

*This **document** is the European Union's (EU) proposal for the Chapters on Institutional and Final Provisions for the EU-Indonesia FTA. The actual text in the final agreement will be a result of negotiations between the EU and Indonesia.*

***DISCLAIMER:** The EU reserves the right to make subsequent modifications to this text and to complement its proposals at a later stage, by modifying, supplementing or withdrawing all, or any part, at any time.*

CHAPTER [XX]

INSTITUTIONAL PROVISIONS

Article X.1

Trade Committee

1. The Parties hereby establish a Trade Committee comprising representatives of both Parties.
2. The Trade Committee shall meet no later than 6 months after the entry into force of the Agreement. Thereafter, the Trade Committee shall meet on an annual basis, unless otherwise agreed by the Parties, or without undue delay at the request of either Party.
3. The meetings of the Trade Committee shall take place in the European Union or Indonesia alternately, unless otherwise agreed by the Parties. The Trade Committee may meet in person or by other appropriate means of communication, as agreed by the Parties.
4. The Trade Committee shall be co-chaired by the Minister of Trade of Indonesia and the Member of the European Commission responsible for Trade, or their respective designees.

Article X.2

Functions of the Trade Committee

1. In order to ensure that this Agreement operates properly and effectively, the Trade Committee shall:
 - (a) consider ways to further enhance trade and investment relations between the Parties;
 - (b) supervise and facilitate the implementation and application of this Agreement, and further its general aims;
 - (c) supervise, guide and coordinate the work of all specialised committees and other bodies established under this Agreement, and recommend to these bodies any

necessary action;

- (d) without prejudice to Chapters [XX (Trade and Sustainable Development), XX (Dispute Settlement);...] seek appropriate ways and methods of preventing problems that may arise in areas covered by this Agreement, or of resolving disputes that may arise regarding the interpretation or application of this Agreement;
 - (e) consider any other matter of interest relating to an area covered by this Agreement as the Parties may agree; and
 - (f) adopt at its first meeting its own rules of procedure.
2. In order to ensure that this Agreement operates properly and effectively, the Trade Committee may:
- (a) decide to establish or dissolve specialised committees or other bodies other than those established under in Article X.4 (Specialised Committees), and determine their composition, remit and tasks.
 - (b) allocate or delegate responsibilities to specialised committees or other bodies under this Agreement;
 - (c) recommend to the Parties any amendments to this Agreement
 - (d) adopt decisions to amend this Agreement in the following cases:
 - (i) the lists of goods contained in Annex XXX (Elimination of Customs Duties), with the object of [...];
 - (ii) the Schedules attached to Annex XXX (Elimination of Customs Duties) in order to [...];
 - (iii) Appendixes XXX to Annex XX (Concerning the Definition of the Concept of "Originating Products" and Methods of Administrative Cooperation;
 - (iv) Annex XXXX to Chapter XX (Government Procurement);
 - (v) Annex XXXX to Chapter XX (Protected Geographical Indications);
 - (vi) the Rules of Procedure referred to in Chapter XX (Dispute Settlement /Rules of Procedure), where appropriate;
 - (vii) the Code of Conduct referred to in Chapter XX (Dispute Settlement);
 - (viii) the Code of Conduct referred to in Chapter XX (Investment);
 - (ix) provisions of this Agreement referring to provisions of international agreements or incorporating them into this Agreement, in case of amendments or successor agreements thereto.
- [NB: The list will need to be cross-checked at the end of the negotiations and potentially amended if needed to include references that are part of individual chapters]*
- (e) adopt interpretations of the provisions of this Agreement, which shall be binding on the Parties and all bodies established under this Agreement, including the panels referred to under Chapter XX (Dispute Settlement);

- (f) adopt any decisions as envisaged in this Agreement or make recommendations as provided for in Article X.3 (Decisions and recommendations of the Trade Committee);
 - (g) communicate on matters related to this Agreement with all interested parties including private sector, social partners and civil society organisations; and
 - (h) take any other action in the exercise of its functions as the Parties may agree.
3. The Trade Committee shall regularly inform the Joint Committee established under the Framework Agreement on Comprehensive Partnership and Cooperation between the European Community and its Member States, on the one part, and the Republic of Indonesia, on the other part on its activities and those of its specialised committees, as relevant, at the regular meetings of the Joint Committee.

