

**LIST OF KEY MARKET ACCESS BARRIERS IN INDONESIA -- MAAC 16 March 2017**

<b>Barrier</b>	<b>Description</b>	<b>Actions</b>
<b>Investment restrictions</b>	<p>a) Foreign ownership restrictions are specified in the "Investment Negative List", which was last revised in 2016 by means of the Presidential Regulation No 44/2016, effective from 18 May 2016. It contains several improvements such as the opening up of 45 business lines (e.g. toll road operators, waste management, direct selling (retail), manufacture of raw drugs material, hospital management services, health support services); removal of specific requirements for various sectors and increased permitted foreign shareholding for 141 business lines (e.g. tourism, hotels and restaurants, trade -retail-, e-commerce, warehousing, distribution, cold storage, health and health services, toll roads, high-voltage electricity projects and geothermal). However, the revision also introduces more restrictive measures, for instance in the transportation, fisheries, public works and construction services sectors, maintaining restrictions in agriculture, forestry, small and medium e-commerce, oil and gas services, port facilities, telecommunication services, courier services, and electric installation sectors, and requiring further partnership with local SMEs (mainly in industry sector). Some specific sectors are regulated by <u>specific separate laws</u>, e.g. the <u>Banking Law</u>, <u>currently under discussion</u> in the Parliament, foresees to include a proposed cap of 40% on foreign investment in Indonesian banks and a requirement to divest. <u>Identified EU priorities are: telecommunications, courier/express delivery services, banking and insurances, maritime services; horticulture sector</u>, where limitations remain.</p> <p>b) The minimum investment requirement for foreign investment of approximately US\$0.8 million, excluding land and building (set by regulation 5/2013) potentially restricts investment by foreign small and medium-sized investors/SMEs.</p>	<p>The issues of foreign ownership restrictions under the Investment Negative List as well as the minimum investment requirements and the specific separate laws were raised at the Working Groups on Trade and Investment in 2014, 2015, 2017.</p>
<b>General and specific import restrictions and procedures</b>	<p>a) Non-automatic import licensing, pre-shipment controls and customs procedures (including sampling and testing procedures) hamper trade. Several regulations, namely the Ministry of Trade Regulation 27/2012 (amended by regulations 59/2012 and 84/2012) and regulation 83/2012 (replaced by Regulation 87/2015) covering pre-shipment controls and entry port restrictions for more than 800 products, create a complex, non-transparent and burdensome non-automatic import licensing system and result also in quantitative restrictions. The Indonesian import regime also results in quantitative restrictions in certain areas, for instance on alcoholic beverages, which are also subject to fiscal discrimination.</p>	<p>The issues of non-automatic import licensing and the implementation of the Trade and Industry Laws has been raised at the bilateral Working Group on Trade and Investment in 2014, 2015, 2017 as well</p>

	<p>The new Regulation 77/2016 reintroduced import restrictions on tyres, which synergy between the EU and the industry was successful in removing in 2015. The new measures restrict imports in order <i>“to support the availability and supply of domestic tyres, to support national tyres industries development, to create fair competition, and to increase national competitiveness.”</i> They were not notified to the WTO.</p> <p>In addition, a recent draft dairy regulation aims at restricting imports (see SPS issues).</p> <p>b) Trade Law (Law 7/2014) and Industry Law (Law 3/2014) foresee strong supervision and control of the circulation of goods and confer powers to the Government to introduce restrictions on imports based on national interests. The definition of national interests is vague. The state of play of the implementation of these Laws is unclear and should be considered in the context of the reform packages issued since September 2015.</p>	<p>as in the WTO TRIMs Committee (trade and Industry Laws) and the WTO Council for Trade in Goods since 2014. The QRs and fiscal discrimination on alcoholic beverages have been raised at the Working Group on Trade and Investment of 2014, 2015, 2017.</p> <p>With regard to tyres, the EU was successful in obtaining the removal of previous restrictions. With regard to the new protectionist measures, the EU has addressed a letter to the Indonesian authorities on 21 December. This was also accompanied by a letter by EUROCHAM, to which the EU delegation contributed. The issue has been raised at the Working Group on Trade and Investment in 2017 and has been discussed during the</p>
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<p><b>Export restrictions</b></p>	<p>a) Export taxes (raw minerals, palm oil, cocoa, wood, leather) and export restrictions (raw minerals, rattan).</p> <p>b) Mining sector restrictions - Regulations 7/2012, 11/2012 and 20/2013 banned exports of unprocessed mineral and metal ores, except coal, with the objective to increase local value-added of minerals through processing and refining. The Government Regulation No 1/2017 allowed exports of unprocessed and semi-processed mineral ores. However, the relaxation requires the exporting company to build smelters within five years and convert their Contract of Work scheme into Special Mining Business License (with less investment protection and uncertain tax regime). Foreign miners must also gradually divest their shares up to 51% to local entity after 10 years of production in order to extend their export permits. Furthermore a progressive export tax scheme from 20-25% in 2014 to 60% in 2016 on 65 mineral categories was introduced. Indonesia is a key global supplier of important metals such as nickel, copper and bauxite. While the EU imports from Indonesia were limited, indirect economic effects on the EU are likely to result from the impact of the restrictions on globally traded raw materials. In addition the EU is concerned by the systemic effect of a ban on export, one of the most extreme and damaging restrictions, setting a very damaging precedent in a time of resource nationalism.</p> <p>c) Trade Law (7/2014) confers powers to the Government to introduce export restrictions if justified on national interests. This concerns especially the exports of basic commodities, based on Indonesia's priority to safeguard national resources such as oil, gas and minerals.</p>	<p>The issues has been regularly raised at the Working Groups on Trade and Investment of 2014, 2015, 2017 and in the WTO TRIMs Committee as well as Council for Trade in Goods since 2014.</p>

