



## **Report of the 4th round of negotiations for a Free Trade Agreement between the European Union and Indonesia**

19-23 February 2018, Solo

Officials from the EU and Indonesia met in Solo, Indonesia, from 19 to 23 February 2018 for the fourth round of negotiations for an EU-Indonesia Free Trade Agreement. The EU negotiating team was led by Mr Filip Deraedt, deputy chief negotiator and stepping in for the EU Chief Negotiator, Helena König, while the Indonesian team was led by Pak Iman Pambagyo, Director General for International Trade Negotiations at the Indonesian Ministry of Trade.

The fourth round of negotiations saw continued engagement by both sides. Over the course of the week, the negotiating teams covered the full range of issues in the free trade agreement. Good progress was recorded across the board, particularly on text consolidation in areas like SPS, TBT, investment and services. The presence of new Indonesian sector experts attending various sessions of the negotiations contributed to this result.

There was no exchange tariff offers during the round. The process of preparing respective market access offers on goods and services is continuing with a view to exchanging these in the near future. Further progress on government procurement market access is expected by the next round. The round also identified the need to continue in-depth discussions on the concept of sustainable development and how to integrate it in the FTA.

A range of follow-up items will be pursued through videoconferences or other means ahead of the next round which will be held in Brussels before summer. The precise date is yet to be fixed.

In the margins of the round Chief Negotiators held joint meetings with civil society organisations from both sides.

### Details per negotiating area

#### Trade in Goods

Discussions were constructive leading to some further text consolidation, improved mutual understanding on respective positions, and agreement on four articles. It was agreed that communication between the delegations would intensify in the coming months with a view to better understanding each other's interests. Tariff offers were not exchanged during the round. The session also saw a constructive in-depth discussion on Energy and Raw Materials, touching on issues like export duties, export and import monopolies, authorisation procedures, third party access, and renewable energy and energy efficiency goods.

#### Rules of Origin

The two sides continued to work on open issues in Section A – General Provisions and additional articles were consolidated. The EU negotiating text of Section B – Origin Procedures (proof, verification and denial) was shared with Indonesia before the round. Detailed discussion on the 3 pillars of self-certification, verification and denial of preference continued. The EU standard provisions on Ceuta, Melilla, Andorra and San Marino were presented and discussed. The next step will be to move to Product Specific Rules, which may be proposed by the next round.

## Technical Barriers to Trade

Good progress was recorded in terms of text consolidation, with agreement reached on various articles, including objectives and scope. Substantial progress was made as regards the relationship with the TBT Agreement and the articles on Technical Regulations and Standards. Both sides devoted an important part of the round to discuss conformity assessment in order to better understand the respective systems, including the issue of accepting a Supplier's Declaration of Conformity (SDoC) for lower risk products. The EU made a general presentation of the different provisions of the Motor Vehicle Annex. The two sides also discussed transparency and good regulatory practices and had an exchange of views on the working of the respective legal and administrative systems.

## Customs and Trade Facilitation

Both sides continued discussions on the basis of the consolidated text resulting from the previous round. Two additional articles were agreed (Simplified Customs Procedures and Enquiry Points). Substantial progress was made in consolidating the texts of other articles, including on Customs Provisions and Procedures, Release of Goods, Publication and Availability of Information, Relations with the Business Community, Advance Rulings, and Review and Appeal. The EU side reiterated the importance to aim for an ambitious chapter, also building upon the WTO Trade Facilitation Agreement.

## Sanitary and Phytosanitary Measures

Both sides made substantial progress on the consolidation of the text. Seven articles have been agreed (definitions, competent authorities and contact point, audit, transparency and exchange of information, technical consultation, emergency measures and equivalence) while good progress was made on the articles on objective, scope, general provision, adaptation for regional conditions, collaboration, sub-committee on SPS, harmonization and technical assistance. Discussions however also identified different positions on the issue of prelisting and some imports provisions.

## Services

Constructive and in-depth discussions were held on telecommunications, financial services, maritime transport, postal services, digital trade, and the temporary presence of natural persons for business purposes. Benefiting from the presence of sector specific experts further progress was achieved regarding the relevant regulatory disciplines. The domestic framework of each side was also discussed in detail providing useful information on the respective laws and regulations.

## Investment

Fruitful discussions took place on the investment-related definitions, investment liberalization and investment protection, as well as on capital movements. Good progress was made in further consolidating the text in key areas such as establishment, non-discrimination, as well as fair and equitable treatment. The EU proposal for a single services and investment text is still under consideration, in particular with regard to the scope of the performance requirements article and the application of non-conforming measures post-establishment.

## Investment Dispute Settlement

Both sides held constructive discussions, in particular on claims on behalf of the locally established company, the prevention of parallel claims, transparency and the functioning of the Appeal mechanism proposed by EU. Since internal consultations are still ongoing on the Indonesian side on the Investment Court System, text-based negotiations still focused on the more technical issues at this stage.

## Dispute settlement

Discussions continued on the EU tabled negotiating text as well as on EU templates on the Rules of Procedure and the Code of Conduct. Issues such as a pre-established list of panelists (roster), and rules related to confidentiality of proceedings still require further discussions.

## Intellectual Property Rights (incl. geographical indications):

The two sides engaged in a constructive discussion based on Indonesian counter-proposals to the EU text proposal. The open issues were discussed across the whole Intellectual Property Chapter, article by article. Each side updated its position and on several issues information was exchanged regarding respective laws

---

and practices. Some progress was recorded on IPR border measures, copyrights, trademarks and enforcement. Discussions took also place on a new Indonesian proposal on genetic resources, traditional knowledge and folklore and both sides exchanged views on each other's laws relating to these areas.

On the issue of geographical indications, Indonesia presented the list of potential conflicts between EU's geographical indications and prior trademarks registered in Indonesia. The relationship between geographical indications and prior trademarks was discussed, with a specific focus on the Indonesian request to allow for trademarks for non-genuine geographical indications to be phased out.

#### Competition

Both sides discussed and are close to agreeing the text on Competition. As regards State Owned Enterprises, discussions focused on the EU text proposal. As regards subsidies, discussions focused mainly on the definition of a subsidy and the role of public services.

#### Trade Defence

Discussions allowed finding agreement on almost the entire negotiating text. Outstanding items are some technical issues and bilateral safeguard-related points.

#### Government Procurement

Both sides held constructive discussions on their respective positions, including on the procurement by State Owned Enterprises thanks to the presence of relevant experts. The EU further explained its proposed negotiating text as well as how provisions are applied in the EU. The EU side also shared its experience on how to table an offer on market access.

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

Both sides agreed on a new article on the objectives and made progress on the text on the institutional set-up. The provision on information-sharing commitments will require further follow-up.

#### Trade and sustainable development:

Negotiations covered the objectives and scope of the chapter, the right to regulate and upholding levels of protection, trade and labour, trade and sustainable fisheries. Progress was made, particularly in relation to labour and on sustainable fisheries. Discussions continued in detail on conceptual views of trade and sustainable development.

A cross-cutting dedicated meeting at Chief Negotiator level was also held on the issue of palm oil, which allowed for an exchange of views on legislative developments on either side.

#### Economic co-operation and capacity building

Constructive discussions led to progress in certain positions and a better mutual understanding of respective positions, including on the EU stance to provide assistance not through the FTA but only via the existing institutional and financial framework for cooperation. Indonesia reiterated the importance they attach to economic cooperation and capacity building as a key pillar of the agreement. Indonesia indicated it will provide a revised negotiating text proposal by the next round.