



Report from the 1st round of negotiations for a Free Trade Agreement between the European Union and Indonesia

20-21 September 2016, Brussels

The negotiations for a free trade agreement (FTA) between the EU and Indonesia were officially launched on 18 July 2016. The first negotiating round took place in Brussels from 20-21 September 2016. The EU negotiating team was led by Ms Helena König, Director for Asia and Latin America, while the Indonesian team was led by Pak Iman Pambagyo, Director General for International Trade Negotiations at the Indonesian Ministry of Trade.

Discussions were held in a friendly and constructive atmosphere and covered a wide range of the issues at stake. The round included discussions dedicated to trade in goods, rules of origin, sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBT), customs and trade facilitation, government procurement, services and investment, intellectual property rights (including geographical indications), competition, trade and sustainable development, trade remedies, dispute settlement, and economic cooperation.

In the talks, the EU stressed the need for coherence with what the EU has already negotiated in its bilateral free trade agreements with other Member States of ASEAN, in view of the long-term objective to conclude an EU-ASEAN region-to-region FTA. This being said, the negotiations also need to take into account the specificities of the EU-Indonesia relations.

Chief negotiators also devoted time to agreeing on negotiation modalities including regarding the exchange of texts and offers. The discussions paved the way to prepare a comprehensive round of negotiations that would take place in Indonesia in early 2017.

Details per negotiating area

Trade in Goods: The Parties discussed key concepts and provisions to consider and had an initial discussion on exchange of trade and tariff data to be used for negotiations on market access. They agreed to work intersessionally in order to finalise the parameters for an exchange of trade and tariff data and aim at the exchange of the relevant data in advance of the second round of negotiations.

Rules of Origin: The Parties shared their ambition to have a text on Rules of Origin, which is simple, modern, trade facilitative and business friendly. The EU indicated that the text should be coherent to the extent possible with its FTA negotiations concluded with other ASEAN Member States (Singapore, Vietnam), with appropriate updating to take into account the recent improvements in the EU preferential rules of origin. As an example, the EU indicated that it aims to propose a system of self-certification.

Customs and Trade Facilitation: Both sides reconfirmed the commitments taken with the aim of ensuring trade facilitation in conjunction with effective customs controls, and noted that the WTO Trade Facilitation Agreement provides an ambitious base line for the provisions of the future Customs and Trade Facilitation chapter.

Trade remedies: The Parties agreed to work towards a text incorporating WTO Plus elements, notably on rights of interested parties, disclosure and transparency. The Parties also agreed to work towards a text incorporating some discipline in the use of global safeguard measures and also a text establishing a bilateral

safeguard mechanism offering a temporary trade protection to any of the two trade partners in case of an unforeseen significant increase of imports as a result of the liberalization of trade in goods.

Technical Barriers to Trade (TBT): The Parties presented their objectives for the TBT chapter and referred, in particular, to transparency concerns in the adoption of TBT rules and to the respect of international standards and the inclusion of Good Regulatory Practices (GRPs) in the preparation, adoption and application of technical rules, standards and conformity assessment procedures. In the dedicated working group the EU provided detailed explanations on the requirements and use of the Suppliers' Declaration of Conformity (SDoC) for low-risk products in the EU under the New Legislative Framework. Questions were put on the functioning of the SDoC with regard to SMEs, and on conducting regulatory impact assessments when adopting technical rules. The EU informed Indonesia on the market surveillance system in the EU and on CE marking. Further common objectives were discussed, for instance, on transparency, accreditation, market surveillance or marking and labelling.

Sanitary and Phyto sanitary measures (SPS): The Parties had a first exchange of views on the possible content of the relevant chapter in the agreement. The EU conveyed a clear message on the aim to negotiate an ambitious text (SPS Plus) which shall be based on science and compliance with international standards (OIE, IPPC, CODEX). The main target for the agreement will be to eliminate unnecessary trade barriers and to facilitate market access. This shall be achieved through streamlining the import process while safeguarding public, animal and plant health. The Parties agreed to devote time during the next round of negotiations for presentations on the animal, public and plant health sectors to better understand the respective systems and policies and facilitate discussions.

Trade in services: The EU explained the main parameters of the negotiations with regard the regulatory text and the market access and national treatment provisions. Discussions were held on architecture of the chapter, mode 4 and other areas of interest. The Parties agreed that the EU will submit a text proposal including all regulatory disciplines in various services' sectors before the next round of negotiations.

Investment: The EU presented its objectives and approach with regard to the substantive provisions on investment, including the elements of the new approach. Questions were raised by the Indonesian side on the type of approach (i.e positive list or negative list) to be followed with regard to investment liberalization for services and non-services.

Government procurement: The Parties held a fruitful first exchange on the possible architecture of rules part and on the level of ambition as regards market access. The EU pointed at procurement rules as useful tools to combat corruption as well as ensuring good use of public funding. Indonesia expressed an interest in efficient procurement rules to ensure proper use of budgetary means. The Parties agreed to use as a basis for the discussions on rules, the revised WTO/Government Procurement Agreement - and to explore possible additional provisions tailor made for the bilateral relation. As regards market access, the EU underlined the importance of concluding an economically meaningful procurement Chapter.

Intellectual property rights (incl. geographical indications): The Parties engaged in a comparison of their respective approaches to the protection and enforcement of intellectual property rights, including geographical indications and IPR border measures. The Parties explored possibilities to find common ground. Overall, good progress was made towards understanding the objectives being pursued by each Party. The Parties showed willingness to start discussions on the basis of a text to be proposed in view of the next round.

Competition Policy (incl. subsidies and SOEs): The EU reiterated the objective of a chapter on competition and its structure, including competition law, subsidies and state owned enterprises as well as the need to have clear transparency provisions. Both sides agreed to work ahead of the next round to further explain the respective positions.

Trade and Sustainable Development (TSD): Discussions indicated a positive approach and ambition on both sides to work towards a comprehensive TSD chapter. The EU highlighted the positive contribution of trade to sustainable development as demonstrated by the Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement between the EU and Indonesia, and willingness to maximise this positive role in the FTA with Indonesia. There was a broad agreement on the overall scope of the chapter. The discussions notably highlighted international labour and environmental conventions, climate change, civil society involvement, and natural resources such as timber, fisheries, and vegetable oils.

Dispute settlement and mediation: Both sides exchanged views on a state-to state dispute settlement system under the future agreement. The EU explained that its bilateral dispute settlement systems were based on similar elements as the WTO dispute settlement proceedings while aiming at making the system more

effective and efficient. Questions were put on the link with the proposed investment court system and on a more elaborated mediation mechanism.

Energy and raw materials: The EU recalled the aim for provisions on energy and raw materials referring inter alia to disciplines on export restrictions, the elimination of export duties and the prohibition of new export duties. The EU also expressed its objective to build on the relevant provisions in the WTO to include broader provisions on the different aspects affecting energy and raw materials. It also recalled the need to address trade restrictions in this field. The Parties agreed to further prepare discussions ahead of the next round.

SMEs: Indonesia showed strong interest to include a SME chapter in the EU-Indonesia negotiations. The Indonesian interest reflects the importance of SMEs for its economy. SMEs are accounting for over 99% of all companies, which is similar to the situation in the EU. The Parties will consider exchanging text proposals in advance of the next round.

Economic cooperation: Both sides also had an initial exchange on the chapter on economic cooperation, where cooperation between both sides should be directed towards improving competitiveness and innovation.

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