



EUROPEAN COMMISSION SERVICES' POSITION PAPER ON THE SUSTAINABILITY IMPACT ASSESSMENT IN SUPPORT OF NEGOTIATIONS ON A TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND INDONESIA

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1. Introduction

This paper sets out the European Commission services' position on the Sustainability Impact Assessment (SIA) in support of negotiations on a trade and investment agreement between the European Union (EU) and Indonesia. The SIA was commissioned by the European Commission's Directorate-General for Trade and was carried out by a consortium of independent consultancy companies led by Development Solutions. It was completed in September 2019¹.

Negotiations on a bilateral EU-Indonesia trade and investment agreement (the agreement) were launched in July 2016, and have the objective of concluding an ambitious and wide-ranging deal that can bring growth opportunities for the EU and Indonesian societies as a whole – business, workers and consumers alike. The negotiations aim at eliminating or reducing tariff and non-tariff barriers to trade in agricultural products, manufactured goods, and services and at establishing robust rules in trade and trade-related areas, thereby facilitating trade flows, realising the untapped potential for investment, levelling the playing field between private business and state-owned enterprises, and contributing to sustainable development objectives.

SIAs are trade-specific assessments carried out by external consultants to support major trade negotiations. They examine how the trade and trade-related provisions of the agreement under negotiation could affect economic, social, human rights, and environmental issues in the EU and in the partner country, as well as in other relevant countries (notably, developing countries and least developed countries - LDCs); and they propose measures to maximise the likely benefits of the agreement or to mitigate possible negative impacts. SIAs are also an important tool for consultation and communication with stakeholders, contributing to the transparency of trade negotiations.

This SIA built on the analysis presented in the SIA carried out in 2008 in support of the region-to-region negotiations for an EU-ASEAN trade agreement, providing more up-to-date information and a clear focus on the specific features and potential impacts of bilateral negotiations with an individual ASEAN Member State. It draws on the methodological framework set out in the Commission's [Handbook for Sustainability Impact Assessment](#). It extends the assessment of the potential economic, social, environmental and human rights impacts of the agreement, including with respect to possible effects on EU competitiveness (with a special focus on SMEs), on consumers and on developing countries – notably LDCs. The SIA also examined more in depth the potential impacts of the agreement in a number of sectors of specific relevance for EU-Indonesia trade relations, including vegetable oils and oilseeds, clothing and apparel, and financial services.

The SIA process included a wide consultation of a broad range of stakeholders both in the EU and in Indonesia, including representatives of business associations, trade unions, environmental groups, human rights and development NGOs, international organisations and research institutes. Stakeholder

¹ As the SIA was finalised before the insurgence of the COVID-19 pandemic, this is not covered in the SIA or in this position paper.

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consultation activities included dedicated meetings with civil society actors in the EU (in the framework of DG TRADE civil society dialogue) to discuss the SIA reports throughout the drafting process, a workshop with local stakeholders in Indonesia, bilateral meetings, interviews and web-based surveys. Inputs gathered through these consultations fed into the analytical work carried out in the SIA, allowing for a better understanding of specific interests and concerns for various groups of stakeholders, also underpinning the preparation of the recommendations put forward in the SIA.

The final SIA report is publicly available on DG Trade's website:

<http://ec.europa.eu/trade/policy/policy-making/analysis/sustainability-impact-assessments/assessments/>

This document constitutes the Commission services' response to this SIA's findings and recommendations.

2. Overview of the consultant's findings

2.1. Economic impacts

Overall, the report concludes that an EU-Indonesia agreement is expected to have positive impacts for both Parties across all the key economic indicators (GDP, welfare, global and bilateral trade), with their comparative magnitude being larger in Indonesia than in the EU due to the differences in the relative size of the two economies (while in absolute terms such impacts would have similar magnitude). Quantitative results are based on a Computable General Equilibrium (CGE) model, which estimates the changes that would be brought by an agreement compared to the benchmark of a non-agreement scenario, modelled up to 2032. Specifically, the CGE model projects an increase in EU welfare of €2 to 2.4 billion and an increase in EU GDP of €2.5 to 3.1 billion. For Indonesia, the expected increases to welfare and GDP would be, respectively, €2.8 to 3.2 billion and €4.6 to 5.2 billion. Furthermore, the economic modelling shows that the higher the degree of trade liberalisation achieved in the agreement, the larger the economic gains expected for both sides, thereby making the case for pursuing the maximum degree of liberalisation possible in the negotiations. The removal of non-tariff barriers (NTBs) to trade appears to be a key factor in determining the size of the expected economic gains, and the report stresses the importance of paying specific attention to areas such as Sanitary and Phyto-Sanitary (SPS) measures and Technical Barriers to Trade (TBT).