Article X.3

Decisions and recommendations of the Trade Committee

1. The Trade Committee shall, for the purpose of attaining the objectives of this Agreement, have the power to take decisions where provided for in this Agreement. The decisions taken shall be binding upon the Parties, subject to their respective applicable legal requirements and procedures. The Parties shall take measures necessary to implement the decisions taken by the Trade Committee.
2. For the purposes of attaining the objectives of this Agreement, the Trade Committee may make appropriate recommendations in respect of all matters covered by this Agreement.
3. The Trade Committee shall take its decisions and make its recommendations by consensus.

Article X.4

Specialised Committees

1. The following specialised committees are hereby established under the auspices of the Trade Committee:
 - (a) the Committee on Trade in Goods;
 - (b) the Committee on Sanitary and Phytosanitary Measures;
 - (c) the Committee on Customs;
 - (d) the Committee on Trade in Services, Establishment and Government

Procurement; and

- (e) the Committee on Trade and Sustainable Development.
2. The composition, remit, tasks and functioning of the specialised committees shall be as defined in the relevant Chapters [and Protocols] of this Agreement or by the Trade Committee pursuant to subparagraph 2(a) of Article X.2 (Functions of the Trade Committee).
 3. Unless otherwise provided by the Parties, the specialised committees shall meet once a year, or without undue delay at the request of either Party or of the Trade Committee. They shall be co-chaired, at an appropriate level, by representatives of the Parties. The meetings shall take place in the Union or in Indonesia alternatively or by any other appropriate means of communication, as agreed by the Parties. The specialised committees shall agree on their meeting schedule and set their agenda. Each specialised committee may decide its own rules of procedures, in the absence of which the rules of procedure of the Trade Committee shall apply *mutatis mutandis*.
 4. The specialised committees may make recommendations or submit proposals for decisions to be adopted by the Trade Committee.
 5. The specialised committees shall inform the Trade Committee of their schedule and agenda sufficiently in advance of their meetings and shall report to the Trade Committee on the results and conclusions from each of their meetings. The creation or existence of a specialised committee shall not prevent a Party from bringing any matter directly to the Trade Committee.
 6. Each Party shall ensure that when a specialised committee meets, all the competent authorities for each issue on the agenda are represented, as each Party deems appropriate, and that each issue can be discussed at the adequate level of expertise.

[Article X.X

Working Groups]

[N.B. Provisions on Working Groups may be included, if establishing any under the auspices of the specialised committees is found necessary in the course of negotiations.]

Article X.5

Contact points

1. Each Party shall designate an “FTA contact point” to facilitate communications between the Parties on matters pertaining to this Agreement and shall notify it to the other Party within 30 days following the entry into force of this Agreement.
2. The designated FTA contact points shall:

- (a) unless otherwise provided for in this Agreement, or otherwise agreed by the Parties, deliver and receive all notifications and information to be provided between the Parties pursuant to this Agreement;
- (b) facilitate communications between the Parties on any matter covered by this Agreement, as well as on its implementation;
- (c) coordinate preparations for the meetings of the Trade Committee and the specialised committees;
- (d) monitor the work of all committees and other bodies established under this Agreement;
- (e) follow up on any decisions made by the Trade Committee, as appropriate;
- (f) consider any other matter that may affect the operation of this Agreement, as mandated by the Trade Committee;
- (g) respond to any enquiries received pursuant to [list relevant Articles with provisions on transparency]; and
- (h) maintain an updated list of Chapter specific contact points that follow matters related to the implementation of the relevant Chapters of this Agreement.

Article X.6

Domestic advisory groups

1. Each Party shall create a new or designate an existing domestic advisory group within a year from the entry into force of this Agreement. The domestic advisory group shall advise the Party concerned on issues covered by this Agreement. It shall comprise a balanced representation of independent civil society organisations including non-governmental organisations, business and employers' organisations as well as trade unions active on economic, sustainable development, social, human rights, environmental and other matters. The domestic advisory group may be convened in different configurations to discuss the implementation of different Chapters and Provisions of this Agreement.
2. Each Party shall meet with its domestic advisory group at least once a year. Each Party shall consider views or recommendations submitted by its domestic advisory group on the implementation of this Agreement.
3. In order to promote public awareness of the domestic advisory groups, each Party shall publish the list of organisations participating in its domestic advisory group as well as the contact point for that group.
4. The Parties shall promote the interaction between their respective domestic advisory groups.

