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Regional Comprehensive Economic Partnership (RCEP): What's Inside the Agreement and Will It Change the Region's Economic Future?

Thursday, 3 December 2020

SESSION REPORT

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“Regional Comprehensive Economic Partnership (RCEP): What's Inside the Agreement and Will It Change the Region's Economic Future?”

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Moderator:

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Founder and Chairman of the Foreign Policy Community of Indonesia

Discussants:

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Mr. Allaster Cox

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PRESENTATION

Mr. Iman Pambagyo

- The Regional Comprehensive Economic Partnership (RCEP) was initiated in 2011, when Indonesia chaired ASEAN. We first sold the idea to ASEAN countries and in 2012, we tried to get the support from other 6 ASEAN Free Trade Agreement (FTA) partners.
- The first negotiation was started in May 2013. This can be considered as ASEAN response to competing proposals towards ASEAN+3 FTA proposed by China and Comprehensive Economic Partnership in East Asia (CEPA) proposed by Japan.
- ASEAN decided to introduce new ideas on how ASEAN will play its role in the emerging regional economic integration.
- There is no precedence in the world where 5 regional FTAs are being consolidated. This was centered on ASEAN as the hub, and the six pairs of countries outside of ASEAN countries have no bilateral FTAs with each other.
- For non-ASEAN countries, negotiating the RCEP is something to be pursued cautiously and to some extent it contributed to the challenges that the 16 countries have to deal with during the negotiation.
- What we considered as we started the negotiation in 2013 is that we have diverse economies participating in this negotiation from the most advanced economies in the region, to emerging, developing, and least developed ones.

- In terms of rules, we have 20 chapters altogether, beginning with the initial provision and general definition. We have a cluster of chapters begin with trade in goods and follow with rules of origin, including its annex of product specific rules, custom procedure and trade facilitation, Sanitary and Phytosanitary Sanitation (SPS), Standards, Technical Regulations and Conformity Assessment (STRCA) and so on and so forth.
- We have a group of chapters in services that include annexes on financial, telecommunication, professional services and movement of natural persons. We have another chapter on investment, and so on and so forth.
- We have institutional provision, I cannot stress the importance of having this chapter enough because of the complexity of the arrangement we have agreed on. Again, we are talking about consolidating 5 regional FTA, involving six ASEAN partners. We tried to come up with common rules to minimize the “spaghetti bowl effect” affecting our businesses in particular the small and medium enterprises.
- In terms of market access, we have trade in goods and services. To include some sub-sectors, we have temporary movement of natural person and investment.
- Not all things are included in our negotiation. One of the most controversial issues is the Investor State Dispute Settlement or ISDS. We do not include this provision in our investment chapter. There was an understanding among the parties that, if it is agreed, we can discuss this in the future, either in the format of ISDS as we know today or any type of dispute settlement between investor and the state.
- We do not have any provisions on labor, environment, and patent term restoration in the Intellectual Property Rights (IPRs) chapter.
- We do have a government procurement chapter, but at this point in time, there is no chapter on market access of government procurement. We focus only on transparency and cooperation. Again, the parties to this agreement agreed that in the future we may discuss the market access of the government procurement if all agreed to do it.
- We do not have custom duties in e-commerce and some others such as data localization. We agreed that we should wait for the development in the World Trade Organization (WTO) because it is quite sensitive for some of us. In particular, some parties in ASEAN do not have a complete set of e-commerce policies and regulations.
- What we are trying to establish here is the principle of “simultaneous start, differentiated timetable” to make sure that everybody is on board in our efforts to integrate our economies.
- In terms of tariff elimination category, the average total tariff elimination category under the RCEP is on average 91% compared to, 96% under the ASEAN - Australia - New Zealand (ASEAN-ANZ). 94% under the ASEAN - China FTA is 94%, 80% under the ASEAN - India FTA, and 93% under ASEAN - Japan and ASEAN - Korea FTAs.
- Under RCEP, we only have an average of 91% because we are trying to consolidate the tariff commitment, but we are mindful of the fact that different parties will have different sensitivities towards different partners.

