



Report of the 10th round of negotiations for a Free Trade Agreement between the European Union and Indonesia

22 February to 5 March 2021 (per video-conference)

Officials from the EU and Indonesia met in virtual format from 22 February to 5 March for the 10th 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 at the European Commission, while the Indonesian team was led by Pak Iman Pambagyo, Expert Staff on International Trade Negotiations at the Indonesian Ministry of Trade.

Negotiations resumed after a long pause due to the covid crisis. Nearly all working groups met, except for SPS, anti-fraud and economic cooperation. Further progress was recorded in several chapters, but without major breakthroughs on the more difficult outstanding issues that would require change of policy or legislation.

Both sides agreed on a list of follow-up items and inter-sessional discussions in advance of the next round which is planned for early July 2021.

Details per negotiating area

Trade in Goods

Both sides built further on the work done in the previous rounds and deepened their understanding on the remaining obstacles, in particular as regards the EU's proposals on export taxes, repaired and remanufactured goods, import and export restrictions and import licensing. There were no further market access discussions this round but both sides agreed to clarify some technical issues ahead of the next round.

Rules of origin

Both sides had constructive discussions on the General Provisions (Section A) and made good progress on open issues under Origin Procedures (Section B). Discussions on the Product Specific Rules covered the metal sector, electronics and machinery, vehicles, textiles and processed agricultural products. Convergence was noted on several products, most importantly on certain products in the textiles and clothing sector.

Customs and Trade Facilitation

The negotiations on the remaining two articles in the Chapter on Customs and Trade Facilitation progressed well. The substantive text is now nearly concluded.

Also the Protocol on Mutual Administrative Assistance was further discussed and is very close to conclusion. The Anti-Fraud Clause will be discussed at the next round.

Trade remedies

Both sides had constructive talks on a number of open issues. The provisions on the review clause as well as the duration of possible safeguard measures remain open.

Technical Barriers to Trade

Detailed discussions did not allow to reach significant progress this round on the text of the chapter. The remaining open issues concern the non-discriminatory participation of EU persons in public consultations on major technical regulations, the publication of results of consultations, the definition of Suppliers' Declaration of Conformity (SDoC), subcontracting provisions, marking and labelling aspects or the finalisation of the list of international standard-setting organisations. Regarding SDoC alternative options were explored. The EU presented the EU conformity regime for textiles and footwear. Discussions on conformity assessment will be deepened in the following round.

Services

Both sides discussed both the regulatory provisions and the related market access offers for financial, telecoms, delivery, and transport services. Other topics were digital trade, Mode 4, Mutual recognition arrangements as well as market access in professional, construction and distribution services. Indonesia is still processing the new Job Creation Law and its implementing regulations and their impact on the services' markets liberalisation. Discussions were constructive aiming at resolving the last few outstanding issues in the text and allowing to provide an idea of possible future market access liberalisation. Further discussions will be required once the assessment of the implications of the new law and regulations is finalised.

Investment

Discussions focussed on investment protection provisions, notably the coverage of subsidies, expropriation, observance of written commitment and denial of benefits. The Indonesian side presented its new investment policy following the adoption of the Omnibus Law. This should pave the way for a revised schedule of market access commitments to be discussed during the next rounds.

Investment Dispute Settlement

Discussions on investment dispute settlement were constructive, focusing on the 'loser pays' principle for cost allocation and on the EU's proposals on transparency in the proceedings.

Government Procurement

Both sides held constructive discussions on the rules and standards for the procurement procedures and agreed a number of provisions. While the majority of the text is agreed, important issues like the non-discrimination principle and market access commitments remain to be discussed and agreed upon.

IPR

Both sides discussed all open issues in the IPR Chapter: copyright and related rights, trademarks, designs, patents and public health, plant varieties, regulatory data protection for medicines and agrochemicals, technology transfer as well as genetic resources, traditional knowledge and folklore, and civil and border enforcement. On several of these issues, however, discussions were constrained by limitations set by respective domestic legislation. Discussions on geographical indications (GIs) covered dual protection of names already registered under domestic legislation, the addition of new names, and the state of play concerning the protection of non agri-food GIs in the EU.

Subsidies and SOEs

On Subsidies, the discussion focused on Indonesia's latest proposal. The EU provided preliminary comments; exchanges focused on the definition of services and the proposed exceptions to the disciplines. Discussions also clarified some elements regarding consultations.

On State-Owned Enterprises, following a session with the Chief Negotiators, talks aimed to first reach agreement on the principles of commercial considerations and non-discriminatory treatment and then consider language for any needed exceptions to those principles

subsequently. A core issue is to define the scope of government assignments. It was agreed that SOE disciplines would constitute a separate section under the Competition chapter, alongside the sections on competition and subsidies.

Small and Medium-Sized Enterprises

Discussions focussed on the latest SME policy developments and measures for post-COVID recovery in both Indonesia and the EU. The review of the SME chapter text paved the way for future progress in defining information provision requirements and the role of SME Contact Points.

Trade and Sustainable Development

Both sides engaged in the discussions with a constructive spirit and took stock of recent domestic developments in areas of relevance for this chapter. Detailed discussions on trade and climate issues allowed for further text consolidation concerning the references to the Montreal Protocol and to climate resilience. The two sides also touched upon issues related to trade and sustainable management of marine biological resources and aquaculture, Multilateral Environmental Agreements, and responsible business practices.

Energy and Raw Materials

Discussions focussed on disciplines relating to e.g. the scope, definition of energy goods, and authorisation procedures where some progress was made. Indonesia also proposed some new elements to be added to the text in relation to renewable energy.

Good Regulatory Practice

Discussions on the chapter on Good Regulatory Practice reviewed all open issues but only managed to advance on the impact assessment article. Further reflection is needed on scope, the use of an electronic portal for information on public consultations and the publication of a summary of the results. There were no discussions on the Transparency chapter.

Dispute Settlement

Both sides engaged in pragmatic and constructive discussions and good progress was made on the text, in particular as regards the issue of expenses, the linguistic arrangements for dispute settlement procedures, and the extent of the confidentiality thereof.

Institutional and Final Provisions

Both sides made good progress towards further consolidation of the text, on both institutional and final provisions. Further discussions are needed on the outstanding issues, which comprise the institutional structure of the agreement, including committees and working groups, as well as the relations between the trade agreement and other agreements and the provisions on the domestic advisory group.

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