Total output is also expected to increase under an agreement both in the EU and in Indonesia, with regard to goods (both agricultural and industrial sectors) as well as to, albeit to a smaller extent, services. Differences would however emerge at sectorial level, with some industries seeing a potential contraction of production (e.g. textiles, wearing apparel and leather products in the EU; motor vehicles and parts, chemicals, rubber and plastic, and metal products in Indonesia), even though overall this would be more than compensated by the expansion foreseen in other sectors (e.g. motor vehicles, machinery and dairy in the EU; textiles, wearing apparel and footwear, as well as electronics, in Indonesia). Interestingly, the Indonesian oil and oilseeds sector is expected to experience a slight reduction of output under the agreement, even though Indonesian exports to the EU would increase, as this would essentially stem from a reallocation of existing trade flows and not from a production expansion.

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Small and medium sized enterprises (SMEs) on both sides would benefit from an agreement, with the main gains likely to originate from increasing integration into global value chains and from the reduction of non-tariff related measures, which represent higher costs for SMEs than for larger companies. For instance, facilitating and simplifying customs and import-export procedures, upholding international standards and ensuring protection for Intellectual Property Rights (IPR) could be particularly beneficial for SMEs.

2.2. Social impacts

As a result of the prospective agreement, real wages for skilled and unskilled labour in both the EU and Indonesia are expected to rise. The agreement-related GDP growth is projected to have various positive social impacts, such as on education and living standards, particularly in Indonesia. In line with the projections on sectoral economic impacts, shifts in employment are predicted, namely with regard to the garment textile and footwear industry and the automotive sector. These sectoral shifts in employment could lead to a skill mismatch, and while the EU is better positioned to tackle this issue, some challenges may surface in relation to the requalification of workers in affected industries in Indonesia.

The agreement is also projected to directly and indirectly impact on working conditions, with larger effects expected in Indonesia than in the EU, due to their different relative size. In Indonesia, the expected reallocation of jobs towards sectors that have historically been less likely to provide decent working conditions (namely garment, textile and footwear) raise concerns as to the risk that an increasing number of workers, including vulnerable groups such as women and children, could be exposed to poor working conditions. At the same time, the agreement could also serve as a channel to support improved working conditions in Indonesia, notably through dedicated provisions and by creating a conducive environment for the dissemination of responsible business practices.

2.3. Human rights impacts

Overall, the report highlights that the agreement could contribute to the improvement of the human rights situation in Indonesia in two main ways: first, through the foreseeable increased presence of EU companies and their role as fosterers of Corporate Social Responsibility (CSR) and Responsible Business Conduct (RBC) practices; second, by providing an additional governance framework for Indonesian authorities and businesses to advance their own policies in relevant areas.

The projected expansion under the agreement of certain Indonesian sectors where human rights concerns already exist could have negative impacts on the enjoyment of some human rights, in particular for vulnerable groups such as women and children (notably in the garment, textile and footwear sector) or indigenous peoples (namely with regard to land rights, which might be impacted on by forestry and wood industries). This, however, could be mitigated by the increased presence of European companies, namely as their generally high adherence to CSR principles and respect for human rights may have positive impacts both directly on their own employees and more broadly on

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their supply chains, leading to the dissemination of good practices. Against the backdrop of the EU-Vietnam and the EU-Singapore trade and investment agreements that both include a chapter on transparency, the SIA notes that an EU-Indonesia agreement would also have the potential to improve good governance, transparency and the rule of law in Indonesia.

2.4. Environmental impacts

The report looks into the impacts that the agreement may have across several environmental areas. With regard to greenhouse gas (GHG) emissions, the agreement is expected to be carbon efficient, with a smaller quantity of CO₂ emitted by unit of GDP: total CO₂ emissions in the Parties would increase but at a lower rate than GDP growth. More broadly, while production expansion is expected to result in an increase of emissions of other GHG under the agreement, the agreement would also present opportunities for the dissemination of climate-friendly products and technologies, thereby potentially leading to a reduction of GHG emissions on balance. Similar considerations apply to the agreement's impacts on water quality (where the expected expansion of water-intensive industries such as textile, leather and wearing manufacturers in Indonesia could potentially lead to degradation, while the uptake of good practices and water cleaning and reuse technologies could have positive impacts) and on waste management (as the foreseeable increased presence of non-biodegradable products in Indonesia is likely to pose challenges to the local waste management system, but opening the sector up to EU investment could bring technological know-how and promote the circular economy).

