



## Report of the 2nd round of negotiations for a Free Trade Agreement between the European Union and Indonesia

24-27 January 2017, Indonesia, Bali

Officials from the EU and Indonesia met in Bali, Indonesia, from 24 to 27 January to hold the 2nd round of negotiations for an EU-Indonesia Free Trade Agreement. Discussions built on the first round of negotiations, which took place in Brussels from 20 to 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 constructive and demonstrated continued willingness to engage in negotiating an ambitious agreement. Against the backdrop of recent concerns on the international trading system, affecting Asia in particular, both sides highlighted the importance of the Agreement as showing the way forward in terms of building bridges between the EU and Indonesia. The Parties examined all 9 draft negotiating texts provided by the EU and continued discussions on all issues to be covered by the Agreement: trade in goods, rules of origin, sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBT), customs and trade facilitation, government procurement, intellectual property rights (including geographical indications), competition, trade and sustainable development, trade remedies, dispute settlement, and economic cooperation. Indonesia also tabled a non-paper on economic cooperation and capacity building, as well as a number of counter-proposals.

Chief negotiators agreed to a detailed timetable to intensify exchanges inter-sessionally on the various issues under negotiation in advance of the 3rd round of negotiations, which Indonesia proposed to hold in early September.

In the margins of the round, both sides also met on Saturday 28 January for the 8th Working Group on Trade and Investment. The Working Group is a forum for expert discussion on the specific trade concerns both partners face in each other's markets.

### Details per negotiating area

**Trade in Goods:** The Parties discussed and agreed the modalities for the exchange of tariff and trade data to be used to assess the quality of future tariff offers. The EU presented the outline of the EU Trade in Goods legal text, which it intends to table around March 2017. Indonesia presented its views on how it envisages the initial tariff offer. Further deliberations will follow over the coming months.

**Energy and raw Materials:** Discussions took place within the auspices of the working group on Trade in Goods (TiG) and was primarily focused on explaining the Parties' respective objectives. The Indonesian side provided an overview of its energy needs with specific regards to electrification and renewable energy investment. The EU delegation outlined its position and the adequate provisions the text should include. With regard to the form and placement of discussed provisions, the EU Delegate noted that this could be in a stand-alone chapter or could alternatively be included in the different chapters as appropriate. For its part, Indonesia signaled the products the chapter should include, agricultural products, such as palm oil, as sources of renewable energy.

**Rules of Origin:** The Parties worked on the basis of the EU draft negotiating text on general provisions. Detailed and productive discussions took place, mainly concerning the threshold for the tolerance of non-originating

materials for wholly obtained products, insufficient working or processing operations and the applied accounting principles. The Parties agreed to continue exchanges before the next round of negotiations. The EU will send in advance of the next round a draft negotiating text for the section of the chapter on proofs of origin and administrative arrangements.

**Customs and trade facilitation:** The Parties held constructive discussions on the basis of the EU draft negotiating text. They also agreed to hold discussions on cross-cutting issues, such as border enforcement on intellectual property rights, pre-shipment inspections, fees and charges in other specific working groups. The Parties will continue exchanges before the next round of negotiations.

**Technical Barriers to Trade:** The Parties had fruitful extensive discussions on their respective systems (standards, technical regulations, conformity assessment and accreditation) in order to better understand each other's position, and obtained a clearer overview of, in particular, conformity assessment, where the Parties use different approaches. Indonesia indicated a risk-based approach to conformity assessment for certain sectors in the future is being considered. The EU informed Indonesia that it is currently working on a draft negotiating chapter. Indonesia also intends to present an outline of the possible elements of a chapter.

**Sanitary and phytosanitary measures:** Discussions took place on the EU proposed negotiating text. The exchange allowed both sides to discuss and express their positions and expectations as well as share information on their respective policies. Both sides paid particular attention to trade facilitating measures and alignment with international standards and predictable import procedures and exchanged views on the other main elements of the chapter. The Parties agreed to hold inter-sessional videoconferences before the next round aiming to further deepen the discussion.

