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To be updated after the 4th round (ends 23 Feb)

OBJECTIVE

- Convey the outcome of the fourth round of negotiations for an FTA/CEPA which have been held from 19 to 23 February in Solo.
- Reiterate that the EU is committed to achieve the ambitious results that both sides committed to in the scoping paper. It is therefore key that Indonesia :
 - reconfirms its mandate to negotiate in all relevant areas, including government procurement
 - shows confidence building measures - or at least starts reducing- the high number of protectionist measures which hamper access to trade and investment in Indonesia.
- Reiterate the Commission's position on palm oil in general and the recast of the RED directive and palm oil biofuel (if raised).

SCENE SETTER

General

Approaching the regional elections in 2018 and the presidential ones in April 2019, Indonesia has been entering into electioneering mode. In trade policy, Indonesia's declared commitment to negotiate and conclude free trade agreements with various partners around the world (current priorities are Australia, EFTA, RCEP followed by the EU) has not yet translated into genuine openings nor into the implementation of more liberal policies. Indonesia's declared willingness to conclude an FTA with the EU in 2019 is not realistic.

Art 4.1(a)

On the FTA

FTA (CEPA, Indonesian jargon) negotiations with **Indonesia** were officially launched on 18 July 2016. The fourth round was held on 19-23 February 2018.

So far negotiations with Indonesia have allowed to achieve concrete positive outcomes in a number of chapters of the agreement (in particular IPR and GIs, TDI, RoO), but have also identified divergent viewpoints in areas like export duties, energy and raw materials, SOEs, ICS and SPS matters.

Art 4.1(a)

At the fourth round both sides intend to exchange their initial tariff offers. Text-based negotiations are to continue on all chapters.

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Several policy issues still require further inter-ministerial consultations in Indonesia, including on the mandate to negotiate government procurement. We hope to see progress during the fourth Round.

On palm oil

Indonesia accounts for more than half of the global production of palm oil, and the product represents 14% of Indonesia's total exports to the EU. Indonesia has shown very strong reactions to EU public or private initiatives and measures concerning palm oil, e.g. sustainability criteria for biofuels under the Renewable Energy Directive (RED), vegetable oils labelling, private "palm oil-free" labels. As other palm oil producing countries, Indonesia considers that there is a deliberate attempt to spread a negative image of palm oil in the EU to the benefit of other (EU-produced) vegetable oils/fats, under the cover of sustainability concerns.

Nevertheless, figures over the first 8 months of 2017 show that EU imports of palm oil from Indonesia are after two years of stagnation or slight decline up again by 19% in volume and 37% in value, increasing its market share to 52,4% – so claims that the EU is hampering imports are not supported by facts.

Art 4.1(a)

KEY MESSAGES

On the FTA

- I appreciate Indonesia's political willingness to engage in negotiating an ambitious agreement.
- The last round of negotiations in February 2018 covered all sectors. Text-based negotiations in nearly all chapters have now started to yield consolidation of some parts of the texts.
- However, while we are pleased with the overall engagement and have made important progress in certain chapters, we want to negotiate according to the commitment we both made in the scoping paper we agreed.

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- [Also, the apparent lack of a clear mandate to negotiate government procurement market access, a key element of the FTA for the EU, casts a shadow over the whole process.]
- Where does Indonesia's internal process stand in this regard? It is crucial that we deliver in these negotiations on what we jointly set as our ambitions.
- During the round in February we have exchanged initial tariff offers.
- We hope we will soon be in a position to exchange also offers in services and government procurement.

On protectionist measures

- Any ambitious outcome in FTA negotiations would be impaired by the existing high number of trade restrictive measures Indonesia applies and continues to issue.
- Pervasive local content requirements (in telecom, energy, oil and gas, retail, franchising), a still unclear Patent law, various layers of non-automatic and non-transparent import licensing, a pending halal law which could bring to a halt trade in various sectors, fees on SPS audits of establishments ... are only some of the issues where we want to see confidence building measures.
- Only a friendly trade and investment climate can bring increased mutual benefits for our people.

On BIT – Investment protection

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Art 4.1(a)

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- Art 4.1(a)

On Palm oil - General

- *Art 4.1(a)*

On the EP vote on the recast of the RED

- As part of the “Clean Energy for all Europeans” package, presented in November 2016, the Commission proposed a revision of the EU Renewable Energy Directive after 2020.
- This aims at reducing the carbon footprint of the transport sector, including by limiting the contribution of crop-based biofuels ("conventional biofuels") and by promoting the use of waste and residue in biofuel production ("advanced biofuels").

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- The Commission's proposal for the RED recast does not mandate any differentiation among biofuels based on different crops and does not put forward a ban on palm oil in the EU.
- Art 4.1(a)

DEFENSIVES

Art 4.1(a)

Art 4.1(a)

BACKGROUND

Background on the FTA

FTA negotiations (also called CEPA in Indonesian jargon: Comprehensive Economic Partnership Agreement) were officially launched on 18 July 2016, after long exploratory talks which led to an agreement under the tenure of Indonesian President Jokowi in April 2016 on an ambitious pre-FTA "scoping paper". Indonesia is the largest economy in ASEAN and an FTA with this country would create synergy and new opportunities for 750 million people.

Three rounds of negotiations have been held so far. The fourth round of negotiations will be held from 19 to 23 February. It will be text-based in the big majority of chapters and will aim at consolidating parts of the texts [to be updated after the fourth round].

Art 4.1(a)

Trade restrictive measures

The trade and investment climate in Indonesia is not friendly. Recent new protectionist measures and reportedly future measures on local content requirements in public procurement, fees on audits and evaluation of submissions of export applications as well as restrictive investment and import measures for dairy products add up to a long list of current barriers. These include a high number of trade restrictive measures which range from non-automatic import licensing, access to port restrictions, discretionary possibility to restrict imports of food, an extremely restrictive halal law, for which implementation is expected (no clear timeline though and reportedly, an internal controversial issue).

Background on palm oil

Palm oil, a key economic sector for Indonesia (14% of their total exports to the EU) and development (main source of income for millions of smallholders) is increasingly prominent in the country's political debate and in its bilateral relations with the EU. Indonesia has long expressed strong (if not disproportionate) concerns on the political and public debate on palm oil in the EU, alleging that there is a deliberate attempt to spread a negative image of palm oil to the benefit of other (EU-produced) vegetable oils/fats. Palm oil is a key economic sector for Indonesia and Malaysia, in terms of employment, trade (. They represent 80% of global palm oil production.

The EU is the second importer of palm oil worldwide (12% of global consumption). EU industry has been a driving force in engaging with suppliers to improve the sustainability of palm oil production, but concerns remain in the EU public opinion on its possible negative environmental and social impacts.

Indonesia (like Malaysia) has long raised concerns on the palm oil debate in the EU, alleging that, under the cover of sustainability/health considerations, there is a deliberate attempt to spread a negative image of palm oil to the benefit of other (EU-produced) vegetable oils.

Over the last months, the European Parliament (EP) has increasingly called for measures to limit or ban the use of palm oil in the EU – notably in biofuels, with the adoption on 17 January 2018 of a proposal to exclude biofuels based on palm oil (but not on other vegetable oils) from the scope of the revised Renewable Energy Directive (RED).

This has triggered strong reactions by Indonesia (and Malaysia): they consider the EP position to be in breach of WTO obligations on non-discrimination and have threatened retaliatory measures against the EU.

Art 4.1(a)