Overall, the technological effects arising from the agreement could also lead to more cost-effective and resource-efficient global value chains – while the scale and composition effects linked to an expansion of certain industrial sectors may have negative impacts on land use change and on biodiversity and ecosystems (e.g. encroachment of natural reserves in favour of industrial developments). The report notes that, besides market access disciplines, the inclusion in the agreement of provisions on environmental governance would also play an important role in determining the ultimate impacts of the agreement on these areas.

2.5 Cross-cutting issues and sectorial impacts

The report stresses that the agreement could have cross-cutting positive impacts through the liberalisation of the Indonesian investment and procurement markets, as this would foster competition and efficiency, leading to benefits for consumers and potentially strengthening good governance in the country. Similarly, positive impacts would stem from increased protection for IPR, in terms both of opportunities for producers of IP-intensive goods (including Geographical Indications – GIs) and of boosting investors' confidence. At the same time, the report highlights stakeholders' concerns on the design of a mechanism to deal with investor-state disputes, as well as on potential negative impacts of IPR disciplines on the pharmaceutical and biotech industry and access to medicines in Indonesia.

Furthermore, the report provides insights into the likely impacts of the agreement on six sectors of specific relevance in trade and investment relations between the EU and Indonesia – or of particular domestic importance for one or both Parties. Impacts in the fisheries, the energy and mining and the financial services sectors are projected to be rather limited – although specific challenges exist in the Indonesian fishing sector, with regard to unsustainable fishing practices and illegal, unreported and

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unregulated (IUU) fishing, leading to depletion of resources, and with regard to coastal communities, namely concerning jobs shifts. Despite the key role of the vegetable oils and oilseeds sector in the Indonesian economy and in bilateral trade flows, the agreement is expected to have relatively minor impacts in this area, as it would mainly lead to a reallocation towards the EU of current exports from Indonesia to other countries – but not to an expansion of production. This being said, the report highlights existing challenges linked to land conversion and resulting deforestation and to working conditions in palm oil plantations. Larger impacts are projected in the clothing and wearing apparel sector, which would present both opportunities for Indonesia to increase upstream capabilities and participation of women in the labour market, and challenges in relation to working conditions and to water and air pollution. For the motor vehicles and parts sector, positive economic impacts are expected for both the EU and Indonesia – although Indonesia could face challenges in terms of reallocation of jobs from this to other sectors with lower wages.

3. Commission services' views on the findings and recommendations

3.1 Findings

Overall, the SIA findings are in line with the assessment that the Commission carried out in its preparatory work on the agreement and corroborate the case for negotiating a trade and investment agreement between the EU and Indonesia. The findings confirm that the agreement is expected to be beneficial to both the EU and Indonesia and to their societies as a whole, and this is a principle that underpins the negotiations, in which EU pursues an ambitious and wide-ranging agreement, which can bring growth opportunities for businesses, workers, and consumers on both sides. Commission services are well aware that achieving this objective also requires to address some challenges, and the SIA gives useful insights on specific sectors or actors that could experience negative impacts and to which special attention should therefore be paid.

With regard to the main pillars of the analysis, the Commission services consider the following findings as particularly noteworthy:

- Economic pillar: the SIA shows that the more ambitious the level of market access opening achieved in the agreement, the more positive its overall impacts would be, in line with the Commission's objective of ensuring a high level of liberalisation, while taking into account sensitivities in specific sectors. Also, the report confirms the key impact that NTBs have on access for EU companies, and in particular SMEs, to the Indonesian market – and addressing such barriers in the agreement remains a priority for the EU;
- Social pillar: the analysis indicates that the increase in GDP that the agreement is expected to generate both in the EU and in Indonesia would be a key driver for positive social impacts, in line with the EU approach to trade and investment agreements as an important engine for growth and jobs. Furthermore, while existing shortcomings with regard to working conditions in a number of Indonesian economic sectors would remain an issue of concern both with or without an agreement, the agreement could serve as a channel to support improvements in this regard. This consideration resonates with the importance that the Commission attaches to including in trade and investment agreements commitments to the core labour standards so as to contribute to strengthen the protection for workers' rights;
- Human rights pillar: possible negative impacts are linked to existing concerns on the human rights framework in Indonesia, and strengthening the overall domestic governance system would be a