- During the market access negotiation, we let pairs of countries sit together to negotiate their market access commitment bilaterally, instead of negotiating it in a big room among the 16 parties. We had more than 296 bilateral pairs to negotiate goods, services, and investments provisions.
- Between 2015 until 2018, we noted the attendance of more than 800 delegates from 16 countries. We have nine working groups and six sub-working groups during negotiation.
- We have more commitment in terms of services. We have more than 100 sub-sectors included in our commitment, for ASEAN, it ranges between 100 and 115 subsectors, while ASEAN partners committed around 100 to 108 sub-sectors. Indonesia committed 104 subsectors.
- The RCEP is better compared to ASEAN+1 FTAs in terms of quality. We adopted the scheduling for transparency, called “negative listing”. Usually, we adopt a “positive listing” of services commitment.
- On domestic regulations, there is a mechanism for the authorization with reasonable fees, clear procedures, and provisions of timeline for completion.
- In terms of discipline, we have ratchet and Most-Favored-Nation (MFN).
- On professional services, we encourage parties to communicate and to cooperate amongst professional bodies on mutually agreed areas. On the Movement of Natural Persons (MNP), we adopted a wider category to include business visitors, intra-corporate transferee, independent professionals, spouses and dependent, and cooperation. Some of these features are not in the ASEAN+1 FTAs.
- (On comments that the RCEP is of lower quality compared to the Trans-Pacific Partnership (TPP) / Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)) Yes, in terms of tariff elimination, under TPP/CPTPP, 100% tariff elimination is being negotiated among the parties, while in RCEP it is up to bilateral pairs of parties to negotiate their tariff commitment, resulting in 91% tariff on average.
- Under the TPP/CPTPP there are provisions on labor, environment, state-owned enterprises, indigenous people, tighter Intellectual Property Rights (IPR) rules, and Investment Court System (ICS). Under the RCEP, we do not have these provisions.
- TPP/CPTPP has some “side-letters” to address members’ sensitivities, but at the end most should be phased out, meaning that to some pairs of countries under TPP/CPTPP, there are some agreements that particular parties will be allowed to meet their full commitment after certain years, but at the end, everything should be phased out at certain time. Under the RCEP we do not have any “side-letters.” It is a clean agreement, with just the main text and annexes.
- (On the comment that RCEP caters to political sensitivities) During the negotiation, I have to carefully navigate along the line of political sensitivities. In one of our negotiations, we asked Japan to complete their market access negotiations while North Korea sent out missiles that landed on Japanese sea.

- We also received information about border clashes between China and India in another meeting. Of course, these affected the course of negotiation, but our Trade Negotiation Committee was focused and we managed to pass those difficult situations.
- What about India? India remains in our hearts. The RCEP Ministers agreed that the agreement is open for accession by India. India will have the privilege to join the RCEP after the course of the agreement without waiting for 18 months which will apply to non-original parties. In the meantime, India may participate in RCEP meetings and in economic cooperation activities under the RCEP, with terms and conditions to be agreed upon by the 16 countries.
- Without India, what is the status of this RCEP agreement? If we compared to today's existing FTAs from ASEAN, RCEP, RCEP minus India, TPP, TPP minus US, NAFTA, EU 28, EU minus UK, Mercosur, based on the 2018 data, in terms of GDP and percentage of world GDP, trade in terms of value, and percentage of world trade, FDI inflows in term of value and percentage of world FDI, numbers of population, in almost all accounts, RCEP can be considered as mega-regional and the largest FTA on the planet. The size of this agreement has an impact in the region and in the world.
- The world has witnessed massive changes in ways that countries and businesses engaged economically. There are constant disruptions by Industry 4.0. (Cloud Computing, Artificial Intelligence, Internet of Things, Robotics), and actually, now people are talking about Industry 5.0. All of these created disruption in our economy.
- In parallel we also witnessed the declining confidence in the WTO and the multilateral trading system. We also witnessed a trend towards bilateral and regional trade deals. Under this context, countries tend to emphasize the value of "tit-for-tat". We also observe that there has been an enhancing trend towards unilateral actions, often in a punitive sense.
- There are also trade wars between two major economies with strong value chains connectivity. The impact of is quite significant. Countries with strong forward-linkage with either one or both US and China are adversely affected by this situation, creating a domino effect around the globe, leading to the emergence of the "Beggars-Thy-Neighbor" policy, an economic policy to remedy economic problems in a country in a way that worsens the economic problems in another country.
- The RCEP was signed in the midst of COVID-19. And based on the literature I studied, there have been three global shifts accelerated by the spread of the COVID-19.
- First, accelerated shift from market to states, meaning that we witness more government intervention which may further restrict markets.
- Second, a stronger national unilateralism. Governments acting on their own to upset or to remedy the COVID-19 impact, often against each other, at the expense of global cooperation.

