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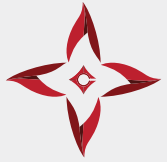
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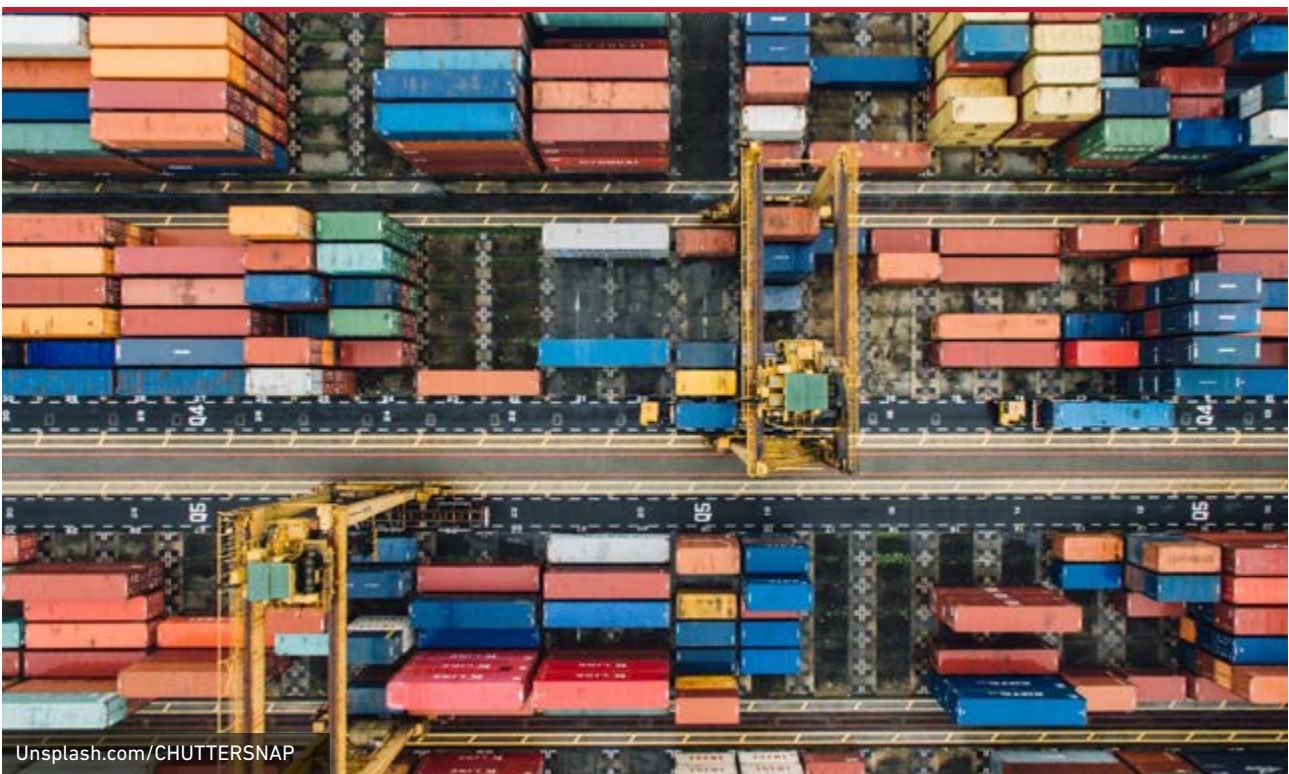


Policy Brief No. 13

Changes to Trade Policy in Presidential Regulation 32/2022 on Neraca Komoditas

by Krisna Gupta

This policy brief is written as a follow-up to CIPS' policy paper "The Advent of a New Trade Governance After the Omnibus Law Neraca Komoditas" that was published before the issuance of Presidential Regulation No. 32/2022.



Legalized on February 21st 2022, Presidential Regulation No. 32/2022 on *Neraca Komoditas* is the implementing regulation of the Job Creation Law on trade. It regulates the use of and the procedure to enact *Neraca Komoditas*. The regulation provides a legal basis for the new *Neraca Komoditas* trade mechanism after the Government of Indonesia has promoted the idea in the past year (see Gupta, Pane, & Pasaribu, 2022 for early analysis on the *Neraca Komoditas*). The *Neraca Komoditas* will be rolled out for rice, salt, sugar, beef and fisheries products in 2022, while other goods that require export and import licensing will start to use *Neraca Komoditas* in 2023.

What is *Neraca Komoditas*?



Neraca Komoditas is a centralised integrated database of supply and demand for traded goods that determines import and export decisions. Data for each good included in the *Neraca Komoditas* will be compiled annually, reconciling data of supply and demand of the good by December.

The demand data mainly comes from firms. Firms must provide their estimated sales and purchases through a new system called *Sistem Nasional Neraca Komoditas* (SNANK), a subsystem of *Sistem Indonesia National Single Window* (SINSW). Firms must provide information such as export and import plan, export and import realization of the previous year, production plan, domestic sales, and production capacity, among others. This information is then forwarded to respective Ministries controlling each commodity (for example, Ministry of Marine Affairs and Fisheries for fisheries). If the commodity is used for production, then the data will also be forwarded to the Ministry of Industry.