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key factor to improve the situation. The Commission concurs on the important role that trade and investment agreements can play in enhancing the rule of law and good governance, by providing transparent and predictable rules in the areas falling within their scope;

- Environmental pillar: the report highlights that the agreement is expected to be carbon-efficient and stresses in particular its potential for positive impacts related to the dissemination of climate-friendly products and technologies, which can be larger than the negative impacts that could stem from the expansion of production in resource- or emission-intensive sectors. In line with these findings, under the agreement the Commission pursues the opening of the Indonesian market to climate-friendly goods and investment, and aims to lock in commitments fostering multilateral environmental governance, including the implementation of the Paris Agreement, and the sustainable management of natural resources.

Furthermore, Commission services note that the in-depth sectorial analysis carried out in the SIA provides interesting elements for reflection that to a certain extent call into question certain common assumptions. This is in particular the case for the vegetable oils and oilseeds sector, where the CGE model finds that an agreement would re-orient Indonesian exports of palm oil more towards the EU and away from other current importers, but would not lead to an expansion of palm oil production. This being said, Commission services are aware of the legitimate concerns linked to the possible negative environmental, social and human rights impacts of palm oil production and sees as an important objective for the agreement the promotion of the sustainability of the palm oil sector. This is especially true in a context where the Indonesian government aims at increasing output in this sector significantly, while fighting against harmful practices, for instance by promoting better planting techniques aiming to increase yields and through a moratorium on the development of new oil palm plantations on forests and peatlands.

Other sectoral findings that provide a different perspective from widely spread assumptions include the fact that the agreement would be expected to have only very minor impacts in the energy and mining, fishing and financial services sectors. Commission services note that such findings are understandable when looking at the specific features of these sectors, including the extent to which they could be addressed in an agreement, as described in the report. Finally, the projection of a very large increase of EU exports of alcoholic beverages to Indonesia under the agreement is also somewhat unexpected, notably in view of the sensitivity of this sector in Indonesia, but as pointed out in the report this result is influenced both by the high tariffs currently in place in Indonesia (which mean that even a partial reduction would have a strong impact on trade flows) and by the full liberalisation assumption made in the modelling scenario.

In this respect, it should be recalled that the findings based on the results of the economic modelling are influenced by the assumptions included in the model, which do require a certain amount of simplification compared to a more nuanced reality. This concerns both the liberalisation scenarios (e.g. assumed full liberalisation of certain products or exclusion of others, which might not correspond to the actual outcome of the negotiations) and some elements built in the model (e.g. hypothesis of full employment, which means that an increase in employment in a given sector would always generate a decrease of the same size in another sector). Commission services also note that, in particular with regard to social and environmental issues, the report looks at a broad set of topics. While this is valuable to present a comprehensive reference point against which to carry out the impact analysis, it is worth recalling that such baseline reflects the state of domestic policies and legislation irrespective of whether an agreement is concluded or not and therefore encompasses a much wider set of issues than what would fall within the scope of the agreement as such.

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3.2 Recommendations

With regard to the recommendations² put forward in the SIA on the basis of the findings presented in section 3.1, Commission services consider it particularly useful for the report to present recommendations both on matters that could be covered **within the agreement** and on issues which should rather be addressed through flanking measures **outside the agreement**. This approach allows to take a comprehensive look at the agreement and its potential effects within the context of the overall relations between the EU and Indonesia, so to better understand the drivers for certain projected impacts and to examine which tools and policies would be the most appropriate ones to deal with them. Commission services believe that this integrated perspective can maximise the effectiveness of the proposed measures and recall the importance that the Commission attaches to coherence between different policies.

i) Economic pillar

The report recommends pursuing the greatest possible degree of **liberalisation** with regard to both tariffs and behind-the-border barriers, identifies some key issues to be addressed in specific negotiating areas, and calls for cooperation and capacity-building activities as **accompanying measures**.

Commission services concur with all the trade-related measures put forward by the SIA under the economic pillar, concerning both the overall approach to liberalisation and recommendations in specific areas. With respect to liberalisation, in order to maximise the benefits of the agreement, the Commission pursues the **highest possible level of market opening for goods** (R1), including transitions for the full liberalisation of products that may require adjustment periods (R2), **for services** and **for investment**, in which respect it concurs with the SIA on the need to address in particular limitations to national treatment and foreign equity caps currently in place in Indonesia (R6).

