The following communication has been received on 5 December 1994 from the delegation of Indonesia, responding to written questions submitted by the delegations of Australia, Canada, the European Communities, the United States and Hong Kong to the Council meeting on the Trade Policy Review of Indonesia.

**CANADA**

1. **Question**: What is the expected timeframe for completion of the new anti-dumping and countervailing duty laws?
   
   **Answer**: The anti-dumping and countervailing duty laws are scheduled to be tabled as part of the new Customs Law in Parliament during early 1995.

2. **Question**: On page 55 (para 12) and page 96 (para 96), the Secretariat's report refers to the use of tariffs or surcharges as defacto anti dumping measures, and as a means of emergency import relief. How does Indonesia reconcile the apparent contradiction of these measures with its commitment to binding 95 per cent of tariff lines?
   
   **Answer**: Surcharges are temporary in nature. They have been used as part of the tariffication process for removing non-tariff measures.

3. **Question**: How will the activities of BULOG be consistent with WTO Agreement requirements and with Indonesia's trade policy objectives aimed at creating a more open trade system and healthier business competition?
   
   **Answer**: In the Agriculture sector, the Indonesian Government has begun phasing out all non tariff measures. However, during this transitory period, BULOG will continue to stabilize prices of commodities which would otherwise fluctuate excessively, leading to social disruption.
In accordance with GATT Article II para 4, the level of protection afforded by BULOG will not exceed bound tariff levels.

4. Question: What provisions or regulations are in place to ensure transparency of Indonesia's import regulations?

Answer: All Indonesian regulations are registered in the Indonesia Gazette and made public in the press.

5. Question: With respect to quarantine and health regulations, could Indonesia explain how they administer the "expiry date" and "minimum remaining shelf-life requirements". Is this determined by the manufacturer (as in Canada) or is it government directed?

Answer: In normal conditions, the manufacturer determines the expiry date.

AUSTRALIA

1. Question: Domestic review of trade policies

Has Indonesia considered the establishment of an independent body to review trade-related policies? Is there any intention to make public the deliberations of the Tariff team to allow input from all interested parties, including overseas suppliers, importers and domestic users? (Sec. Rep P.XII para).

Answer: In our governmental system, trade policy is reviewed by Parliament. The Tariff Team welcomes inputs from all interested parties.

2. Question: Tariffs

Recognising the considerable expansion of the scope of Indonesia's tariff bindings in the context of the Uruguay Round, there remains significant scope for action to raise tariffs in specific sectors (Sec Rep. P. XIV, para 28). Past reforms to reduce tariff levels are welcome, but we would appreciate comment on Indonesia's intentions to further reduce average tariff levels?

Can Indonesia comment on whether tariff reductions are being considered in any sectors, if so which sectors?

What action is Indonesia planning to reduce tariff peaks and tariff dispersion, and to bring high tariff areas into line with Indonesia's general tariff régime? (Sec Rep P. XIII para 19 and P. XIV para 25). Tariff escalation is highest in transport equipment (especially motor vehicles) - to what extent does Indonesia intend to reduce tariffs in this area?

Answer: Indonesia intends to further reduce average tariffs. Tariff reductions are being considered in some sectors, including transport equipment.
3. Question: Import restrictions

There has been a substantial reduction in the number of tariff lines subject to import licences in recent years. What action is Indonesia planning to further reduce the scope of import licensing? In particular, is there any prospect of elimination of the import restrictions currently imposed on rice, sugar, wheat, steel, and transport equipment? (Sec Rep P. XIII para 19 and P. XV para 30). Are there any import restrictions currently imposed on beef imports or are any such restrictions planned?

Under what circumstances, if any, would import licensing be reimposed on tariff lines which have recently been liberalised?

It Indonesia able to provide list of the 261 tariff lines which are subject to import licensing? (Sec Rep page 65).

Could Indonesia please provide more information on the import licensing restrictions imposed on completely-built-up motor vehicles, processed food, paper products, and chemicals?

We understand there is a requirement to off-load at specified locations. This has been identified as a trade barrier. Can Indonesia comment please? Are location sites likely to increase?

