Scene Setter

Despite outcries in the media regarding increased protectionism in Indonesia, in 2011 trade figures between EU and Indonesia are up by almost 16% resulting in record high trade numbers of 23.5 billion euro. First data for 2012 confirm this trend (at least on the EU export side) as EU sales to Indonesia went up by more than 30% in January-February compared to the same period of last year.

However, these dynamic trade flows are explained mainly by the buoyancy of the Indonesian economy and cannot be considered satisfactory for the EU as we are witnessing a constant reduction in our market share in Indonesia that shrank by 3 percentage points in the last 5 years (down from 10.5% to 7.5%). It is therefore in our interest to pursue a bilateral agreement to ensure EU trade and investment take maximum advantage of this growth market.

During your last meeting with Minister Gita Wirjawan in Phnom Penh, you mainly discussed market access issues and only briefly touched upon his readiness to launch negotiations for a Comprehensive Economic Partnership Agreement (CEPA).

Since he took office last October and following a number of 'socialisation' events around the country, Minister Gita feels more confident on the launch of negotiations having gathered the support of the Cabinet and of the Indonesian civil society (Indonesian Chamber of Commerce KADIN, the Employers' Association APINDO) as well as of the Trade Commission of the Parliament.

Minister Gita also mentioned during your meeting, and more strongly in subsequent occasions in Jakarta with EU Ambassadors and the UK Commerce Secretary, that he is aiming at launching negotiations next autumn when President Barroso is scheduled to meet President Yudhoyono (either in October in Brussels when Yudhoyono would visit Brussels or in November when President Barroso would attend the Bali Democracy Forum).

While the political intention seems now there, little follow up has been done by the Ministry (partly explained by the change in the staff dealing with the EU) although the target of October-November for the launch looks too optimistic, setting this goal would nevertheless increase the prioritisation and engagement of the Indonesian Government also in term of allocation of resources.

Therefore, as a follow-up of the Phnom Penh meeting, a revised scoping paper was sent middle of April to the Trade Ministry, so that the Minister could have the chance to already present some views in this occasion. Moreover, Minister Gita may wish to raise some bilateral issues for which defensive points are provided.
Objectives

- Confirm the Commission interest in enhancing the long term perspectives of bilateral trade and investment relations, including the negotiation of an ambitious free trade agreement.

- Explain to the Minister the need for the EU to proceed with the preliminary technical work (scoping exercise) which is necessary before the formal launch of the negotiations.

- Emphasise the time needed for such a process and the need to engage in bilateral discussions with the EU.

- Gather the first comments the Minister may have on the draft scoping paper shared middle April and reply to his preliminary questions (if any).

- Follow-up on some of the discussions in Phnom Penh regarding Indonesia’s trade measures (labelling and limitation of the ports of entry for horticulture products).

Key Messages

- Great to see you again just one month after our meeting in Phnom Penh. How is your European trip going?

- I understand you have been explicit in your recent meetings in Jakarta with EU Ambassadors and my UK colleague regarding Indonesia’s readiness to start negotiations. Does this mean your internal consultation process is completed and we can now proceed with the preparatory work for the negotiations?
I understand that in order to start negotiations you need an approval from the Cabinet and your President. As I mentioned in Phnom Penh according to our procedures, we need to finalise first a joint "scoping paper" with the aim of identifying the issues that should be included in the negotiations and ensuring that both sides have the same understanding of the objectives and level of ambition for a future CEPA/FTA. The rationale for this exercise if that we need to be sure that each negotiating partner shares the same ambitions for a comprehensive FTA. The parameters have to be right before launching the negotiations in order to avoid difficult negotiations over principles later on. They provide a solid framework of parameters in which we can operate over the coming years.

Once the scoping exercise is finalised, we will have to get the scoping paper endorsed by EU Member States before starting formal negotiations on the CEPA/FTA. This internal process can take a couple of months. This means that if we aim at launching negotiations during the meeting of our Presidents in autumn, as you mentioned in Phnom Penh as one option, we would need to finalise the technical work by early autumn. This is very challenging!

