Indonesia's Approach to Strategic Trade Controls: The Perspective of a Developing and Archipelagic Country

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Abstract

As a developing country, Indonesia is focusing on economic and trade development. Therefore, export and import of goods, including strategic ones, are important. Despite Indonesia not being a member of any of the export control regimes, it is aware of the potential risks caused by the possible misuse of dual-use technologies and materials, in particular for proliferation. Therefore, Indonesia has adopted an array of laws and regulations that govern its export and import control system. Furthermore, Indonesia considers that existing nonproliferation instruments, particularly the Nuclear Nonproliferation Treaty (NPT), the Chemical Weapons Convention (CWC), and the Biological and Toxic Weapons Convention (BTWC), are critical elements to counter the proliferation of Weapons of Mass Destruction (WMD).

Keywords

Nonproliferation, export control, strategic trade control, Indonesia

Introduction

Indonesia has been accused of showing little enthusiasm for nonproliferation, including for strategic trade controls.[2] According to this view, Indonesia is unconvinced of the value of multilateral export control regimes and considers that these regimes are impeding access of non-nuclear weapons states (NNWS) to technologies associated with peaceful uses of nuclear energy. This would explain why Indonesia is not a member of any of these regimes and has not adopted a control list for most dual-used items. Similarly, the report of a Pacific Forum CSIS workshop on strategic trade controls held in September 2014 notes that despite being a party to the Nuclear Nonproliferation Treaty (NPT), the Biological and Toxic Weapons Convention (BTWC), the Chemical Weapon Conventions (CWC), as well as other international nonproliferation instruments, Indonesia does not have a strategic trade control system.[3]

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[2] Stephanie Lieggi, "The Nonproliferation Tiger: Indonesia's Impact on Nonproliferation in Asia and Beyond," NTI, March 2012, <www.nti.org>.

[3] Carl Baker, David Santoro and John K. Warden, "Closing the Nonproliferation Gap: Toward the Universalization of Strategic Trade Controls in the Asia-Pacific," Pacific Forum CSIS, (Taipei: Pacific Forum CSIS, 2014), pp. 5-6.

For the past few years, Indonesia has been the target of outreach activities conducted by members of export control regimes. Many question Jakarta's stance towards strategic trade controls by assuming that Indonesia is not fully aware of the increasing importance of strategic technologies and items, such as explosive materials, chemical substances, nuclear materials, drugs, and military equipment. Others, however, believe that it is unreasonable to conclude that Jakarta ignores the possible misuse of such technologies and materials, and their impact on security and proliferation challenges in the region. In reality, Jakarta is paying attention to the risk of proliferation, exemplified by numerous workshops, meetings, and seminars that representatives of the Indonesian Government's relevant agencies, such as the Ministry of Foreign Affairs, Ministry of Trade and Directorate General of Custom and Excise, have attended.

Indonesia has a long-standing commitment to the fulfillment of the three pillars of the NPT, as demonstrated through several leading roles including, among others: (i) Coordination of the Non-Aligned Movement/ NAM Working Group on Disarmament and Nonproliferation since 1994; (ii) Co-Presidency of Article XIV Conference of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) from 2013 until 2015; (iii) Presidency of the Conference of State Parties and Signatories of Nuclear-Weapon-Free Zones (NWFZ) in 2015; and (iv) member of UN Secretary-General Group/Panel of Experts on Fissile Material Cut-Off Treaty (FMCT). Indonesia's approach to strategic trade controls needs to be discussed against the backdrop of this commitment.

This is the purpose of this paper, which begins with an examination of Indonesia's historical approach to nonproliferation generally and strategic trade controls specifically. The paper then describes Indonesia's current trade control system, including key legislation and implementing authorities. Finally, the paper identifies the limitations and challenges of Indonesia's system, such as its unique geographical features, budget and capacity constraints, and difficulties with interagency coordination. It concludes with a discussion of policy recommendations to strengthen Indonesia's controls.

