



---

**Trade Policy Review Body**

**TRADE POLICY REVIEW**

**REPORT BY THE SECRETARIAT**

**INDONESIA**

This report, prepared for the Seventh Trade Policy Review of Indonesia, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Indonesia on its trade policies and practices.

Any technical questions arising from this report may be addressed to Sergios Stamnas (Tel: 022 739 5382); Katie Waters (Tel: 022 739 5067); and Fatima Chaudhri (Tel: 022 739 6384).

Document WT/TPR/G/401 contains the policy statement submitted by Indonesia.

---

**CONTENTS**

<b>SUMMARY .....</b>	<b>9</b>
<b>1 ECONOMIC ENVIRONMENT .....</b>	<b>18</b>
1.1 Main Features of the Economy .....	18
1.2 Recent Economic Developments .....	21
1.2.1 Growth, income, and employment .....	21
1.2.2 Prices .....	24
1.2.3 Main macroeconomic policy developments .....	25
1.2.3.1 Monetary and exchange rate policy .....	25
1.2.3.2 Fiscal policy .....	26
1.2.4 Structural policies .....	26
1.2.4.1 Tax reform .....	27
1.2.4.2 Privatization .....	27
1.2.4.3 Competition policy and corporate governance .....	28
1.2.4.4 Labour market policies .....	28
1.2.4.5 Other .....	29
1.2.5 Balance of payments .....	29
1.3 Developments in Trade and Investment .....	31
1.3.1 Trends and patterns in merchandise and services trade .....	31
1.3.2 Trends and patterns in foreign direct investment .....	35
<b>2 TRADE AND INVESTMENT REGIMES .....</b>	<b>37</b>
2.1 General Framework .....	37
2.2 Trade Policy Formulation and Objectives .....	38
2.2.1 Trade policy formulation .....	38
2.2.1.1 Executive branches of government .....	38
2.2.1.2 Advisory bodies .....	39
2.2.2 Trade and related policy objectives .....	40
2.2.3 Trade laws and regulations .....	43
2.2.4 Transparency .....	43
2.3 Trade Agreements and Arrangements .....	45
2.3.1 WTO .....	45
2.3.1.1 Features .....	45
2.3.1.2 Trade-related technical assistance .....	47
2.3.1.3 Notifications .....	48
2.3.2 Regional and preferential agreements .....	48
2.3.3 Other agreements and arrangements .....	52
2.4 Investment Regime .....	52
2.4.1 Regulatory framework .....	53
2.4.2 Restricted activities .....	54
2.4.3 Registration and approval .....	58

---

2.4.4	Investment promotion .....	59
2.4.5	Dispute settlement.....	60
2.4.6	Investment treaty developments .....	61
<b>3</b>	<b>TRADE POLICIES AND PRACTICES BY MEASURE.....</b>	<b>62</b>
3.1	Measures Directly Affecting Imports.....	63
3.1.1	Customs procedures, valuation, and requirements .....	63
3.1.1.1	Customs procedures .....	63
3.1.1.2	Customs valuation .....	71
3.1.2	Rules of origin .....	73
3.1.3	Tariffs .....	73
3.1.3.1	General features .....	73
3.1.3.2	Applied MFN tariffs .....	74
3.1.3.3	MFN tariff dispersion and escalation .....	77
3.1.3.4	MFN tariff bindings .....	78
3.1.3.5	Tariff preferences.....	78
3.1.3.6	Duty concessions/exemptions.....	79
3.1.4	Other charges affecting imports.....	83
3.1.5	Import prohibitions, restrictions, and licensing .....	83
3.1.5.1	Import prohibitions and quantitative restrictions .....	84
3.1.5.2	Import licensing.....	84
3.1.6	Anti-dumping, countervailing, and safeguard measures .....	85
3.1.6.1	Anti-dumping and countervailing.....	86
3.1.6.2	Safeguards.....	86
3.1.7	Other measures affecting imports .....	88
3.2	Measures Directly Affecting Exports .....	89
3.2.1	Customs procedures and requirements.....	89
3.2.2	Taxes, charges, and levies .....	90
3.2.3	Export prohibitions, restrictions, and licensing .....	91
3.2.3.1	Export prohibitions.....	91
3.2.3.2	Export restrictions and licensing .....	93
3.2.4	Export support and promotion .....	96
3.2.4.1	Duty and tax concessions.....	96
3.2.4.2	Export zones .....	96
3.2.4.2.1	Free trade zones (FTZs) .....	97
3.2.4.2.2	Bonded zones .....	97
3.2.4.2.3	Special economic zones (SEZs) .....	98
3.2.5	Export finance, insurance, and guarantees.....	99
3.3	Measures Affecting Production and Trade.....	102
3.3.1	Incentives.....	102
3.3.1.1	Taxation .....	102

---

3.3.1.1.1	Central government taxes and related tax incentives .....	102
3.3.1.1.1.1	Corporate and personal income tax.....	103
3.3.1.1.1.2	Value Added Tax (VAT) .....	105
3.3.1.1.1.3	Luxury Goods Sales Tax (LGST) .....	107
3.3.1.1.1.4	Excise taxes.....	108
3.3.1.1.1.5	Other fiscal incentives.....	109
3.3.1.1.2	Regional taxes and tax incentives.....	109
3.3.1.2	Non-fiscal incentives .....	110
3.3.2	Standards and other technical requirements .....	111
3.3.2.1	Legal, institutional and policy framework .....	111
3.3.2.2	Standards .....	111
3.3.2.3	Technical regulations.....	113
3.3.2.4	Conformity assessment and market surveillance .....	115
3.3.2.5	Labelling .....	116
3.3.3	Sanitary and phytosanitary requirements.....	117
3.3.3.1	Institutional and legislative framework .....	117
3.3.3.2	SPS measures .....	118
3.3.3.2.1	Food safety .....	119
3.3.3.2.2	Processed food.....	120
3.3.3.2.3	Horticulture .....	120
3.3.3.2.4	Live animals, meat and dairy products.....	121
3.3.3.2.5	Fisheries .....	122
3.3.3.2.6	Halal requirements .....	122
3.3.3.2.7	Genetically modified organisms (GMOs) .....	123
3.3.4	Competition policy and price controls .....	123
3.3.4.1	Competition policy .....	123
3.3.4.2	Price controls.....	127
3.3.5	State trading, SOEs, and privatization .....	127
3.3.5.1	State trading .....	127
3.3.5.2	SOEs and privatization.....	128
3.3.6	Government procurement.....	130
3.3.6.1	Features .....	130
3.3.6.2	Institutional and regulatory framework .....	132
3.3.6.3	Procurement methods .....	134
3.3.6.4	Contract-related dispute settlement and bid-rigging cases .....	135
3.3.6.5	RTA procurement provisions.....	136
3.3.7	Intellectual property rights.....	136
3.3.7.1	Industrial property .....	137
3.3.7.1.1	Patents .....	137
3.3.7.1.2	Industrial designs and layout designs of integrated circuits.....	140

