

The Indonesia-European Union Comprehensive Economic Partnership Agreement (I-EU CEPA): Opportunity to Accelerate Green and Digital Transformation in Indonesia

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Indonesia-EU CEPA: Background and Rationale

Until July 2024, nineteen I-EU CEPA negotiations have taken place. Both parties have reached a significant convergence on the negotiation process, although things remain quite dynamic, as both parties aim to reach a final agreement this year. Based on a study,

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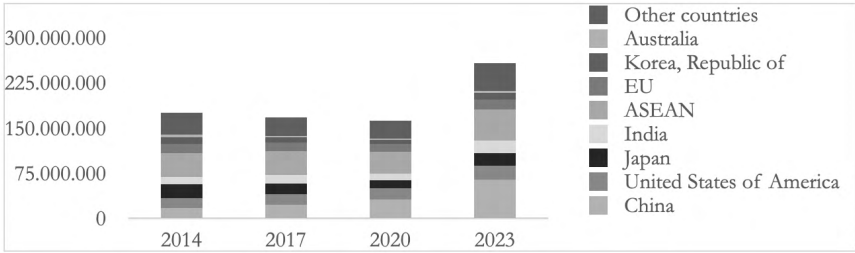
the I-EU CEPA can serve as leverage for improving Indonesia's long-term economic competitiveness.² It represents structural reform initiatives that propel Indonesia towards attaining high-income country status by 2045 and avoiding the middle-income trap.

However, it is fair to say that the economic relations between Indonesia and the EU are somehow punching below their weight. Both are G20 members with USD16 trillion combined in Gross Domestic Products (GDP), almost 700 million total population, and a high economic complementarity. Yet, bilateral trade and investment are still below their potential. In terms of international trade, the bilateral trade between Indonesia and the EU has stagnated in the last decade.

In 2023, Indonesia-EU trade amounted to almost USD31 billion. As shown in Figure 1, the EU as the sixth largest destination for Indonesia's export products after China, ASEAN, USA, Japan, and India, reached USD16.6 billion. But this number has stagnated since 2014. Indonesia exports products to the EU, such as animal or vegetable fats and oils (15.8%), mineral products (13.2%), and products of the chemical or allied industries (11.8%). Similarly, Indonesia's imports from the EU shrunk in proportion from 2014. The EU is the fourth biggest source of imported products after China, ASEAN, and Japan, with a value of around USD14 billion last year (Figure 2). Top imported products from the EU to Indonesia: machinery and appliances (35.6%), products of the chemical or allied industries (13.8%), and transport equipment (11%).

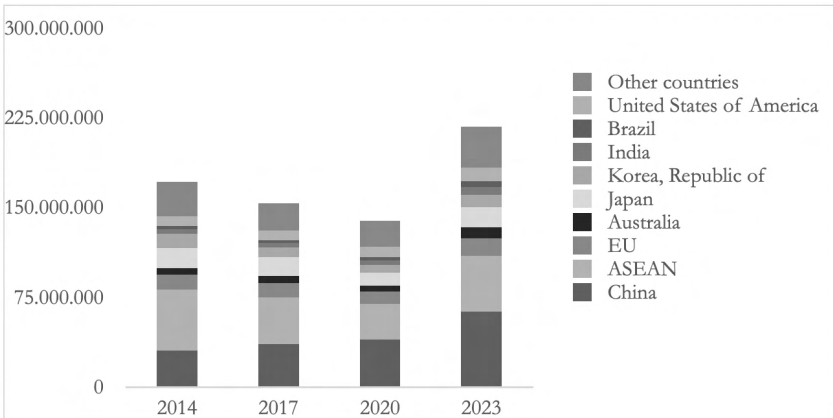
2 Damuri et. al., *Memetik Keuntungan dari Perjanjian Transformatif: Studi Mengenai Indonesia EU-CEPA*. Jakarta: CSIS Indonesia, 2020. <https://www.csis.or.id/publication/memetik-keuntungan-dari-perjanjian-transformatif-studi-mengenai-indonesia-eu-cepa/>

Figure 1. Top Indonesia's Export Destinations



Source: Trade Map (2024)

Figure 2. Top Indonesia's Import Sources



Source: Trade Map (2024)

The I-EU CEPA is expected to expand market access and maintain the competitiveness of Indonesian products compared to other countries. For this reason, Indonesia should learn more from Vietnam, which concluded negotiations with the European Union in 2020. For comparison, the total trade between Vietnam and the EU already surpassed USD200 billion in 2023 and the trade volume between Vietnam and the EU has grown by approximately 20% since 2020. Thus, the cost of delaying the I-EU CEPA is

significant as Indonesia and Vietnam share a high export product similarity to the EU market.

