



## **Report of the 5th round of negotiations for a Free Trade Agreement between the European Union and Indonesia**

9 to 13 July 2018, Brussels

Officials from the EU and Indonesia met in Brussels from 9 to 13 July 2018 for the 5th round of negotiations for an EU-Indonesia Free Trade Agreement. The EU negotiating team was led by Ms Helena König, Deputy Director-General DG TRADE, 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 very friendly atmosphere and recorded good progress on most chapters. Tariff offers were exchanged and discussed for the first time, with the intention to follow up with specific requests after summer. On trade and sustainable development, in-depth discussions enabled a better understanding of each other's positions and allowed for progress in terms of text consolidation. Good progress was made on services and investment, clearing the way towards an exchange of offers at the next round. Detailed discussions were held on government procurement, making it possible to prepare the ground for exchanging offers on market access at a later stage.

Discussions also covered the new EU text proposals on the Rules of Procedures and the Code of Conduct to be annexed to the dispute settlement chapter, Section C of the Rules of Origin negotiating text, as well as the new EU text proposal on digital trade. In the margins of the round the EU also informed the Indonesian side about the outcome of the revision of the Renewable Energy Directive with regard to crop-based biofuels.

Both sides agreed on a comprehensive list of follow-up items, including videoconferences and exchanges on the two chapters where negotiators could not meet during this round, i.e. sanitary and phytosanitary issues and intellectual property rights. This will help prepare the sixth round of negotiations, which will be held during the week of 15 October in Indonesia.

### **Details per negotiating area**

#### **Trade in Goods**

Both sides had a fruitful discussion covering both the offers exchanged just before the round and the text of the Trade in Goods chapter. Both sides sought clarifications on each other's offer and tariff schedule and agreed to intend to exchange specific requests after summer. The discussions on the text of the chapter made it possible to further clarify the respective positions and constraints, while compromise language was agreed for some articles. Export taxes on raw materials, the treatment of repaired and remanufactured goods and certain import restrictions continue to be issues where there are substantial differences, but the progress made in understanding each other's sensitivities and limitations may allow for convergence in future rounds.

#### **Energy and Raw Materials**

Both sides discussed in detail the various text proposals made by the EU and provided further explanation of the respective regulatory approaches to energy and raw materials. Significant progress was made in identifying the aspects of the EU's proposal that would need modification to be acceptable to the two sides as well the parts that are closer to agreement.

#### **Rules of Origin**

Discussions touched upon all outstanding issues in Section A (General Provisions) of the chapter on Rules of Origin: the articles on wholly obtained products, accounting segregation and packaging for retail sale and shipment were agreed. The entire text of Section B (Proof and Verification) was covered making it possible to

clearly identify all the elements where further discussions will be needed. Agreement was reached on applying a system of self-declaration. The discussions of Section C (Ceuta, Melilla, Andorra and San Marino and final provisions) continued from the previous round on the basis of an EU text proposal.

#### **Customs and trade facilitation**

Substantial progress was made with agreement reached on four articles (articles on Scope, Transit and Transshipment, Risk Management, and Authorised Operators). In general, there do not appear to be major blocking issues of principle. The two sides also agreed to resume discussions on definitions and institutional provisions, once the discussions on the rest of the chapter have sufficiently advanced.

#### **Technical Barriers to Trade**

Both sides held detailed and constructive discussions on the EU proposed articles and annexes of the chapter. Both sides agreed on provisions on standards, while very significant progress was made on technical regulations and transparency. Both sides agreed on a closed list of international standard setting organisations and discussions will continue on the specific organisations to be listed therein. Progress on Conformity Assessment and Marking and Labelling provisions was more limited, due to substantial differences between the respective systems (in particular as regards the use of the Supplier Declaration of Conformity, SDoC). The EU side also presented in detail the proposed annex on motor vehicles.

