

*Monitoring News
Indonesia for Global Justice
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***Negotiation Update:
“ How is the progress of RCEP and IEU
CEPA negotiations?”***



Jakarta, September 13th 2018- Representatives from the Civil Society Coalition for Economic Justice held a meeting with the Director General of International Treaties Agreement of the Ministry of Trade’s, Iman Pambagyo. This meeting discussed the development of information on the ASEAN RCEP (Regional Comprehensive Economic Partnership) and Indonesia EU CEPA negotiating rounds.

The representatives of civil society groups were also present at this meeting. They are Rachmi Hertanti, Lutfiyah Hanim, Rahmat Maulana Sidik, and Teguh Maulana from Indonesia for Global Justice (IGJ), Putri Sindi from Indonesia Aids Coalition (IAC), Yuyun Harmono from the Indonesian Forum for the Environment (Walhi), and Afgan from the Indonesian Peasant Union (SPI).

The Position of RCEP Agreement (Regional Comprehensive Economic Partnership)

The 4 Finalized Chapters

As it is known, the RCEP negotiating round has entered the 23rd round of negotiations and the following round of negotiations will be held in Auckland, New Zealand on October 22 – 26, 2018. From several rounds of negotiations that have been done, there are four chapters approved by the RCEP negotiating countries. The four chapters are:

First, Economic and Technical Cooperation

This chapter is approved in the 15th round of negotiations. This chapter consists of 8 articles, namely Objectives, Scope, Definitions, Resources, Work Program, Least Developed ASEAN Member States, Committee on Economic and Technical Cooperation and Non-Application of Dispute Settlements. This chapter is to complement existing economic partnerships in mutually beneficial fields that focus on implementing and utilizing the RCEP agreement including capacity development and technical assistance.

Second, Small and Medium Enterprises

This chapter was passed in the 16th round of negotiations. This chapter consists of 6 articles, namely Objectives, Definition, Information Sharing, Cooperation, Contact Points and Non-Application of Dispute Settlement. This chapter provides a platform for RCEP participating countries to implement economic cooperation programs and activities that can enhance the ability of SMEs (Small and Medium Enterprises) to participate and benefit from the existing opportunities.

Third, Custom Procedure and Trade Facilitation

This chapter was passed in the 23rd round of negotiations in Bangkok. This chapter consists of 21 Articles which are divided into 5 categories of article grouping, namely Framework, Principle, Transparency, Core Customs and Trade Facilitation Agreement.

Fourth, Government Procurement

This chapter was also passed in the 23rd round of negotiations in Bangkok. This chapter consists of 9 articles namely Objectives, Scope, Principles, Transparency, Cooperation, Confidentiality, Contact Points, Non-Application of Dispute Settlement and Review and one annex (Paper or Electronic Means Utilized by Parties for Publication of Transparency Information. This chapter focuses on transparency rules and cooperation related to government procurement among RCEP participating countries.

RCEP Will Not Be Completed This Year

In the discussion, Iman Pambago said that RCEP's negotiations could not be completed this year. This is due to some sensitive issues that have not been resolved yet.

Taking the discussion on chapter of Intellectual Property Right (IPR) as an example, Japan still encourages RCEP to adopt TRIPS Plus rules. However, Indonesia and several ASEAN

countries will not adopt TRIPS Plus in the chapter. India even urged that the IPR rules need to be re-calibrated.

Regarding the chapter on competition, Indonesia still has sensitive discussions about SOEs (State-Owned Enterprises). Australia-Japan-Korea intervenes to encourage rules regarding General Review in the chapter. This is intended to review rules regarding SOEs in certain transitional periods and create the possibility to eliminate SOE privileges and open competition space for certain functions requested by the State directly. In regards to this matter, ASEAN, China, and India strongly reject Australia, Japan and Korea's requests, and make this position a final bid, take it or leave it.

In the investment chapter, ASEAN's position still does not have an agreement. The investment issue still cannot be resolved in RCEP negotiations. For example, it is related to the Indonesian proposal to exclude MFN rules in Investment rules. Another example is Vietnam's offer of Ratchet's rules. In fact, regarding the rules of the Investor-State Dispute Settlement (ISDS), the Indonesian and Philippine proposals regarding consent letters and excluding certain things in the application of ISDS, including the exception of Prohibition on Performance Requirements rules, have not been passed. Moreover, there is a request to add a Performance Requirements list or known as TRIMS Plus. However, related to the ISDS issue of access to affordable medicine, RCEP member countries agreed not to make the sector appealable through ISDS.

In the goods trade negotiations, it still seems to be a long discourse with India. For ASEAN, it will certainly remain at the level of 92%, only India still does not want to increase the level and on the contrary, Australia and New Zealand are still very high and there is no willing to lower their level. However, the interesting part is that the rates negotiation will target the commodities that are considered to be exclusive. Indonesia is pushed to reduce the level of exclusive commodity rates (Exclusion lists) such as Rice, Sugar and Alcoholic Beverages lower than 4%.

In the goods trade negotiation also, the deviation scheme (giving specifically) applies. However, to keep the deviation practices from harming ASEAN, Indonesia will ensure that deviations are restricted, and should not be in conflict with ASEAN or contra among ASEAN member countries themselves.

In the Services chapter, India eventually got a bigger gain. This is because in the RCEP negotiations, India encourages the existence of a special chapter on Movement of Natural Person (MNP) outside of the Services chapter. This chapter specifically discusses the hiring of foreign workers in a country due to foreign investment.

Indonesia-EU CEPA Negotiation Position

The Indonesia-EU CEPA negotiations have passed the 5th round which was held on July 9, 2018 in Brussels, Belgium. And the 6th round of negotiations will take place on October 15-19, 2018 in Palembang, South Sumatra, Indonesia.

From the 5th round of negotiations in Brussels, there have been several issues that have been taken to a more advanced stage in the context of offering interests, such as the issue of market access in trade in goods, services, and investment including Government Procurement. However, in relation to the rules in the goods trading chapter, several matters related to the Sanitation and Phytosanitary mechanisms are still being discussed, also concerning the rules on Export tax specifically related to export duties where the EU is targeting the elimination of Indonesian policies not to apply export duties for raw materials.

Negotiations in Brussels also reached an agreement related to the chapter on Economic & Technical Cooperation. In the beginning, the European Union proposed that the Economic Cooperation chapter only be regulated in certain chapters. For instance, the EU wants technical cooperation to be in the chapter on IPR (intellectual property right) especially regarding capacity building on enforcement. However, Indonesia rejected the proposal, and requested that economic and technical cooperation can be arranged into a special chapter in the CEPA, in order to request capacity building for Indonesia, especially in relation to improving standards and product quality so that Indonesian commodities can enter the European market.

In the 5th round of negotiations, Indonesian Negotiators also claimed to have reached several understanding related to the Trade and Sustainable Development (TSD) chapter. The 2 parties understand some focus such as: the scope is not only emphasized on labor and environmental issues but needs to apply consistently the principles that apply to the agenda of Sustainable Development Goals (SDGs), and also the insistence of Indonesia to provide "rewards" to Indonesia when it has 'complied' with the TSD rules, for example the EU can prioritize Indonesian products that are already sustainable.

In regards to several issues which are still in the process of examination such as competition chapters, SOEs Chapter, Energy and Raw Materials chapter. Specifically, regarding Energy and Raw Materials, the European Union is very persistent to encourage a special chapter on this matter. However, the Indonesian government is still cautious about proposals from the European Union.***

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