- Third, a more contested and unstable geopolitics. Perhaps it centers on US - China rivalry, but increasingly we also see competitions between US and EU, US and Russia, and other countries. Whether it is a competition for regional or global influence, it remains to be seen and depends on how you see this discussion.
- Some analysts say that we are witnessing deglobalization. Globalization is dead. Is it true? We do not know. There has been a rise of Neo-Mercantilism, where the state exercises its power to control the market domestically and internationally. During the COVID-19 pandemic, we seen more governments took over the scene and tried to fix the situation.
- In one of his writings, Professor Kishore Mahbubani said, "Government is a solution, not a problem for a weary and worried post-pandemic world." He also stressed that now Asia's economy is taking the center stage and we made the global order. What I could understand from his writing is that this is the easiest moment to take the center stage and we have RCEP.
- (On whether someone will dominate RCEP) Based on the study by Stephen Olsen, Razeen Sally, Maria Coronado, and Gayatri Bhasin Darke, we have five observations.
- First, tilting towards security over efficiency: security of supplies, foods, medicine, electronic parts, components etc. If necessary, countries or companies would like to produce them at home.
- Second, trade is being rethought, not rejected. Companies tried to reduce heavy reliance on a single source of supply. This is not protectionism, just the necessity of being sovereign and independent from an industrial point of view. You can see these days that many companies tried to diversify their presence and their source of supply to make sure they will not depend solely on single source of supply and single location or production.
- Third, shorter supply chains by fortifying economic relationships closer to home rather than across oceans. For East Asian countries, we have the RCEP agreement to facilitate this new development. It may be more realistic than developing supply chains across the Pacific. I am not saying that we are now leaning towards regional supply chains rather than global supply chains. Global supply chain will stay there, but in terms of COVID-19, there will be a shift towards a shorter supply chain.
- Another development is so-called "dual circulation". It was introduced at the Chinese Politburo meeting in May this year. China would like to combine international circulation and internal circulation. They look at export and domestic consumption as equally important for the future sustainability of the economy. Many other countries look at this model.
- Lastly, businesses now adjust to the new reality. They are not simply doing business, they like to put some value on their business. They are talking about people and the planet, transparency, proximity, and collaboration. I found this phrase, "no purpose, no gain." This is not simply about the delivery of products or services.
- That perhaps would give us some background to answer the important question of whether the RCEP will change the regions' economic future.

MODERATED DISCUSSION AND Q&A SESSION

Mr. Allaster Cox

- Our view in Australia is that RCEP is a very major achievement, particularly for ASEAN and for all of us who are close dialogue partners with ASEAN. In the western media, RCEP is often described as a Chinese agreement or China's version of the (American) TPP. That is wrong, it was actually an ASEAN initiative from the very beginning.
- It is an important agreement because of its size, 30% of the world's population are embraced by the agreement. Around 2.2 billion people, I think Dino has also said 30% of global GDP, a combined GDP of 26.2 trillion US dollar, that is an enormous amount, and growing to around 50% of GDP by 2030 as those economies continue to grow in size relative to the rest of the world. And nearly 28% of global trade is caught up in RCEP.
- When leaders launched RCEP back in 2012, their goals were "to create a modern comprehensive high quality and mutually beneficial economic partnership to facilitate the expansion of regional trade and investment and contribute to global economic growth and development." Over the past eight years of negotiation, the importance of this goal has highly increased.
- We have seen a return in significant growth in populism, protectionism and in challenges to the rules-based multilateral trading system represented by the WTO of course and before that was the Global Agreement on Tariffs and Trade (GATT). But this has been highly challenged, particularly since the global financial crisis in 2008 - 2009.
- On top of that we have seen the global pandemic, the impacts of COVID-19, significant disruptions to global trade, contracting economic growth in many countries, increased unemployment, and levels of poverty.
- All of these things are inclining countries to look more inwards and to become less engaged with trade. We have seen global trade as a percentage of global GDP decreased over the last decade after the global financial crisis.
- By signing RCEP, all of the member countries have sent a strong signal in the middle of the pandemic that our region is committed to principles of open and transparent rules-based trade as a critical part of post-COVID-19 recovery and that we see ourselves—the countries involved—as a source of economic strengths and opportunity.
- From Australia's point of view, we are very determined to preserve the rules-based trading order. For middle economies like Australia, rules-based approaches are critical. A world where the big squeezes the small just because they can squeeze them according to their power does not suit Australia nor our partners in ASEAN.
- We need rules and ways of doing things that are established so that small and big countries can work together according to established norms and procedures.
- In our view, RCEP addresses the needs of all industries, whether those are businesses that produce goods or services and traditional or modern industries.