Indonesia's Approach to Strategic Trade/Export Controls

Indonesia considers that existing nonproliferation treaties and conventions, notably the NPT, the CWC, and the BTWC are critical elements to counter the proliferation of Weapons of Mass Destruction (WMD). In the context of the CWC specifically, international cooperation on promoting the use of chemical science and transfer of technology is possible. Indonesia remains unconvinced with multilateral export controls regimes such as the Australia Group (AG) because they limit such cooperation.

In connection to the BTWC, Indonesia is concerned that strategic trade/export control regimes will make the BTWC less relevant and weaken multilateral efforts to strengthen the Convention. Furthermore, Indonesia is of the view that if informal mechanisms outside the Convention's framework continue to be emphasized, this will weaken the status of the Convention itself. The failure of multilateral negotiations to establish a protocol for the BTWC that would provide verification and control capabilities for the export and import of dangerous biological agents and the focus on trade controls instead sets a bad precedent. Without robust verification mechanisms, BTWC State Parties will be unable to verify whether biological agents are diverted to military or other non-peaceful purposes. In that case, inadequate verification will eventually hamper effective trade control of such agents.

In 2002, in his State of the Union Address, U.S. President George W. Bush first introduced a multilayered strategy to prevent proliferation. At that time, President Bush stated that the United States intended to "work closely with [allies] to deny terrorists and their state sponsors the materials, technology, and expertise to make and deliver WMD."[4] This intention was followed up with concerted efforts by the US "diplomatic machinery" to introduce initiatives such as strategic trade controls or other forms of international cooperation

[4] Sibylle Bauer and Ian Anthony, "Controls on Security-Related International Transfers," in *SIPRI Yearbook 2007: Armaments, Disarmament and International Security* (Bromma: CM Gruppen, 2007), pp. 25.

of like-minded partners outside the multilateral framework. In addition to furthering informal mechanisms, these efforts were supported by a series of initiatives to raise global awareness regarding the impact of WMD proliferation through various discussions at the United Nations. In the UN Security Council, these efforts led to the adoption of UN Security Council resolution 1540 in 2004 and some sanction resolutions intended to restrict the transfers of items specified on control lists to the Democratic People's Republic of Korea/DPRK and Iran.

One of the first attempts to convince Indonesia to participate in the export control regimes was during the visit of the US Secretary of State Condoleezza Rice to Indonesia in March 2006. In the midst of the bilateral consultations, Rice highlighted the importance of Indonesia as one of the littoral states to strategic maritime routes to participate in the Proliferation Security Initiative (PSI) to Indonesian Foreign Minister Hassan Wirajuda. At the meeting, Minister Wirajuda conveyed his concerns about the PSI, which applies "interdiction principles" and would have negative implications towards Indonesia's jurisdiction and sovereignty, particularly in some critical maritime areas, such as the Straits of Malacca. While Indonesia has no objection to the noble objective of the Initiative, it maintains that there are at least three rationales for Jakarta's rejection of the PSI. First, the "Interdiction Principles" of the PSI reverses the 1982 UN Law of the Sea Convention (UNCLOS).[5] Second, the process of formulating the PSI is selective, unilateral in nature and not multilaterally negotiated. Third, as the PSI contradicts the UNCLOS, it weakens the integrity of international law.[6]

In line with the US intention to strengthen international cooperation in countering proliferation of WMD, several informal export control regimes including the Australia Group (AG), the Missile Technology Control Regime (MTCR), the Nuclear Supplier Group (NSG), and the Wassenaar Arrangement on Export Control for Conventional Arms and Dual-Use Goods and Technology (WA) were reintroduced to several countries, including Indonesia. So as to expedite expansion of participation in these regimes, member countries have been actively conducting outreach activities to non-participating states in an effort to increase adherence to the control of those items targeted by the regimes. In Southeast Asia, Indonesia has been considered as one of the potential partners to be engaged due to its economic size and its strategic geographical position as a potential transit point for sensitive/strategic items and technologies. As a result, since 2006, relevant government authorities in Jakarta such as Ministry of Foreign Affairs, Ministry of Trade, Ministry of Industry, Ministry of Finance (Directorate General of Custom and Excise), Nuclear Energy Regulatory Agency (Bapeten), and National Nuclear Energy Agency (Batan) have been frequent recipients of delegations encouraging participation in the regimes. Nevertheless, despite its recognition of the growing challenges posed by WMD proliferation, Jakarta is yet to be convinced to participate as a member or participant of any regimes related to strategic trade.

