§ 9 The Indonesian-European Comprehensive Economic Partnership Agreement (IEU-CEPA) of 2025

- an important step to sustain globalisation and promote international trade and cooperation in a rules-based international legal order -

I. Free trade agreements and comprehensive economic partnership agreements as part of the answer to the challenges caused by the hegemonic "bullies"

1) The need for new solutions

- the need to find a response to the challenges arising from economic "bullying" by partners who once were close and/or important but are no longer reliable because
  - they try to dominate the relationship in a hegemonic manner
  - they start to impose arbitrary or protectionist tariffs and non-tariff barriers on imports
  - they use or threaten to use export restrictions for rare natural resources as a political weapon or
  - they impede collaboration by visa or mobility restrictions
- the *need to diversify* - markets, customers, supply chains and trade (even trade routes)
- the *need to establish new partnerships* that can partially replace the old, dysfunctional ones
- the European Union's *strategy of heterogeneous diversification*
  - the strategy of concluding agreements with numerous partners on free trade, economic cooperation and, in some cases, political cooperation
  - the content and titles of these agreements vary considerably
    - "Economic Partnership Agreement", "Comprehensive and Enhanced Partnership Agreement", " Comprehensive Economic and Trade Agreement", "Trade Agreement", "Enhanced Partnership and Cooperation Agreement" etc.
    - there is no clear system; the titles do not necessarily reflect the intensity of the cooperation

2) What is a comprehensive economic partnership agreement (CEPA)?

- a modern economic cooperation agreement that goes beyond tariff reduction and regulates with a more comprehensive approach numerous other aspects of economic openness and cooperation but also non-economic standards and principles that are related to trade (e.g. sustainability standards, environmental standards, socio-political standards)
- the term is used by the EU for the first time but
  - has been used before by other international actors (e.g. EFTA-Indonesia CEPA, India Korea CEPA)
  - the EU has concluded rather similar agreements before (e.g. with Vietnam and Singapore)
- the new kind of agreement is well-suited for partnerships with countries with emerging economies that have already reached a certain level of development

3) The making of the IEU-CEPA

- 2016 - 2024: negotiations
- 13.07.2025: political consensus (reached by PRABOWO SUBIANTO and URSULA VON DER LEYEN)
- 23.09.2025: finalisation of negotiations
- 29.06.2026 presentation of final version (after final review [legal scrubbing] and translation)
- 11.2026: expected approval of the Council of the EU for the signing
- 21.11.2026: expected signing
- 12.2026: expected ratification
  - on the EU side: approval by Council of EU & European Parliament
  - on the Indonesian side: approval by DPR or, to accelerate, Presidential Regulation [Perpres]
    - problem: should the executive alone decide on such a far-reaching treaty?
- 01.2027: expected entry into force

II. The legal nature, binding force and economic significance of the IEU-CEPA

- a legally binding *international treaty*
- accompanied by a *separate investment protection agreement (IPA)*
- a *Union-only agreement:* the EU member states will not be parties (and, thus, do not need to ratify) but be bound to it as part of European Union law
  - as any EU law, the IEU-CEPA will enjoy *primacy over national law* in the member states
- a major milestone in the European-Indonesian economic relations, with anticipated manifold major economic benefits for both, Indonesia (→ boost of Indonesian exports) and the EU

III. Key elements of the IEU-CEPA

- presented on the basis of the final version of 29.06.2026 (→ will be updated after signing)

1) A comprehensive package for a lasting partnership on equal footing

- a package for economic integration, not development cooperation
- therefore not the classical asymmetrical market access but *fully mutual market access* with balanced concessions on both sides
  - complemented by a separate IPA
  - complemented by modern regulations on current non-economic issues related to trade (sustainability, environment & climate protection, social aspects etc.)
- joint commitment to up-to-date policy standards of the evolving 21st century
  - this excludes - for both sides - retrogressive policies like those of JAIR BOLSONARO or DONALD TRUMP...

