



## Report of the virtual round of negotiations for a trade agreement between the European Union and Indonesia

15 to 26 June 2020

Officials from the EU and Indonesia met by videoconference from 15 to 26 June to continue negotiations for an EU-Indonesia trade agreement.

The EU negotiating team was led by Ms Helena König, Deputy Director-General DG TRADE at the European Commission, while the Indonesian team was led by Pak Iman Pambagyo, Director General for International Trade Negotiations at the Indonesian Ministry of Trade.

Nearly all working groups met, except for the groups on SMEs, trade remedies, economic co-operation and capacity building and sanitary and phyto-sanitary measures, in which texts are either close to technical conclusion or can only be concluded at a later stage.

Discussions in all groups focused on selected provisions. Many chapters recorded good progress, in particular with regard to geographical indications, rules of origin and product specific rules, technical barriers to trade and general regulatory provisions as well as on subsidies. Talks on investment as well as energy and raw materials were equally positive. On the other hand, the timeline for exchanging the first offers in market access in government procurement could not yet be agreed. Progress was also limited on trade in goods and on the trade and sustainable development chapter. Regarding services, text discussions advanced well but the EU recalled the need for an improved offer on all modes of supply.

The date for the next round of negotiations is still to be agreed.

### Details per negotiating area

**Trade in Goods:** Discussions improved the mutual understanding of the limitations and operations of each side's systems. Progress was nevertheless limited. Difficult topics remain the coverage of products that could benefit from the disciplines on repaired and remanufactured goods.

**Rules of Origin:** Both sides held good discussions on the origin procedures (Section B) and covered in detail the product specific rules (PSRs) of the metal sector. Indonesia completed its proposal on the PSRs on several additional products, following prior internal consultations.

**Customs and trade facilitation:** Discussions focused on the three remaining articles. Both sides reached an agreement on fees and charges as well as on part of the article on customs cooperation and mutual administrative assistance, with the exception of a limited number of elements to be clarified promptly after the round. Only institutional provisions remain open.

**Mutual Administrative Assistance:** Discussions were open and constructive and resulted in the agreement on 5 out of the remaining 7 articles. Issues still open are the EU proposed article on automatic exchange of information and some proposed adaptations on data protection to bring this in line with GDPR. Discussions could not be held on the anti-fraud clause.

**Technical Barriers to Trade:** Both sides reached full agreement on the article on the reaffirmation on the TBT Agreement and incorporation of certain provisions, as well as on transparency. Discussions on foreign participation in public consultations and the listing of

international standard setting organisations remained difficult. There were extensive discussions on Conformity Assessment and the EU proposal for accepting Supplier's Declaration of Conformity for lower risk products. Indonesia agreed to further analyze the proposals.

**Trade in Services:** The texts on Financial, Telecommunications, International Maritime Transport, Mode 4, Mutual Recognition of Professional Qualifications, Delivery and the Understanding on Computer Services were further discussed. Most of the provisions in the above sections are now agreed. On market access, the Indonesian side informed that the Investment List (*Omnibus Law*) including all foreign equity caps as well as Indonesia's Postal Law are now being revised by their Parliament. Detailed discussions took place on mode 4 / temporary movement. Both sides also discussed Indonesia's proposals seeking the recognition of Indonesian seafarers and cooperation on Indonesia's national qualification frameworks. The EU explained its lack of mandate to cover the latter issues in a trade agreement.

**Investment:** Both sides discussed most remaining open issues on investment liberalization and investment protection. A number of clarifications were made and further follow-up actions have been agreed ahead of the next round. Indonesia still has to submit a revised offer also with regard to non-services sectors.

**Investment Dispute Settlement:** Discussions were constructive following Indonesia's internal consultations on the concept of the Investment Court System. In-depth discussions on several key policy issues took place, such as transparency, mediation, the Code of Conduct, and the issue of cost allocation (*'loser pays principle'*).

**Government Procurement:** Both sides continued constructive discussions of the text and reached an agreement on several provisions. The majority of the text is now agreed. However, issues like non-discrimination principles and review procedures remain to be discussed and the timeline for exchanging a market access offer has not yet been decided.

**Subsidies:** On subsidies, discussions were constructive, particularly on the inclusion of services subsidies where Indonesia was able to engage in detail. The EU clarified that subsidy disciplines do not prevent quick action in crisis situations. It was confirmed that the subsidy rules only concern economic activities and do not apply to non-economic activities. Modalities to implement transparency provisions remain to be further discussed.

**Intellectual Property Rights:** Discussions focused on geographical indications, technological protection measures, exceptions to trademark protection, designs, regulatory data for medicines and plant protection products, technology transfer as well as genetic resources, traditional knowledge and folklore. Both sides agreed on technological protection measures based on the original EU proposal. They maintained their positions on the exceptions to the rights conferred by a trademark, designs, regulatory data protection, technology transfer and genetic resources, traditional knowledge and folklore, where Indonesia still needs to discuss internally. On geographical indications (GIs), both sides informed that no opposition had been lodged to the respective lists of GIs. Some minor adjustments and corrections are still needed, however.

**Trade and Sustainable Development:** Discussions were constructive, although limited progress could be made. Both parties recalled their objective of concluding an ambitious and comprehensive TSD chapter. Nonetheless, both sides are still apart on the overall conceptual approach for the chapter and its relation to the other parts of the agreement. On the text consolidation, further progress was made on trade and climate, including on the commitment to the Paris Agreement.

**Energy and Raw Materials:** Both sides committed to making progress towards a stand-alone chapter on energy and raw materials. Focus of the discussion was on disciplines relating to import and export monopolies, authorisations and regulatory bodies. The number of open issues was further reduced.

**Dispute Settlement:** The text is getting closer to finalization, with a few provisions to be settled at the end stage, including on coverage and cross-reference to dispute settlement in other chapters and the timelines. Good progress was made towards agreeing on the open nature of panel hearings, and on the Code of Conduct for panelists. Indonesia still maintains a general reserve on the proposed roster system, however. The question of the common working language for dispute settlement procedures has also not yet found a solution.

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**Institutional and final provisions:** Both sides agreed to streamline certain articles in the text, including about a coherent definition of “parties” for some articles, the level and equal standing of representatives for the Trade and Specialised Committees including its structure, the authority and functions of the Trade Committee and entry into force. Indonesia raised the possible need for a general review clause.

**Good Regulatory Practices and Transparency:** Good progress was made on several articles, including the full text of the article on definitions and the article on public consultations. Discussions will continue concerning the use of electronic portals for public consultations, as well as on the public availability of the results of consultations. Partial agreement was reached on the provisions on impact assessment and on retrospective evaluations of applicable regulatory measures. There was agreement in principle on the idea of a regulatory register, but discussions are still needed to correctly capture the respective systems in place.