Article X.7

Civil Society Forum

1. The Parties shall facilitate the organisation of a Civil Society Forum to conduct a dialogue on the implementation of this Agreement and shall agree at the first meeting of the Trade Committee on operational guidelines for the conduct of the Civil Society Forum.
2. The Civil Society Forum shall meet in conjunction with the meeting of the Trade Committee. The Parties may also facilitate participation in the Civil Society Forum by virtual means.
3. The Civil Society Forum shall be open for the participation of independent civil society organisations established in the territories of the Parties, including members of the domestic advisory groups referred to in Article X.6) [Domestic advisory groups]. Each Party shall promote a balanced representation including non-governmental organisations, business and employers' organisations and trade unions active on economic, sustainable development, social, human rights, environmental and other matters.
4. The representatives of the Parties participating in the Trade Committee shall, as appropriate, take part in a session of the meeting of the Civil Society Forum in order to present information on the implementation of the Agreement and to engage in a dialogue with the Forum. This session shall be chaired by the chair of the Trade Committee or his/her representative, as appropriate. The Parties shall, jointly or individually, publish any formal statements made at the Forum.

CHAPTER [XX]

FINAL PROVISIONS

Article X.1

Amendments

1. The Parties may agree, in writing, to amend this Agreement.
2. Amendments shall enter into force on the first day of the second month, or on such later date as may be agreed by the Parties, following the date on which the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements for entry into force of such amendments.
3. Notwithstanding paragraph 2, the Trade Committee may, in accordance with the respective applicable legal requirements of the Parties, amend this Agreement, where provided for in sub- paragraph 2(d) of Article X.2 (Functions of the Trade Committee).

Article X.2

Entry into force

1. The Parties shall approve this Agreement in accordance with their respective applicable legal requirements and procedures.
2. This Agreement shall enter into force on the first day of the second month following the date on which the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements for the entry into force of this Agreement. The Parties may agree on another date of entry into force of this Agreement.
3. Notifications referred to in paragraph 2 shall be sent to the Secretary General of the Council of the European Union and to the [Indonesia to complete], or their respective successors.
4. This Agreement may be provisionally applied if the Parties so agree. In this case the Agreement shall apply from the first day of the month following the date on which the Union and Indonesia have notified each other of the completion of their applicable legal procedures for the provisional application. The Parties may agree on another date.
5. In the event that certain provisions of this Agreement cannot be provisionally applied, the Party which cannot undertake such provisional application shall notify the other Party of the provisions which cannot be provisionally applied. Notwithstanding paragraph 4, provided the other Party has completed the applicable legal procedures for the provisional application and does not object to provisional application within 10 days of the notification that certain provisions cannot be provisionally applied, the provisions

of this Agreement which have not been notified shall be provisionally applied from the first day of the month following the notification, or on such other date as the Parties may agree.

6. A Party may terminate provisional application of this Agreement by written notice to the other Party. Such termination shall take effect on the first day of the second month following that notification.
7. Where this Agreement, or certain provisions thereof, is provisionally applied, the term “entry into force of this Agreement” shall be understood to mean the date of provisional application. The Trade Committee and other bodies established under this Agreement may exercise their relevant functions during the provisional application of this Agreement. Any decision adopted in the exercise of their functions will only cease to be effective if the provisional application of this Agreement is terminated and this Agreement does not enter into force.

Article X.3

Termination

1. This Agreement shall remain in force unless terminated pursuant to paragraph 2.
2. A Party may terminate this Agreement by written notice to the other Party. This notice shall be sent to the Secretary General of the Council of the European Union and to the [Indonesia to complete], or their respective successors. This termination shall take effect six months after the receipt of that notice, unless the Parties agree otherwise.

Article X.4

Fulfilment of obligations

1. Each Party is fully responsible for the observance of all provisions of this Agreement.
2. Each Party shall ensure that all necessary measures are taken to give effect to the provisions of this Agreement, including their observance at all levels of government as well as by persons exercising delegated governmental authority. Each Party shall act in good faith to ensure that the objectives set out in this Agreement are attained.
3. In cases of special urgency as those are defined in paragraph 4 of Article 44 of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Community and its Member States, on the one part, and the Republic of Indonesia, on the other part a Party may take appropriate measures with respect to this Agreement.

