

## CHAPTER 1

### INITIAL PROVISIONS AND GENERAL DEFINITIONS

#### **Article 1.1: Establishment of the Indonesia-Australia Comprehensive Economic Partnership as a Free Trade Area**

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish the Indonesia-Australia Comprehensive Economic Partnership as a free trade area in accordance with the provisions of this Agreement.

#### **Article 1.2: Objectives**

The objectives of the Parties in concluding this Agreement are to:

- (a) establish a framework for enhanced cooperation to promote the development of a predictable, transparent and consistent business environment that will lead to the improvement of economic efficiency and the growth of trade and investment;
- (b) progressively liberalise and facilitate trade in goods between the Parties through, *inter alia*, progressive elimination of tariff and non-tariff barriers in substantially all trade in goods between the Parties;
- (c) progressively liberalise trade in services between the Parties to achieve a high quality agreement that has substantial sectoral coverage and provides for the substantial elimination of restrictions and discriminatory measures affecting trade in services;
- (d) create a liberal, facilitative and competitive investment environment, that will enhance investment opportunities between the Parties through promotion, protection, facilitation and liberalisation of foreign investment;
- (e) create frameworks that promote the utilisation of electronic commerce in trade and investment between the Parties;
- (f) cooperate in the promotion of competition, economic efficiency, consumer welfare and the mitigation of anti-competitive practices;
- (g) promote economic cooperation for the effective and efficient implementation and utilisation of this Agreement; and

(h) facilitate trade between the Parties by promoting efficient and transparent procedures that expedite the movement, release and clearance of goods to reduce costs and ensure predictability for importers and exporters.

### **Article 1.3: Relation to Other Agreements**

1. Recognising the Parties' intention for this Agreement to coexist with their existing international agreements, including the WTO Agreement, each Party affirms its existing rights and obligations with respect to the other Party.<sup>1</sup>

2. If a Party considers that a provision of this Agreement is inconsistent with a provision of another agreement to which it and the other Party are party, the Parties shall, on request, consult with each other with a view to reaching a mutually satisfactory solution.<sup>2</sup> This paragraph is without prejudice to a Party's rights and obligations under Chapter 20 (Consultations and Dispute Settlement).

### **Article 1.4: General Definitions<sup>3</sup>**

For the purposes of this Agreement, unless otherwise specified in this Agreement:

**AD Agreement** means the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

**Agreement** means the Indonesia-Australia Comprehensive Economic Partnership Agreement;

**central level of government** means:

- (i) for Australia, the Commonwealth government; and
- (ii) for Indonesia, the central level of the Government of the Republic of Indonesia;

**covered investment** means, with respect to a Party, an investment in its territory of an investor of the other Party in existence as of the date of entry into force of

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<sup>1</sup> For greater certainty, the Schedules to this Agreement are without prejudice to a Party's rights and obligations under the WTO Agreement and the *ASEAN-Australia-New Zealand Free Trade Agreement*.

<sup>2</sup> For the purposes of the application of this Agreement, the Parties agree that the fact that an agreement provides more favourable treatment of goods, services, investments or persons than that provided for under this Agreement does not mean that there is an inconsistency within the meaning of paragraph 2.

<sup>3</sup> For greater certainty, references to agreements in Annex 1A to the WTO Agreement include the general interpretative note to Annex 1A.

this Agreement or established, acquired or expanded thereafter and which, where applicable, has been admitted according to its laws and regulations<sup>4</sup>;

**customs administration** means:

- (i) for Australia, the Department of Home Affairs or its successor; and
- (ii) for Indonesia, the Directorate General of Customs and Excise, Ministry of Finance;

**customs duty** means any customs or import duty and a charge of any kind, including any tax or surcharge, imposed in connection with the importation of a good, but does not include any:

- (i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of GATT 1994, in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;
- (ii) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the AD Agreement, as may be amended and the *Agreement on Subsidies and Countervailing Measures* in Annex 1A to the WTO Agreement, as may be amended; or
- (iii) fee or any charge commensurate with the cost of services rendered;

**Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

**days** means calendar days, including weekends and holidays;

**enterprise** means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation;

**existing** means in effect on the date of entry into force of this Agreement;

**GATS** means the *General Agreement on Trade in Services* in Annex 1B to the WTO Agreement;

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<sup>4</sup> For greater certainty, in the case of Indonesia, “admitted according to its laws and regulations” may include a requirement for specific approval in writing.

**GATT 1994** means the *General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

**good** means any merchandise, product, article or material;

**Harmonized System (HS)** means the Harmonized Commodity Description and Coding System established by the *International Convention on the Harmonized Description and Coding System* signed at Brussels on 14 June 1983, as amended;

**Joint Committee** means the Joint Committee established in accordance with Article 18.1 (Establishment of the Joint Committee) of Chapter 18 (Institutional Provisions);

**measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form;

**natural person of a Party** means:

(i) for Australia, a natural person who is an Australian citizen as defined in the *Australian Citizenship Act 2007*, as amended from time to time, or any successor legislation or a permanent resident of Australia;

(ii) for Indonesia, a natural person who is Indonesian national as defined in the *Indonesia Law No. 12/2006*, as amended from time to time, or any successor legislation;

**originating good** means qualifying as originating under the rules of origin set out in Chapter 4 (Rules of Origin);

**perishable goods** means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions;

**person** means a natural person or an enterprise;

**regional level of government** means:

(i) for Australia, a state of Australia, the Australian Capital Territory, or the Northern Territory; and

(ii) for Indonesia, a province of Indonesia, as defined under Indonesian law;

**Safeguards Agreement** means the *Agreement on Safeguards* in Annex 1A to the WTO Agreement;

**SCM Agreement** means the *Agreement on Subsidies and Countervailing Measures* in Annex 1A to the WTO Agreement;

**SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures* in Annex 1A to the WTO Agreement;

**territory** means:

(i) for Australia:

(A) the territory of Australia, excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and

(B) Australia's territorial sea, contiguous zone, exclusive economic zone and continental shelf over which Australia exercises sovereignty, sovereign rights or jurisdiction, as the case may be, in accordance with international law, including the *United Nations Convention on the Law of the Sea*, done at Montego Bay, December 10, 1982;

(ii) for Indonesia, the land territories, internal waters, archipelagic waters, territorial sea, including seabed and subsoil thereof, and airspace over such territories and waters, as well as continental shelf and exclusive economic zone, over which Indonesia has sovereignty, sovereign rights or jurisdiction as defined in its laws and in accordance with international law, including the *United Nations Convention on the Law of the Sea*, done at Montego Bay, December 10, 1982;

**WTO** means the World Trade Organization; and

**WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on 15 April 1994.