2) Elimination of customs tariffs (chapter 2)

- elimination of tariffs on over 98 % of tariff lines,
  - on 80 % immediately, on 96 % within 5 years
  - strict rules of origin (chapter 3) ensure that only products significantly processed in Indonesia or EU benefit
- general ban on export duties, taxes or charges
- customs and trade facilitation (chapter 4)
  - in some areas further than under the WTO Trade Facilitation Agreement
- common principles for customs legislation (chapter 19)

3) Reduction of non-tariff barriers (chapter 7)

- encouraging to follow harmonising international standards
- more transparency: new regulations must be published within "a reasonable period of time" (normally at least 6 month) before entry into force

4) Liberalisation of cross-border supply of services and investments (chapter 8)

- making it easier to acquire necessary licenses through clear, fair and timely processes
- facilitating the movement of professionals for the supply of services in some sectors

5) Free movement of payments and capital for transactions under the IEU-CEPA (chapter 9)

6) Promotion of digital trade (trade enabled by electronic means) (chapter 10)

- objective to promote consumer confidence in e-commerce and facilitate its development
- guarantee of *free cross-border data flows* for the conduct of the business, but under *protection of personal data and privacy* (art. 10.5, 10.6)
- reservation of a *broad right to regulate*: not only for the classical reasons (protection of public health, safety, moral, environment etc.) but also for social and consumer protection and protection and promotion (!) of cultural diversity (art. 10.3)

- commitment to measures that contribute to consumer trust, in particular *protect consumers from fraudulent or decepting online practices* and unsolicited direct marketing communications (art. 10.11, 10.12)

7) Cooperation in the areas of energy and raw materials (chapter 14)

- a broad area that includes *renewable energies*, *energy efficiency* and the use of *green technologies* with a view to favour *energy transition* to reduced greenhouse gas emissions
- two ambitious objectives that may not always align: to ▸ promote trade, investment and cooperation and ▸ improve environmental sustainability in these areas
- ban on export monopolies for energy or raw materials
- ban on dual pricing (higher export prices than domestic prices) for raw materials
- limitation of government interventions on price regulations for raw materials
- commitment to environmental impact assessments
- emphasis on the important contribution of renewable energies and renewable fuels (incl. biofuels from palm oil) in reducing greenhouse gas emissions to mitigate climate change
- special protocol to support trade in (sustainable) palm oil
- provisions on various forms of cooperation, including technical assistance, exchange of experiences, policy suport, to achieve transition to clean energy

8) Sustainability standards (chapter 15)

- legally binding and enforceable through the agreement's dispute settlement mechanism
  - but generally formulated in very abstract terms, leaving room for interpretation and concretisation
- *commitment to pursue sustainable development*, which encompasses three dimensions:
  - economic development
  - social development
  - environmental protection
- prohibition to weaken the levels of protection afforded in environmental or labour law to encourage trade or investment (art. 15.4(1))
- *commitment to environmental and climate protection* (art. 15.7 et seq.)
  - emphasis on the importance of multilateral environmental agreements, the UNFCCC and the Paris Agreement (requiring their effective implementation)
  - providing for *cooperation in climate change matters*, such as carbon pricing/emission trading, renewable energies (incl. biofuels), energy efficiency and climate resilience
  - special clauses on trade and biological diversity, trade and timber, forest conservation & sustainable forest management (including *combatting illegal deforestation*), and sustainable management of marine biological resources
- in particular: *essential element clause on the Paris Agreement* (art. 15.8(3))
  - the obligation to "remain a party, in good faith, to the Paris Agreement" as "essential element of this Agreement"
  - the violation of an essential element constitutes a "material breach" which enables the other party to take appropriate measures and even suspend or terminate the treaty under art. 60 of the Vienna Convention on the Law of Treaties
  - thus, if Indonesia or the EU withdraw or cease to fulfil their obligations under the Paris Agreement, the other party may withdraw from the IEU-CEPA
  - if an EU member state withdraws, this does not apply (since the member state is not part to the IEU-CEPA), but the EU needs to take serious action against this member state to ensure its own compliance
- *commitment to international labour standards* (art. 15.5)
  - as declared in the ILO Declaration on Fundamental Principles and Rights at Work of 1998/2022 and regulated in 10 fundamental ILO conventions, which must be implemented effectively (some still need to be ratified)
  - referring to the ILO Declaration on Social Justice for a Fair Globalization of 2008/2022
  - insisting that *labour standards must not be used for protection* and their *violation not as a comparative advantage*
- *commitment to womens' empowerment and gender equality* (art. 15.6)
  - in line with SDG 5 and reffering to CEDAW
  - requiring to implement the agreement in a way that promotes and enhances them
  - special focus on eliminating discrimination in the field of employment
  - cooperation in activities of economic capacity building for women
- a Committee on Trade and Sustainable Growth shall facilitate, monitor and review the implementation of this Chapter and discuss controversial matters (art. 15.20, 15.22)