CSIS study also highlighted several important points as to why Indonesia needs to strengthen its economic relations with European Union countries through the I-EU CEPA. First, most Indonesian products still utilize the Generalized System of Preference (GSP) preferential tariff, which applies to low-to middle income countries quite extensively. However, the GSP might no longer be available for Indonesia as the economy grows. Thus, the CEPA proposed a tariff elimination that covers 95% of tariffs on goods and services, which is expected to expand market access and maintain Indonesia's product competitiveness.

Furthermore, tariff reductions may worry domestic companies in Indonesia due to increased market competition from European Union products. However, the CSIS study also explained that Indonesian and European Union products have high compatibility due to differing geographical, demographic, and cultural factors. In other words, I-EU CEPA benefits domestic consumers and presents opportunities for Indonesian companies to diversify from traditional to high-quality product suppliers and take advantage of high-quality input products.

The Deep Trade Agreements (DTA), such as the I-EU CEPA, are also expected to bring more GVC-related trade, facilitating the integration of the countries into high-value-added industries.³ The potential gain of implementing the I-EU CEPA is expected to be much higher than that of the Regional Comprehensive Economic Partnership (RCEP). One of the reasons is that the I-EU CEPA is expected to facilitate trade in services, provide market access for cross-border services, and create a better regulatory framework and transparency for the services and investment sectors. Improving the quality of service sectors such as logistics,

3 Deep Trade Agreements (DTAs) are reciprocal agreements between countries that cover not just trade but additional policy areas, such as international flows of investment and labor, and the protection of intellectual property rights and the environment.

business, and financial services will positively affect Indonesia's economic competitiveness.

Ultimately, the main goal is to increase Indonesia's participation in the global value chain through foreign direct investment (FDI) from European Union companies. In 2019, less than 1% of the total EU forward value added came from Indonesia, compared to 12% for all ASEAN countries. The FDI potential from the EU to Indonesia is robust due to an upward trend in recent years. Nonetheless, there is still a lot of room for improvement since most of the EU's FDI to ASEAN flew to Singapore, which accounted for 71% of the EU's total FDI in ASEAN.

From a CSIS firm survey conducted in 2022, the European market is the most attractive for exporters as almost 31% have more market access in this region, followed by North American countries, i.e., the US, Canada, and Mexico (13%) and ASEAN countries (13%). From the importers' side, around 20% are willing to import from European countries. Furthermore, among other prospective FTAs, the I-EU CEPA ranks 5th as the most important FTA to be implemented. These survey results reaffirmed the demand from the private sector in Indonesia to gain more market access and supplies from the EU market through the I-EU CEPA.

The Role of Free Trade Agreement in Advancing Sustainable and Digital Transformation Agenda

The comprehensive and detailed approach within the I-EU CEPA negotiations poses unique challenges for Indonesia. There is a significant knowledge gap in the technical ministries in Indonesia due to the limited participation in DTAs compared with other countries in the region. Technical ministries often fall behind in keeping up with new norms and standards across some of the newer issues in international trade. These new issues include, among others, trade and sustainable development, government procurement, state-owned enterprises, and the digital trade chapter. While regulatory adjustments are required to reach the final CEPA agreement, the I-EU CEPA holds the potential to serve as a

steppingstone for Indonesia to enhance quality and governance through gradual processes and sufficient transition periods. The following section will explore environmental and digital issues in trade agreements to point out some of the contexts that could pose new challenges for Indonesia. Subsequently, this section will also explore the overall potential impact of the I-EU CEPA. The objective is to illustrate how trade agreements influence the economy, especially in terms of sustainability and digitalization.

Trade and Environment

According to some existing studies, international economic cooperation—such as FTAs or CEPAs—significantly impacts trade flows between countries and boosts partner countries’ economic growth. Besides, such activities also create externalities on non-economic aspects such as environment, labor, and gender & inclusivity. The argument of “carbon leakage” or the export of carbon emissions from developed to developing countries is often used as a negative impact of FTAs/CEPAs on the increasing trend of global value chains. This relationship becomes more complex because trade, climate change, economic growth, and inclusiveness are interconnected across countries.