---

3.3.7.1.3	Trademarks and geographical indications .....	141
3.3.7.1.4	Plant varieties.....	142
3.3.7.1.5	Trade secrets.....	143
3.3.7.2	Copyright.....	143
3.3.7.3	Enforcement.....	144
<b>4</b>	<b>TRADE POLICIES BY SECTOR.....</b>	<b>147</b>
4.1	Agriculture, Forestry, and Fisheries.....	148
4.1.1	Features.....	148
4.1.2	Policy, regulatory and institutional developments.....	149
4.1.3	Border measures .....	153
4.1.4	Domestic support measures .....	153
4.1.5	Rice .....	156
4.1.6	Fisheries.....	159
4.1.7	Forestry.....	166
4.2	Mining and Energy.....	171
4.2.1	Mining .....	171
4.2.2	Energy .....	176
4.2.2.1	Hydrocarbons .....	177
4.2.2.1.1	Upstream .....	177
4.2.2.1.2	Downstream.....	181
4.2.2.2	Electricity.....	184
4.2.2.3	Renewable energy.....	188
4.3	Manufacturing .....	192
4.3.1	Features .....	192
4.3.2	Policy, institutional and regulatory framework .....	193
4.3.3	Border measures .....	193
4.3.4	Domestic support measures .....	194
4.3.5	Garments, textiles and footwear.....	195
4.3.6	Automotive .....	196
4.4	Services .....	197
4.4.1	Features.....	197
4.4.2	Overall commitments under the General Agreement on Trade in Services (GATS) and RTAs .....	198
4.4.3	Financial services.....	198
4.4.3.1	Banking .....	201
4.4.3.2	Fintech .....	205
4.4.3.3	Insurance .....	205
4.4.3.4	Securities.....	207
4.4.4	Telecommunications.....	208
4.4.5	Transport.....	212
4.4.5.1	Maritime transport .....	214

4.4.5.2 Air transport.....	216
4.4.6 Tourism.....	218
4.4.7 Distribution services with a specific focus on e-commerce.....	220
<b>5 APPENDIX TABLES .....</b>	<b>223</b>

## CHARTS

Chart 1.1 Product composition of merchandise trade, 2012 and 2019 .....	32
Chart 1.2 Direction of merchandise trade, 2012 and 2019.....	33
Chart 3.1 Average applied MFN and bound tariff rates, by HS section, 2012 and 2020 .....	76
Chart 3.2 Distribution of MFN tariff rates, 2012 and 2020 .....	76
Chart 3.3 Tariff escalation by 2-digit ISIC industry, 2012 and 2020.....	77
Chart 3.4 Main elements contained in SPS measures notified by Indonesia, January 2013 to mid-April 2020.....	119
Chart 3.5 SOEs based on sectors, 2019 .....	129
Chart 3.6 IP revenue, 2014-19 .....	136
Chart 3.7 Patent applications and grants, 2013-19.....	140
Chart 3.8 Industrial design applications and registrations, 2013-19.....	141
Chart 3.9 Number of classes specified in trademark applications and registrations, 2013-18 .....	143
Chart 4.1 Interest rate spread (%), January 2013 to January 2020 .....	204

## TABLES

Table 1.1 Selected macroeconomic indicators, 2013-19 .....	18
Table 1.2 Basic economic indicators, 2013-19.....	23
Table 1.3 Balance of payments, 2013-19 .....	30
Table 1.4 Trade in services, 2013-19.....	34
Table 1.5 FDI inflows by sector and origin, 2013-19 .....	35
Table 2.1 Main institutions involved in trade and investment policymaking, 2020 .....	39
Table 2.2 Economic Policy Package phases .....	41
Table 2.3 Economic Policy Package working groups .....	42
Table 2.4 Involvement in WTO dispute settlement: January 2013 to July 2020 .....	46
Table 2.5 RTAs in force: main features, 2020 .....	49
Table 2.6 Negative investment list 2016, foreign equity ceilings.....	55
Table 3.1 Risk management system: customs clearance channels .....	68
Table 3.2 Structure of the tariff schedule, 2012 and 2020 .....	74
Table 3.3 Summary analysis of preferential tariffs, 2020.....	79
Table 3.4 Import duty waivers coverage/ceilings, FY2012 and 2020 .....	81
Table 3.5 Safeguard actions, 2013-20 (February) .....	87
Table 3.6 Export taxes, 2020.....	91
Table 3.7 Export prohibitions, 2012 and 2020.....	92