There are three reasons that underlie Jakarta's position on strategic trade policy. First, it believes that the regimes could potentially hamper import and export of dual-use goods and technology. In accordance with the common position of NAM Countries, Indonesia believes that those regimes do not fully accommodate the interest of developing countries, particularly in the area of peaceful uses of sensitive materials and technologies. Indonesia is concerned over the absence of specific reference to the transfer of technology and international assistance in the provisions of those regimes, which is critical for developing countries. Second, the regimes were formulated in a selective, non-inclusive and limited manner outside the existing UN framework. Indonesia has always stressed the importance of multilateralism as a core principle in negotiations of disarmament and non-proliferation. Thus, despite its concern about WMD proliferation, Indonesia has asserted that the achievement of non-proliferation objectives must be pursued in a comprehensive, balanced, and inclusive manner under the applicable international law. Third, the regimes

[5] Rick Rozoff, "Control of the World's Oceans. Prelude to War?," Global Research, January 2009, <www.globalresearch.ca>.

[6] Andy Rachmianto, "Issues Behind Indonesia Joining the PSI," *The Jakarta Post*, June 11, 2006.

are equipped with guidelines, control lists, or trigger lists that could potentially impede the trade of dual-use goods. In the context of Indonesia, this may conflict with the obligations of the government to protect the interests of small-medium enterprises potentially affected by trade controls.

Nevertheless, Indonesia remains committed to international efforts addressing WMD proliferation, including strategic trade control. This commitment is visible in the form of activities such as:

(i) actively attending various international forums addressing the proliferation threat of WMD;

(ii) actively cooperating with the international community to combat the misuse of dual-use goods through information exchanges, joint-operations, and trans-boundary movement control;

(iii) becoming a State Party of and actively supporting the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention, the Biological and Toxic Weapons Convention, and the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trafficking of Small Arms and Light Weapons (SALW);

In Southeast Asia, efforts to promote nuclear disarmament and non-proliferation have intensified in recent years. During its chairmanship of the Association of Southeast Asian Nations (ASEAN) in 2011, Indonesia facilitated the conclusion of the negotiations on the revised Southeast Asian Nuclear-Weapon-Free Zone Treaty (SEANWFZ) Protocol between ASEAN member states and Nuclear-Weapon States (NWS).[7] Indonesia continues to encourage consultations between ASEAN Member States and NWS with a view to enable NWS to sign and ratify the Protocol of the SEANWFZ.

As one of the Annex II countries, Indonesia has also ratified the Comprehensive Nuclear Test-Ban Treaty (CTBT), which prohibits nuclear tests.[8] Indonesia has called on all states to start their own ratification process, particularly those whose ratification is required for the Treaty to enter into force. In the region, Indonesia also recognizes the importance of developing strong cooperation to improve and strengthen the non-proliferation regime through, for instance, the Asia Pacific Safeguards Network (APSN).[9]

Regarding efforts to strengthen its national legislation against WMD, since 2013, Indonesia has started the process of drafting a comprehensive law on nuclear security.[10] Indonesia sees the importance of strengthening its national legislation, which in turn can reinforce and complement the existing law, such as Law No. 10 on Nuclear Energy (1997).[11] The new draft law is expected to cover, *inter alia*, total prohibition on the use, possession and transfer of nuclear weapons, strengthening of transfer controls of nuclear and radioactive materials, and enhancing the national nuclear security architecture. In addition, Indonesia acceded to the International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT) in March 2014.[12] The accession to ICSANT strengthens existing legislation regarding nuclear security, improves the legal

[7] ASEAN Secretariat, "Chair's Statement of the 19th Asean Summit Bali 2011," ASEAN Secretariat, November, 19, 2011.