Trade agreements can serve as an important channel for reducing carbon emissions. A study by the World Bank shows that enforceable environmental provisions in FTAs significantly mitigate the negative environmental externalities of FTA. The simulation done in the study compares the average annual forest loss after FTA enactment based on a set of 51 FTAs that include deforestation and biodiversity provisions.⁴ The other channels might include environmental provisions, trade facilitation, market access for environmental goods and services, and regulatory cooperation.

The importance of integrating sustainable development issues has also prompted the OECD to issue the Sustainability Impact Assessment (SIA) framework to analyze the potential impacts of environmental, labor, and gender & inclusivity issues. These issues have various frameworks and scopes of discussion

4 World Bank, *The Role of Trade Policies in Indonesia’s Green Transition*, 2022.

that represent the extent to which trade agreements are mindful of sustainable development.

In the multilateral trading system, the WTO facilitates discussions and negotiations related to the intersection of trade and the environment through several committees/groups/cooperation such as the Committee on Trade and Environment (CTE), Trade and Environmental Sustainability Structures Discussion (TESSD), and Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastic Trade (PPESPT). Other initiatives include reforms in fossil fuel subsidies. Although it is not a formal agreement, TESSD currently has 74 members participating as a plurilateral forum that is important for incubating ideas and further reform initiatives. Yet, further discussions on how such initiatives can relate to the CTE in the WTO remain needed.

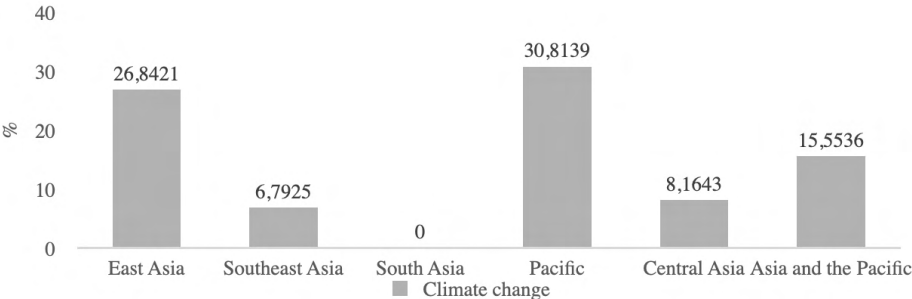
An increasing number of bilateral, regional, or inter-regional trade agreements outside the multilateral trading system include provisions addressing social and development issues. For example, since 2014, all comprehensive trade agreements of the European Union systematically include a separate chapter on Trade and Sustainable Development (TSD). The TSD chapters set out basic principles and a framework for cooperation on sustainable development issues. These primarily cover human rights, social justice, labor, and the environment relevant to trade.

Another common aspect of sustainable development provisions in trade agreements is environmental protection. The first major trade agreement to include environmental provisions was the North American Free Trade Agreement (NAFTA), concluded in 1994. NAFTA contains “legally binding” environmental provisions within the main body of the agreement, accompanied by side agreements and specific agreements on environmental cooperation. However, it has been observed that no party has ever filed a formal case based on the environmental provisions of any US FTA.⁵

5 NAFTA has been rebranded as USMCA in 2020 with an expansion of the environment provisions in Chapter 24.

Another example is the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which includes a chapter on the environment, with its provisions enforceable through the CPTPP’s dispute settlement procedures. Chapter 20 of the CPTPP deals with environmental provisions; in 23 articles, it addresses various issues related to the trade-environment relationship, including wildlife trade, fisheries subsidies, trade in environmental goods and services, biodiversity, and the transition to a low-emission economy. Commitments in the environmental chapter are governed by the CPTPP dispute settlement provisions outlined in Chapter 28, including trade sanctions. According to the WTO, climate change-related provisions in trade agreements in Southeast Asia are among the lowest compared to other regions in the Asia-Pacific.

Figure 3. Percentage of Active Regional Trade Agreements (RTAs) with Climate Change Provisions (in %)



Source: WTO (2021)

Digital Trade

Data flows are essential for digital trade across various business sectors.⁶ For instance, hotels depend on international online reservation systems, and small businesses utilize global e-commerce platforms to sell their products. Digitalization and cross-border trade, i.e. digital trade, are becoming important enablers in international trade and investment which has caused the digital economy boom for the past decade.