---

Table 3.8 Export restrictions and licensing, 2012 and 2020 .....	94
Table 3.9 Indonesia Eximbank services, 2019 .....	100
Table 3.10 Central government tax revenues, 2013-19 .....	103
Table 3.11 Corporate tax holiday thresholds and amounts .....	104
Table 3.12 Super-deduction tax incentives .....	105
Table 3.13 VAT rates, 2020 .....	106
Table 3.14 LGST rates, 2013 and 2020 .....	107
Table 3.15 LGST incentives .....	108
Table 3.16 Excise taxes on imports and domestic production of tobacco, 2020 .....	108
Table 3.17 Excise Tax rates, 2020 .....	109
Table 3.18 SNIs by sector, May 2020 .....	112
Table 3.19 Standards development activity, 2013-19 .....	112
Table 3.20 Mandatory SNIs, February 2020 .....	113
Table 3.21 TBT-related STCs raised against Indonesia, January 2013-March 2020 .....	114
Table 3.22 SPS-related laws, 2020 .....	118
Table 3.23 KPPU policy recommendations to the Government, 2013-19 .....	126
Table 3.24 Market monitoring activities, 2013-19 .....	126
Table 3.25 Major SOEs, 2012 and 2020 .....	130
Table 3.26 Procurement methods .....	134
Table 3.27 IP Penalties, 2020 .....	145
Table 4.1 Agricultural production by main item, 2013-18 .....	149
Table 4.2 Rice price data, 2013-19 .....	158
Table 4.3 Exports of fish and fish products (WTO definition) <sup>a</sup> , 2012-18 .....	160
Table 4.4 Average cost, average tariff, and subsidies, 2012-19 .....	188
Table 4.5 Structure of the financial sector, December 2019 .....	198
Table 4.6 Limitations on foreign participation in financial services, 2020 .....	200
Table 4.7 Share of commercial bank ownership (both conventional and sharia), December 2019 .....	203
Table 4.8 Leading commercial banks (both conventional and sharia), ranked by assets, December 2019 .....	203
Table 4.9 Fintech regulations, May 2020 .....	205
Table 4.10 Insurance sector market structure and market share, 2019 .....	206
Table 4.11 Indonesia Stock Exchange (IDX) listed entities, May 2020 .....	208
Table 4.12 Telecommunications indicators, 2013-19 .....	209
Table 4.13 Market share of cellular operators, 2013-19 .....	209
Table 4.14 Market share of fixed-line operators, 2016-19 .....	209
Table 4.15 Limitations on foreign participation in telecom and Internet services, 2020 .....	211
Table 4.16 International visitor arrivals to Indonesia, by port of entry, 2014-19 .....	212
Table 4.17 Transport-related activities open to investment, with conditions, 2020 .....	213
Table 4.18 Median time spent by vessels in Indonesia's ports, by market segment, 2018 .....	216
Table 4.19 Indonesian airline routes, service and ownership, July 2020 .....	216

---

Table 4.20 Inbound tourism, 2013-April 2020.....	218
Table 4.21 Investment conditions applied to tourism services.....	220
Table 4.22 Investment conditions applied to distribution services.....	221

### BOXES

Box 1.1 Indonesia's response to the COVID-19 challenge.....	20
---	----

### APPENDIX TABLES

Table A1.1 Government Fiscal Stimulus Package I, 24 February 2020.....	223
Table A1.2 Fiscal Stimulus Package II, 13 March 2020.....	224
Table A1.3 Merchandise exports by group of products, 2012-19.....	225
Table A1.4 Merchandise imports by group of products, 2012-19 .....	227
Table A1.5 Merchandise exports by destination, 2012-19 .....	229
Table A1.6 Merchandise imports by origin, 2012-19 .....	230
Table A2.1 Notifications to the WTO, January 2013-August 2020 .....	231
Table A3.1 MFN applied tariff summary, 2020.....	234
Table A3.2 Non- <i>ad valorem</i> (specific) MFN applied tariffs and AVEs, 2020 .....	236
Table A3.3 Tariff lines where the MFN applied rate exceeds the bound rate, 2020 .....	237
Table A3.4 Products subject to import licensing requirements, 2020.....	239
Table A3.5 KPPU competition assessment on industries and policies, 2013-19 .....	245
Table A4.1 Total allowable catch, 2017 .....	246
Table A4.2 Air transport agreements .....	248



---

## SUMMARY

1. Since its previous Trade Policy Review in 2013 and prior to the COVID-19 pandemic, despite global challenges, Indonesia's relatively strong fundamentals and sound macroeconomic policy ensured solid growth and the resilience of its economy. During the review period, the annual average GDP growth rate stood at 5.1% (2013-19), a minor slowdown compared to previous performance, and continued to be driven by domestic demand; it was underpinned by an accommodative monetary policy mix, adapted to changing external conditions as well as fiscal stimulus measures. To address COVID-19 challenges, several additional support initiatives, including three temporary fiscal stimulus packages, involving trade-related measures and monetary policy action, were undertaken without delay to minimize the economic impact and shore up growth. During the review period, overall total factor productivity appears to have dropped slightly, whereas labour productivity rose somewhat. Developments in Indonesia's global competitiveness position reflected strengths, *inter alia*, related to its market size, macroeconomic stability and high rate of technology adoption, but also weaknesses, including relatively low innovation capacity and a relatively unskilled labour force. Inflation dropped significantly to 3% in 2019 (less than half of the 2013 level) and remained within target; during the same period, the unemployment rate also registered a relatively significant decline, to 5% in 2019.

2. During the review period, trade and trade-related structural reforms (e.g. to the regulatory and investment framework, taxation, corporate governance, labour market, micro, small and medium-sized enterprises (MSMEs) and sharia economy) were underway. They focused, *inter alia*, on raising productivity and competitiveness by improving the investment climate, accelerating infrastructure development, and promoting economic diversification. The monetary policy mix included lowering the monetary policy rate, reducing the statutory reserve requirement, and foreign exchange intervention. The fiscal deficit remained manageable and well below its legal limit; public expenditures were refocused from inefficient energy subsidies towards productive infrastructure investments.

3. Exchange rate flexibility remained critical to the economy's resilience to external shocks. The nominal exchange rate depreciated by an overall 36.1% between 2013 and 2018, followed by a 0.6% appreciation in 2019. The current account deficit narrowed from 3.2% of GDP (2013) to 1.6% (2017), and then widened to 2.9% (2018) and 2.7% (2019), reflecting, *inter alia*, developments in commodity prices, withholding tax rates, exports or imports of primary raw materials, fuels, capital or consumer goods, exchange rate movements, and foreign capital inflows. Foreign exchange reserves rose overall by about 30% (2013-19); in 2019, they were equivalent to 11.5% of GDP and 7.6 months of imports of goods and services, well above the international adequacy standard of 3 months, or 7.3 months of imports and servicing government external debt. Gross external debt, which remains largely long-term, rose by 51.9% in the period 2013-19, reflecting an increase in external debt of the non-bank private sector.

