BRIEFING

- Subject:
- Meeting with Indonesia Ambassador Mr Arif Havas OEGROSENO
- Date: 10 October 2011
- Place: Bruxelles

Scene Setter

This meeting has been requested by the Indonesian Ambassador to the EU. The request mentions an urgent matter to discuss with you without specifying it. However, is likely to refer to the recent antidumping measures concerning the import of certain fatty alcohols and their blends (FOH). A letter on this matter from Trade Minister Pangestu has been received by the Cabinet on 4 October (attached a copy, the answer is on the pipeline).

Moreover, you could pass some messages to Ambassador Oegroseno (pronunciation Ugroseno) on the importance to continue and reinforce the substantive dialogue on trade and investment and move forward with the preparation for the CEPA.

Line to take on the antidumping case

This is the only ongoing trade defence investigation against Indonesia.

Provisional measures were imposed on 10 May 2011. A proposal for definitive measures is presently under discussion and should be adopted by the Council by 11 November 2011 at the latest. The level of the duties for the two sole Indonesian companies is limited, and is in line with the level of duties in the other investigated countries (India and Malaysia).

The key difference between the provisional measures and the current proposal for definitive duties is the change from ad valorem to a specific duty. This was triggered by strong pressure of users of the imported product in the EU claiming that (due to the doubling of the price after the investigation period) the impact of duties on those users would be unduly high. As this concern was echoed by some MS, the compromise was to go for specific duties, which freeze the level of the duties at the levels resulting from prices in the investigation period. This is beneficial for the Indonesian exporters.

Key Messages

On the antidumping case on FOH

- The Indonesian exporters and the Indonesian Government commented on the definitive findings and were heard at the Commission premises. Their point of view was well understood and analysed carefully before taking a final decision on the Commission proposal.

- The form of the measures would be modified from 'ad valorem' duty (in regard of the 2 Indonesian companies 5,4% and 7,3% respectively) to specific duty per tonne (45,63 and 80,34 €/Tonne) in order to avoid that recent worldwide price increases would render the measures more burdensome than necessary. This is positive news for the Indonesian exporters as well.

- The final decision will be taken early November.

On EU-Indonesia bilateral relations

- The Commission is offering to engage in exploratory talks with those ASEAN countries which are ready to negotiate a comprehensive Free Trade Agreement. We already launched negotiations with Singapore and Malaysia. Scoping exercises are ongoing with Vietnam and Thailand.

- Our joint Vision Group, an initiative of Minister Pangestu and endorsed by our Presidents, has presented its recommendations before the summer and argued for the start of negotiations of a Comprehensive Economic Partnership Agreement (CEPA).

- As you know, we have some internal preparations to do before we can formally launch a negotiation, we call this scoping exercise. Is there enough political support in Indonesia to start negotiations still this year?

- Our Presidents will likely meet next month in Cannes in the margins of the G20. Although the timing is now too short for a formal announcement of the start of FTA negotiations, can we expect a message from President Yudhoyono to give a political push to the process?

***Defensive points: Issues raised specifically by the Indonesian Trade Minister in her letter dated 30 September*.**

1) Request to net out purchases of the complainant from total imports in the injury analysis.

COM position: From a technical point of view, since the amount of purchases is low in relation to the total production of the EU industry there is no basis to exclude these dumped purchases from the injury analysis.

2) Individual Undercutting margins found for Indonesia are negative. Therefore Indonesia did not contribute to the price pressure.

COM position: even though no undercutting was determined for Indonesia underselling was still established. Thus the negative impact of dumped imports from Indonesia on the situation of EU industry is confirmed. The standard to cumulate all the dumped imports from the countries concerned to determine injury was thus met.

3) The new proposed form of the measures in specific duties affects adversely the importers and if it is an attempt by the Commission to convince MS by placating users the overall interest of the EU lies in terminating the case.

COM position: Please note that the new proposal of the form of the measures only responds to the post investigation period (IP) price developments. The form of the measures was modified from 'ad valorem' duty (5,4% and 7,3%) to a specific duty per tonne (45,63 and 80,34 €/Tonne) based on concerns expressed by several interested parties that imposing ad valorem duties (in a situation of significant post IP price increases) would lead to an unduly high impact of the proposed measures.