- For goods exporters, RCEP brings together a single set of rules and procedures for businesses to access the preferential tariff outcomes across the region and it streamlines the considerable paperwork that is still involved in a lot of trade today.
- RCEP also ensures that products using inputs from other RCEP members can also qualify for preferential tariff rates, which strengthens regional value chains.
- There will be greater opportunities in RCEP economies for service industry suppliers, as well as enhanced transparency and predictability of domestic regulations affecting the trade in services and improving the business environment across the region.
- For ASEAN, RCEP contains provisions on e-commerce, enabling data to flow across borders while at the same time trying to protect privacy and consumer protection.
- When combined, all these outcomes will promote deeper connections among the RCEP partners and encourage collaboration in manufacturing, which will also see greater technical collaboration. That will promote the value and production chains which are critical in modern commerce.
- Importantly, RCEP will provide a platform for ongoing dialogue and cooperation on a range of trade and economic issues. There will be an RCEP Ministers meeting annually and a joint committee to oversee its management and that is the process where India can then apply to hopefully come back in.
- As part of the agreement, Australia will commit 46 million dollars of funding to technical assistance to mainly ASEAN countries.
- There has been quite a bit of media publicity about modelling that shows that China, Japan, and Korea will be the ones that gain the most from RCEP. The question is, why is that so, given that it is an ASEAN agreement?
- First, these countries account for about 80% of RCEP's GDP, given that apart from the United States and China, Japan is the next largest economy in the world.
- Second, with the exception of a fairly shallow trade agreement between China and South Korea, the others do not have bilateral agreements between them nor are they jointly members of other existing free trade areas. So unlike ASEAN or Australia which has many different trade agreements bilaterally and multilaterally, the north Asian countries have much less.
- Our views for ASEAN are that RCEP builds on free trade agreements that Australia, China, Japan, New Zealand, and South Korea have with them complemented by a number of other bilateral FTAs. So, the benefits of RCEP will arise from the much harder to measure changes in the regional value chains and the services trade.
- We also do not think that there is any legitimate fear about a flood of imports into ASEAN from other RCEP members. ASEAN has already done a lot of these trade agreements before and given existing trade agreements, those fears are not warranted.

Dr. Dino Patti Djalal

- The usefulness of a lot of FTAs is the fact that they can stimulate reform at home because otherwise they have no excuse to do so. Looking at the provisions of RCEP, do you think that it is enough to require countries to commit reform?
- As this is the largest trading bloc in history, there are some skepticisms, especially from the western media. Do you feel under-appreciated or underestimated in terms of what RCEP is and how significant it is as an economic milestone?

Mr. Iman Pambagyo

- I am a strong believer of open and fair trade. I am hoping that the RCEP agreement is another alarm for Indonesia to do a reform because we can benefit from this agreement.
- All parties in this agreement have the same task: how to benefit from this agreement? If you would like to benefit from this agreement, you have to do some homework. There are some disciplines being agreed upon by parties as the best way for us to do business in the future, not only in terms of trading but also investment and cooperation. RCEP should ring the bell for all members of the agreement to do some adjustments back home. It is important for us to make adjustments because the world around us also continues to change over time.
- The second question regarding the skepticism over what the western media is reporting is not that important. Whether it is unfair treatment of our work among the 15 or 16 parties here, it depends on us. Respect is something to be earned so it is important for the 15 countries, and hopefully India, to prove to ourselves and to the world. We are working to implement the RCEP agreement faithfully and to benefit from this agreement, so I am fine with regards to the media coverage in the west that is perhaps downgrading the value of RCEP. I think it is up to us how we can grow the other way around.