#### **Government Procurement**

Several presentations were provided relating both to the negotiating text and the scheduling of market access offers. The Indonesian side informed the EU about its e-catalogue system – as an innovative way for market opening in GP – as well as its remedy system. Discussions also covered to what extent a number of basic Government Procurement Agreement (GPA) provisions are reflected in each side's laws, thereby identifying a number of provisions requiring further discussions. More detailed explanation of the EU possible offer as well as EU expectations were conveyed with a view to preparing the exchange of market access offers at a later stage.

#### **Small and Medium-sized Enterprises (SMEs)**

Most parts of the SME chapter were agreed. Further negotiations will focus on remaining concerns on some information sharing provisions.

#### **Trade in Services**

All the sectoral provisions of the services text were discussed. This included in particular the EU proposed sections on telecommunication services, financial services, international maritime transport services, delivery services, temporary presence of natural persons for business purposes, along with issues related to market access and the relevant regulations of both sides. The EU also presented its updated text on digital trade. The exchange of the initial offers of commitments in services was also discussed.

The Indonesian side also informed the EU team about the adoption of the new Presidential Regulation 20/2018 facilitating the granting of visas for the temporary movement of natural persons for business purposes. The issue of the draft Ministerial Regulation on the provision of application service and/or content through internet was also discussed in detail. Indonesia also informed the EU about the adoption of the Ministerial Regulation 48/2018 amending Regulation 82/2017 regarding the use of national maritime transport and insurance for the exportation and importation of certain goods.

#### **Investment**

Very good progress took place with regard to the investment-related definitions, as well as on key investment liberalisation and investment protection provisions, such as the prohibition of performance requirements, fair and equitable treatment, transfer of funds and indirect expropriation. More in-depth discussions are required with regard to the application of non-discrimination provisions post-establishment and to compensation for losses and denial of benefits.

The chapter on capital movements was finalised and agreed.

#### **Investment Dispute Resolution**

Discussions on investment dispute settlement remained technical and with limited progress pending a high level policy decision on, in particular, the Investment Court System (ICS), transparency and consent.

---

Nevertheless progress was made, in particular on amicable resolution, applicable law and parallel claims, where the text is now largely agreed.

#### Competition

Good progress was noted in the negotiation of the competition chapter. A few remaining issues need to be resolved regarding the cooperation modalities before the chapter can be finally agreed.

As regards subsidies and state owned enterprises, the two sides made further progress in understanding each other's positions and agreed on the text that forms the basis of the negotiations. It was agreed to exchange further information and documents ahead of the next round of negotiations.

#### Trade remedies

The two sides further discussed EU antidumping legislation. Some further progress was made on text consolidation, which is already well advanced. Provisions on dumping determination and agricultural subsidies require further discussions.

#### Dispute settlement

Both sides have tentatively agreed on most of the text of the dispute settlement chapter, with the exception of some issues, which include the confidentiality of proceedings, the roster of panellists and timeline. The Indonesian side is still analysing the new EU formal proposals of rules of procedure and code of conduct.

#### Trade and sustainable development

Text consolidation started after a fruitful exchange of views at chief negotiators' level. Formal text consolidation started and covered provisions of seven articles. On the other hand, further work is required on existing conceptual differences. The TSD negotiators agreed on detailed information exchanges and to work intersessionally on additional text proposals to address some of the specific diverging points.

#### Transparency and Good Regulatory Practices

The EU side made a presentation on Transparency and Good Regulatory Practice (GRP) allowing for a fruitful exchange of views on the functioning of the respective legal and administrative systems. Indonesia showed interest in the proposed chapters. The EU proposed sending formal text proposals soon, which the Indonesian side agreed to examine in detail in order to come back with a position by the next round of negotiations.

#### Economic co-operation

Both sides were able to make some progress on the basis of a revised Indonesian text proposal and agreed to continue their exchanges before the next round. Indonesia recalled the importance it attaches to economic cooperation and capacity building as a means to enable Indonesian firms to fully benefit from the agreement.

#### Institutional and final provisions

Both sides continued the exchange of views on the institutional set up of the Agreement as well as discussed each side's FTA practice in terms of final and horizontal provisions. In addition, both sides discussed issues related with the nature of the Agreement and its entry into force as well as provisions on exceptions.