**Government Procurement:** The Parties presented their respective systems. Discussions continued on the basis of the EU proposed negotiating text. The Parties agreed to follow up the negotiation round with inter-sessional discussions on topics of common interest, in particular: SME support and environmental and sustainable procurement.

**Intellectual Property Rights (incl. geographical indications):** The Parties had a constructive discussion based on the EU negotiating text and a detailed explanation on its practical implementation and its TRIPS Plus elements. The EU also presented its views on the working arrangements for geographical indications. The Parties also exchanged views on subjects proposed by Indonesia, including on the protection of genetic resources, traditional knowledge, traditional cultural expressions, some cross-cutting issues and the relationship between IP and public health. The Parties agreed on an ambitious timetable with exchanges and inter-sessional discussions to prepare the next round.

**Small Medium Enterprises:** The Indonesian delegation presented its SMEs sector as well as the measures it is currently taking to promote SME growth. Discussions were then based on the EU draft negotiating text and focused on provisions related to information sharing on the one hand, and contact points for SMEs on the other, and on the underlying rationale of the draft provisions, such as the need to provide SMEs with easily accessible and understandable information on existing rules, regulations, and procedures on each market. Further discussions are required in order to agree on the level of detail of the respective provisions.

**Investment:** Good constructive discussions were held regarding the substantive provisions on investment. The discussions were mainly focused on the EU text proposal and were meant to clarify the scope and definitions, the provisions relating to establishment, the architecture and interactions between the services and the investment chapters, as well as the investment protection provisions. Given the complexity of the text as well as the innovative elements of the EU's reformed approach on investment, at this stage, the discussions were mainly of an explanatory nature.

**Trade in Services:** The EU discussed mutual recognition of professional qualifications, domestic regulation, delivery services, financial services, international maritime transport as well as on temporary movement of natural persons for business purposes. In addition, the EU presented its scheduling approach. Indonesia expressed strong interest on Mode 4 and possible horizontal economic cooperation and capacity building.

**Competition:** Discussions were held on the basis of the EU draft negotiating text on competition, subsidies and state-owned enterprises. A joint session on trade remedies was also held. The EU agreed to provide further information on a number of areas identified by Indonesia, including state owned enterprises and transparency systems, and to have inter-sessional exchanges in this regard.

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**Trade remedies:** Discussions allowed the Parties to exchange views on their respective systems, procedures and implementation of trade remedies. Broad consensus was achieved on the overall architecture and on the degree of ambition of the chapter. Both sides will further analyse in-depth a joint text drafted during the round in order to prepare further text-based negotiations during the 3rd round.

**Dispute settlement:** The EU and Indonesia discussed the objectives, principles and future elements of the relevant chapter. On substance, the Parties agreed to base the bilateral state-to-state dispute settlement system on similar principles and procedural elements as in the WTO DSU. The EU emphasized its interest to create an efficient and effective bilateral dispute settlement mechanism and highlighted the need to strengthen rules on mediation.

**Trade and sustainable development:** The Parties reconfirmed their common engagement to sustainable development encompassing economic development, social development, and environmental protection. They shared experiences and information, allowing for a better understanding of each side's practices and priorities. The EU highlighted that it pursues an ambitious and comprehensive chapter including provisions on key international instruments; high levels of labour and environmental protection in domestic laws; conservation and sustainable management of natural resources (forestry, fisheries, biodiversity and wildlife); promotion of trade practices and schemes favouring sustainable development; and dedicated overseeing mechanism. Indonesia expressed its broad support to these principles and highlighted its priorities to be reflected in the agreement, including on sustainable management of natural resources and vegetable oils.

**Economic co-operation:** The Parties deepened discussions on their positions and had a common understanding on the need to continue to support trade and investment cooperation. The Parties agreed to further exchanges before the next round, including Indonesia's draft negotiating text.