Firms will have to submit their planned export or import before September. The government can order a surveyor verification to verify whether the firm's capacity on the ground reflects their proposed export or import quantity. Data on goods that are considered "strategic"¹ will need to be submitted by the government before October.

Data for the supply side of *Neraca Komoditas* will be supplied by Technical Ministries. Producing firms do not directly provide domestic production data to SNANK. Instead, the task of supplying the production data is given to Technical Ministries, such as the Ministry of Agriculture or the Ministry of Marine Affairs and Fisheries. The Ministries have until October to complete their supply data. The ability to collect reliable and accurate data on agriculture production and supply has long been a major concern for Indonesia, as in many countries (Kadir & Prasetyo, 2021). In addition, the data presented in the *Neraca Komoditas* do not seem to capture the variety or quality of a particular good that firms may need in their production, which undermines the value of the database.

For primary goods, industrial inputs, and strategic goods, the Presidential Regulation suggests that the supply and demand data will be reconciled through a ministerial coordination meeting. It is unclear how the coordination meeting will affect the final export and import quota allowed, considering the supply and demand data are supposed to be finalized by one Ministry. Given that a coordination meeting is still required to agree on data supplied by Ministries and on export and import quota, it is hard to see the difference between *Neraca Komoditas* and the old licensing system, at least in regards to setting the export and import quota.

For goods that are not considered as primary inputs or strategic goods, the *Neraca Komoditas* will be set automatically with no meeting needed. By December, the *Neraca Komoditas* for the following year should be enacted. Based on data tracking in the *Neraca Komoditas*, import and export licenses can be issued when there are shortfalls or surpluses in domestic supply. However, given the longstanding concern on data reliability and accuracy, establishing export and import decisions based on a relatively fixed and static set of statistics instead of fluid market signals may risk exacerbating supply shortages.

¹ Trade of some strategic commodities such as rice and white crystal sugar is under strict control of the government and can only be traded by State-Owned Enterprises.

Ensuring Smooth Implementation

The Presidential Regulation adopts 'silence is consent' approach to the import and export licensing. After *Neraca Komoditas* for a year is set, firms can apply for import or export license through INSW for that particular year. If the system acknowledges a firm has a complete set of documents² and if the government does not raise any concerns to the application, then the export or import license will be automatically issued after five days. This can potentially speed up the licensing process, although the system does not address the typically lengthy process firms have to go through to collect the required documentations in order to comply with non-tariff trade measures (Amanta, 2021).

Presidential Regulation No. 32/2022 tries to minimize dispute between Ministries by inserting a clause on one-Ministry-one-commodity ruling. That is, data of supply and of demand for each good is collected by one Technical Ministry. Ministry of Marine Affairs has already enacted Ministry of Marine Affairs and Fisheries Regulation No. 24/2021 on *Neraca Komoditas* for Fisheries, which indicates *Neraca Komoditas* for fisheries products will come from only Ministry of Marine Affairs. For goods overseen by two or more Ministries, the Coordinating Ministry of Economic Affairs will assign only one Ministry to be in charge.

In case the integrated *Sistem Indonesia National Single Window* experiences some problems, the Presidential Regulation provides a contingency plan by using an alternative system. Firms will be informed if the system is down and when the problem is fixed. However, the Presidential Regulation does not explicitly identify what the alternative system is.

Moreover, the Presidential Regulation seems to allow for a gradual roll-out of the *Neraca Komoditas*. For goods in which *Neraca Komoditas* is not yet implemented, the licensing process follows the old process. While efforts to build the *Neraca Komoditas* for all regulated goods will start in 2022, the *Neraca Komoditas* does not have to be finished by 2022. This is a welcomed ruling since some traded goods may be too complicated to be mapped in just one year.

Additionally, there is a clause for conducting evaluation at least every three months to check whether the *Neraca Komoditas* needs to be revised, which is in line with one of CIPS recommendations (Gupta, Pane, & Pasaribu, 2022). The existence of evaluation is a positive strategy, but it is not clear what methods will be used or what aspect of the implementation will be evaluated. It seems to evaluate the accuracy of the quota, which could lead to quota revision. But evaluation of the whole system or how much it affects prices, consumption, and production are also important. Additionally, it is not clear whether the evaluation will be made public.

Legal Uncertainty of *Neraca Komoditas*

Presidential Regulation No. 32/2022, apart from listing the five goods in broad terms, does not provide the exact definition nor the exact Harmonized System (HS) Codes³ of the goods it covers. The goods covered by *Neraca Komoditas* (both in 2022 and 2023) likely follow the Ministry of Trade Regulation No. 19/2021 on Export and No. 20/2021 on Import. The two regulations list goods regulated by export and import licensing, including the five goods. Interestingly, these two regulations were enacted on April 1st 2021, ten months before the Presidential Regulation was out.