4. The moderate exposure of the Indonesian economy to international trade, its degree of openness, and its relatively weak integration into global value chains continued to be reflected by the significantly lower ratio of its trade (exports plus imports) in goods and services to GDP, that stood at 37.3% in 2019 compared to 48.6% in 2013. International trade and foreign direct investment (FDI) trends reflect the continued importance of Asia as Indonesia's main regional market and supplier. Its main individual trading partners remain China, Japan, the European Union, and the United States; Japan and Singapore are its major FDI partners. Though the share of imports from regional trade agreement (RTA) partners dropped, that of exports rose.

5. During the review period, Indonesia undertook efforts to liberalize and streamline its FDI regime in several areas, e.g. the regulatory framework, the negative investment list, and the business/investment licensing system. It made efforts to encourage FDI, despite several activities being reserved for Indonesian nationals and public entities as well as ASEAN country investors who, in certain cases, also benefit from higher shareholding ratios than others. The 2016 negative investment list lifted or eased foreign equity restrictions in key sectors, and brought Indonesia's FDI regime closer to international and regional levels of openness. More specifically, it included, *inter alia*, the opening of 45 business lines to full foreign ownership (maritime and fishery, energy and mineral resources, industry, public works, trade, tourism and creative economy, transportation, communication and informatics, and health). In addition, the list increased foreign shareholding ceilings in 39 business lines, and allowed foreign participation in another 26 lines that had been closed off entirely in the 2014 list. Furthermore, it removed the need for specific recommendation

requirements from the relevant ministries for 83 business lines. However, there are business lines which remain specifically closed, had minimum project value requirements increased, or had the permitted foreign investment share reduced. Indonesia maintains a broad network of international investment agreements. However, between 2013 and 2015, more than 20 of its bilateral investment treaties were discontinued, to allow the authorities to align their provisions with latest domestic policies, legislation and international best practices before renewal.

6. Since 2013, Indonesia has undertaken the update of its trade-related and investment policies, as well as institutional and regulatory reform initiatives, in areas including transparency, anti-corruption, investment promotion, and economic dispute resolution. Good regulatory practice policies, including regulatory impact assessment policies, were also adopted. Trade and trade-related policy objectives have been shaped by wide-ranging strategies and policies, each with a different bearing on trade and, *inter alia*, aimed at the enhancement of productivity and competitiveness, the integration of local industry into global supply chains, and the increase of industrial investment cooperation. Between 2015 and 2018, 16 Economic Policy Packages (EPP), focused, *inter alia*, on improving the investment climate and accelerating related infrastructure developments, supported the implementation of these objectives.

7. Indonesia remains committed to the multilateral trading system. During the review period, it improved its WTO commitments by ratifying the Trade Facilitation Agreement (TFA) on 5 December 2017. At the same time, it continued to focus on strengthening regional economic integration ties, through the implementation, and/or participation in the negotiation, of several ASEAN agreements, including the Regional Comprehensive Economic Partnership (RCEP). In addition, it undertook bilateral RTA negotiating initiatives, leading to the signing of three agreements (with Australia, the European Free Trade Association (EFTA) States, and Mozambique), which are not yet in force; others are underway or under consideration. Indonesia remains a beneficiary of the Generalized System of Preferences schemes of a number of countries. Furthermore, it continued to receive Aid-for-Trade support for reaching its policy objectives. During the review period, it submitted several notifications to the WTO (e.g. agriculture, subsidies and countervailing measures, sanitary and phytosanitary measures, technical barriers to trade, and import licensing procedures). Indonesia remained active in dispute settlement cases in the WTO. As at January 2020, its involvement in new cases comprised: 6 complaints by Indonesia (1 case in consultation); 10 complaints against Indonesia (4 cases in consultation); and participation as a third party in 39 cases.

8. During the review period, the general thrust of Indonesia's trade policy was revised in several areas, including: tariffs; customs procedures; import and export prohibitions; restrictions and licensing; export taxes; and export finance, guarantees and insurance.

9. The tariff remains one of the main trade policy instruments, albeit a slightly declining source of tax revenue (2.6% of total tax revenue in 2018). Although 99.8% of tariff lines are *ad valorem*, and therefore transparent, the tariff involves a multiplicity of rates (17 *ad valorem* duties and 5 specific duties), four more than in 2012. The tariff line coverage of specific duties was halved, as most specific rates on alcoholic beverages were converted to *ad valorem* duties. As a result of an increase in duty rates on a number of products and the splitting of tariff lines related to the 2017 tariff nomenclature change, the simple average applied MFN tariff rate rose from 7.8% in 2012 to 10.1% in 2020; at the same time, tariff dispersion increased, and positive tariff escalation became more pronounced for virtually all industries. Tariff protection continues to vary across and within sectors, averaging 11.2% for agricultural products and 9.9% for non-agricultural goods in 2020 (WTO definitions). Peak tariff rates continue to apply to agriculture and related items, and are up to 150% (alcoholic beverages, and odoriferous substances used in the food or drink industries); fewer tariff lines are subject to rates of 10% or below (77.3% of all tariff lines in 2020 compared to 86.1% in 2012). At present rates, at 89.5% of all lines in Indonesia's tariff schedule are bound; as a result of the tariff level increases, the overall gap between the bound rates and the simple average MFN applied rates decreased from 29.6 to 27.8 percentage points, which suggests a persistent high unpredictability in the tariff. The applied MFN rates on 99 HS17 eight-digit tariff lines (e.g. chemical elements, worn clothing, machines for manufacture/parts/accessories for the manufacture of semiconductors, and several types of measuring instruments and apparatus) appear to exceed their corresponding bound rate by 5 percentage points.

10. To accelerate the development of certain activities and promote the competitiveness of certain industries in strategic sectors, industrial machinery and inputs for the production of certain goods continue to benefit from tariff reductions or exemptions. An import duty exemption scheme for companies engaged in either the establishment or modernization of a factory, including an extended duty exemption period conditional upon certain local content requirements (LCRs), remains in place. The *de minimis* value for import duty exemptions for consignment and e-commerce-traded goods on a B2C basis, in place since 2016, was reduced drastically; since September 2016, a flat customs duty charge of 7.5% on "consignment goods" has been levied, except on certain commodities in high demand (bags, shoes, and textile products) that have been subject to normal high applied MFN tariff rates. The simple average preferential tariff rate on imports from RTAs/FTAs rose by one percentage point, due to the entry in force of two new agreements and the rise of MFN applied rates.