My services already shared with you a revised draft scoping paper to show concretely what we are talking about. This updated version reflects our latest thoughts with other ASEAN partners but do not change much of the structure we already shared with your predecessor last June.
• Do you already have any questions or comments on this paper? In terms of timing, when would you like to proceed with the first technical scoping meeting?
[If time allows, follow up to some bilateral issues]

- During our meeting in Phnom Penh we discussed a number of issues the EU industry is facing entering the Indonesian market. I realise there was only short time between our meetings, but would you be able to give your feedback on possible actions in relation to two specific topics?

  o Starting with the **labelling requirements** for "products distributed domestically" (this includes, inter alia, household appliances, electronics, toys, garments, car parts …) We now hear indications that these requirements might even be strengthened by having a complete Indonesian language packaging and not allowing stickers. **I hope you can alleviate our concerns on that account?**

    You will remember my suggestion to allow for post-import stickering. I believe that allowing the post-import stickering option would greatly alleviate the administrative burden and cost for economic operators, without compromising Indonesia’s objective of informing consumers.

  o The second issue is the **closure of 4 ports for horticulture products trade**. I have appreciated the 3 month delay in the implementation of this measure and I remember from our discussions that you are working at some practical solutions, at least to allow the Jakarta Port to remain open for EU imports. Are you able already to share more details on your current thinking on "practical solutions"?
Briefing
- Meeting with Indonesian Trade Minister Gita Wirjawan
- Date: 2nd May 2012 at 16 hours
- Place: Brussels

Defensive issues

**Illegal, Unreported and Unregulated fishing (IUU)**

*I have been informed that the EU legislation to prevent illegal and unregulated fishing (IUU) may result in a ban on Indonesian fisheries exports. How we can avoid that?*

- Under EU fisheries legislation, EU and third countries’ authorities have to comply with their obligations to their Regional Fisheries Management Organisation (RFMO) in the context of IUU fishing practices (Illegal, Unreported and Un-regulated).

- The EU is engaged with the Indonesian authorities to how best to preserve global fishing stocks and Indonesia has proven cooperative on all fishing matters.

- The findings of a mission sent by the Commission last year showed shortcomings with respect to the implementation of the legislation and a serious follow-up by Indonesian authorities is therefore needed.

- I understand that there will be further discussions with the responsible Indonesian authorities on the best feasible way to implement recommendations to tackle IUU fishing practices, including the provision of technical assistance.
**Palm oil/Renewable Energy Directive (RED)**

*The EU sustainability criteria for biofuels are a barrier to trade for palm oil products*

- Crude palm oil is Indonesia's biggest export item to the EU and indeed, the EU buys 20% of Indonesia's national palm oil production. The largest part of these imports is demanded by the food and cosmetic industries and only a small fraction (less than 5%) is intended for the biofuel industry. Since the sustainability criteria only applies to the palm oil intended for biofuel production, great majority of your exports enters freely and without any further conditions to the EU market.

- Therefore, you can be reassured that there is no existing or planned restriction on oil palm imports from Indonesia. This would also not be acceptable under WTO rules. However, we must be aware that consumers in Europe and elsewhere are increasingly environmentally aware. As a result, producers are demanding more sustainable palm oil.

- It is positive to see the Indonesian industry through the Round Table for Sustainable Palm Oil (RSPO) and other routes committing to ensure greater sustainability of oil palm production. Also your government recognises this problem and some of its policies –such as the proposed ISPO (Indonesia sustainable palm oil) scheme seek to mitigate impact.

- The EU Renewable Energy Directive is part of the EU efforts to meet its greenhouse gas emission reduction commitments. It offers incentives to increase the consumption of sustainably produced biofuels. Indonesian palm oil producers meeting sustainability criteria can benefit from the expected increase in biofuels demand in Europe. The sustainability criteria are based on the best scientific information available.
• The EU is committed to cooperate with Indonesia to secure our trade in palm oil products and to boost exports of products that meet environment sustainability criteria. Specific cooperation activities are being prepared to promote the adoption of best practices by the industry and to support small holders in particular.

**Testing of aquaculture products consignments for antibiotic residues**

*Following the (positive) outcome of the latest inspection mission and the progress in the residues monitoring plan of Indonesia, will the EU lift the 20% testing on aquaculture products?*

• The Commission is quite satisfied by the good progress made by Indonesia in monitoring residues in fishery products from aquaculture, although some improvements are still needed.

• DG SANCO is however still waiting for a satisfactory reply by the Indonesian competent authority to a number of the recommendations made after the FVO audit last January.

• On the basis of these replies, a positive decision could be taken in the coming weeks and its implementation could occur within six or seven months if no Member State opposes.