[8] CTBTO, "CTBT Brought Closer to Entry into Force by Indonesia's Ratification," News Release, February, 6, 2012, <www.ctbto.org>.

[9] Khairul and Ferly Hermana, "Indonesia's Pioneering Effort to Self-Assess Nuclear Security Culture," *1540 Compass*, September, 2012, <www.cits.uga.edu>.

[10] Government of Indonesia, "Statement of Indonesian Government at Main Committee III 2015 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons," Permanent Mission of the Republic of Indonesia to the United Nations, May, 2015.

[11] Government of Indonesia, "National Report on Compliance to Convention on Nuclear Safety for the 6th Review Meeting 2014, "Nuclear Energy Regulatory Agency of Indonesia (BAPETEN), March, 2014.

[12] Government of Indonesia, "Statement of the Government of Indonesia at the 54th Meeting of the 70th Session of the General Assembly on Agenda Item No.87 of the Un General Assembly on Report of the International Atomic Energy Agency," Permanent Mission of the Republic Indonesia to the United Nations, November, 2015.

framework and reinforces national measures on nuclear security. Indonesia has also ratified the Convention on the Physical Protection of Nuclear Material (CPPNM) and its amendment.[13]

In short, although Indonesia is not a member of export control regimes, it has shown its commitment to preventing WMD development or transfer. Indonesia believes that the ultimate goal of the export control regimes is in line with its foreign policy, which, among other goals, seeks to limit the risk of having materials or technologies fall into the hands of individuals/groups who may illegally utilize them for purposes that threaten international peace and security.

Indonesia's Current System of Strategic Trade Controls

Indonesia has adopted an array of laws and regulations governing the export and import of strategic goods. Current regulations concerning strategic trade controls that have been formulated by the Indonesian Government are listed as follows:

1. Law Number 10 of 1995 and amended through Law Number 17 of 2006 regarding the Customs affairs;
2. Law Number 16 of 2012 on Defense Industry;
3. Law Number 7 of 2014 on Trade;
4. Law Number 10 of 1997 on Nuclear Energy;
5. Law Number 9 of 2008 regarding the Use of Chemical Materials and Prohibition on the Use of Chemical Materials as Chemical Weapons;
6. Law Number 15 of 2003 on Terrorism;
7. Several regulations on Small Arms and Light Weapons (SALW): Emergency Law Number 12 of 1951 on Fire Arms and Explosives and Decree of the Head of Indonesian National Police Number SKEP/82/II of 2004 which contains an established national system of export and import licensing and authorization of SALW;
8. Government Regulation Number 29 of 2008 regarding License of the Use of Pengion Radiation and Nuclear Material Resources;
9. Government Regulation Number 54 of 2012 on the Safety and Security of Nuclear Installations;
10. Government Regulation Number 2 of 2014 on Licensing of Nuclear Installations;
11. Presidential Decree Number 125 of 1999 regarding Explosives Materials;
12. Presidential Decree Number 58 of 1991 on ratification of Convention of Biological Weapon Decree of Minister of Trade Number 01 of 2007 regarding General Provisions on Export; also describing the categories of goods which differentiated as regulated goods, controlled goods and prohibited goods;
13. Decree of Minister of Finance Number 145/PMK.04 of 2007 regarding Customs Provisions on Export.

These regulations are related to strategic goods and materials, including nuclear, chemical, and explosive materials and are currently used as the main regulatory references. They cover three essential aspects, namely control, licensing, and enforcement. Acknowledging that there is room for improvement, Indonesia has also considered developing a more comprehensive regulation on tightening the control of transit and transshipment of goods, especially dual-use goods. In this regard, Indonesia is in the final stage of revising the government regulation on the safe transport of radioactive materials, determining the security requirements applying to the transport and shipment of nuclear materials and radioactive sources.[14] This revision is to be conducted in parallel with the drawing up of the new law on nuclear security.

Likewise, Indonesia continues to strengthen national coordination on the implementation of the Additional Protocol to the IAEA Safeguards Agreement with relevant stakeholders. Indonesia signed the comprehensive

[13] Ibid.