² The documents required to apply for an import or export license is different for each good, but generally include at least *Surat Izin Usaha Perdagangan* (SIUP), importers identification number (*Angka Pengenal Impor* or API) or exporters identification number (*Angka Pengenal Eksportir* or APE), and customs registration. Some goods, such as beef, required an additional import recommendation letter from the technical ministry and proof of storage and cold chain ownership. These requirements are elaborated in separate technical ministries' regulations. The *Neraca Komoditas* mechanism is supposed to remove the need for a technical recommendation letter, but the Presidential Regulation No. 32/2022 has yet to address the removal of these technical requirements. Further technical ministerial regulations are needed to clarify the newest requirements in the new *Neraca Komoditas* mechanism.

³ HS Codes is a global product classification system that uses a standardized numerical method to identify and classify traded products.

While the Presidential Regulation No. 32/2022 mentioned that *Neraca Komoditas* of the five goods has already been enacted, the legal form is unclear. The regulation mentioned that *Neraca Komoditas* is enacted by Coordinating Minister of Economic Affairs, but until this memo is out, there is no Coordinating Ministry of Economic Affairs Regulation on the five goods. It is possible that the *Neraca Komoditas* for these five goods only exist in the system without an explicit legal basis.

Moreover, aside from the Ministry of Marine Affairs and Fisheries Regulation on the *Neraca Komoditas* for Fisheries Products, there is no Ministerial Regulation for the other four goods enacted at the time of writing. Since *Neraca Komoditas* for these four goods are already enforced, the lack of regulations controlling the four goods creates a puzzling regulatory vacuum. Except for fisheries products that will clearly be overseen by the Ministry of Marine Affairs, it is still unclear which Ministry will oversee the other four goods without a proper regulation.

Potential Shortfalls of *Neraca Komoditas*

While *Neraca Komoditas* could promote a speedier process to import and export licensing, some problems that might create greater business uncertainty remain.

The first issue relates to the realization of import and export. The information on export and import realization from the past year may be used to judge the quota allocated to each firm. If a firm fails to meet their import and export quota in this year, they will be granted less quota for the next year. This system is designed to ensure firms do not inflate their proposed quota to reduce domestic price. The punishment for missing the import realization can go as far as freezing import license, according to Ministry of Trade Regulation No. 20/2021 on Import.

However, there could be various reasons why firms do not meet their proposed quota. One possibility is slow bureaucracy, which might prevent them from importing and exporting on time. But more importantly, production decision is hard to predict and some commodities can have very volatile prices. For example, in early 2022, when Crude Palm Oil (CPO) price skyrocketed, CPO producers may want to export more, while cooking oil producers cut production. When the Ministry of Trade imposed retail price ceiling on cooking oil, production of cooking oil was reduced even more. Business is highly dynamic and adjusting production and consumption of inputs are part of the adaptation. Giving punishment due to unmet quota could actually add to business uncertainty.

Second major issue arises from the lack of information on price in the Presidential Regulation. The proposed import and export plans are under an assumed set price of the commodity, while in reality prices of goods fluctuate all the time. Changes in price will shift production and consumption and affect export and import decision. Yet, making revisions to the *Neraca Komoditas* will take time. Without any information on price assumption, *Neraca Komoditas* could be less informative, inflexible, or even misleading.

While *Neraca Komoditas* is intended to facilitate business access to export and import, it does not stop the Indonesian government from exerting significant control over trade policy. In fact, the use of import and export licensing could be more pronounced after *Neraca Komoditas* is used. Not only is import and export allowed by the new regulations, but the existence of the supposed integrated database may also lull the Indonesian government into thinking that they have all the information they need to control trade. Of course, most often this is not the case, as with the latest cooking oil problem demonstrates.

Way Forward



Presidential Regulation No. 32/2022 indicates that the Indonesian government is very serious about controlling trade using the *Neraca Komoditas* database. It aims to speed up the licensing process with the 'silence is consent' approach and reduce data discrepancy by appointing one Ministry to be in charge for one product. The Presidential Regulation also provide a clear procedure of *Neraca Komoditas* provision.

Yet, legal and business uncertainties still remain for now. It is not clear in what form *Neraca Komoditas* is implemented, whether in the form of regulations or a dashboard, as the actual *Neraca Komoditas* of the five goods is not disseminated for public. Only fisheries products have a Ministerial Regulation at the moment which was enacted prior to the Presidential Regulation. It is also unclear how the coordination meeting will shape the final *Neraca Komoditas* or the quota decisions that come out of the *Neraca Komoditas*. The missing information on price and the sanctions for unmet quota could add to business uncertainty as well.

Alas, this is the first important step into the new advent of trade in Indonesia, yet it is still far from becoming the solution to the costly, lengthy, and uncertain trade process in Indonesia. It remains to be seen how well the new *Neraca Komoditas* system will shape Indonesia's trade. Further reforms, such as simplifying the non-tariff measures or removing import and export quota altogether should be considered to ensure the trade reforms are effectively supporting Indonesia's position in the global value chain.

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