**Anti-dumping proceeding on Malleable Threaded Fittings (MTF) from Thailand, Indonesia and China**

*Indonesian authorities are cooperating on this recently initiated investigation and we expect positive conclusion.*

• We appreciate the co-operation by the Indonesian producer so far. The questionnaire reply was received in mid-April and verification visit is foreseen for June.
• However, as the investigation was only initiated in February 2012, it is by far too early to speculate about the outcome. Provisional findings will be announced by 15 November 2012.

Next meeting of the Working Group on Trade and Investment

The Minister could propose to host the next meeting of the WGTI in Indonesia at the end of June.

• I appreciate your proposal to reconvene our Working Group on Trade and Investment which is an important forum for discussion and finding solutions to bilateral issues.

• Our services will discuss about the suitable dates and agenda.

Contact:
art 4.1.(b)
Background on EU-Indonesia FTA

The EU-Indonesia Vision Group delivered its recommendations in May 2011 suggesting the start of a Comprehensive Economic Partnership Agreement (CEPA), an elaborated version of a FTA. The Vision Group Report was made publicly available and a series of "socialisation" events have taken place in Europe and Indonesia.

The first reaction from industry representatives from both sides has been positive as they stress the complementary aspects of the two economies. The two most important business associations in Indonesia (KADIN and APINDO) are supportive to the process. Even the traditionally protectionist trade unions expressed initial support, indicating EU companies have higher employment standards and are better in line with OECD best practice.

EU Member States, although not officially consulted yet, are sending positive signals on the necessity and urgency to engage the largest economy in the region in a comprehensive free trade negotiation.

During the meeting of April 2nd 2012 in Phnom Penh, in the margins of the AEM-EC consultations, Minister Gita showed a renewed interest in opening discussions on a bilateral trade agreement. This change of attitude could indicate that he has now the support from the Cabinet and the President to move on with the negotiations. He has been even more explicit in subsequent meetings with EU Ambassadors in Jakarta and, reportedly, with the UK Commerce Secretary. Gita even mentioned his aim of formally launching the negotiations in October or November on the occasion of a high level meeting between Presidents Yudhoyono and Barroso either in Brussels or Indonesia.

This seems a very ambitious plan, also in view of the long time needed to conclude scoping exercises with other countries, yet setting a target date will increase the level of prioritisation in Indonesia (currently engaged in talks with several partners) and the resources allocated to the negotiations with the EU.

To this respect, it should be pointed out that the Indonesian system operates in a top down approach where the President has to give the approval before the administration can actually engage even in a pre-negotiation/scoping phase.

As a follow-up to the Phnom Penh meeting, a revised scoping paper was transmitted to the Ministry of Trade as a basis for the opening of technical discussions on the content of the Agreement. This new draft maintains the same structure than the document informally circulated to the Indonesian Ministry last June. However, the language of some chapters (especially on services and investment, public procurement, IPRs, competition and sustainable development) has been updated to reflect the latest discussions with other ASEAN partners.
As there was no reaction from Indonesia on the draft of June 2011, it is difficult to foresee the possible reaction and comments of the Minister.

However, based on the discussions during the Vision Group work, we can expect a strong request for capacity building and additional technical assistance to Indonesian exporters on how to meet EU standards.
Briefing

Meeting with Indonesian Trade Minister Gita Wirjawan
Date: 2nd May 2012 at 16 hours
Place: Brussels

Background on bilateral issues

Labelling requirements

In September 2010 Indonesia introduced a labelling obligation on products distributed domestically (Regulation No. 22/M-DAG/PER/5/2010). This regulation applies to all local and foreign businesses.

Regulation 22/2010 bears the obligation for businesses that produce or import the concerned goods\(^1\) to be traded in the domestic market to attach labels in Indonesian language before entering Indonesian customs area. Importers shall also submit an example of label written in Indonesian to the Ministry of Trade for approval. For imported products, such labelling notification is a prerequisite for customs clearance. Moreover, the label should be attached in such a way that it cannot be easily removed from the product or its package and must be visible and comprehensive.

Currently, a pre-import stickering is applied by most exporters. This creates logistic problems for companies and additional costs.

In addition, recently, it was proposed to no longer allow the 'stickering' practice but instead insist on complete Indonesian 'labelling' of the package. This would add additional cost and would deter small quantity exporters from marketing their products in Indonesia.

EU exporters are suggesting defining specific areas (under custom supervision) where products, could be stickered after import procedures.