Concerning specific policy areas, Commission services concur on the importance of the key elements highlighted in the recommendations. The EU negotiating positions reflect these elements³, and the Commission will continue to pursue them in the negotiations, including: on **SPS**, prelisting, the use of standards of the World Organisation for Animal Health (OIE) and cooperation on animal welfare (R3); on **TBT**, transparency, risk-based conformity assessment procedures and use of international standards (R4), including in specific sectors (R11 and R12); the use of modern and simple procedures in the area of **customs and trade facilitation** (R5) and the reliance on the principles of non-alteration, self-certification and administrative cooperation for **rules of origin** (R10); comprehensive rules on **digital trade** to remove unjustified barriers, bring legal certainty for companies, including SMEs, and ensuring a secure online environment for consumers, while catering for the protection of personal data and privacy (R8).

² Hereafter referred to as “R” followed by their respective number in the report.

³ The opening text proposals tabled by the EU are available at: <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1620>

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Commission services also broadly share the report's recommendations for flanking measures, highlighting the usefulness of **cooperation and capacity-building** activities, including for SMEs (R9) and with regard to the uptake of international standards and conformity assessment procedures (R13). The Commission is providing support to Indonesian **SMEs** through technical assistance and capacity building programmes for the Indonesian competent authorities and SME producers in order to enhance compliance with **international technical standards**. For instance, export quality infrastructure is a priority area under the ARISE+ Indonesia programme. The EU is also a major provider of Trade-Related Technical Assistance to **LDCs** (R7), but Commission services note that programs in this area are designed on their own merits and should not be seen as ancillary to negotiations with other countries.

ii) Social pillar

In the social area, the recommendations focus on two main sets of issues: managing the potential **shifts in employment** across different sectors, and improving **working conditions** in Indonesia. To these ends, the report recommends the inclusion in the agreement of **transition periods** for the full liberalisation of certain sectors and of provisions on adherence to **ILO instruments** and on the promotion of **responsible business practices**, as well as the deployment in parallel to the agreement of **cooperation and capacity-building** activities in relevant areas, including through targeted projects and the establishment of an EU-Indonesia Labour Dialogue.

Commission services are aware of the challenges that could arise in the short term with regard to the reallocation of jobs between different sectors, and, as mentioned above, factors into the negotiations the possibility of **transition periods** for the full liberalisation of sectors that may require adjustments (R14). As negotiations progress, Commission services will look into the specific sectors highlighted in the report in this regard, with a view at ensuring a balanced combination of tariff dismantlement and appropriate transition periods when necessary.

The Commission is fully committed to the inclusion in the agreement of a robust chapter on trade and sustainable development (TSD), addressing labour and environmental issues of relevance in a trade and investment context, in order to ensure that closer economic relations with Indonesia go hand in hand with the **protection of workers' rights** and of the environment. The EU has been leading in integrating sustainable development into trade policy, including trade agreements, and comprehensive commitments in this area continue to be a key objective also for the agreement with Indonesia. The TSD text presented by the EU⁴ includes ambitious provisions in support of **decent work** and adherence to the key **ILO instruments**. It includes all the key elements stressed in the recommendations (R15 and 16): ratification and implementation of the fundamental ILO Conventions, decent working conditions for all, labour inspections, cooperative work on a broad range of trade-related labour matters, dedicated institutional set-up for monitoring and follow-up – as well as further provisions supporting high levels of protection in domestic laws and preventing a **race to the bottom**. It also addresses the responsible management of supply chains, and, in line with the recommendations, promotes **responsible business practices** and the dissemination and use of relevant international principles and guidelines.

With regard to the recommendations on accompanying measures, the Commission supports several projects in Indonesia addressing working conditions and other social issues focusing on business practices that respect human rights principles in relation to labour rights and land distribution, including

⁴ Available at https://trade.ec.europa.eu/doclib/docs/2017/september/tradoc_156111.pdf

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by working with the private sector. Commission services take note of the suggestion to set up an **EU-Indonesia Labour Dialogue**, and concur on the usefulness of institutional fora for regular discussions on cooperation in the labour area. Such fora could be provided either by the platforms for policy dialogue and orientation of cooperation established under the **PCA** or by a dedicated Labour Dialogue, should it be agreed so jointly and in the interest of both Parties (R17).

iii) Human rights pillar

The report highlights that the agreement could be a driver for the uptake of responsible business practices, including with regard to the protection of human rights, but it could also have negative impacts on human rights – which, however, would mainly be linked to existing weaknesses in the enforcement of the Indonesian relevant legal framework, rather than to specific features of the agreement itself. Against this background, recommendations in this area focus on measures to be taken outside the agreement to improve the protection for human rights in Indonesia, namely through **cooperation and capacity building** activities and, for specific sectors, the use of **certification schemes**. With regard to measures to be addresses within the agreement, the report recommends the inclusion of provisions on relevant **international human and labour rights instruments**.