11. During the review period, Indonesia's main trade facilitation developments included: the acceptance of the WTO TFA in 2017; the launching of the Authorized Economic Operator (AEO) programme and of a Post-Border Import Supervision Policy; the participation in the ASEAN Single Window (ASW); and the integration of the Indonesia Single Risk Management (ISRM) system within the Indonesia National Single Window (INSW) platform. Furthermore, the regulatory framework of its Customs Main/Prominent Partners programme was updated in 2017, and the product coverage of its import verification programme requirements was expanded to 29 (19 in 2013) product categories (338 items in 2020). The customs valuation regime and its main method used, the transaction value, remained unchanged; to combat under-invoicing and mis-invoicing, Indonesia continues to maintain two databases of market prices for customs valuation purposes, and the declared customs value is assessed based on a Fairness Test as reasonable or unfair. In addition to customs duties, import-related charges and internal direct taxes, imports also remain subject to a withholding tax, whose rates were raised in 2018; in 2016, harbour dues for international routes were seemingly much higher than for domestic routes.

12. Import prohibitions, restrictions and licensing remain in place, *inter alia*, to protect national interests relating to public morals, human life or health, natural resources, environment, use of locally produced goods, protection and development of domestic industries, and to enforce obligations under international agreements. The scope of import bans changed, from 143 ten-digit HS items (2013) to 124 eight-digit HS items (February 2020). These were mostly industrial products. The coverage of import licensing authorizations changed from 30 to 40 product categories, or from 2,060 eight-digit tariff lines (2012) to 3,308 ten-digit HS lines (July 2020). In certain cases, import authorizations for some products remain quantitatively restricted by considerations such as use-related (e.g. of carcass meat and horticulture), domestic produce purchase (e.g. milk and salt), self-sufficiency (e.g. rice, sugar and horticulture) and state trading (e.g. feed corn and fertilizer).

13. During the review period, the main legislative framework governing anti-dumping, countervailing, and safeguard measures remained virtually unchanged. Although recourse to anti-dumping actions dropped slightly, measures in force were on the rise, mainly on steel products such as hot-rolled coil and hot-rolled plate, tinplate, and coil/sheet, originating mostly in Asia. Indonesia initiated 40 anti-dumping investigations (2013 to end-June 2019), and 27 anti-dumping measures were in effect as at end-June 2019. No countervailing measures have been taken so far. Recourse to safeguard action dropped but Indonesia remains one of WTO's most frequent initiators of investigations and resulting actions; between 2013 and 2019 (end-June), it initiated 11 safeguard investigations and imposed 9 measures, mainly on steel products. No special safeguards (SSGs) action was taken against imports of agricultural products in the review period. Indonesia continues to use LCRs in certain areas (e.g. import duty exemptions, and government procurement), to protect and/or develop domestic industries (e.g. factory establishment or modernization, salt, dairy, pharmaceuticals, telecom equipment, energy, broadcasting, franchising, and modern retail trade).

14. Export taxes remain a policy tool for, *inter alia*, tax revenue collection (albeit significantly declining, 0.4% of total tax revenue in 2018), fostering the development of downstream processing facilities, ensuring domestic supply of intermediate inputs at below world market prices, raising domestic value-added, and reducing the rate of depletion of non-renewable mining resources. Their product coverage, encompassing palm oil, crude palm oil and its derivative products, leather and wood, raw cocoa, and mineral ore products, remained relatively unchanged but rates were revised, including the replacement of an *ad valorem* duty with a specific one (palm oil). Rates range from zero to USD 262/tonne (palm oil) or 60% (ores of copper, ilmenite, iron ore, lead, manganese, titanium, and zinc), depending on the product or facility development stage levels. Exports of certain

coal, metal mineral, and non-metal mineral mining commodities have also been subject to a 1.5% withholding tax since 2015.

15. Export prohibitions, restrictions and licensing continue to be used in the pursuit of similar policy objectives as those of export taxes and other border measures. The scope of export prohibitions has expanded, with the main addition being the export ban on nickel ore in 2014. Export licensing product coverage was also expanded, and some new requirements were added; the main additions included coffee, rice, palm oil, coal and coal-based products, domestic marketing requirements for crude oil, and mineral ore domestic processing requirements.

16. Exports of goods and imports of materials, intermediate products and machinery used in their manufacturing remain exempt from customs duty and value-added tax (VAT) and sales tax on luxury products are zero-rated. During the review period, Indonesia continued to support exports through tax and non-tax incentives available via its free-trade zone (FTZ), bonded zone, and special economic zone (SEZs) schemes; corporate tax holidays remain available to operators in bonded zones and SEZs. Export finance, guarantees and credit insurance by the state-owned Indonesia Eximbank and Asuransi Ekspor Indonesia have been increasingly focused on a number of government-designated leading export commodities (e.g. leather and jewellery); penetration to non-traditional export markets (e.g. Africa, South Asia, the Middle East, and Eastern Europe); encouraging growth of export-oriented MSMEs; and the implementation of special-assignment export projects in synergy with a number of other state-owned enterprises (SOEs). The Eximbank's National Interest Account to Promote Exports to Nations within the African Region is subject to "domestic contribution" requirements, and foreign companies whose majority shareholders are foreign legal entities or foreign nationals are not eligible.

17. Indonesia continues to offer various fiscal incentives; VAT and luxury goods sales tax facilities, taken together, account for the bulk of revenue foregone from incentives granted. Corporate income tax holidays and tax allowances to support businesses remain in place, and efforts were made to simplify procedures and expand eligible beneficiaries. New incentive schemes introduced over the review period, are aimed at, *inter alia*, supporting: labour-intensive, vocational and research and development activities; incubators; and the geothermal sector. The excise tax structure for certain tobacco products supports small-scale domestic cigarette firms. Non-fiscal incentives, in the form of loans and interest rate subsidies, continue to be available, mainly to MSMEs. In the wake of the COVID-19 outbreak, corporate income tax was cut from 25% to 22%, and measures were taken allowing companies to defer corporation tax and waive personal income tax for a set period.

