

Indonesia: Economic opportunities arise with Indonesia-European Free Trade Association Comprehensive Economic Agreement

In brief

On 7 May 2021, Indonesia ratified a Comprehensive Economic Partnership Agreement (CEPA) with the European Free Trade Association (EFTA), which consists of Switzerland, Norway, Liechtenstein and Iceland.

In Indonesia, CEPA was introduced to accelerate the economic recovery from the effects of the pandemic and enhance comprehensive economic cooperation between Indonesia and the EFTA. CEPA is expected to stimulate trade in services, e.g., for energy-related services, telecommunication services, financial services and access for maintenance personnel¹. So Indonesia and the EFTA would gain benefits in the form of market access for goods, services, investment, economic cooperation and trade facilitation.

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CEPA overview

The ratification of CEPA under Law Number 1 of 2021 on Ratification of CEPA Between Indonesia and EFTA ("**Law 1/2021**") is expected to provide certainty in the implementation of CEPA; this will also grant EFTA exclusive access to Indonesia's market.

Investment

Article 4.3 of CEPA recognizes the importance of Parties cooperating to promote investment as a means to achieve economic growth and development. The cooperation of the parties may cover the following actions²:

- Identifying investment opportunities and activities to promote investment abroad, in particular partnerships between small and medium sized enterprises.
- Exchanging information on investment regulations.
- Furthering of an investment climate conducive to increased investment flows.

Trade in goods and services

Under Article 2.2 paragraph 1 of CEPA, each party is obliged to apply import duties on goods originating from another party in accordance with the agreement. Chapter 3 regulates trade in services. Article 3.2 provides that the supply of a service includes the production, distribution, marketing, sale and delivery of a service. The service of a party means a service that is supplied in one or both of the following ways:

- Originating from the territory of a party, or in the case of maritime transport, by a vessel registered under the domestic laws and regulations of a party, or by a person that supplies the service through the operation of a vessel or its use in whole or in part.
- Through commercial presence or presence of individual service suppliers of a party.

¹ <https://www.efta.int/Free-Trade/news/EFTA-Indonesia-Comprehensive-Economic-Partnership-Agreement-enters-force-526266>

² Article 4.3 IE-EFTA CEPA



Indonesia

To support the implementation of Chapter II of CEPA on trade in goods, the Indonesian government has already issued three regulations in the form of:

1. Minister of Finance Regulation 122/MOF.04/2021 on Imposition Procedure of Import Duty on Imported Goods based on CEPA with EFTA Countries ("**MOF Regulation 122**").
2. Minister of Finance Regulation 152/PMK.010/2021 on Import Duty Provision in Relation to CEPA between Indonesia and EFTA Countries ("**MOF Regulation 152**").
3. Minister of Trade Regulation 58 of 2021 on the Rules of Origin Provision for Indonesian Goods and Issuance of Declaration of Goods Originating from Indonesia in Indonesian-EFTA CEPA ("**MOT Regulation 58**").

Essentially, these regulations govern the provisions of import duty and Rules of Origin (*Ketentuan Asal Barang/KAB*).

Regulation overview

MOF Regulation 122

Preferential tariff

According to Article 2 of MOF Regulation 122, a preferential tariff can be imposed on imported goods, that is different from the general import duty (MFN). The preferential tariff can be imposed on the following goods:

- Imported goods that use a declaration of import. (PIB).
- Imported goods that use a PIB from a Bonded Zone (TPB) when the goods have been approved to use a preferential tariff.
- Imported goods that use a PIB from a Logistics Bonded Zone (PLB) when the goods have been approved to use a preferential tariff.
- Goods that are produced in a Free Trade Zone and released within the customs area (TLDDP).
- Goods that are released from a Special Economic Zone (KEK) to a TLDDP that can use the preferential tariff.

A preferential tariff may be imposed on released goods produced in a TLDDP as long as the goods fulfil the following provisions:

- They are raw materials or supporting materials originating from outside of the customs area.
- They are approved to use the preferential tariff when exported to the Free Trade Zone.
- They are conducted by business actors within a Free Trade Zone that have fulfilled the requirements for using the preferential tariff.

Furthermore, according to Article 9 paragraph 1 of MOF Regulation 122, if importers want to use the preferential tariff, they must (i) hand over the original Origin Declaration (DAB), (ii) include the CEPA facility code between Indonesia and EFTA countries on the PIB, and (iii) include the authorization number or reference number from the invoice and the date of DAB IE-CEPA establishment on the PIB.

Rules of origin

The detailed provisions of the KAB can be seen in Appendix A of MOF Regulation 122. There are provisions on (i) origin criteria, (ii) consignment criteria, and (iii) procedural provisions. The origin criteria cover the following:

Goods wholly obtained or produced in one country:

- Mineral and other natural products (extracted or taken from the sea) from a member country.
- Vegetable products harvested in an EFTA member country.
- Animals born and raised in a member country.
- Goods obtained from animals raised in a member country.



