invest in other countries. Anywhere in the world, business means competition. If one offers a lower price to attract customers, that is normal.

Do you think the Government of Indonesia could follow what former Prime Minister Mahathir Mohamad

did when Malaysia built the Port of Tanjung Pelepas, where Malaysia funded all the initial infrastructure using the government money and then sold it to private companies such as Maersk Line, Ever Green, etc?

It depends on our national objectives. The Government can say we must build Batam – as when the Malaysians said they would build the Port of Tanjung Pelepas – with the government making all of the effort and providing all of the funds. The question is: who dares to say that?

It is up to us to say if we should build two ports, Kuala Tanjung and Batam using money from the national budget in, for example, 2013. The cost is Rp 4 billion for each port, a total of Rp 8 billion. We need to focus on these two ports and the rest can wait. It is possible. In another two to three years they will be up and running. The problem is, can we make the commitment?

Is there anybody from the Ministry of Transportation who can convince the higher level officials to commit?

In a sense, there should be a more holistic approach to making this a reality. We should work together with other stakeholders such as the Coordinating Ministry for Economic Affairs, Bappenas, etc. If we want to undertake a study and need funding, the Ministry of Finance should support us: "Indonesia Incorporated". I'm optimistic.

A last question: What do you think the impact of the National Port Master Plan will be over the next 5–10 years?

First of all, port development should be based on this Master Plan as it establishes a scale of priorities. We are no longer obliged to build unnecessary feeder ports if such ports are not needed for the time being. But we do need ports in the outer islands for security reasons, and to reduce the high prices that consumers pay for goods.

With the National Port Master Plan, now we are able to analyse if feeder ports need to be upgraded based on the occupancy rate. Busy ports can be moved up to a higher priority level. In the past, development was based on whoever was good at lobbying. In the future the National Port Master Plan should be our reference.

A second important point is the service issue. We should build not just the pier, but also the cranes. We should improve human resources and pay close attention to performance so that we are able to give the best service. All these concepts are included in the Master Plan and I hope it will be beneficial as guidance.

The Master Plan will stay dynamic and can be adjusted based on the current situation. Review should be undertaken in three to five years.

In the end, we can have a plan, but it is market forces that will determine the best way for us to carry it out. ■

—This interview was conducted by IndII Communications Officer Annetly Ngabito.

NOTES

1. "Minus 9" is a way to characterise ship size. It refers to the distance between the bottom of the ship and the surface of the water. Many ships are larger than this.

The Human Side of Infrastructure:
Recycling Jakarta's Trash

Resting after a hard day's work
Photo by Andre Susanto

*Editor's note: In this installment of our "Human Side of Infrastructure" column, author Andre Susanto took the time to learn about the lives of some of the citizens he passes every day on his way to and from his office. These are workers who play an important role in how Indonesian cities deal with their solid waste: scavengers, known as pemulung, who diligently sort and recycle much of what their wealthier fellow citizens discard. (For more information on the topic of solid waste management in Indonesia, and some of the plans being formulated to dispose of it in ways that promote public health and a cleaner environment, see the July 2011 edition of **Prakarsa** on "Urban Sanitation" or visit **www.indii.co.id**.)*

For most of us, separating our garbage is something we do out of conscientiousness or pride: so that we can feel good, or even boast, about our part in saving the environment. But for others, sorting trash is their livelihood. It certainly is for Ibu Desi. Her careworn face stares intently at whatever we put in our waste bins. Her slender fingers deftly sift through the rubbish, picking out what she can sell or use. Her practised eyes quickly scan each trash bag as if she had X-ray vision, as she tries to select the ones with the valuables and discard the rest. Despite her need to work quickly, she is respectful enough to not scatter the garbage everywhere. She carefully unties the bags, picks out what she can sell, and reties them, something not all scavengers take the time to do.

Hers is a familiar face I see every day as I leave for work. In my rear-view mirror, I can watch her springy steps slowly but surely retrace the route she has taken for many years. Despite her frail figure, her body language shows her determination.

Ibu Desi never married, and she lives alone in a shack near the housing complex, with no children or husband to come home to. As she points out, it is hard to make time to find a husband when you work almost 16 hours each day, including weekends. She doesn't regret being alone, saying that she wouldn't want to raise children in her living conditions. But it is clear that she loves kids. When she finds used toys, she often brings them to the children she knows. She could get a bit of money by selling them, but the pleasure of giving them to delighted children is worth more.

She doesn't say how much money she makes each day, only that it is barely enough for food. All that she finds has to be turned over to her landlord, who will assess the day's take and give her a daily allowance. In return, she is allowed to build her shack on his land. Her allowance depends on what she brings in.

Ibu Desi is a pemulung, one of the first levels of the recycling chain in Indonesia. For them, recycling is not just a virtue; it is a means of survival. The housing complex I live in has a "no pemulung" policy, but it is not strictly enforced. Only twice have there been problems related to the pemulung. Both times the problem involved someone new moving into the area Ibu Desi covers. Both times Ibu Desi fiercely defended her territory.

She lives a hard life, but her subsistence serves an important role in Indonesia's waste management. Without pemulung like her sifting through our garbage, the items she rescues would not be reused or recycled.