Foreign printed material is a prohibited import (Sec Rep pages 64 and 66). Could Indonesia please provide details of which types of printed material are prohibited and the reasons for the prohibition? Could Indonesia also comment on whether opportunities exist for the establishment of joint venture operations with Indonesian companies to print material in Indonesia?

Answer: - There are no import restrictions on beef. Import of beef must be approved by the Ministry of Agriculture, as well as accompanied by health and safety certificates from a recognized veterinarian in the exporting country; likewise for packing, making and sealing requirements.

- The list of products which are prohibited or subject to import licensing are stated in the Decree of the Trade Minister No. 132/KP/VI/94 dated June 27, 1994.

4. Question: Implementation of Uruguay Round

We would be interested in a report on Indonesia’s timetable for introducing reforms which will be necessary to implement the Uruguay Round outcome. In particular, can Indonesia advise in which areas it intends to implement Round outcomes in advance of timetable required for a developing country in the WTO agreement?

Answer: Indonesia will implement Round outcomes in accordance with the timetable. However, in the context of ASEAN, Indonesia is moving faster than the Uruguay Round.
5. Question: **Infant Industries**

To what extent is the efficiency of Indonesia's "infant industries" hampered by restrictions which are imposed on trade and other assistance measures? (Sec. Rep P.XII, para.15).

**Answer:** Infant industries, particularly in up-stream industries, will strengthen Indonesia's industrial structure, and reduce dependency on imports. These industries require high technology and a large skilled labour force to be efficient. To develop these industries, the Government tends not to give tariff protection.

6. Question: **Horticulture**

We welcome the opening of Indonesia's market to imports of horticultural products which has taken place since June 1991. However, we would be interested whether Indonesia has any plans to reduce tariffs in this sector? A particular interest is orange juice, which we understand is subject to a luxury sales tax - can Indonesia provide details of this tax? We would also be interested to know whether Indonesia has any intention to review the current requirement that orange juice import be accompanied by certification of suitability for human consumption?

**Answer:** As yet orange juice is not regarded as a basic foodstuff since it is only consumed by high income households.

Certification requirements on orange juice concerning its suitability for human consumption is a safety measure aimed at preventing undue exposure to products dangerous to human health.

7. Question: **Petrochemicals**

We would appreciate Indonesia's comments on three issues which have been raised with us by our industry:

(a) the use of check prices (as opposed to f.o.b. prices) for the purposes of calculating duty (eg. polypropylene homopolymer had a check price of US$784/tonne compared to an f.o.b. price of US$500/tonne);

(b) the imposition of import surcharges e.g. the 20 per cent surcharge on imported polypropylene homopolymers;

(c) the requirement that producers provide signed statements and produce samples for laboratory analysis for all shipments of polypropylene into Indonesia, which results in delays in processing and acts a hinderance to trade.

**Answer:** Since 1994 check prices no longer apply to imports of polypropylene and polyethylene. Surcharges for these products will be gradually eliminated. The laboratory analysis is needed to avoid misdescription and misclassification of products, because of the difficulties in differentiating between products of similar appearance. While the analyses are being carried out, the goods are released on presentation of a signed statement by the producers.
8. Question: **Export controls**

Can Indonesia comment on the Secretariat’s analysis (Sec Rep P. XIII, para 21) of the costs to Indonesia’s economy of the export controls which are currently in place? Does Indonesia have any plans to liberalize the restrictions which are currently imposed on importers?

Could Indonesia provide more details of the export controls which apply to a range of forest products? And comment on the rationale for these restrictions?

Answer: The imposition of export controls on raw materials basically has two objectives: to develop down-stream industries and to preserve natural resources.

9. Question: **Disparities in assistance levels**

Can Indonesia comment on the Secretariat’s analysis (Sec Rep P. XIV, para 23) of the costs to Indonesia economy of the disparities in levels of effective assistance between different sectors of the economy? Does Indonesia have any plans to reduce such distortions?

Answer: Indonesia is planning to reduce disparities in levels of effective assistance between different sectors.

10. Question: **Sales tax**

What action is Indonesia planning to eliminate the discriminatory tax arrangements which currently apply in some sectors? (Sec Rep P. XV para 29).