In 2022, the total export of digitally delivered services amounted to USD3.82 trillion, or an increase of almost fourfold since 2005. It accounts for 54% of total services exports. Between 2005 and 2022, these exports grew by an average of 8.1% annually, outpacing goods (5.6%) and other services exports (4.2%).⁷ In ASEAN, the digital economy offers a vast potential source of growth after the pandemic. According to a recent report, Southeast Asia's digital economy's Gross Merchant Value is projected to reach USD330 billion by 2025.⁸ Given the importance of maintaining robust and secured cross-border digital activities, many nations have released variations of regulatory frameworks related to data governance, including cybersecurity, digital trade, and protection.

Figure 4 shows the number of digital-related policies and regulations worldwide based on the Digital Policy Alert database.⁹ The data governance regulations comprise data protection,

6 According to the OECD-WTO-IMF Handbook on Measuring Digital Trade, the term “digital trade” defines as all trade that is digitally-ordered and/or digitally-delivered. This definition includes: (1) Goods that are digitally ordered on-line over computer networks (e-commerce for merchandise); (2) Services that are digitally ordered on-line, and increasingly also digitally delivered remotely in an electronic format, using computer networks (e-commerce for services or digital services); and (3) The underlying commercial cross-border data flows. Only services can be digitally delivered and most digitally delivered services are also digitally ordered.

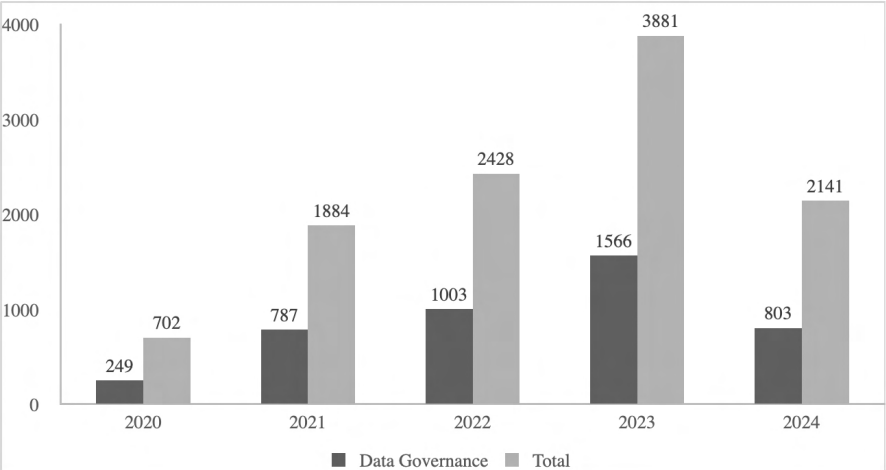
7 World Trade Organization, *Global Trade Outlook and Statistics*, Geneva: WTO, 2023.

8 E-conomy Southeast Asia 2023 Report. <https://economysea.withgoogle.com/report/>

9 Digital Policy Alert. <https://digitalpolicyalert.org/>

cybersecurity, cross-border data transfer, data protection authority, and data localization requirement regulations. From 2020 to 2023, there was a significant increase in the total number of digital regulations around fivefold. They mainly cover data governance regulations or around 40% of total digital regulations in the last four years. It shows that countries increasingly acknowledge data governance policy as a strategic issue.

Figure 4. Number of Digital Policy and Regulations (2020-2024*)



Source: Digital Policy Alert (2024); *only until the first semester of 2024

Table 1. Number of Digital Policies and Regulations by Countries (2020-2024*)

Rank	Country	Interventions
1	United States of America	1924
2	Germany	907
3	France	901
4	Italy	889
5	Spain	784
6	Netherlands	779
7	Ireland	757

8	Poland	756
9	Denmark	755
10	Belgium	730

Source: Digital Policy Alert (2024);); *only until the first semester of 2024

The main challenge is how these frameworks can guarantee user protection while also guaranteeing economic growth and innovation that rely on using and analyzing data intensively. The international community has already discussed these issues extensively, for example, in the economic cooperation platforms such as G7, G20, the OECD, and the APEC. In addition, some international benchmarks have already emerged, such as the OECD Privacy Guidelines and the APEC Cross-Border Privacy Rules. At the national level, the EU enacted comprehensive data governance regulations under the General Data Protection Regulation (GDPR) in 2018. Several approaches have been used in aligning cross-border data transfers, such as plurilateral arrangements, trade agreements unilateral mechanisms, and standards and technology initiatives.