[14] Government of Indonesia, "National Progress Report of Indonesia at the Nuclear Security Summit 2014" Ministry of Foreign Affairs of Indonesia, March, 24, 2014

safeguards agreement with the International Atomic Energy Agency (IAEA) in 1980 and it ratified an Additional Protocol in September 1999.[15] Since August 2003, Indonesia has been implementing Integrated Safeguards, which function as the optimum combination of all safeguards measured available to the IAEA under comprehensive safeguards agreement and additional protocols to achieve maximum effectiveness and efficiency in meeting the IAEA safeguards obligation with available resources.[16] In terms of its application on the ground, Indonesia cooperates with the IAEA to strengthen the existing network of Radiation Portal Monitors (RPMs) in four key seaports, namely Belawan, Bitung, Semarang, and Makassar.[17] In the near future, Indonesia wishes to expand its monitoring program to selected border stations.

Laws and regulations regarding strategic trade controls have been developed in accordance with three general principles, identified as follows:[18]

a. Export of goods that may harm the Health, Safety, Security, Environment and Moral of Nation (K3LM) or, are contrary to international treaties are controlled;

b. The exportation and importation of those goods can only be done by companies that have been approved by the government as Registered Exporters (ET), Importer Manufacturer (IP) and Registered Importer (IT);

c. The export and import of hazardous goods is subject to verification or technical examination by an inspector appointed by the Minister of Trade in order to ensure the type of goods and the correctness of the documents.

Against this backdrop, the Ministry of Trade determined the that following strategic and dangerous goods are subject to government regulation and are controlled through licensing:[19]

a. Color multifunction machines, color photocopying machines and color printers. Regulated in the Minister of Trade Regulation Number 15/M-DAG/PER/3 of 2007 on the import provisions of color multifunction, color copiers and color printer engines;

b. Explosive materials. Regulated in the Presidential Decree Number 125 of 1999 on Explosive materials, Minister of Trade and Industry Regulation Number 230/MPP/Kep/7 of 1997 on regulated import products, Minister of defense Regulation Number 22 of 2006 on rules, regulation, control and development of commercial explosives business entities;

c. Dangerous Goods. Regulated in the Minister of Trade Regulation Number 44/M-DAG/PER/9 of 2009 on the importation, distribution and controlling of dangerous goods;

d. Precursors. Regulated in the Minister of Trade and Industry Decree Number 647/MPP/KEP/10 of 2004 on Import Provision of Precursor, Minister of Health Regulation Number 168 of 2005 on pharmaceutical precursors; Minister of Trade Regulation Number 47/M-DAG/PER/7 of 20012 on Export Provision of precursor;

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[15] Ibid.

[16] Solichah, Mutiara. "Implementation of Integrated Safeguards in Indonesia: Nuclear Energy Regulatory Agency," Safeguard Symposium IAEA, 2010, <www.iaea.org>.

[17] Government of Indonesia, "National Detection Plan on the Illicit Trafficking of Nuclear and Other Radioactive Materials," Nuclear Energy Regulatory Agency of Indonesia (BAPETEN), 2015, <www.bapeten.go.id>.

[18] Government of Indonesia, "Strategic Trade Control in Indonesia," Ministry of Trade of Indonesia, Directorate Export of Industry and Mining Products, 2014.

[19] Ibid.

e. Nitrocellulose. Regulated in the Minister of Trade and Industry Decree Number 418/MPP/KEP/6 of 2003 on import regulation of nitro cellulose;

f. Ozone depleting substances. Regulated in the Minister of Trade Regulation Number 38/M-DAG/PER/10 of 2010 on revision of Minister of trade Regulation Number 24/M-DAG/PER/6 of 2006 on import provisions of ozone depleting substances;

g. PCMX 4 Chloro-3,5-Dimethylphenols. Regulated in the Minister of Trade and Industry Decree No.417/MPP/KEP/6 of 2003 on PCMX (4 Chloro-3, 5-Dimethylphenol);

h. Radioactive materials. Regulated in the Government regulations Number 29 of 2008 on the utilization license of the use of ionizing radiation sources and nuclear materials.