Answer: In line with the GATT agreement, Indonesia is planning to eliminate the discriminatory tax arrangements.

11. Question: **State trading**

Can Indonesia comment on the trade effects of Indonesia’s current state-trading bodies (Sec Rep P. XV, para 31).

What plans does Indonesia have to ensure that firms with special import privileges take their decisions as to sourcing of materials on purely commercial grounds?

Can Indonesia comment in some detail on the Secretariat’s claim (Sec Rep P. XV, para 31) about the lack of transparency in the arrangements applying to State-trading enterprises such as BULOG? Can Indonesia provide detail on the method of operation of BULOG and other State enterprises which control import licences and exports?

We would be interested to know whether Indonesia plans to make any changes to BULOG’s monopoly import powers (e.g. for wheat) as a result of the Uruguay agreements?
Could Indonesia advise whether there is any likelihood that private traders could have a rôle in importing wheat and wheat flour in the future? If so, how would the operation of BULOG change? Is there any intention that the Indonesian flour market may be deregulated in the near future?

Answer: State-Trading Enterprises are not a generalized phenomenon: the intensity of State Trading varies according to the nature and behaviour of the commodity concerned. State-Trading Enterprises exist to rectify market failure and to stabilize prices as well as supplies in order to avoid social disruption.

12. Question: Public enterprises

It is noted from the Secretariat report (Sec Rep P. XVI, para 36) that the Indonesian Government is attempting to improve the performance of public enterprises. Given the relative importance of these enterprises in the economy, can Indonesia comment on what action it intends to take to improve the efficiency of these enterprises?

Answer: We have a long understanding in the context of our reforms that public enterprises will be directed to be more responsive. As a result, public enterprises will be encouraged to operate more efficiently.

13. Question: ASEAN Free Trade Agreement

Are there any plans to create a full free trade area by reducing to zero per cent (from the current 5 percent level) the maximum tariffs which are to apply to Intra-ASEAN trade under AFTA? (Sec Rep P. XIII, para 16).

Is Indonesia considering any further reductions in its exclusion list under the CEPT scheme (Sec Rep P. XIII, para 16).

Could Indonesia confirm that its commitment to liberalize trade with other ASEAN countries will not impede its ability to liberalize trade on an m.f.n. basis?

Could Indonesia comment on its approach to the recent ASEAN decision to extend AFTA to unprocessed agricultural products, on the likely timing of the implementation of this decision, and the likely manner in which sensitive sectors will be treated?

Answer: The timeframe of AFTA has been accelerated to 10 years, starting from 1993. The tariff levels in 2003 will be from 0-5%. Indonesia has included 2,816 fast track products and 4,539 normal track products under the Scheme. The exclusion list for Indonesia covers 1,654 products. Schedules of tariff reductions are as follows:

a. Fast Track:
   1,097 products (0 - 20%) will be 0 - 5% in 1998
   1,719 products (25 - 40%) will be 0 - 5% in 2000
b. Normal Track:
1,587 products (0 - 20%) will be 0 - 5% in 2000
2,952 products (25 - 40%) will be 0 - 5 in 2003

c. Temporary Exclusion List:
1,654 products will be included into the fast track/normal track within 5 years, starting in 1995.

15. Question: Services

Services are clearly of major importance to the Indonesian economy, but the two reports offer little analytical content on the sector.

According to the Secretariat report, the share of services in GDP has risen from 45.4% in 1989 to 50.4% in 1993. These figures are also reflected in employment increases. Another measure is that 56% of foreign direct investment in 1993 went into services, compared with 31.7% in 1990. The Government Report also shows that in 1993 services experienced one of the highest sectoral growth rates in Indonesia.

We would be interested in receiving some further comments on services in the context of this review. For example, what importance does service trade have in Indonesia's import/export picture. A breakdown along major sectors, destinations and countries of origin would add greatly to our understanding of this aspect.

Paragraph 1(c) in the Government Report states that trade policies are, inter alia, aimed at directing imports to meet the demand for goods and services. To develop domestic industry capable of producing highly competitive products. We would be interested in a more detailed description of these policies as they relate to services.