As one of the most dynamic regions, ASEAN has also been active in formulating guidelines and references for its members to achieve a more integrated digital economy. Some areas have been discussed under ASEAN and each member state, such as cross-border e-commerce, digital trade, payments, cross-border data flow, and cybersecurity, with a broad range of forms, from knowledge sharing to regulatory cooperation. For example, the newly upgraded ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) and the Regional Comprehensive Economic Partnership (RCEP) also cover e-commerce provisions. ASEAN is also in the negotiation process of the Digital Economic Framework Agreement (DEFA), which includes nine main areas of negotiation such as digital trade, cross-border e-commerce, cybersecurity, digital payments, cross-border data flows, digital identification (ID), talent mobility and cooperation, competition

policy and others that fall under the development of emerging topics including AI and Blockchain.¹⁰

To measure the data governance convergence and its barriers, the OECD Digital Services Trade Restrictiveness Index (STRI) identifies, catalogs, and quantifies barriers that affect trade in digitally enabled services across 90 countries. It provides policymakers with an evidence-based tool that helps to identify regulatory bottlenecks, design policies that foster more competitive and diversified markets for digital trade, and analyze the impact of policy reforms. The Digital STRI consists of among others: (1) infrastructure and connectivity; (2) electronic transactions; (3) payment systems; (4) intellectual property rights; and (5) other barriers affecting trade in digitally enabled services. According to the WTO study, countries with a more restrictive digital governance regulatory regime (i.e., with high score of STRI) are associated with poor service trade performance.¹¹

Additionally, increasing divergences in regulatory regimes for cross-border data flows result in prohibitive compliance costs, especially for the smallest businesses, and reduce digital trade performance.¹² In other words, restrictive regulations can increase compliance costs for the business sector, negatively impacting the business climate in the digital economy sector. Thus, divergence from the best practices will cause a cost competitiveness factor in countries' digital economy environments, and they may not receive the full benefit of the cross-border data trade and flow.

10 ASEAN Secretariat, "Digital Economy Framework Agreement (DEFA): ASEAN to leap forward its digital economy and unlock US\$2 Tn by 2030," <https://asean.org/asean-defa-study-projects-digital-economy-leap-to-us2tn-by-2030/>

11 World Bank; World Trade Organization (WTO). Trade in Services for Development - Fostering Sustainable Growth and Economic Diversification (English). Washington, D.C.: World Bank Group. <http://documents.worldbank.org/curated/en/099258110092319807/IDU0be37875e0bee10474f0907a043151e283794>

12 Michal S Gal & Oshrit Aviv, "The Competitive Effects of the GDPR," *Journal of Competition Law & Economics* 16, no.3, (September 2020): 349–391, <https://doi.org/10.1093/joclec/nhaa012>

Trade and Sustainable Development and Digital Trade in the I-EU CEPA: Opportunity and Challenges

If concluded, the I-EU CEPA would be the first agreement for Indonesia that includes a high quality, i.e., comprehensive and enforceable, trade and sustainable chapter in addition to a forward-looking digital trade chapter. From the previous section, trade agreements can potentially improve countries' performance in sustainable development and digital trade by putting external pressure on regulatory reform aiming for adherence and convergence towards international commitments and benchmarks. This section aims to assess the potential regulatory implication of the I-EU CEPA for Indonesia in accelerating green and digital transformation.

Trade and Sustainable Development

In the proposed text by the EU, the trade and sustainability chapter focuses on integrating sustainable development principles into the trade relationship between Indonesia and the European Union, including environmental protection and social responsibility by promoting sustainable practices.¹³ The chapter also emphasizes adherence to international environmental agreements, such as the Paris Agreement on climate change and the Convention on Biological Diversity. It promotes mutual supportiveness between trade and environmental policies, encouraging public participation and transparency in sustainability-related decisions. Additionally, the chapter seeks to foster innovation and cooperation in areas like sustainable agriculture, renewable energy, and biodiversity conservation.