- Goods obtained from hunting, trapping, fishing or water cultivation/aquaculture in a member country.
- Goods from sea fishing and other marine products taken from the sea outside the territorial sea of any country by a vessel registered in a member's country and flying its flag.
- Goods extracted from marine soil or sub-soil outside a member's territorial sea provided they have sole rights to exploit that soil or sub-soil.
- Waste and scrap resulting from manufacturing operations.
- Products collected in a member's country only for the recovery of raw materials including tyres that no longer comply with national legislation.
- Goods manufactured exclusively as described in the agreement.

Goods not wholly obtained or produced in one country:

- Non-originating materials used in processing of goods that undergo sufficient work or processing.
- Goods included in the list of product specific rules.
- Exclusively produced goods.

As previously mentioned, there are consignment criteria within the KAB, which cover the following:³:

- Imported goods that are directly delivered from member countries that make the Origin Declaration IE-CEPA (DAB IE-CEPA) to the customs area.
- Imported goods delivered through member countries.
- Imported goods delivered through other countries (not member countries).

The DAB IE-CEPA would need to comply with the following provisions⁴:

- Made by exporters located in member countries.
- Made in the English language.
- Made into an invoice.
- Contain an exporter's statement with a signature or stamp and use the formatting attached in Appendix A number IV.
- Contain a description of the goods.
- Contain an original signature and the exporter's name (except as regulated under Article 8).
- Contain an authorization number for an exporter (as regulated by Article 8).
- Contain the place and date of the DAB IE-CEPA establishment.
- Used once for importation.
- Valid for 12 months from the date of establishment.

As mentioned above, there are exceptions to these requirements⁵. Exporters can make a DAB IE-CEPA without signature if (i) the exporter has obtained authorization from an authorized institution of a member country, as proven with an authorization number, and (ii) the exporter affixes the authorization number on DAB IE-CEPA to replace the signature and name of the exporter.

³ Article 5 paragraph 1 of MOF Regulation 122

⁴ Article 7 paragraph 1 of MOF Regulation 122

⁵ Article 8 of MOF Regulation 122



Examination of DAB IE-CEPA

According to Article 11 of MOF Regulation 122, to be subject to the preferential tariff, the imported goods must fulfil the provisions on DAB mentioned under Article 3. The customs and excise officers can examine the imported goods using the DAB CEPA. The customs officers can request information from the importers, TPB organizers/businesses, PLB organizers/businesses, and business players in a Free Trade Zone⁶. The examination of DAB CEPA for the imposition of a preferential tariff covers the following:

- Fulfilment of origin criteria.
- Fulfilment of consignment criteria.
- Fulfilment of procedural provisions.
- Types, total, and classification of goods for which preferential tariffs are claimed.
- Amount of import duty notified based on CEPA preferential tariff.
- Conformity between data on customs import notification or supporting documents with DAB CEPA data.

MOF Regulation 152

Tariff Rate Quota

The Tariff Rate Quota Scheme (TRQ) imposes import duty based on the total quota for certain goods determined by the Minister of Finance. This regulation determines the import duty on goods imported from EFTA countries. According to Article 4 paragraph 2, if the applied general import duty (applied MFN) is lower than the EFTA CEPA import duty, the MFN rate will be applied. TRQ import duties are imposed⁷:

- a. The imported goods that are subject to TRQ can be assigned an in-quota preferential tariff or an out-of-quota preferential tariff based on an annual quota of 100 tonnes administered on a first-come first-served principle.
- b. The preferential in-quota tariff is an import duty under the TRQ scheme that does not exceed the annual quota of the TRQ scheme.
- c. The preferential out-quota tariff is an import duty under the TRQ scheme that does not exceed the annual quota of the TRQ scheme.
- d. The 50% general import duty applies to imported goods that fulfill the criteria in letter b, and the 60% general import duty applies to imported goods that fulfill the criteria in letter c.

MOT Regulation 58

Preferential KAB

According to Article 1 paragraph 1 of MOT Regulation 58, the KAB are used to determine goods originating from Indonesia. The KAB provided in this regulation is used to obtain a reduction of import duty or an exemption from import duty tariff given by a country or countries based on an international agreement or unilateral stipulation⁸. The provisions of preferential KAB can be seen under Appendix I of MOT Regulation 58 and under Annex I of the CEPA.

DAB

The DAB (Origin Declaration) is issued if goods exported from Indonesia have fulfilled the preferential KAB requirements based on CEPA. The DAB is made by exporters and contains information about the exporter in relation to the origin criteria. The DAB is used as the basis for the imposition of the preferential tariff.

⁶ Article 12 paragraph 1 of MOF Regulation 122

⁷ Article 3 paragraph 1 of MOF Regulation 152

⁸ Article 1 paragraph 2 of MOT Regulation 58



Key takeaways

These regulations will provide more certainty in the implementation of CEPA, since the regulations will be the guidelines for importation and exportation activities from and to the EFTA countries. Also, the existence of these regulations will hopefully boost the efficiency of import and export procedures from and to the EFTA countries.

Indonesia's participation in world supply chains through business partnerships with multinational companies and technology transfer will open market access and promote Indonesia's exports to trading partners in Europe.



Contact Us



Riza Buditomo
Partner
riza.buditomo
@bakermckenzie.com



Nandina Kusumaningrum
Trade Specialist
nandina.kusumaningrum
@bakermckenzie.com



Muhammad Ramzi
Junior Trade Specialist
muhammad.ramzi
@bakermckenzie.com

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