<p><b>Food and agricultural products, including SPS issues</b></p>	<p>a) Food Law 18/2012 provides an instrument for restricting imports and exports of food products, by stipulating that imports and exports are only allowed if products are not available or needed in the country. Other areas of major concern for EU exporters are:</p> <p>b) In November 2016, Indonesia adopted the Ministry of Agriculture (MoA) Regulation No. 55/2016, notified to the WTO in January 2017. This regulation entails some trade facilitating aspects to find a solution to the requirements set by the previous MoA Reg. No. 4/2015 on imports of Fresh Food of Plant Origin (FFPO), which had created serious barriers to imports from EU (extensive control, inspection and burdensome testing to imports of fruits and vegetables). However, it is premature to evaluate its implementation. The restrictions due to plant health concerns are still an issue.</p> <p>c) The Government Decree No. 35/2016 on Types and Tariffs of Non-Tax State Revenues Applicable on the MoA of August 2016 sets out tariff categories for services provided by the MoA. It has created concerns related to high costs for inspection/audit services on establishments exporting animals, animal products and veterinary drugs to Indonesia. Audits are to be carried out in the companies' countries of origin. Some MS have reported that some establishments that had applied for recognition inspection even prior to August 2016 are now subject to the new tariff regulation.</p> <p>d) Indonesian import requirements for meat and dairy are not transparent, and are not in line with international standards, guidelines and recommendations relating to sanitary and phyto-sanitary measures. In addition the application process for meat and dairy products for exporting to Indonesia is unnecessary burdensome and lengthy.</p> <p>e) A new draft regulation by the Ministry of Agriculture on the milk production and distribution in Indonesia may include a stipulation that "imports of (raw) milk would only be conducted if domestic production is not able to fulfil national demand".</p>	<p>The SPS issues were raised at the WGTI of 2014,2015 and 2017 as well as in the specific Working Group on SPS issues in November 2014 and during Commissioner Hogan's visit in Indonesia in November 2016.</p> <p>They were raised at the bilateral WTO SPS Committees in 2014 and 2015.</p>

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<p><b>Technical barriers to Trade (TBT)</b></p>	<p>a) Indonesian National Standards (SNIs) - Indonesia applies the Indonesian National Standards (SNI) certification system in a number of sectors and industries, including where internationally accepted standards or certifications are available. The Ministry of Industry has been introducing and enforcing Indonesian mandatory National Standards for an increasing number of products (cosmetics, fertilizers, tyres, automotive parts, electrical cables, baby clothing, ceramic tiles, toys, etc). Compliance with SNIs is verified by means of burdensome third party conformity assessment procedures. The EU also has strong concerns about the pre-market authorization system (certification and testing process).</p> <p>b) Industry Law (Law 3/2014) and Standardization Law (Law 20/2014), complemented by the Government Regulation No. 201 of 2000 on the National Standardisation, and the Head of National Standardisation Agency (BSN) Regulation No. 135 of 2010 on the National Standardisation System, are potentially trade restrictive, in terms of the strict use of national standards and preference given to local products.</p> <p>c) The Halal Law 33/2014 sets out a very broad and restrictive regime on halal products. While the implementing regulations have not yet been issued, the EU is closely monitoring the situation to</p>	<p>SNI standards have been raised in the Working Group on Trade and Investment since 2014.</p> <p>The halal issue has been raised in the Working Group on Trade and Investment in 2015 and 2017; It has also been raised in the TBT Committee since 2014 and will be</p>

	<p>avoid bringing trade to a halt. A draft Government Decree (RPP) on Halal has been submitted to the President for his consideration and signature. Additionally, there will be another decree on Tariffs of Halal Certification Process. These two draft measures are expected to be issued in 2018, based on the Halal Law.</p>	<p>raised again at the end of March 2017.</p>
<p><b>Local content requirements</b></p>	<p>a) Local content requirements apply in specific sectors, such as Telecom, Oil and Gas, Retail, Franchising, Insurance. Ministry of Trade regulations 70/2013 and 56/2014 require most retail operators to source 80% of their products locally.</p> <p>b) Government procurement: Presidential Regulation n. 54/2010 foresees that foreign companies can only bid in cooperation with a national company (unless no national company has the ability to provide the goods and services requested) and only on bids that exceed the following thresholds: Rp 100 billion for construction services, RP 20 billion for goods and other services and Rp 10 billion for consulting services. In addition, this regulation mandates the use of domestic products in government procurement if there are providers offering goods and services with a local content exceeding 40%.</p>	<p>Local content issues have been raised in the Working Group of Trade and Investment of 2014, 2015 and 2017 as well as in the WTO TRIMs Committees (since 2009 in the energy and telecommunications sectors and since 2014 in other sectors).</p>