Mr. Allaster Cox

- It is really up to the leaders in the different countries to use the agreement and work with local interests, business leaders, and trade unions in encouraging them to continue liberalize and engage more effectively in the global and regional supply chains that this agreement sets up.
- It is always about the political challenge and whether politicians and policy makers are determined enough to use these frameworks, which have been negotiated, to bring about domestic policy reforms and enable their economies more efficiently to participate in the economy and get the most out of them.

- It is all about leadership and bravery for politicians to do domestic reforms but unfortunately it has been difficult. In many countries over the last decade, we have seen a lot of politicians talking about self-reliance and going back to those ideas that are considered as a solution to today's problems. We can see this happening in India and that is not a good sign.
- This is the issue leaders and politicians need to promote, growth through integration. Evidence needs to show how these agreements and reforms can really help economies grow and people to benefit and for many politicians unfortunately they do not seem to understand and that is a big challenge.

Dr. Dino Patti Djalal

- How long do you think the ratification will take for the countries to ratify the agreement? Is there a timetable?
- Will RCEP benefit Indonesia's trade, especially textile?
- If countries that are a member of RCEP but also in the CPTPP are going to be more competitively advantaged than the non-CPTPP countries in RCEP? Will countries that have two memberships be necessarily doing a lot better than the others?

Mr. Iman Pambagyo

- Regarding ratification, we have a law requiring the government to bring any signed agreement to the parliament to decide whether it would be ratified through the parliamentary process or a presidential decree. We are in the process of translating the agreement into Bahasa Indonesia and we have to submit it to the parliament within 90 days after the signing of the agreement.
- The perceived threats of RCEP among the populace may pose a good challenge for the government in pursuing the ratification process. I would expect that we can ratify this agreement within 1 to 1,5 year after its submission to the parliament, through the adoption of law. But it all depends on how we can convince the parliament, stakeholders, civil society, and others.
- It would be very difficult for the government to go through the ratification process if we could not expand our views of the world. No country in the world would advance by way of closing their borders, we need to open our economy.
- After the signing of this agreement at the Bogor Presidential Palace, the President (Joko Widodo) told me that it is not about liberalization, it is about integrating our economies to the world and playing a more significant role in the global value chain by way of enhancing, enlarging, and deepening our role in the regional supply chains in the RCEP region.
- I am hoping that during the discussion with the parliamentarians in Senayan, we can discuss how to look at RCEP in the larger context of bringing Indonesia's economy into the future, such as being the world's fourth largest economy by 2050.

- (On whether RCEP will benefit Indonesia's trade) What I have been trying to convey to my colleagues in government as well as a business is to look into RCEP in its totality. If you look at just one sector, you will miss the point of having this huge and comprehensive agreement. The key for Indonesia and others to benefit from this agreement is to continuously improve our competitiveness because other countries are also doing the same. With or without FTAs, those homeworks need to be completed. Otherwise, we will continue to have an issue of competitiveness.
- We have to look into details whether countries who are both members of RCEP and CPTPP will be more competitive or gain more benefits. Of course, having big parties to those agreements would benefit them, but by saying those countries will be more advantageous compared to countries who are only members of RCEP is not something we can say straightforwardly. I think there are many factors, such as the structures of their economies, that need to be reconsidered before we can come to that conclusion.

Mr. Allaster Cox

- Australia will ratify the agreement next year in 2021. In the Australian community, trade is still seen as something positive and beneficial for the community. Even though there are people who question the value of trade and this agreement, and concerns about imports, in Australia, we have been able to keep the debate about trade positively.
- There are probably some minor advantages of being a member of both CPTPP and RCEP, but there are also challenges. Belonging to different trade agreements do create some problems of arbitrating between different sets of trade rules and different bilateral and multilateral agreements. If you look through a detailed economic analysis, the gains of belonging to both are probably fairly minor. Given RCEP's size and the involvement of China, I think it is debatable but it is certainly advantageous and important to be involved in both.