Commission services concur on the importance of continuing to engage with Indonesia to strengthen respect for human rights, including by supporting the work carried out by relevant institutions and civil society actors in the country (R19). In this respect, Commission services concur on the central role to be played by the **Human Rights Dialogue**, under which the EU will continue to carry out policy exchanges, as well as to raise issues of concern, with the Indonesian authorities. The Commission is supporting several **cooperation and capacity-building activities** with civil society actors and with the private sector, including business associations, on the implementation of the UN Guiding Principles on Business and Human Rights. These projects mainly target vulnerable groups that can be impacted by business practices in the country, particularly the people living in rural and remote areas.

The **palm oil** sector is an important area for EU cooperation activities in Indonesia, both as part of cross-cutting projects (e.g. on biodiversity or on sustainable agricultural practices) and under targeted programs, such as the Terpercaya project, which supports the development of jurisdictional approaches with regard to the sustainability of palm oil production⁵. Concerning the recommendations on strengthening certification schemes for palm oil, or for other relevant sectors, the Commission stands ready to support the actors who are in the lead on the design and management of existing schemes (e.g. NGOs, businesses, third country authorities), in view of the useful role that they can play in supporting the uptake of sustainable production practices (R20). Commission services also recall the ambitious agenda set in the European Green Deal, including with regard to developing stronger 'green deal diplomacy' focused on convincing and supporting others to take on their share of promoting more sustainable development. The EU can be an effective advocate by setting a credible example. The Farm to Fork Strategy, the 2030 Biodiversity Strategy, and the Communication on Stepping up EU action to protect and restore the world's forest are key in this regard.

With regard to trade-related recommendations, Commission services share the view that trade and investment agreements can contribute to the overall strengthening of the **framework for the protection of human rights** (R18), through the focus on workers' rights (closely linked to civil rights), more transparency and rule of law, a closer interaction with civil society, the uptake of responsible business practices (R15), and the creation of further channels to engage with the partner countries authorities. The respect of human rights is an **essential element** underpinning the EU bilateral

⁵ www.euredd.efi.int/publications/tracking-sustainable-palm-oil-and-defining-jurisdictional-sustainability

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relation with Indonesia, as governed by the PCA. The agreement will be an integral part of this relation, and the Commission aims at including in the agreement explicit references to the Parties' commitment to the relevant international human rights instruments, such as the **UN Charter**. With regard to the ILO Convention on **Indigenous and Tribal People**, Commission services consider that it might be best addressed in the context of cooperation activities, rather than in a normative framework, in view of the fact that to date it has not been ratified by the majority of EU Member States nor Indonesia.

iv) Environmental pillar

In terms of issues to be addressed within the agreement, the report recommends the inclusion of a comprehensive TSD chapter, covering in particular commitments to the implementation of the **Paris Agreement**, the Convention on International Trade in Endangered Species (**CITES**) and the **Convention on Biological Diversity** (CBD), as well as **sustainable forest management and cooperation** on environmental matters.

As mentioned under section (ii) above, the inclusion in the agreement with Indonesia of a robust chapter on TSD is a key objective for the EU, with regard to both labour and environmental issues of relevance in a trade and investment context. In particular, on environmental protection, the text presented by the EU⁶ addresses all the key elements highlighted in the report. It puts forward commitments to the effective implementation of **Multilateral Environmental Agreements** - including the UNFCCC, the Paris Agreement, CITES and the CBD - as well as dedicated provisions enhancing the positive contribution that trade can make to **fighting against climate change**, to the **conservation and sustainable use of biological diversity**, to **sustainable forest management** and the **conservation of forest cover** (R21) and to the sustainable management of the fisheries and aquaculture sector. These include actions related to the transition to a low-carbon economy, combatting illegal wildlife trade and illegal logging and related trade, implementing the EU-Indonesia Voluntary Partnership Agreement on Forestry Law Enforcement Governance and Trade (FLEGT VPA), and cooperating in a broad range of related areas at bilateral and regional level as well as in international fora.

