



NEWSLETTER

April 2019

INDONESIA-AUSTRALIA AGREEMENT CEPA SIGNED

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Following 8 years of negotiation, Indonesia and Australia finally signed the [Indonesia-Australia Comprehensive Economic Partnership Agreement](#) (“IA-CEPA”) on March 4, 2019. Indonesia—ASEAN’s largest economy and 16th largest economy, by gross domestic product ranking, in the world—presents a significant opportunity for Australian businesses. In 2017-18 alone, the total two-way trade in goods and services between Indonesia and Australia amounted to \$16.8 billion, making Indonesia Australia’s 13th largest trading partner. Despite the close proximity of the two countries, trade between Australian and Indonesia is relatively not significant. In 2015-2016, Indonesia was Australia’s 13th largest trading partner, trailing behind smaller markets such as New Zealand – a country with population of 4 million in contrast with Indonesia with a population of over 260 million.

The IA-CEPA is expected to increase the trade commitments already made between Australia and Indonesia under the existing ASEAN-Australia-New Zealand Free Trade Agreement (“AANZFTA”) for goods, services and investment.

Some of the key outcomes from the agreement are as follows:

1. Goods

- a. Virtually all Australian goods exported to Indonesia (by value) will enter Indonesia free of customs duty or under significantly improved preferential customs tariff arrangements by 2020 (compared with 85% under AANZFTA).

- b. Reduction or elimination of tariffs for farming and agricultural products, steel, copper, plastics, machinery, electronics and textiles exported by Australian suppliers to Indonesia. For instance, Australian steel (particularly hot and cold rolled steel coil) will be given duty free access (from between 2.5% to 11/25%) for 250,000 tons/year and 5% annual growth in volume thereafter. The Indonesian tariff on Australian copper cathodes will also be eliminated.
- c. It is expected that under IA-CEPA, 99.8% of imports of manufactured and other goods from Australia to Indonesia will be duty free.

2. Services and investment

- a. Under the IA-CEPA, Australian investors will be able to hold majority ownership in various industries in Indonesia, including health care, tourism and hospitality, energy, mining and old-age care services.
- b. Australian investment is allowed up to 67% in the following sectors:
 - (1) supply of technical and vocational training;
 - (2) contract mining services and mine site preparation services;
 - (3) large hospitals, and within large hospitals, up to 67% of pathology, paramedic, medical and dental specialist clinic services with no geographic limitations;
 - (4) old-age care facilities;
 - (5) telecommunications;
 - (6) architectural, urban planning and most engineering and surveying services;
 - (7) construction-related work;
 - (8) wastewater management; and
 - (9) highways, bridges, tunnel concessions and parking services.
- c. With regard to the energy sector, Indonesia is committed to allowing Australian ownership up to:

- (1) 95% for power plants (more than 10 MW);
 - (2) 75% for oil and gas platform construction;
 - (3) 67% for electrical power construction, installation, operation and maintenance;
 - (4) 55% for electrical power installation construction; and
 - (5) 51% for geothermal power plants (10 MW or less); geothermal surveying, drilling and operations; and offshore oil and gas drilling.
- d. With regard to tourism, wholly Australian-owned 3-5 star hotels and resorts can be established anywhere in Indonesia and be majority Australian-owned (67% owned) businesses can supply accommodation, food and beverages, and tourism consultancy services (including on a digital cross-border basis) in Indonesia.

3. Electronic commerce and financial services

- a. For the first time, Indonesia and Australia will guarantee the free flow of data or information across borders for service suppliers and investors as part of their business activities.
- b. The two countries have also guaranteed that they will not introduce new laws and regulations that require data to be stored locally within a country. Under IA CEPA, Indonesia will not be able to make its existing regulations on local storage of data restrictive.
- c. IA-CEPA will also help ease the regulatory burden Australian financial services firms face when operating in Indonesia. Indonesia, and Australia will also consider allowing financial institutions to supply new financial services already supplied in one territory but not in the other. As such, it is likely that we will see an increase in the penetration of Australian financial services into Indonesia, especially considering the relatively low rate of insurance penetration in the country, a large population and expanding middle class of Indonesian people.

4. Skills development

The IA-CEPA also helps build people-to-people links by providing more opportunities for skills development of Indonesians through skills exchanges. These include:

- a. Up to 200 Indonesians per year will receive workplace skills training in Australia. Participants will require sponsorship from an approved organization in Australia and may undertake training for up to 6 months in the following sectors: education, tourism, telecommunications, infrastructure development, health, energy, mining, financial services and information communication and technology;
- b. An arrangement that allows travelers aged between 18 and 30 from each country to work and holiday in the other country for up to 12 months.
- c. The annual limit for Work and Holiday visas for Indonesians will increase from the current 1,000 places to 4,100 places. It will continue to gradually increase every year to reach 5,000 places by the 6th year.

5. Investor-State Dispute Settlement

- a. The IA-CEPA also includes an Investor-State Dispute Settlement (“ISDS”) mechanism which allows investors from both countries to take legal action at an independent arbitral tribunal to resolve disputes for breaches of the countries’ commitments in the Investment Chapter of the IA-CEPA.
- b. On the inclusion of ISDS in the IA-CEPA, while critics claim ISDS provisions are an attack on national sovereignty (as they allow foreign investors to sue governments for domestic policies affecting their investments), supporters of the inclusion argue that ISDS helps to protect foreign investors from adverse domestic policy decisions that could expropriate their investments.

6. Ratification of IA-CEPA

- a. The IA-CEPA will need to be ratified by parliament in both Indonesia and Australia before it enters into force.
- b. Specifically regarding the ratification process under Indonesian law, an international trade agreement is to be submitted to the House of Representatives (“DPR”) within at the latest 90 business days as of the signing of the agreement for the DPR to decide whether the international trade agreement would require its approval for ratification.



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Please do not hesitate to contact us for any additional information you may desire regarding this newsletter or MKK. We will be happy to answer your further questions.

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