18. In 2014, standardization and conformity assessment legislation was enacted to cover metrology. As at May 2020, Indonesia had 10,858 national standards (SNIs), nearly 18% of which were harmonized with international standards. As at February 2020, it had 205 technical regulations in force, most of which were issued by the Ministry of Industry. Specific trade concerns involving conformity assessment have been raised by several Members regarding measures on various processed and unprocessed foods (particularly with respect to halal requirements); toys; ceramics; cell phones and computers; broadband equipment; and alcoholic beverages. Various new labelling requirements were introduced on food products, halal products, tobacco, electric motor devices, air conditioners, refrigerators, and fluorescent lamps. Labelling requirements were also made less onerous for certain imported goods.

19. Key SPS developments included the entry into force of new laws on animal, fish and plant quarantine; livestock services and animal health; halal product assurance; the protection and empowerment of farmers; and amendments to the Law concerning State Crops. SPS measures on beef, chicken meat and chicken products, and animal and plant/horticultural products have been the subject of WTO Members' concerns in the SPS Committee and/or in dispute settlement proceedings. Among the numerous developments over the review period, quarantine services were made more efficient, through the launch of the Indonesian Quarantine Full Automation System (IQFAST); processed food registration requirements were eased slightly; inspection fees were levied on all animal product establishments seeking to import into Indonesia; requirements for dairy processors and importers to establish partnerships with local dairy farmers in order to obtain an import permit were removed; the list of live aquatic species banned from import was expanded; and, by 2026, all halal products sold on the Indonesian market will require certificates from the newly established Halal Certification Agency; currently, these certification requirements apply to food and beverages.

20. There were no changes to the main legal framework for competition policy over the review period. Key new regulations were issued to: deal more quickly and effectively with partnership infringements between MSMEs, and between MSMEs and large enterprises, including through the introduction of a behavioural changes provision; make improvements to the competition agency (KPPU's) case handling procedures; and provide for clearer and faster procedures for post-merger notification and review. Over the review period, the KPPU was active in undertaking market monitoring, competition impact assessments, and issuing policy recommendations. The Government continues to stabilize the price of rice through a state-trading enterprise's (Perum BULOG's) guaranteed purchase of rice from domestic producers at a set procurement price, as well as through import activities. Additionally, the Ministry of Trade monitors prices and, if necessary, undertakes some mark-up operations regarding the availability and price stability of necessities/basic goods. Maximum prices are set for medicines and medical devices used in the National Health Insurance programme. The sales price for coal purchased by the state electricity company to generate electricity for public purposes has been regulated since 2018.

21. SOEs continue to operate in a wide range of economic activities and, in numerical terms, are most active in manufacturing, financial services, and transport/warehousing. Over the review period, there was privatization activity in the areas of mining, construction/engineering; development, maintenance and management of toll roads; steel; airlines; and cement. As at 2019, Indonesia had 112 SOEs under the Ministry of State-Owned Enterprises, 4 SOEs under the Ministry of Finance, 341 SOE subsidiaries, and 317 SOE-affiliated companies, most of which operate at a profit, according to the authorities. It is estimated that there are also 782 regional SOEs operating in the country. One state-trading entity (Perum BULOG) continues to import rice as well as other staple goods when instructed by the Government.

22. Government procurement in Indonesia remains centralized in terms of regulations and systems but decentralized for procurement execution. Overall procurement spending in FY2019 by local and sub-central governments was IDR 2,173 trillion. The regulatory framework for government procurement was revised in 2018, with the stated objective of achieving value for money, contributing to the increased use of domestic products, increasing MSMEs' participation, and sustainable development. This, *inter alia*, has significantly expanded procurement price preferences for goods and services incorporating at least 25% local content for all bids over a certain threshold, as well as thresholds for international tenders. It also established, under the National Public Procurement Agency (NPPA), a new contract dispute resolution facility as one of the methods to settle contract-related disputes, and made the e-catalogue system a formal part of the procurement process. As before, the use of domestic products is mandated if there are providers offering the goods or services with a local content plus corporate contribution value exceeding 40%; procurement packages for goods, construction services and other services up to a value of IDR 2.5 billion are reserved for small businesses. Bid-rigging continues to account for the vast majority of the KPPU's case load.

23. During the review period, there were several changes to intellectual property (IP) laws and regulations. Indonesia acceded to the Beijing Treaty on Audio-visual Performances, the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, and the Nagoya Protocol on Access to Genetic Resources. The new 2016 Patent Act introduced various new provisions, including: online filing; stronger protection of genetic resources and traditional knowledge; an extension to the scope of simple patents; and various provisions to facilitate public access to affordable medicine, namely, amended provisions on compulsory licensing and an extension of the Bolar provision from two to five years (allowing patented pharmaceutical products to be produced by another party five years before the expiry of patent protection for the purpose of its licensing and marketing upon patent protection expiry). The 2016 Law on Marks and Geographical Indications, *inter alia*, regulates international trademark registration based on the Madrid Protocol, extends protection to non-traditional trademarks, streamlined application procedures and facilitates their renewal, and imposes more severe criminal sanctions. Furthermore, the 2014 Copyright Law, *inter alia*, extends copyright protection from 50 to 70 years after the author's death, contains provisions on the establishment of collective management organizations, and increased criminal sanctions. With respect to enforcement, positive developments included the issuing of regulations to block websites infringing IP, and the launch of an online facility for reporting IP infringements. Reportedly, a notable trend over the review period was a big increase in IP applications through the Directorate-General of Intellectual Property's online system.

24. Agriculture continues to play an important role in the economy (13.3% of GDP in 2019), with rice, palm oil, oil palm fruit and palm kernels accounting for nearly two thirds of the total value of production; palm oil remains the main agricultural export. Policy objectives include self-sufficiency in staple foods, and targets for rice, maize, soybeans, sugar and beef were set. The regulatory framework was updated in several areas, including financial assistance, agrarian reform and food security. Tariff protection for agricultural products rose, and remains above the overall applied MFN average and the average for manufacturing. Restrictive import licensing requirements for several products, aimed at promoting domestic production to fulfil local demand requirements, remain in place. Export taxes, prohibitions, and licensing requirements continue to affect certain products. As at 2019, seven SOEs were involved in agricultural, forestry and fishing activities, including trading. Tax and non-tax policy instruments, in the form of land concessions, subsidized fertilizers, irrigation infrastructure improvements, concessional loans and market price support for rice, continue to be used for raising agricultural output, productivity and competitiveness.