We note that Indonesia has made some significant reform in the services area. Can Indonesia provide advice on its plans to open further services sector to foreign participation?

We understand that ASEAN has agreed to negotiate a framework agreement on trade in services. Can Indonesia comment on progress to date?

Answer: Unlike trade in merchandise, services data is very rudimentary. We do not have a detailed sector by sector picture, let alone an overall assessment. We cannot, therefore, fully break down services into specific sectors, or specify the quantity and origin of imported services; or the destination of service exports.

However certain services can be presented to give an indication of the dimension of our services trade. The most important point to keep in mind is that Indonesia is a net service importing country with a substantial deficit. For example, in 1990/91 our services deficit was US$8.9 billion, and it reached US$10.3 billion in 1993/94. If we subtract from these figures the interest on debt servicing, amounting to US$3.9 billion in 1990/91 and US$4.5 billion in 1993/94, then the deficit on services is still very substantial: amounting to US$5.0 billion and
US$5.8 billion in 1990/91 and 1993/94, respectively. While details of liberalization in services trade cannot be given, the figures nevertheless indicate that Indonesia’s services sector is reasonably open. Our investment regulations are undergoing further liberalization, thereby benefitting the services sector.

UNITED STATES

1. Question : We understand that Indonesia has decided to phase-in a free trade area under AFTA by 2008 at the latest. Can you tell us when Indonesia intends to make the next round of tariff cuts under the Common Effective Preferential Tariff Scheme?

Answer : Under the Common Effective Preferential Tariff (CEPT), Indonesia will reduce annually its tariff, so that by the year 2003 the tariff level will be between 0-5%.

2. Question : What measures, if any, is the GOI considering to reduce the list of items that they exempted from ceiling bindings, and which are subject to import surcharges?

Answer : For the time being, the Indonesian Government is not considering reducing the list of items that are exempted from ceiling bindings.

3. Question : What measures is the GOI discussing to bring its QRs and NTBs in agriculture into conformity with the UR Agreement on Agriculture?

Answer : Indonesia will apply tariffication according to the timeframe contained in the Agreement on Agriculture.

4. Question : What is the GOI’s plan for TRIPs implementation? What steps have been taken to date? What is their timetable?

Answer : Indonesia will certainly, and to the maximum extent, make use of the transitional period in the TRIPs Agreement, but it is even now preparing to amend its Copyrights Law 1982 and 1987, Patent Law 1989, and Trademark Law 1992. They are scheduled to go before Parliament in 1995. In the light of the TRIPs Agreement, Indonesia is also starting to draft a series of new laws on Industrial Design, Integrated Circuits, and Trade Secrets. The latter are expected to be tabled in Parliament during 1996.

5. Question : Does the GOI have any future plans for reducing the number of industries exempted from its liberalized investment régime?

Answer : The negative list which is closed to investment is reviewed regularly. The number of business sectors which are in the negative list become fewer as time goes on. The number of closed business sectors are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
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<tbody>
<tr>
<td>1989</td>
<td>75</td>
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<tr>
<td>1991</td>
<td>60</td>
</tr>
<tr>
<td>1992</td>
<td>51</td>
</tr>
<tr>
<td>1993</td>
<td>33</td>
</tr>
</tbody>
</table>
6. Question: BULOG's monopoly import control, pricing practices and/or domestic content requirement which apply to wheat, rice, soybeans and soybeans meal have been serious impediments to trade in the past. What role does the government foresee for "BULOG" once the Uruguay Round reforms enter into force?

Answer: The local content requirement applying to soybean meal will be phased out within three years upon WTO's entry into force.

7. Question: We hope the GOI will pass the pending legislation on reducing corporate income tax. Can you give us an idea of when this legislation may be passed?

Answer: The Parliament has approved the new income tax legislation which will be effective by 1995.

8. Question: Countertrade or "Counterpurchase" requirements on large Government contracts seem to have decreased in the passed few years. Is there any intention by the GOI to phase out these types of requirements?

Answer: In the absence of countertrade, normal trade cannot take place, particularly with countries facing foreign exchange problems. Therefore, countertrade can be used to create trade with such countries.