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Background

Antidumping case on fatty alcohols and their blends

This anti-dumping case was initiated on 13 August 2010 following a complaint lodged by two Union producers. The complaining producers have plants located in France, and Germany. They represent more than 50% of Union production. In May 2011 one of the two complainants withdrew their complaint although they remained neutral for the remainder of the investigation.

The product is saturated fatty alcohols and their blends ('FOH'). Fatty Alcohol is an intermediary product which is mainly used as an input material for the production of surfactants. Surfactants are used to produce detergents, household, cleaning and personal care products.

Besides Indonesia, the current investigation also involves imports from India and Malaysia. Imports from the three countries concerned represent ca. 28% of EU market share (in terms of volume). Imports from Indonesia represent 7% of EU market and more than doubled between 2007 and 2009. There are 2 exporting producers in Indonesia, 3 in Malaysia and 2 exporting producers in India.

The Indonesian exporters have fully cooperated and the Indonesian Government has followed the proceeding very closely. Three hearings with the Indonesian Trade defence Director were held at our premises.

The value of Indonesian imports for 2009 is around 36 million € out of a total EU market worth of 424 million €.

The Indonesian Government has shown an early interest in the case and is following it closely. A delegation headed by the Indonesian Trade Defence director came to Brussels three times in the course of the proceeding to express the business' and government's concerns about the proceeding. The Indonesian Trade minister has already written in the past a letter to the Commissioner, which has been replied to. The answer to the recent letter of 30 September is currently being prepared.

art 4.1(a) [redacted]

EU-Indonesia Vision Group and CEPA negotiations

This project, inspired by the Indonesian Trade Minister Mari Pangestu and endorsed by Presidents Yudhoyono and Barroso in December 2009, was in line with the positive political climate created by the partial resolution of the air ban and the consequent signing of the PCA, and had the objective of maintaining the momentum in the bilateral relations while buying some time to deal with the pressures of some sectors of the domestic industry, which is very much concerned about recent opening to other regional partners (especially China) mainly in the context of the ASEAN regional negotiations.

The main recommendation of the Group was the establishing of a Comprehensive Economic Partnership Agreement (CEPA). The proposed agreement would be a comprehensive one, constructed like a pyramid based on three main pillars: Market access, Facilitation of trade and investment and Capacity building. This is very much similar to the Indonesia-Japan EPA and to the structure of the proposed bilateral agreement with Australia.

From the EU perspective, an agreement with Indonesia would be of high interest to given its size and our declining market share in the country. However it will also be challenging in terms of substance. In this respect, the reaction of the Indonesian Government to the recommendations of the Vision Group which called for the launch of CEPA negotiations is encouraging.

The Indonesian Government is currently consulting the main stakeholders on these recommendations, but also on the more detailed contents of a possible agreement (socialisation campaign). This will pave the way in Indonesia to the formal decision (by the President) to open negotiations. Although the reaction from the local industry (KADIN) has been so far positive, highlighting in particular the complementarities between the two economies and the importance of closer bilateral ties, it is still early to predict whether or not the Government will get the necessary support.

From the EU perspective, negotiations can start only after an in-depth discussion on key aspects of the agreement in order to evaluate their readiness to take commitments on critical aspects of services, market access and procurement. This will be reflected in the so-called scoping paper to be presented to the Member States ahead the formal start of the negotiations.

An offer to start a scoping exercise has been presented to Indonesia in occasion of the last bilateral working group on trade and investment before the summer. However, no official answer has been received so far and the unofficial signals are showing the need for Indonesia to take some additional time to consult internally all the stakeholders before engaging with the EU.

A high level meeting is expected to take place in the margins of the G20 meeting in Cannes between Presidents Barroso and Yudhoyono and this could be an occasion to gather a political push necessary to make the administration move.

Contact person:
art 4.1 (b)
DG Trade C3

7 October 2011

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[Redactions below under art. 4.1(b)]

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