25. Fisheries' contribution to GDP increased slightly (2.8% in 2019), with aquaculture's importance and fish stocks on the rise. Policy priorities included the improvement of fishery-related infrastructure, the optimization of aquaculture, the development of the marine and fisheries industry, and the strengthening of monitoring, surveillance and enforcement systems. An ecosystem approach to fisheries management was followed. Regulatory developments included areas such as the management of coastal area and islands, large fishing vessel licences, and the ban of fishing trawl and seine nets. Since 2016, FDI has been allowed for cold storage of fish and fish processing. Wild capture remains reserved for domestic capital. Tariff protection for fisheries increased slightly. Non-tax incentives are mostly focused on small fishers, and virtually all involve grants; subsidized diesel is limited to boats of less than 30 GT. Considerable action was taken to address illegal, unreported and unregulated (IUU) fishing activities.

26. Regarding forestry, action was taken to, *inter alia*, address deforestation driven by expanding plantations for palm oil, through a moratorium prohibiting the conversion of primary natural forests and peatlands to palm oil, pulpwood and logging concessions; in addition, a social forestry programme is underway. The exploitation of timber forest products of natural forests is entirely reserved for domestic capital. Export of roundwood and rough sawn timber for all species remains banned, to protect domestic wood-processing industries. Procedures for smallholders and small-and-medium enterprises (SMEs) to obtain timber legality verification certification were eased; since 2016, Forest Law Enforcement, Governance and Trade (FLEGT) timber export licences have been issued. Forest law enforcement was strengthened, and Indonesia committed to reducing its emissions from deforestation and forest degradation through the REDD+ mechanism.

27. Mining and energy continue to make significant contributions to the economy. The main policy and legislative framework for mining remained virtually unchanged; 100% foreign investment in the mining sector is allowed, subject to the foreign share ownership divestment rules on the transition from the pre-2009 licensing regime to the current one. Export taxes and restrictions on minerals, to support the development of domestic processing facilities, were continued. A 2014 ban on exports of unprocessed (or not-sufficiently processed) minerals was relaxed in January 2017, subject to certain conditions, including the fulfilment of domestic market obligation (DMO) requirements. Mineral and coal sales benchmark prices, and the floor price for the royalty calculation, remain in place. Coal is subject to special pricing, DMO and transport/insurance (implementation pending) requirements, to support the state-owned electricity company and national shipping and insurance industries.

28. Indonesia remains dependent on imports of hydrocarbons and electricity to cover its energy consumption needs. Policy objectives include achieving security in the domestic energy supply by reducing gasoline dependency and increasing the use of renewable energy sources. Most oil and gas production is carried out by international contractors under production-sharing contracts (PSCs); in 2017, a new form of PSC, based on the gross production split, replaced the cost-recovery scheme in place since 2008. The state-owned limited liability oil and gas company expanded its scope to include gas, renewables and upstream operations, both within Indonesia and abroad. FDI participation in oil and gas upstream activities is subject to limitations. Quantitative export restrictions based on DMO requirements for oil and gas continue to apply. LCRs on procurement for oil and gas projects were raised. Significant changes to the fuel subsidy policy, allowing for considerable reduction in the entire energy subsidy bill, were made; at present, subsidies keep retail prices for three fuels below world market level: gasoline (distribution costs compensation); diesel (fixed subsidy); and kerosene (fixed price).

29. During the review period, on-grid installed power plant capacity and national electrification increased. The state-owned electricity company remains responsible for the majority of power generation, with *de facto* exclusive powers over the transmission, distribution and supply of electricity to the public; in light of the importance of coal-powered plants to the fuel mix, the DMO requirements for coal seem to have significantly eased the burden of the company. FDI participation in power plants is subject to limitations. Since 2017, the scope of the electricity subsidy has been reduced, thus lowering the subsidy amount disbursed; however, the average electricity tariff remained below the average production cost. Electricity tariffs continue to differ, depending on the end-user's purchasing power and installed power capacity, thus involving a cross-subsidization element. Domestic support to new and renewable energy sources was prioritized, to achieve the targeted energy mix. Action was taken to address issues relating to the regulatory framework on electricity tariffs and pricing from renewable energy sources. The 2008 mandatory policy of a biodiesel mixture of fatty acid methyl ester (FAME) from palm oil into fuel oil intensified, to, *inter alia*, meet renewable energy targets and reduce diesel consumption.

30. Manufacturing remains an important activity in terms of its contribution to the economy (20.5% of GDP in 2019) and exports (45.8% in 2019). Although the bulk of manufacturing firms continue to be micro and small firms, large firms and joint ventures appear to be the most productive, and foreign-owned manufacturing plants seem to produce about half of manufacturing exports. A concentration of SOEs remains in relatively capital-intensive activities. The 2018 Making Indonesia 4.0 policy seeks to achieve global competitiveness in five target industries: food and beverages, textiles and garments, automotive, electronics, and chemicals. Tariff protection for manufacturing increased considerably; peak rates continue to be applied on transport equipment, and certain chemicals and photographic supplies. Several non-tariff measures continue to protect domestic producers, ensure supplies for domestic processing (e.g. import licensing, contingency measures, LCRs, government procurement preferences, export taxes, and restrictions), and promote their exports (e.g. zone-designated schemes and concessional export credit to SMEs). Tax and non-tax incentives, including tax allowances, tax holidays (involving corporate income tax) and subsidized credit, remain in place. The garment, textiles and footwear industry benefited from increased tariff protection and an additional export performance-linked tax incentive. Similarly, tariff protection to the automotive sector was considerably raised, and certain incentives were introduced to facilitate consumers' shift to alternative-fuel vehicles (i.e. reduced luxury goods sales tax, concessional credit, and discounts for electricity upgrade of vehicles) and the establishment of an electric vehicle (EV) industry (i.e. fiscal and non-fiscal incentives tied to LCRs).

31. The contribution of services to GDP rose gradually over the review period, from 42.6% in 2013 to 46.1% in 2019. In 2018, Indonesia was ranked the 41<sup>st</sup> largest exporter and the 34<sup>th</sup> largest importer of commercial services in the world.