Mrs. Ei Ei Khin Aye

- I agree that people welcomed RCEP as a very comprehensive and inclusive economic partnership, but, at the same time, people have many thoughts about it. For Myanmar, RCEP is a very wide and comprehensive regional economic agreement and it is very true that we as members of RCEP have to make a lot of effort to take part in the agreement. As for Myanmar, a lot of work has to be done to really play a part, such as: building human and institutional capacities in both public and private sectors, and incorporating relevant international standards and manufacturing capacities.
- Myanmar will be in a better position to take part in RCEP if we could overcome the pandemic.
- Because many of the members of RCEP are also members of CPTPP and bilateral FTAs among themselves, how is it going to work with all of these overlapping agreements?

Mr. Iman Pambagyo

- Simply put, every trade agreement has its own rules and requirements. For example, Indonesia has a bilateral FTA with Australia. We can increase our bilateral trade in terms of goods as long as our goods can meet the originating status [Rules of Origins (ROOs)] under the bilateral agreement between Indonesia and Australia.
- RCEP is about allowing countries in this agreement to engage in deeper and wider networks of production, not only in terms of goods but also services. For example, if you have an input from Lao PDR, Myanmar processes these inputs and sends the intermediate product to Malaysia. Malaysia then does some more manufacturing and sends this semi-final product to the Philippines to process it into final products. That is the chain of networks that we are talking about under RCEP. It is quite different from the bilateral FTAs and the ASEAN+1 FTA, because under RCEP we can cumulate the originating status of the goods among the 15 countries.
- There is a potential spillover impact of RCEP that could be beneficial to RCEP countries. For RCEP members who have other trade agreements with non-RCEP countries, as long as the originating status under those agreements between RCEP countries and non-RCEP countries can be met by sourcing from the RCEP region, we will have a wider value chain involving the RCEP countries. That is why we see RCEP as a deepening and widening of the original supply chain towards deeper engagement in the global value chains.

Dr. Dino Patti Djalal

- After eight years of negotiations what do you think was the single biggest problem that you faced?
- Common people did not know much about RCEP since they thought it would not affect their lives, how would the government address this issue?
- We have a lot of trade instruments and now we have RCEP, it is not a perfect instrument but it can take us to places if we want to. Do you think that your successors, the future Indonesian government, will be able to utilize this instrument so we can make benefits out of it?

Mr. Iman Pambagyo

- The biggest challenge that we have during the negotiation process is the different values. It takes a lot of effort for me to manage the conversation, to hold my ground, and give equal chances to every single delegate on the table. It requires not only art but perhaps additional skills to manage the conversation including how to read the direction of countries from their face, body language, and gesture when other countries make interventional meta statements.
- For the second question, I could not guarantee that the public will be fully aware of the possible impacts, challenges, and also benefits of the RCEP. The best way for the government to raise the awareness about this agreement is by continuously talking to the public, the civil society, parliament, and politicians. It is very important to shape the public's mindset of looking at ourselves in the context of global trade.

- I will retire, but I believe during the negotiation we managed to bring many officials went through difficult issues, to look at things in a broader context, and not treat this negotiation lightly, because it is an agreement for the future.
- During my retirement I plan to do more writing and become more involved with the media to encourage public discourse about Indonesia and global trends.

Mr. Allaster Cox

- I think agriculture is always difficult to negotiate because politicians in home countries are always concerned about agriculture and agricultural lobby groups are always very active.
- I fully endorse what Pak Iman said about politicians bringing these agreements to people. I think the Indonesian government and President Joko Widodo are to be congratulated for the work on the Omnibus Law as it is about the same things that the RCEP is trying to encourage. As what President Joko Widodo said to Pak Iman in Bogor, that it is about integration, I think that is what he equally thinks about the Omnibus Law: integration into regional value chains, encouraging Indonesia to use its wealth of resources and people in more efficient ways to get more return and benefit.
- I think politicians and leaders should use evidence to persuade the doubters that this agreements and integration into the regional and global economy is to people's benefit. Yes, there are short-term changes and people have to experienced transition as the economy is very dynamic, you have to set up social safety nets for that. Indonesia is moving ahead on doing that now. I think that is the key that politicians have a role of leadership and messaging to the community.

End of Session, Moderator Closes the Session

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