EUROPEAN UNION

1. Question: Can the Government of Indonesia indicate the precise legislative acts which are currently in force in Indonesia concerning the protection of intellectual property rights, notably as contained in the Uruguay Round Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs)?

Can Indonesia submit copies of this legislation?

What precise legislative changes are planned by the Government of Indonesia in order to bring its intellectual property laws in complete conformity with the TRIPs Agreement? What is the time schedule on this?

Answer: TRIP's Current regulations:

a. Copyright Law 1982
c. Trademark Law 1992

Indonesia is preparing to amend its Copyright, Patent and Trademark Laws. They are scheduled to be tabled before parliament in 1995. In the light of the TRIPs Agreement, Indonesia has also started preparing a series of new laws on Industrial Design, Integrated Circuits and Trade Secrets. The latter are expected to be tabled before Parliament in 1996.

2. Question: Do foreigners generally enjoy full national treatment in the granting of intellectual property rights? Should there be any exceptions to this principle, which are they?
Answer: In accordance with the TRIPs Agreement, Indonesia will implement national treatment of Intellectual Property Rights.

3. Question: Which are the civil, administrative and criminal procedures and remedies available to enforce intellectual property rights and to sanction their infringement? Do foreigners enjoy the same treatment as national from Indonesia? Are these remedies and procedures in conformity with the TRIPs Agreement?

Answer: Indonesia has a comprehensive IPR legislation in place and our enforcement record is good. There are penalties and sanctions for copyright and trademark violations, and also for patent infringement. These are subject to civil liabilities and imprisonment. Indonesia is trying to ensure that all legislation is in conformity with the TRIPs Agreement.

4. Question: Does Indonesia currently have in place a system of enforcement of border intellectual property rights in accordance with the TRIPs Agreement? If so, please explain the system. If no such system is in place, are they any plans to adopt one?

Answer: Currently Indonesia has no a system of border enforcement in accordance with TRIPs. The system will be incorporated into the new Customs Law which will be submitted to Parliament in early 1995.

HUNGARY

1. Question: What action is Indonesia planning to further reduce the scope of import licensing?

Answer: The Government of Indonesia has been reducing the scope of import licensing gradually, the last reduction being in June 1994.

2. Question: Certain excise taxes discriminate against imports. What action is Indonesia planning to eliminate the discriminatory tax system currently applied in some sectors?

Answer: In line with the GATT agreement, Indonesia is planning to eliminate discriminatory tax arrangements.

JAPAN

1. Question: We understand that even in the new régime, trading companies can obtain only "liaison office" status which are not allowed to work on substantial import-export transactions but "Branch offices" of foreign companies cannot be established? How will this situation be changed in the future? Will branch offices of Trading Companies be allowed?

Answer: Liaison offices are not allowed to enter into transactions on export and import. However, the Government of Indonesia gives the opportunity to foreign parties to set up foreign capital investment companies to export either their own products or those of other industrial manufacturers.
2. Question: We would like to know whether any factory, not only direct but also indirect exporters, will be able to benefit from tax exemption in processing zones and if yes, when?

Answer: Tax exemption is granted to companies or factories operating in the Export Processing Zone (EPZ) or the Export Oriented Entrepôt (EPTE). In order to benefit for the exemption, the company must export 75% of its final products. However, the tax exemption is not granted to factories which supply parts or products to the company in the EPZ or EPTE.

3. Question: We would like to know if the Indonesian Government intends to stop the regulation that prevents a foreign factory from being built in another area of FTZ/Industrial Estate. If yes, what is the condition?

Answer: Foreign companies may be established in any part of Indonesia. In a region which already has industrial estates, the industrial processing activities of foreign capital investors are prioritized in the industrial estates. Foreign companies are allowed to be located outside such industrial zones if this is justified by technical and economic considerations.

4. Question: What is the concrete ratio of foreign ownership that must be transferred for wholly foreign-owned companies located in Indonesia?

Answer: To encourage foreign capital investment, the Government of Indonesia has introduced a new Government Regulation No. 20 in 1994. The main content of the policy is as follows:

- The foreign party may have a 100% share in the foreign capital company, except for 9 fields where in Indonesia’s share has to be a minimal 5% at the time of establishment.

