

Submission to Joint Standing Committee on Treaties (JSCOT) regarding Institutional Provisions in the Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA)

Prepared by Kyle V. Springer, 9 August 2019

Executive Summary

- Australia and Indonesia have recently concluded negotiations for the Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA). IA-CEPA presents an opportunity to enhance low bilateral trade and investment ties.
- Like many of Australia's other free trade agreements (FTAs), a number of committees are established under IA-CEPA's Chapter 18 on Institutional Provisions to oversee the implementation and working of the agreement.
- The committees set up under IA-CEPA can be used to shape how the agreement is implemented, and provides a mechanism to adapt its regulatory provisions to changes as bilateral economic relations grow.
- Using these types of consultation mechanisms will become more important as Australia approaches 80 percent coverage of its exports by FTAs, and its trade strategy must shift to ensuring that its existing agreements are implemented and utilised.

IA-CEPA is a forward-looking agreement that recognises that Indonesia’s economic growth will be important for Australia. Economic projections such as *The World in 2050* by PwC forecast Indonesia will become the world’s fourth largest economy in the next thirty years. If Australia cannot build a foundation for its trade and investment ties with Indonesia now – while both economies are at a relative parity – its relative ability to influence that relationship will only decrease. Despite robust cooperation in a number of areas including diplomatic, political, and military ties, Australia and Indonesia have yet to turn their geographic proximity into dense economic ties.

The conclusion of IA-CEPA offers an opportunity for Australia and Indonesia to enhance currently low volumes of bilateral trade and investment. Their trade ranks among the lowest between two G20 countries with contiguous borders (see Table 1). Investment figures are likewise underwhelming (see Table 2). Both governments have promoted IA-CEPA as the main mechanism to rectify this trade and investment gap. Through tariff liberalisation, gains in service market access, and other deliverables like establishment of investor dispute mechanisms, IA-CEPA clears a path for the development of trade and investment.

Table 1: Two-way trade amongst contiguous members of the G20, 2016

| Partner A | Partner B | Share of A’s trade with B | Share of B’s trade with A |
|------------------|------------------|---------------------------|---------------------------|
| US | Canada | 14.9% | 64.0% |
| US | Mexico | 14.3% | 63.5% |
| Russia | EU | 44.4% | 2.1% |
| Turkey | EU | 42.8% | 1.6% |
| Korea | China | 23.5% | 6.9% |
| China | Japan | 7.5% | 21.7% |
| Brazil | Argentina | 7.0% | 20.0% |
| Germany | France | 7.6% | 16.5% |
| Italy | France | 9.8% | 7.4% |
| Russia | China | 14.2% | 1.9% |
| Korea | Japan | 8.0% | 5.7% |
| India | China | 11.4% | 1.9% |
| Indonesia | India | 4.7% | 2.4% |
| Russia | Japan | 3.2% | 1.3% |
| Russia | US | 3.7% | 0.6% |
| Indonesia | Australia | 2.8% | 2.0% |

Source: Authors’ calculations, from UNCTADStat Database

Table 2: Significance of Australia-Indonesia Bilateral Investment, 2017

| | | Australian Stocks in Indonesia | Indonesian stocks in Australia |
|--|------------------------------|--------------------------------|--------------------------------|
| Bilateral Investment (AUD millions) | Total | 10796 | 1044 |
| | FDI | 7547 | 1* |
| | Portfolio | 1906 | 117 |
| Foreign Direct Investment (FDI) Shares | % Of sender outward | 1.30% | Neg. |
| | % of recipient inward | 2.40% | Neg. |

Source: ABS (2019), *International Investment Position, Australia: Supplementary Statistics (Category No. 5352.0)* and UNCTADStat Database. *2018 amount; 2017 not provided

IA-CEPA is more than a mechanism to liberalise trade and investment rules. It also serves as a platform for further development of economic ties by establishing new cooperation mechanisms in a range of regulatory spheres. Like Australia's existing FTAs with other major trading partners, chapters on institutional provisions establish committees to meet at regular intervals to oversee implementation and the agreement's general workings. Per Chapter 18 (Institutional Provisions) and Chapter 4 (Rules of Origin), IA-CEPA will establish nine such committees. For comparison, Australia's FTAs with China, Japan and the US each establish seven committees (see Table 3). IA-CEPA's provisions give Australia's economic relationship with Indonesia a priority footing.

Table 3: Consultation Mechanisms Established in Australia's FTAs

| Committees Established | IA-CEPA | ChAFTA | JAEPA | KAFTA | AUSFTA | MAFTA |
|--|----------|----------|----------|-----------|----------|----------|
| Joint Committee/ Commission | x | x | x | x | x | x |
| Committee on Trade in Goods | x | x | x | x | x | |
| Committee on Trade in Services | x | x | | | | |
| Committee on Investment | x | x | | | | |
| Financial Services Committee | | x | | x | x | |
| Committee on Intellectual Property | | | x | x | | |
| Committee on Agriculture/ Agricultural Cooperation | | | | x | x | |
| Committee/ Sub- Committee on Sanitary and Phytosanitary Matters | x | x | x | | x | |
| Ad-Hoc Committee on Environment/ Environmental Affairs | | | | x | x | |
| Other | 4 | 1 | 3 | 5 | 1 | 1 |
| Total | 9 | 7 | 7 | 11 | 7 | 2 |

Source: DFAT Website (2019), texts of relevant trade agreements, chapters on "Institutional Provisions".