Ibu Desi is the sight that greets me when I leave for work in the morning, and Pak Agus and his family are the scene I pass on the way home. Their cart is on the side of a busy arterial road in South Jakarta. Pak Agus has two toddlers who usually perch on the cart, playing with the day's take while his wife looks on. Pak Agus always looks exhausted, but his sparkling smile for his children lights up his face.

His day is physically demanding, as he pulls the cart with a single strap on his shoulder, using a piece of rubber hose for padding. He goes around the neighbourhood to pick through the garbage and buy reusable or recyclable items.

He is not constrained to sell what he finds to a particular person; he can sell his finds to the highest bidder. Sometimes, he borrows money to be able to buy scrap and recyclables to resell. In general, he's able to make a little bit more money than Ibu Desi, which he needs to support his wife and children. They have no home other than his cart.

To help make ends meet, his wife, Ibu Eni, works at one of the copper recycling warehouses. She strips insulation off wire while watching over her two children. Along with other women and some young teenagers, she works diligently until her husband returns in the evening.

The warehouse receives copper wire from people like Pak Agus, who pick through the trash of construction sites. Ibu Eni and her fellow workers sit on the ground and, with a dull knife, quickly strip off the insulation. Their children play amid the gruff men unloading the scrap metal trucks. The children are at home darting among the workers and trucks, dodging heavy equipment and sharp metal objects.

As the day comes to a close, Pak Agus makes his way back towards his buyers so he can meet his family before dark. At five o'clock, Ibu Eni asks for her daily payment, gathers up her children and buys and prepares dinner.

The family is usually reunited by around six. Ibu Eni and Pak Agus sit close together on the pavement, enjoying family time as their children play in the cart. Often, the children squeal with delight as they find new treasures that their father has brought for them. By seven, when I usually pass by, the children have fallen peacefully asleep, unaware of the role they play in Indonesia's urban recycling. ■

The Expert View

Question: *In your opinion, what priority steps should be taken to implement the National Ports Master Plan effectively?*

Erry Hardianto
Senior General Manager, Trade & Marketing Department
PT Maersk Line Indonesia

"We need to integrate the plans of all relevant parties, creating consistency among stakeholders at every level. In this way the implementation of industry supply chains can go smoothly and push the transportation costs down to levels that are competitive with other Asian countries. Also, the port infrastructure planning should be designed in accordance with long term capacity and an economic life of up to 50 years. Several of Asia's big ports were even designed for an economic life of up to 100 years. Moreover, the construction and development of port areas should be adjusted to fit Indonesia's geographic conditions. We can determine the locations for building a hub-and-spoke port system through market mechanisms (a business orientation). This would be particularly useful for supporting efficient budgeting."

Octavianus Sembiring
Vice President PT Bank Mandiri (Persero) Tbk
Corporate Banking I Group – Relationship Department 3

"An accelerated program of port building in Indonesia can be achieved by increasing the participation of national banks. The main challenges for banks in financing this sector are project feasibility, large amounts of credit, and long time horizons. Therefore, a syndicated bridging loan from banks to companies and/or project financing, guaranteed by credit insurance followed by refinancing with a long term funding source, such as bonds or equity, is an ideal choice."

Saptono R. Irianto
Director of Commercial and Business Development
PT Pelabuhan Indonesia II (Persero)

"In order for the NPMP to be implemented effectively, the Government needs to be consistent and to simplify the licensing procedures. The port business entities (*badan usaha pelabuhan*) need to be flexible as they face changing patterns of trade. In general, steps need to be taken to push the costs of logistics down."

Outcomes:

A Model Landfill Moves Forward

An important strategy for meeting Indonesia's solid waste disposal needs is the development of regional sanitary landfills, to be established in several locations including Mamminasata. The planned facility will serve the metropolitan region that encompasses Makassar City and the regencies of Maros, Gowa, and Takalar. This region is a driver of economic growth for Sulawesi and all of Eastern Indonesia, but it is facing environmental and sanitation problems that can only be addressed through the development of a proper sanitary landfill. The Indonesia Infrastructure Initiative developed the Detailed Engineering Design (DED) for the project. This support allowed the Directorate General of Human Settlements to move forward with Mamminasata using a loan from JICA. The DED, a condition of the JICA loan, will contribute to a transparent and competitive bidding process and will ensure loan effectiveness and on-schedule implementation. The development of Mamminasata will serve as a model for other regions of Indonesia that must coordinate local and central government efforts to create sustainable sanitary landfills.

In Our Next Issue: Cross-Cutting Themes

Although the activities undertaken by the AusAID funded Indonesia Infrastructure Initiative and its partners in the Government of Indonesia are extremely diverse, they share a number of characteristics. Both Indonesian and Australian policymakers have affirmed the importance of cross-cutting themes such as gender and disability concerns, poverty, child protection, and safeguarding the environment. Equally important are strategies for risk management and for monitoring and evaluation. The July edition of ***Prakarsa*** will look at cross-cutting concerns that are particularly relevant to infrastructure programming, and examine practical approaches to meeting goals such as risk mitigation, conducting impact assessment, and gender mainstreaming in government.