With regard to accompanying measures, Commission services concur on the importance of **capacity-building and sharing of best practices** on a wide array of environmental issues (R22). The **Working Group on Environment and Climate Change** established under the EU-Indonesia PCA provides for a dedicated channel for dialogue and cooperation in this respect. Furthermore, the Commission funds several **technical assistance** projects in the areas flagged in the recommendations, including through support to FLEGT and under the ARISE+ Indonesia programme. With specific regard to the recommendation on the use of sustainability certification schemes, namely with regard to palm oil and timber, as mentioned under point (iii) the Commission stands ready to support the actors who are in the lead on the design and management of existing schemes, in view of the useful role that they can play in supporting the uptake of sustainable production practices (R23). Concerning timber, Commission services also note that the EU-Indonesia FLEGT VPA provides for a dedicated framework for engagement in this sector, and that it includes a mandatory licensing system ensuring the legality of Indonesian timber products exported to the EU.

⁶ Available at https://trade.ec.europa.eu/doclib/docs/2017/september/tradoc_156111.pdf

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v) Cross-cutting issues and sector-specific recommendations

The report recommends achieving in the agreement the highest possible coverage in terms of **opening of the procurement market** and of **investment liberalisation** in Indonesia, and stresses in particular the importance of facilitating investment in **environment- and climate-friendly sectors**. On investment protection, it supports provisions on the **right to regulate** and the establishment of a dispute settlement mechanism with strong elements of transparency along the lines of the **Investment Court System** (ICS). Furthermore, the report suggests the inclusion in the agreement of a comprehensive set of disciplines on **IPR**, also providing for “**TRIPS flexibilities**” on patents for medicines – and, as an accompanying measure, the development outside the agreement of **cooperation** activities in several IPR-related areas, including enforcement measures, GIs, and training on protection of plant varieties.

At a macro level, the report recommends carrying out, with the involvement of a broad range of stakeholders and after the agreement has been in force for a sufficient period of time, an **ex-post evaluation** to further look into matters that are difficult to fully assess ex-ante and to propose relevant mitigating measures. With regard to the specific sectors addressed in the in-depth analysis, the recommendations put forward in the economic, social, human rights and environmental pillars apply, and are complemented by more targeted recommendations on accompanying measures – namely support to **environmental standards and management systems** in the energy and mining, clothing and apparel, and motor vehicles and parts sectors.

Commission services broadly concur with the SIA recommendations on cross-cutting matters, and notes that the proposed trade-related measures are well integrated in the EU negotiating position. Namely:

- the Commission shares the view that an **ambitious result on investment liberalisation and on public procurement** would be instrumental in maximising the benefits of the agreement for business, including SMEs, workers and consumers on both sides. The Commission remains committed to achieving an agreement that untaps the Indonesian market potential in these areas, including by addressing **regulatory barriers** existing in several investment sectors in Indonesia (including financial services and sectors related to environmental management, such as renewable energy and waste management) and by covering procurement by both **central and local entities**. Commission services are also aware of the relevance of these areas from an environmental perspective, as stressed in the report. Accordingly, the proposals tabled by the EU for the negotiations specifically address the promotion of trade and investment in **environmental goods and services** (e.g. sustainable energy and energy-efficient products⁷), as well as **green government procurement** practices (R24 and 26);
- on investment protection, the EU aims for provisions ensuring a **high level of protection** for investors and their investments, while preserving the **Parties’ right to regulate** in order to pursue legitimate public policy objectives such as the protection of health, safety or the environment. The investment protection provisions negotiated by the EU explicitly state that the

⁷ See for example the text proposals for Trade and Sustainable Development (https://trade.ec.europa.eu/doclib/docs/2017/september/tradoc_156111.pdf) and for Energy and Raw Materials (https://trade.ec.europa.eu/doclib/docs/2017/september/tradoc_156108.pdf).