IA-CEPA's Joint Committee is the preeminent body, which is authorised by Chapter 18 to undertake key tasks such as:

- *consider any proposals to amend this Agreement - Article 18.2.1 (b)*
- *consider ways to further enhance trade and investment between the Parties – Article 18.2.1 (e)*
- *develop implementing arrangements for the implementation of this Agreement – Article 18.2.2 (b)*

The Joint Committee and others provide the Australian Government a method to table new ideas and update IA-CEPA's provisions. As liberalisation increases the volume of bilateral economic ties, the sectoral composition of trade and investment flows will necessarily evolve. This will create new priorities for regulatory

cooperation, and thus requires a ‘future-proofing’ of the standards and processes in IA-CEPA. The use of these committees will ensure that regulatory cooperation can adjust to meet the changing character of Australia-Indonesia economic relations.

However, the committees established in Australia’s other bilateral FTAs are often under-utilised. For example, there have been only five meetings of three (out of seven) committees established under the Japan-Australia Economic Partnership Agreement (JAEPA) in the five years since the agreement entered into force¹. Activating these committees for IA-CEPA, once it is ratified, will help ensure the FTA is used and ensure it fulfils its purpose as a mechanism to enhance Australia-Indonesia trade and investment relations.

Making full use of such mechanisms in IA-CEPA to advance trade and investment is linked to broader shifts in Australia’s trade policy. For the last twenty years, Australia has focussed on negotiating agreements that give substantial coverage to its exports. Australia will achieve 80 percent coverage when the HKFTA and IA-CEPA are ratified (see Table 4 below). As coverage rates rise, there are decreasing returns for Australia from negotiating new bilateral FTAs. As a result, Australia will need to shift its trade strategy away from new FTA negotiation, and towards the utilisation and upgrading of its existing FTAs. Pursuing this strategy will necessitate activating the institutional provisions chapters in Australia’s FTAs like the ones discussed above in IA-CEPA.

¹ Japan-Australia Economic Partnership Agreement: JAEPA review & implementation committees (2019), DFAT. Available online at: <https://dfat.gov.au/trade/agreements/in-force/jaepa/review/Pages/jaepa-review-and-implementation-committees.aspx>

Table 4: Australia's free trade agreements, July 2019

| Status | Partner | Negotiations | Share merchandise exports (2018) |
|---------------------------------|--|--------------|----------------------------------|
| In-force | New Zealand | 1980 | 2.8% |
| | Singapore | 2001-03 | 2.9% |
| | United States | 2003-04 | 3.8% |
| | Thailand | 2002-03 | 1.9% |
| | Chile | 2007-08 | 0.1% |
| | ASEAN (10) | 2005-09 | 10.9% |
| | Malaysia | 2005-12 | 2.1% |
| | Japan | 2007-14 | 16.1% |
| | Korea | 2009-14 | 6.9% |
| | China | 2005-14 | 34.2% |
| | Trans-Pacific Partnership (11) | 2010-18 | 26.1% |
| Awaiting ratification | Hong Kong | 2016-18 | 3.0% |
| | Indonesia | 2010-19 | 1.9% |
| | Peru | 2017-18 | Neg. |
| Under negotiation | European Union | 2018- | 5.0% |
| | India | 2011- | 4.8% |
| | Regional Comprehensive Economic Partnership (16) | 2013- | 75.7% |
| Total FTA coverage ratio | | | 75.4% |

Source: DFAT, Australia's free trade agreements (<https://dfat.gov.au/trade/agreements/Pages/trade-agreements.aspx>) and ABS, International Trade in Goods and Services, Australia (Cat no. 5368.0).

As IA-CEPA will be Australia's main instrument for improving trade and investment ties with Indonesia, it is imperative that these institutional provisions be activated after its ratification. The committees constitute a platform for addressing the economic policy problems constraining trade and investment ties and create a pathway for cooperation. These committees can be supported by track one and track two efforts, engaging business, industry groups, and policy development institutions.



About the Perth USAsia Centre

The Perth USAsia Centre located at The University of Western Australia is a non-partisan, not-for-profit institution strengthening relationships and strategic thinking between Australia, the Indo-Pacific and the USA. The Centre is a leading think tank focusing on geopolitical issues, policy development and building a strategic affairs community across government, business and academia. Since the Centre's inception in 2013, we have collaborated with over forty partners to convene more than four hundred programs across sixteen cities in eight countries, engaging a world-class community of over 10,000 strategic thinkers and policy leaders.

Disclaimer

This publication is designed to provide accurate and authoritative information in relation to the subject matter covered. It is provided on the understanding that the publisher is not engaged in rendering any form of professional or other advice or services. No person should rely on the contents of this publication without first obtaining advice from a qualified professional individual or agency.

For further information, please contact:

Kyle Springer, Senior Analyst, Perth USAsia Centre