The licensing process for export-import activities, including for strategic goods and materials, has been incorporated into the Indonesian National Single Window (INSW). The INSW itself functions as an integrated online system for customs document handling and goods clearance. It enables the single submission of data and information, single and synchronous processing of data and information, and single decision-making for customs release and clearance. The INSW, which currently involves 18 relevant government authorities, was established on the basis of four main attributes, (i) one single national portal with one web-address to carry out all transactions related to trading and logistic activities; (ii) a national portal that functions as a "messaging-hub," connecting all related government authorities and traders; (iii) a mechanism for authorization of licensing, although permit and recommendation of export and import activities authorization remains within each government authority; and (iv) output of licensing, permit and recommendation from government authorities shall be uploaded or transmitted electronically to database of national portal, which then allow Directorate General of Custom and Excise to give approval in a timely manner for the needs of custom clearance and release.[20]

Several government institutions are responsible for strategic trade control management. For example, the Directorate General of Customs and Excise of the Ministry of Finance (Kemkeu) plays an essential role in the control of export and import activities at the commercial ports. In general, Custom officers have the authority to conduct several activities such as:[21]

a. Pre-service control. Control is conducted through a risk management system. This approach uses an intelligent operation method. In this regard, the target to be controlled is chosen by analyzing the supplier, means of transportation, country of origin and information gathering;

b. Control during service process. Control is conducted through selective random examination of samples or on Intelligence Notes resulting from analysis of custom documents;
c. Post-service control. Control of exported or imported goods that are not covered by the pre-service and during service controls, upon preliminary indication of violations of regulations. This control includes post audit of the importer and exporter.

According to Law Number 17 of 2006 on Customs and Decree of Minister of Finance Number 161/PMK.04/2007 on Export and Import Control of Restricted Goods, the Indonesian Government has the

[20] Government of Indonesia, "Indonesia National Single Window." Single Window Working Group Capacity Building Workshop," APEC - 2009/SCCP/SWWG/WKSP4/016, Singapore, April 2009.

[21] Government of Indonesia, "Indonesian National Report on the Implementation of Security Council Resolution 1540 (2004) - Annex to the Note Verbale Dated 28 October 2004 from the Permanent Mission of Indonesia to the United Nations Addressed to the Chairman of the 1540 Committee," October 2004.

authority to apply import-export prohibition and restriction known as *larangan terbatas* or *Lartas* on export and import of certain materials or goods which are listed on the INSW website based on suggestions and inputs submitted by technical ministries/agencies to the Ministry of Finance.[22] Such materials or goods include dual-use items such as explosive materials, radioactive materials, and pharmaceuticals/non-pharmaceuticals precursors.[23] In terms of detection, by referring to the list, customs officers are obliged to take necessary actions such as examination, termination, and foreclosure to control export and import activities of such materials and goods.[24] If there is an indication of criminal offences, customs investigation officers may conduct investigation procedures and prepare case files as well as related documents required to conduct legal proceedings. In addition, the two regulations also stipulate a provision on exemption of 'restricted ban' which is applied in the case of importers or exporters managing to obtain letters of recommendation from relevant technical ministries/agencies.

While the Directorate General of Customs and Excise of the Ministry of Finance (Kemenkeu) is responsible for the enforcement of laws and regulations, the Ministry of Trade (Kemendag) and the Ministry of Industry (Kemenperind) are the primary institutions that issue the licenses for almost all dual-use items. As for export and import of military equipment, Law Number 16 of 2012 on the Defense Industry appoints the Ministry of Defense as a license issuer. In this regard, the application to obtain a license should include the end-user certificate, letters of information on the country of destination, letters of documentation (picture), and export declaration. Once a license has been issued, customs officers will conduct physical inspections of the controlled military goods to be exported. For conventional weapons or small arms and lights weapons (SALW), in addition to license from the Ministry of Defense, recommendation from the Armed Forces Strategic Intelligence Agency (BAIS) and the National Police Chief are also required.[25]