- For a foreign capital company whose original share is 100%, the foreign party is under the obligation to sell to an Indonesian party within 15 years. The number of shares thus transferred depends on mutual agreement.

5. Question: Is the high export tax on wood products a subject to be improved?

Answer: At this stage the Government has no plans to review the tax.

SWEDEN

1. Question: Implementation of the UR

Does Indonesia plan to make use of any transitional arrangements foreseen in the agreements?

What measures is Indonesia taking to implement the TRIPs Agreement? Is Indonesia planning to change its current legislation concerning compulsory licensing of patent? What measures are taken to deal with copyright infringements (such as copying of software)?
Answer : Indonesia will implement the Round's outcome in accordance with the timetable. However, in the context of ASEAN, we are moving faster than the Uruguay Round.

2. Question : Customs Valuation

Does Indonesia see any inconsistencies in continuing PSI while at the same time having to observe the Customs Valuation Agreement? Has Indonesia made any calculations on the costs of maintaining the present PSI system? Are there any plans to abandon the PSI system in the future?

Answer : Indonesia, like other Uruguay Round signatories, is committed to applying the agreement on the implementation of Article VII (Custom Valuation Agreement), as well as the Agreement on PSI under the Uruguay Round. In the case of any inconsistencies in the application of this agreement, the Customs Valuation Agreement would take precedence.

3. Question : Taxes and other charges

Are there any plans to abolish discriminatory aspects of relevant sales taxes and excise taxes?

Answer : In line with the GATT Agreement, Indonesia is planning to eliminate the discriminatory tax arrangements.

4. Question : Import prohibitions

In 1993, the number of prohibited imports was reduced from 48 tariff lines to 44 tariff items. We would like to have a clarification of the difference between tariff lines and tariff items.

Answer : In our terminology, tariff line and tariff item have the same meaning.

5. Question : Quantitative restrictions

Does the Government plan to make available information on imported goods subject to such restrictions?

Answer : Information on imported goods are available in the Indonesian Gazette.

6. Question : Government procurement

Is Indonesia planning to join the new Agreement on Government Procurement? What type of procurement are provinces and cities responsible for? How is procurement in the construction sector regulated? Are there special rules for electricity, water, transport and telecommunication projects?

Answer : Indonesia has no plans to joint the new Agreement on Government Procurement.
7. Question: **Competition policies and law**

Are there any plans to introduce a competition law to outlaw the use of anti-competitive practices, which according to the Secretariat's report are widespread?

Answer: Indonesia is still in the process of preparing draft competition legislation.

8. Question: **Civil Aircraft**

Considering Indonesia's expanding Aircraft Industry, we would like to know if Indonesia has any plans to join the Agreement on Trade in Civil Aircraft?

Answer: Indonesia has no plans to join the Agreement on Trade in Civil Aircraft.

**HONG KONG**

1. Question: **Import Licensing**

According to an estimate by the World Bank, over 30% of imports into Indonesia are subject to licensing control (para 52, page 65 of C/RM/S/52). Does the Indonesian Government have any plans to further simplify the import licensing arrangements vis-a-vis future obligations under the WTO Agreement on Import Licensing Procedures?

Answer: Indonesia will simplify the import licensing arrangement according to the timeframe of the Agreement.

2. Question: **Subsidies**

The country report (C/RM/G/52) does not contain information on the eligibility of companies for export finance and export guarantees provided by the Indonesian Government. We should be grateful to know if foreign owned firms would be treated on a par with their local counterparts. Would particular industries be given preference over others?

Answer: No answer available at the moment.

3. Question: **Competition Policy**

Does Indonesia intend to take any concrete steps to promote competition in the private sector by reducing state participation to industrial enterprises and State support to large private sector business groups?

Answer: Indonesia is still in the process of preparing draft competition legislation.
ARGENTINA

1. Question : What is the impact of trade liberalization, in the framework of CEPT for AFTA, on protection of domestic industry?

Answer : The industrial products selected in the CEPT Scheme are among the most competitive industries.