Indonesia's participation in global environmental initiatives is relatively limited. Indonesia is not part of significant multilateral

13 EU Textual Proposals on Trade and Sustainable Development Chapter for Indonesia-EU CEPA. https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/indonesia/eu-indonesia-agreement/documents_en

agreements like the WTO Environmental Goods Agreement (EGA), which focuses on eliminating tariffs on environmental goods. Additionally, Indonesia does not engage in other international discussions related to trade and climate change, such as the Structured Discussions on Trade and Environmental Sustainability (TESSD), the Informal Dialogue on Plastic Pollution and Sustainable Plastics Trade (PPSPT), and Fossil Fuel Subsidy Reform (FFSR). This lack of involvement indicates that Indonesia is not currently adhering to global environmental standards in trade agreements, potentially affecting its climate commitments due to the absence of external pressures. Therefore, the IE-CEPA could be Indonesia's new chapter in improving its climate policy commitments through trade agreements.

Nevertheless, Indonesia plays a crucial role in regional trade through initiatives like the Regional Comprehensive Economic Partnership (RCEP), the most significant mega-regional trade agreement involving ASEAN countries and partners like China, Japan, South Korea, Australia, and New Zealand. Although RCEP does not have a dedicated environmental chapter like the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), it still facilitates the trade of environmentally friendly goods and supports clean energy transitions.

In addition, Indonesia's engagement with the Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA) and the Indo-Pacific Economic Framework (IPEF) initiated by the United States reflects its growing focus on sustainable trade. Yet, to meet its climate goals and maximize its potential impact on global emission reduction targets, Indonesia needs to be more active in international forums and align itself with global environmental standards.

Table 2. Environmental Provisions in Indonesia's Trade Agreements¹⁴

Agreement	Provision is mentioned in the agreement and is not legally enforceable	Provision is mentioned in the agreement and has weak legal enforceability
ASEAN -Hong Kong, China	No	No
ASEAN Free Trade Area	No	No
ASEAN-Australia-New Zealand	No	No
ASEAN-India	No	No
ASEAN-Korea	Yes	No
Chile -Indonesia	Yes	Yes
China-ASEAN	No	No
Indonesia -Australia	No	No
Indonesia -Pakistan	No	No
Japan-ASEAN	Yes	Yes
Japan-Indonesia	Yes	No
Regional Comprehensive Economic Partnership (RCEP)	No	No

Source: World Bank Deep Trade Agreements database; author's compilation

Despite the potential economic benefits, the negotiation process of this agreement is shrouded in dynamic discussions regarding the factors that hinder both parties' ability to reach a mutual agreement. This is primarily due to the complexity of domestic policies, the differing interests among countries, and the evolving geopolitical situation. The European Union's Carbon Border Adjustment Mechanism (CBAM), and, more recently, the EU Deforestation-Free Regulation (EU DR), are examples of unilateral climate-trade policies that affect other countries.

CBAM was initiated to support the ambition of becoming the first climate-neutral continent by 2050. It imposes a carbon price

14 IPEF does not count as free trade agreement because it has no market access provision.

on imported products, including cement, aluminum, fertilizers, electricity, hydrogen, iron, and steel. The transition phase, which began on 1st October 2023, and will run until 31st December 2024, requires importers of these products to report the volume of goods imported and the greenhouse gas (GHG) emissions embedded in their production processes. The next transition phase, starting from 1st January 2025, mandates the use of EU methods in reporting, with estimates allowed only for complex goods if the estimate represents less than 20% of the total embedded emissions.¹⁵ Full implementation begins on 1st January 2026, when importers must purchase CBAM certificates at prices set by the average weekly auction prices on the EU Emissions Trading System.

In addition, the EU has also initiated the EU DR, which imposes due diligence obligations — including information gathering, risk assessment, and implementation of mitigation measures against deforestation and human rights violations — on the supply chains of agricultural products sold in the EU market. These products include livestock, cocoa, coffee, palm oil, rubber, soy, wood, and their derivatives. The obligation for large businesses to comply with the DFSC policy will begin fully on 30th December 2024, while for small and medium-sized enterprises, the implementation period starts on 30th June 2025.

These policies, especially in the nexus of trade-industry-climate, are on the rise and more “costly” for developing countries like Indonesia, with a nascent carbon market and instrument in addition to a significant number of smallholder farmers. However, Indonesia could also use this as an opportunity to reform. For example, the EU CBAM could push the government to have better carbon pricing and mechanisms. In the case of CBAM, the “tariff” is calculated based on the difference between the EU Emissions Trading System (ETS) and third countries’ price of carbon.