As an integral part of enforcement, the formulation of strategic trade policy involves a number of relevant government institutions that interact with each other and provide input to relevant agencies on CBRN issues, including strategic goods and materials under a forum called the 'Chemical Biological Radioactive and Nuclear (CBRN) Working Group.' The Ministry of Foreign Affairs (Kemlu) is the focal point, and it is currently attended by representatives from the Coordinating Ministry for Political, Legal, and Security Affairs (Kemenkopolhukam), Ministry of Defence (Kemhan), National Disaster Management Agency (BNPB), Ministry of Health (Kemenkes), Ministry of Environment and Forestry (Kemen-LHK), Indonesian National Police (Polri), National Food and Drug Control Agency (BPOM), Nuclear Energy Regulatory Agency (Bapeten), Indonesian National Armed Force (TNI), State Intelligence Agency (BIN), State Ministry of Research, Technology, and Higher Education (Kemenristekdikti), and the Indonesian Institute of Science (LIPI).

Limitations of Indonesia's Strategic Trade Controls

As the world's largest archipelagic country with more than 17,000 islands scattered from Aceh Province in the west and Papua Province in the east, Indonesia has 5,800,000 square kilometers of maritime zone under its jurisdiction and one of the longest coastlines in the world. Indonesia's maritime zone comprises 300,000 square kilometers of territorial sea, 2,800,000 square kilometers of archipelagic waters, and 2,700,000 square kilometers of the exclusive economic zones (EEZ).[26] Geographically, Indonesia is also a littoral

[22] Government of Indonesia, "*Tentang Lartas, Kategori dan Perijinannya"*, [About Lartas, Categorization, and Its Licensing], Directorate General of Customs and Excise Ministry of Finance, March 29, 2014, <www.bctemas.beacukai.go.id>.

[23] Government of Indonesia, "Indonesia National Trade Repository: *Lartas* Information," Indonesia National Single Window (INSW), September, 2015, <www.insw.go.id>.

[24] Government of Indonesia, "*Tentang Lartas, Kategori dan Perijinannya"*, [About Lartas, Categorization, and Its Licensing], Directorate General of Customs and Excise Ministry of Finance, March 29, 2014, <www.bctemas.beacukai.go.id>.

[25] Government of Indonesia, "Strategic Trade Control in Indonesia," Ministry of Trade, Directorate Export of Industry and Mining Products, 2014.

[26] Sodik, Dikdik Mohamad. "The Indonesian Legal Framework on Baselines, Archipelagic Passage, and Innocent Passage,"

state of the Straits of Malacca, which is considered the longest and busiest straits used for international navigation, as well as for strategic sea lanes of communication. On that note, Indonesia's maritime zone is utilized by different kind of vessels, including commercial and oil tankers, military, and ships carrying dangerous materials. To accommodate international and domestic navigation, according to the Indonesian Ministry of Transport, no less than 500 modern and semi-modern seaports are now operating in Indonesia.[27] While these characteristics could be considered as an economic and strategic advantage, they also pose security risks for the Indonesian government, particularly regarding the potential threat to maritime security. Implementing a national strategic trade control program is challenging for Jakarta because thousands of its islands serve as exit and entry points. Indeed, they can be used for the illegal transit and transshipment of strategic dual-use goods.

Successful implementation of strategic trade controls relies on the availability of a sufficient number of enforcement officers and supporting facilities such as patrol vessels. In Indonesia, the General Customs and Excise Directorate of the Ministry of Finance plays an essential role in the control of export and import activities at the commercial ports. Unfortunately, Indonesia has only around 11,600 custom officers responsible for enforcement.[28] With regard to supporting facilities, Customs and Excise Directorate possesses only 173 patrol vessels, comprised of fast patrol boats which are very slender vessels, and speedboats to covers waters around the thousands of islands. The deployment and operations of all these vessels are coordinated under main customs operational ports located in Tanjung Balai Karimun, Pantoloan, Tanjung Priok, Batam, and Kepulauan Riau.[29] In terms of annual budget, for this fiscal year, the Customs and Excise Directorate had approximately US$ 274 million or equivalent to only 0.17 percent of the national budget (APBN).[30] These facts and figures suggest that Indonesia faces tough challenges in implementing comprehensive strategic trade controls and that it cannot be expected to do so without significantly improving its capacities.