Restriction of entry ports for fruits and vegetables

Indonesia announced recently the planned closure of 4 out of 8 entry ports for fruits and vegetables products for reasons of limited quarantine capacity to clear incoming products. One of the entries which will be closed is the Tanjung Priok Port in Jakarta.

In the proposed regulation, imported fruit and vegetables can only enter through four places, namely Tanjung Perak Port in Surabaya; Soekarno-Hatta Port in Makassar; Belawan Port in Medan; and Soekarno-Hatta Airport in Tangerang.

This news has generated protest from businessmen, government and other countries. The US has openly mentioned they would consider WTO-action.

As the main entry port for imports of fruits and vegetables (Jakarta) will no longer be available, EU is concerned that trade will be seriously hindered. In total, 47 commodities are affected by this measure. Bringing fruits and vegetables via other ports means longer travel time, thus increase of costs and raises difficulties in maintaining the quality of the products.

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\(^1\) The Regulation applies for five groups of products: home appliance electronics, telecommunication and informatics (46 products); construction material (8); motor vehicle spare parts (24); and others (25 products), e.g. electricity cable, toys, footwear, and garment.
of the products as these are highly perishable. While impact on EU trade is relatively small (around EUR 11 million value in 2011) there is a fear that this measure could also be extended to other products.

Thanks to intervention of the EU and several other countries (such as Australia, Canada, New Zealand and US), a postponement of 3 months until 19 June 2012 has been granted by Indonesia for the implementation of this measure.

During the meeting in Phnom Penh, Minister Gita expressed his willingness to cooperate in finding practical solutions for exporters, for example through an agreement between technical bodies supported by the provision of capacity building to the Ministry of Agriculture. The details of the proposed solution have not been disclosed yet.
Background on defensive issues

Illegal, unreported and unregulated (IUU) fishing Regulation

Since January 2010 only marine fisheries products validated as legal by the relevant flag state or exporting state can be imported to or exported from the EU. This is to ensure that all fishery imports have been caught according to laws prevalent in each region. The same rules apply to all countries (including EU).

The findings of a mission sent by the Commission last year showed serious shortcomings with respect to the implementation of the catch certifications scheme, the verification process; the management system applied to domestic and long distance fishing vessels and the sanction system with respect to infringements by Indonesian flagged vessels.

A serious follow-up by Indonesian authorities is therefore needed as the IUU regulation is rather strict and could ultimately result in trade restrictive measures which are not in anybody's interest. On the contrary, we want to ensure that EU's fishery imports from Indonesia (around 150 million euro/year of which 70 million affected by IUU) continues and even increases.

The Commission is ready to support this process with technical assistance and the Trade Cooperation Facility managed by Ministry of Trade already addresses this issue.

Indonesian fishery products from aquaculture

An inspection from the EU Food and Veterinary Office (FVO) was carried out in December 2009 in order to evaluate the control of residues and contaminants in live animals and animal products, focussing on aquaculture (for which Indonesia is listed as eligible to export to the EU).

The inspection report revealed breakdowns in the planning and implementation of the Indonesian National Residue Control Plan (NRCP), which could not be considered as being effective. Despite a low number of RASFF notifications from 2009 which could not be taken as a fully reassuring sign, it was decided, in April 2010, to require the testing of 20% of the consignments of aquaculture products from Indonesia for chloramphenicol, nitrofurans and tetracyclines.

In January 2012, the FVO audited the residues sector again. Significant improvements have been made in the planning and implementation of the Residue Monitoring Plan, whilst some shortcomings remain (for example in laboratory performance and follow-up of non-compliant results).

These improvements, along with the absence of non-compliant results reported by Member States in imported consignments and the self-monitoring for residues performed by some integrated establishments in Indonesia before consignments of aquaculture products are exported to the EU led the FVO to conclude that in general the residue control system in Indonesia provides guarantees with an effect equivalent to those foreseen by EU legislation.
The FVO's final report was formally signed and sent to the MS and the Indonesian competent authority (CA) on 16 April. It contains seven recommendations and the Indonesian CA still has to reply satisfactorily to a number of these (for example ensuring sample integrity in laboratories and effective follow-up of non-compliant results).

A positive decision to lift the requirement for testing of 20% of the consignments could be taken in the coming weeks. The decision could be implemented within six/seven months if the Member States do not oppose.

### Antidumping proceedings on MTF from Thailand, Indonesia, China

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