15 Before 2025, countries can submit report based on equivalent third country national systems; or reporting based on reference/default values (minimum). EU methods cover more detailed (both direct and indirect emissions) and in line with the EU Emissions Trading Scheme (Source: Annex IV, CBAM Regulation).

Although the carbon tax implementation has been delayed, the government has set the minimum price of IDR 30,000 (USD 2), which is significantly below their “real price.”

The delay in the carbon tax implementation also creates a lack of incentive for companies to reduce their emissions and use the carbon economic value scheme. The delay in implementing a carbon tax suggests a longer journey towards fully implementing the carbon economy’s value proposition across all sectors. In other words, the government should ensure that the carbon pricing is set at the right price and implemented to respond to the CBAM better. On the other hand, the EU is also responsible for mobilizing programs and funding to improve the exporters’ capacity in the third country. In the case of Deforestation-Free Supply Chain (DFSC), the ad hoc Joint Task Force between Indonesia, Malaysia, and the EU is a good platform to push the agenda.¹⁶

Digital Trade

The digital trade chapter focuses on removing barriers to digital trade, promoting innovation, and ensuring fair competition while emphasizing consumer rights and data privacy protection. Key objectives include facilitating cross-border data flows, enhancing e-commerce, and supporting small and medium enterprises (SMEs) accessing digital markets. Additionally, the chapter highlights cooperation in cybersecurity, digital skills development, and regulatory transparency to build trust in online transactions and foster an inclusive digital economy. The chapter also emphasizes protecting personal data and intellectual property rights, aligning with international standards to ensure secure digital trade. It encourages the interoperability of digital technologies and addresses potential challenges, such as differing regulatory approaches and cybersecurity threats. These progressive commitments enable Indonesian and EU digital businesses to seize vast opportunities in digital trade.

16 Kick-off Meeting of the Ad Hoc Joint Task Force between Indonesia, Malaysia and the EU. https://www.eeas.europa.eu/delegations/indonesia/kick-meeting-ad-hoc-joint-task-force-between-indonesia-malaysia-and-eu_en?s=168

Indonesia and other ASEAN member states already have digital-related agreements, such as the ASEAN Agreement on Electronic Commerce, the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA), and the Regional Comprehensive Economic Partnership (RCEP). Both AANZFTA and RCEP include the E-commerce chapter. Some ASEAN member states are also members of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CP-TPP), one of the pioneers of the e-commerce chapter in FTAs. Indonesia has no standalone digital trade agreements, unlike Singapore, which has digital economy partnership agreements (DEPAs) or digital economy agreements (DEAs). However, Indonesia has Indonesia-Australia CEPA and Indonesia-UAE CEPA, including an e-commerce chapter.

One of the potential problems regarding the digital trade chapter of the I-EU CEPA is customs duties on electronic transmissions. Under the digital trade chapter, the EU prevents imposing any barriers, a consideration based on the WTO's ongoing moratorium on customs duties on electronic transmissions. Indonesia opposes this moratorium and wants to make some policy room for future revenue from digitization.¹⁷ Furthermore, the EU might require GDPR-level to bring legal certainty for companies and ensure a secure online environment for EU consumers. Some of the critical privacy and data protection requirements of the GDPR include requiring the consent of subjects for data processing; anonymizing collected data to protect privacy; providing data breach notifications; safely handling the transfer of data across borders; requiring certain companies to appoint a data protection officer to oversee GDPR compliance.

GDPR mandates cooperation between a data controller and processor with a supervisory authority under strict conditions. The GDPR prohibits a controller from “processing” personal data unless one of six situations or permissible purposes applies. Before

17 Indonesia's Perspective on Customs Duties on Electronic Transmission https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=290374&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True

sharing personal data with a government agency, a controller should determine which permissible purpose applies, such as consent of data subjects, if needed to protect the vital interests of a natural person, and if necessary for performing a task in the public interest. GDPR sets data protection standards, which inevitably increases the cost of compliance for digital companies operating in the EU. Although companies now have more standards to comply with, generally, GDPR is viewed positively because it also provides assurance and protection of personal data that previously did not exist.