Another problem is inter-agency coordination. The organizations managing exports and imports in Indonesia are not integrated. At the national level, there isn't one organization with the authority to deal with and coordinate strategic trade control. Different organizations and agencies have different mandates and authorities, compromising the effective and efficient control of exports and imports.

Conclusions and Recommendations

Several arguments are relevant to reinforce Indonesia's position with regard to strategic trade control. First, although Indonesia is not a member of any of the international export control regimes, it is aware of the possible misuse of dual-use technologies and materials and has adopted an array of laws and regulations that govern its export and import control system. Second, these regimes remain unable to accommodate the interests of developing countries, including Indonesia's, particularly in relation to the use of these goods and technologies for peaceful purposes. Third, procedurally, Indonesia is concerned that regimes negotiated outside the UN or other multilateral frameworks will contradict its interests as they were developed by producer countries or developed countries without proper involvement of developing countries. Fourth, Indonesia believes that the existing regimes, such as the NPT, CWC and BTWC are sufficient to fight WMD

Ocean Development and International Law 43:4, (October 2012), p. 330.

[27] Government of Indonesia, "*Sistem Informasi Geografis Prasarana Transportasi* [Geographical Information System on Transport Facilities]," Ministry of Transport Database, September 2015, <www.gis.dephub.go.id>.

[28] Nurhayat, Wiji, "*Wilayah Lebih Luas, Jumlah Pegawai Bea Cukai Ri Kalah Jauh Dari Malaysia* [with Wider Region, the Number of Ri's Custom Officers Is Less Than Malaysia's]," *Detikfinance Economy and Business*, October 2014, <www.finance.detik.com>.

[29] Government of Indonesia, "*Tambahan Kapal Patroli Bantu Bea Cukai Perkuat Pengawasan Laut* [Additional Patrol Vessel Strengthen Customs Capability of Maritime Surveillance," Directorate of Customs and Excise of Indonesia, October 2015, <www.beacukai.go.id>.

[30] Sasongko, Agung, "*DPR Setujui Anggaran Kemenkeu 2016 Sebesar Rp. 30,9 Triliun* [DPR Approves Rp. 30.9 Trillion Budget for Ministry of Finance]," *Antaranews*, October 7, 2015, <www.antaranews.com>.

proliferation. Significantly, these instruments have been able to accommodate the interests of developing countries, notably by guaranteeing their inalienable rights to the peaceful uses of materials and technology. Fifth, while several export control regimes offer financial incentives or other political advantages, Indonesia remains unconvinced that participation to such regimes is to its interests. To Jakarta, the rights and obligations of each member with regard to the "transfer of technology" and "international assistance" should be clearly guaranteed. Lastly, Indonesia itself is confronted with challenges in implementing strategic trade controls, especially given its geographical situation as an archipelagic state that creates so many unaccounted entry and exit points. This requires thorough scrutiny using the latest technology, such as Radioactive Portal Monitors (RPM) or Gamma Ray Container Scanners. The problem is that the Indonesian Government has limited resources.

Looking to the future, however, there are a number of actions that Jakarta should take, as follows:

a. The industry/public need to be well informed regarding the export control system and the government needs to review the readiness of the industry, especially small and medium enterprises (SME/SMI);

b. Existing regulations must be strengthened;

c. The allocation of budget for control mechanisms on export and import must be increased;

d. A common understanding on export control regimes between relevant ministries/agencies needs to be built;

e. Intelligent information sharing needs to be strengthened;

f. The implementation of control based import-export transactions (Custom Evaluation), which has been implemented by the Directorate General of Customs, needs to be improved;

g. The possibility to create an umbrella law to regulate export-import of dual use item needs to be discussed.

The implementation of the aforementioned actions would depend on the priorities laid out by the new government of President Joko Widodo. While non-proliferation is an important concern in Indonesia, it is outranked by many other priorities. Progress, in sum, will continue but remain slow.