Article X.5

Persons exercising delegated governmental authority

Unless otherwise provided for in this Agreement, each Party shall ensure that any person, including state owned enterprises, [public enterprises], an enterprise granted special rights or privileges or a designated monopoly, that has been delegated regulatory, administrative or other governmental authority by a Party at any level of government, acts in accordance with the Party's obligations as set out under this Agreement in the exercise of that authority.

Article X.6

No direct effect

1. Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons, other than those created between the Parties under public international law, nor as permitting this Agreement to be directly invoked in the domestic legal systems of the Parties.
2. A Party shall not provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

Article X.7

Relation with other agreements

1. Unless otherwise provided for in this Agreement, the existing agreements between the Member States of the Union and/or the European Community and/or the Union and Indonesia are not superseded or terminated by this Agreement.
2. This Agreement shall be an integral part of the overall bilateral relations as governed by the Framework Agreement on Comprehensive Partnership and Cooperation between the European Community and its Member States, on the one part, and the Republic of Indonesia, on the other part and shall form part of the common institutional framework.
3. The Parties affirm their rights and obligations with respect to each other under the WTO Agreement. For greater certainty, nothing in this Agreement requires a Party to act in a manner inconsistent with its obligations under the WTO Agreement.
4. In the event of any inconsistency between this Agreement and any agreement other than the WTO Agreement to which both Parties are a party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.
5. If any of the provisions of the WTO Agreement incorporated into this Agreement is amended, the Parties shall consult with a view to finding a mutually satisfactory solution, where necessary. As a result of such consultations, the Trade Committee may amend this Agreement to reflect such an amendment of the WTO Agreement.

Article X.8

Future accessions to the Union

1. The Union shall notify Indonesia of any request made by a country to accede to the Union.
2. During the negotiations between the Union and the country seeking accession, the Union should provide, upon request of Indonesia, and to the extent possible, any relevant information regarding any matter covered by this Agreement.
3. For greater certainty, this Agreement shall apply to trade and investment between the new Member State of the Union and Indonesia from the date of accession of that new Member State to the Union.
4. In order to facilitate the implementation of paragraph 3, the Trade Committee shall examine any effects of the accession on this Agreement and decide on the necessary amendments to this Agreement, and on any necessary adjustment or transition measures, sufficiently in advance of the date of accession of the new Member State to the Union. Such decision shall take effect on the date of accession of the new Member State to the Union.
5. The Union shall notify Indonesia of the entry into force of any accession to the Union.

Article X.9

Territorial application

1. This Agreement shall apply:
 - (a) with respect to the Union, to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union are applied and under the conditions laid down in those Treaties; and
 - (b) with respect to Indonesia, to its territory [Indonesia to develop further if required].

References to “territory” in this Agreement shall be understood in this sense, except as otherwise expressly provided.

2. As regards those provisions concerning the tariff treatment of goods, including rules of origin and origin procedures, this Agreement shall also apply with respect to the Union to those areas of the Union customs territory, as defined by Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, not covered by subparagraph 1 (a).

Article X.10

Annexes, Appendices, Declarations, Protocols and Understandings

The [Annexes, Appendices, Declarations, Joint Declarations, Protocols and Understandings] to this Agreement constitute integral parts thereof.

Article X.11

Authentic texts

This Agreement is drawn in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, [Indonesian,] Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each version being equally authentic.

JOINT DECLARATION

Concerning Customs Unions

1. The Union recalls the obligation of those countries that have established a customs union with the Union to align their trade regime to the one of the Union, and for certain of them, to conclude preferential agreements with countries having preferential agreements with the Union.
2. In this context, the Parties note that Indonesia shall start negotiations with those countries which:
 - (a) have established a customs union with the Union, and
 - (b) whose products do not benefit from the tariff concessions under this Agreement,

with a view to concluding a bilateral agreement establishing a free trade area in accordance with Article XXIV of the GATT 1994. Indonesia shall start negotiations as soon as possible with a view to having the abovementioned agreements entering into force as quickly as possible after the entry into force of this Agreement.