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investment protection rules do not affect the right of the State to change its legal and regulatory framework, including in a manner that may negatively affect operation of investments or the company's expectation of profits. This means that the protection standards do not protect investor's expectation of profits. As to the dispute settlement mechanism, the **ICS** is a main feature of the EU reformed approach to investment protection, and aims at ensuring **consistency and predictability**, high guarantees of **independence and impartiality** by the adjudicators, and **transparency** of the proceedings. These principles underpin the EU position in the negotiations with Indonesia (R25);

- On IPR, the Commission considers it as a key objective for the negotiations to make sure that both EU and Indonesian operators are encouraged to continue **creating and innovating**, so as to contribute to growth and jobs and to ensure that citizens and consumers can benefit more quickly and effectively from innovative and creative products and services. The IPR text proposed by the EU is designed to guarantee a balance between the interests of both the holders and the users of products protected by these rights⁸. It has a **comprehensive scope**, covering all the areas flagged in the SIA recommendations – including rules on patents, trademarks, designs, plant varieties, copyright (including adherence to international treaties); GIs; IPR enforcement. The Commission also attaches high importance to ensuring that IPRs do not hinder **access to medicines**. The EU text proposal includes a number of exceptions, particularly through the “**TRIPS flexibilities**” to protect public health, and an **explicit reference to the Doha Declaration** that recognises such flexibilities so as to ensure that they can be fully used by both the EU and Indonesia (R27). The Commission is also committed to support IPR protection and IP enforcement in Indonesia through technical assistance activities, and is funding two major programmes in this regard (on a regional scale, and including also country-specific activities): IP Key South East Asia, dedicated to the improved application of IP rules and regulations and their adequate enforcement⁹, and a dedicated IPR project under the ARISE Plus programme, which provides technical support for ASEAN economic integration¹⁰ (R28);
- The Commission is committed to evaluating EU trade and investment agreements throughout their life-cycle, both ex ante (namely through SIAs) and ex post, in order to provide evidence and information and to enhance transparency of EU trade policy. This would also be the case for an agreement between the EU and Indonesia, in which respect, after the deal has entered into force and enough time has passed to gather an adequate amount of evidence, the Commission would carry out an **ex post evaluation** of its effects, both in the EU and in Indonesia, to understand whether it has worked as expected and if there have been impacts that had not been anticipated in the SIA (R29).

With regard to the sectors covered in the in-depth analysis, Commission services support the approach taken in the report of addressing them under the horizontal recommendations developed under each

⁸ Available at https://trade.ec.europa.eu/doclib/docs/2017/february/tradoc_155281.pdf

⁹ <https://ipkey.eu/en/south-east-asia>

¹⁰ <http://ariseplus.asean.org/#features>

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pillar, in particular with regard to suggestions for measures to be taken within the agreement, and notes that this would allow for a more coherent and efficient policy response (see above for the Commission services' views on the various recommendations). At the same time, Commission services take note of the report's recommendations for some **sector-specific accompanying measures**. The Commission is already engaged in several programmes that support enhanced environmental governance and management practices, including on the use of appropriate standards, and will continue to pay specific attention to these areas as part of its bilateral cooperation agenda, with regard to both **policy dialogues** and **technical assistance projects** (R30, 31, 32).

4. Conclusions

The SIA provides a detailed picture of the possible economic, social, human rights, and environmental impacts of an agreement between the EU and Indonesia, on the basis of both quantitative (CGE modelling) and qualitative (literature review, overview of legal frameworks and policy documents, inputs from stakeholders) analysis. This provides Commission services and the public with useful insights on the main trends in Indonesia as to economic growth, social development, human rights governance and environmental management, and highlights the key opportunities and challenges that an agreement could bring in these respects.

Overall, the findings and recommendations of the SIA confirm the strong case for an agreement between the EU and Indonesia, which is expected to be beneficial across all the main indicators for both sides. At the same time, the SIA identifies some key areas that require to be handled carefully in order to prevent possible negative impacts, thereby drawing the attention of negotiators to potential risks and feeding into the negotiating process with suggestions on how to best address such issues – both within the agreement and in parallel to it.

Recommendations for measures to be taken within the agreement overall converge with the key objectives that the Commission pursues in the negotiations, as reflected in the text proposals tabled by the EU, therefore providing support for the EU negotiating positions. Recommendations for accompanying measures flag several areas that are part of the cooperation agenda between the EU and Indonesia, and provide meaningful inputs to the Commission on how to further develop or complement them.

Finally, Commission services strongly welcome the comprehensive set of activities for the involvement of stakeholders in the EU and in Indonesia that has underpinned the SIA process. This has allowed to raise awareness on the ongoing negotiations among a wide range of actors, as well as to gather views from the ground and inputs from a variety of perspectives on issues of particular interest and concern on the agreement and its possible impacts. As the negotiations move forward, the Commission remains committed to further engage with interested stakeholders, including those that have participated in the SIA process, in order to ensure continued transparency on the negotiations and to promote open dialogue with all civil society actors.