The Indonesia Personal Data Protection Law, enacted in October 2022, serves as a comprehensive legal framework governing the collection, processing, storage, and dissemination of personal data within Indonesia. Many studies explain that the law is heavily influenced by the GDPR which emphasizes data subjects' rights, including consent, access, correction, and deletion of their personal data. The law aims to enhance trust in digital interactions and align Indonesia's data protection standards with international best practices. It covers digital trade issues and cross-border data transfer under Article 56. The article mentioned that obligations for the sending party (i.e., the personal data controller) are set out in the following hierarchical manner:

- 1. The sending party must ensure the recipient party's country/ state has a personal data protection level that is equal to or higher than the provisions in the PDP Law (Article 56(2));*
- 2. If the requirement in 1. is not met, the sending party must ensure the existence of adequate and binding data protection (Article 56(3)); and*
- 3. If the requirements in 1. and 2. are not met, the last option is to obtain consent from the data subject before conducting the cross-border transfer. However, the PDP Law exempts certain rights of the data subject in the interests of national defense and security, law enforcement, state administration, supervision of the financial services sector, monetary sector, payment systems and financial system stability; or statistical and scientific research.*

Although Indonesia's Personal Data Protection Law is relatively similar to GDPR, Indonesia's PDP Law still depends on the implementation regulations that are still underway with some delays. In this case, the implementation regulation of PDP Law should aim for a more agile digital regulatory environment instead of a regulation-heavy agreement. Also, flexible regulatory frameworks accommodating rapid technological advancements and stakeholder engagement through public consultations are integral in shaping inclusive legislation.

Lastly, for Indonesia, convergence with the OECD guidelines and framework on digital trade will also help Indonesia's effort to be an OECD member. Based on the OECD Accession Roadmap, some of the recommendations are that Indonesia should improve its policies, institutions, and regulatory framework to support digital transformation, promote a safe and trusted online environment for all users, and have robust protection of individuals' data and privacy and cooperation in the enforcement of privacy laws. Therefore, all data protection regulations should align with the OECD guidelines and standards.

Conclusion

Indonesia should view the I-EU CEPA as an opportunity to substantially reform promoting inclusive and sustainable economic growth, including accelerating digital transformation and the energy transition agenda to achieve 2045 Indonesia's Golden Vision and net zero emission target by 2060. The I-EU CEPA is also expected to attract high-quality investment from the EU in climate financing, digital economy, green infrastructure, and renewable energy technology.

Moreover, it should also be noted that the I-EU CEPA negotiations do not occur in a vacuum. The longer these negotiations take to conclude, the longer it will be for Indonesia to benefit from the EU's diversification momentum, increasing the likelihood of Vietnam and other countries dominating the EU market. Additionally, the slower the negotiations are, the newer

regulations the EU might introduce, which could reduce the benefits for Indonesia. The CBAM and DFSC requirements apply equally to Indonesia, Vietnam, and other countries. However, Vietnam has spent more time and resources adapting rather than resisting and justifying its resistance. If Indonesia continues to maintain its current stance, Indonesian products may lose their competitiveness, especially in European countries.

The conclusion of the I-EU CEPA is a leverage to support Indonesia's ambition to join the OECD and CPTPP. Adopting OECD standards to embrace digital transformation can significantly benefit countries like Indonesia. For instance, aligning with recommendations on internet policymaking, data protection, and cross-border data transfer can bolster Indonesia's efforts to harness the opportunities of digitalization. The CPTPP can also offer the free flow of digitally delivered services, which comes from the commitments in its e-commerce chapter. Often cited as the most advanced provision on the digital economy in an FTA, the e-commerce chapter of the CPTPP frees cross-border data flows and trades in digital goods, not insisting on serving localization and promoting consumer data privacy protection. These provisions are at the same level as the I-EU CEPA.

Finally, given the recent geopolitical uncertainty due to the war and the Chinese economy, the EU should consider building more "bridges" and compromises to increase its engagement in the Indo-Pacific and achieve its strategic objectives according to the EU Strategy for Cooperation in the Indo-Pacific. Since the EU is not part of mega-trade agreements in the region, such as the CPTPP and RCEP, ongoing CEPA/FTA negotiations serve as a strategic economic relations platform for the EU to also benefit from the region's rapid economic growth. Finally, unilateral policies alone as a "stick" will not work unless substantial financial instruments and international cooperation platforms are available as a "carrot," especially for developing countries in the Indo-Pacific region like Indonesia and other ASEAN countries. ♦