9) Cooperation on sustainable food systems (chapter 16)

- for the development of sustainable, inclusive, healthy, equitable and resilient food systems

10) Standards of good regulatory practice and transparency (chapters 19, 20)

- classical basic standards of good regulatory practice
  - early information on planned measures
  - *internal coordination processes to avoid inconsistencies and duplications*
  - an opportunity for the public to comment on proposed regulations
  - *impact assessment* of planned measures
  - retrospective evaluation of measures in force
- commitment to transparency
  - *numerous abstract calls for transparency* (not specifying what it requires in the given context)
  - laws and regulations must allow "for sufficient time" between publication and entry into force (art. 20.3)
  - *technical regulations* (on non-tariff barriers) *must* normally *be published 6 months before entry into force* (art. 7.7(8))

11) Institutions (chapter 24)

- Trade Committee
- 3 specialised committees
  - Committee on Trade in Goods, Customs Matters, and Sanitary and Phytosanitary Matters
  - Committee on Services, Investment, Digital Trade, Government Procurement, and Intellectual Property
  - Committee on Trade and Sustainable Growth
- working groups (assisting the specialised committees)
- 2 CEPA contact points (to facilitate inpter-party communications)
- domestic advisory groups

12) Dialogue and dispute settlement mechanisms (chapters 21, 22)

- bilateral dialogue mechanism aiming to reach consensus
  - consisting of an exchange of information and a follow-up discussion
  - parties shall make every effort to reach a mutually acceptable outcome
- dedicated *dispute settlement mechanism*
  - a mechanism also aiming at a mutually agreed solution
  - does not apply to all chapters of the agreement
  - first step: consultation (confidential)
  - second step: panel procedures
    - before a panel of 3 panellists (legal experts)
    - panel delivers interim report (within 90 days) and final report (within 120 days)
    - party complained against shall take promptly measures to comply with findings and conclusions in final report (possible temporary remedies [sanctions] in case of non-compliance)
  - also mediation mechanism (confidential)
    - before a mediator

IV. The implementation of the IEU-CEPA

- requires an *enormous amount of implementation work*, in particular *comprehensive domestic regulation*, as the agreement does not itself directly establish rights and obligations for the citizens, and its provisions have *no direct binding effect* (art. 25.7)
- will take years, since parts of the agreement must be implemented immediately while the implementation of others follows schedules set out in the agreement and its annexes
- requires *continuous intensive dialogue*, since many obligations, in particular the sustainability standards, are formulated in such abstract terms that they leave much room for interpretation & concretisation, and it is obvious that Indonesian and European views will not always align
  - especially given that the views on both sides are also guided by their own specific interests...
  - Note that the IEU-CEPA will fail if forces come to power that reject the ideas behind the sustainability standards!
- the IEU-CEPA is ***an ongoing project****:* with its entry into force it is not completed but just enering its second phase