32. Indonesia maintained financial sector stability throughout the review period, including in the wake of the COVID-19 pandemic. To mitigate the effects of the pandemic, the Government put in place a supportive regulatory framework, and channelled funding through domestic banks to enable them to restructure existing, and disburse new, loans to businesses. The banking sector continues to be dominated by majority-state-owned banks. The insurance sector is fragmented, and there were several bankruptcies and mergers over the review period. Insurance penetration remains low, at under 3% in 2019. Sharia financial services increased over the review period, albeit from a low base. Indonesia's capital market, although still relatively small, grew steadily in terms of listed entities, numbers of investors and value of trades. The 2014 Insurance Law and its implementing regulations tightened restrictions on foreign ownership, and introduced a single presence policy. Regulatory changes in the financial services sector included, *inter alia*: the launch of an integrated electronic payment system network, the National Payment Gateway; the implementation of a financial information services system; increased bank transparency provisions relating to Indonesia's pledge to join the OECD-led Automatic Exchange of Information Initiative; and various measures to encourage the growth of the fintech sector. The latter includes the implementation of a regulatory sandbox approach, and measures to support the growth of fintech peer-to-peer lending platforms. The proportion of Indonesian citizens with bank accounts increased substantially over the review period, from 36% in 2014 to over 76% in 2019.

33. The telecommunications sector saw a steep decline in fixed-line subscriptions over the review period, and an increase in mobile cellular subscriptions up until 2018, when there was a significant drop. The latter may have been due to a government requirement for holders of certain sim cards to re-register them. Internet usage by individuals and fixed broadband subscriptions more than

doubled, albeit from a low base with respect to the latter. Fixed-line services are dominated by a single operator and, while there is more competition in the mobile cellular segment, one operator has a 50% market share. Nevertheless, there appears to be strong price competition among mobile operators, which led to particularly affordable mobile data prices. In 2019, the construction of a high-speed, fibre-optic nationwide Internet network was completed. FDI restrictions were eased in the areas of telecommunication equipment certification; fixed and mobile telecommunication networks and telecommunication networks integrated with telecommunication services; and telecommunications services (e.g. Internet service providers).

34. Several support measures are in place to support the transport sector: new VAT facilities were extended to assist the shipping, railway and air transport industries; and import tax reductions were granted on goods related to aircraft maintenance. Subsidies continue to be provided to support "pioneer" shipping companies who provide transport to remote regions; and various support measures were extended to the airline sector in 2020 to mitigate the impact of the COVID-19 pandemic. It appears that higher port tariffs on international routes subsidize much lower tariffs on domestic shipping routes. Other developments over the review period include: efforts to reform and simplify transport-related licensing and permit requirements; the ratification of various ASEAN air transport instruments; new and ongoing infrastructure projects; and the signature of the Government's first contract with a foreign company to develop and operate an airport within Indonesia. FDI restrictions were eased in various areas, namely: passenger land transportation and non-scheduled land transportation; supporting services for transport terminals; air transport supporting services (computer reservation systems, ground handling, and aircraft leasing); services activities related to airports; freight-forwarding services; air cargo expedition services; general sales agencies for foreign airlines; and maritime cargo handling services.

35. Tourism is a key generator of employment and one of Indonesia's main sources of foreign-currency earnings. Over the period 2013-19, there was year-on-year growth in both visitor numbers and revenue from tourism, and the number of hotel rooms also significantly increased. New developments over the review period include: efforts to develop the international medical tourism segment; a major expansion in the number of countries eligible for visa-free travel to Indonesia; measures to encourage cruise liner visits; and measures to increase the sustainability and quality of tourism businesses. FDI restrictions were eased in the areas of bars; cafes; the operation of sports facilities; restaurants; golf courses; travel bureaux; motels; private museums; and meetings, incentives, conferences, and exhibitions (MICE) operations. The COVID-19 pandemic has had a serious impact on the sector; as at end-June 2020, more than 2,000 hotels were closed, and almost all tourism destinations, amenities and facilities had been stopped. Indonesia saw a 45% drop in visitor arrivals over the period from January to April 2020, compared with the same period in 2019.

36. Distribution services are a major generator of employment and contributor to economic activity in Indonesia. In 2014, Law No. 7 of 2014 on Trade was enacted to, *inter alia*, govern distribution services; it contains general rules regarding e-commerce. FDI restrictions were eased with respect to distribution affiliated with production; direct selling through marketing networks; department stores; distribution not affiliated with production; warehousing; and retail trading via mail or Internet order. Additionally, new FDI limits were set for certain e-commerce activities; 100% FDI is permitted in certain e-commerce activities involving investments of more than IDR 100 billion, and for those activities under the IDR 100 billion threshold, FDI is capped at 49%. The retail e-commerce segment grew rapidly over the review period, and a new regulation was issued in 2019 to govern the e-commerce marketplace and e-retail practices. In line with the Government's E-Commerce Roadmap for the period 2017-19, government measures to support SME e-commerce activities were initiated.

37. In light of the COVID-19 pandemic, Indonesia's economic growth in 2020 is expected to either range from 4.2% to 4.6% or contract by 0.4% and recover to 5.2%-5.6% in 2021. Prior to the outbreak, risks to the growth outlook were skewed to the downside, and appeared to be mainly exogenous, *inter alia*, involving trade tensions posing additional risks to commodity prices, international trade flows, global business sentiment and investment growth, and weaker-than-expected growth in China. Despite the COVID-19-related stimuli, the pandemic may have put at risk domestic demand, the main driver of growth in Indonesia, as well as expected benefits from progress in raising productivity via the structural reforms underway. Future prosperity and sustainable growth depend on the Government implementing total factor productivity-enhancing structural reforms, as well as addressing issues relating to regulatory uncertainty, investment



climate, border protection, domestic support measures, LCRs, and state involvement in the economy. These and related reforms, including a reduction of labour market rigidities and more competition in the domestic market, would increase the resilience of the economy and its ability to cope with external competition, thus enabling it to continue meeting its economic and welfare objectives.

## 1 ECONOMIC ENVIRONMENT

### 1.1 Main Features of the Economy

1.1. Indonesia, the world's fourth most populous nation (264 million inhabitants in 2017), the world's 10<sup>th</sup> largest economy in terms of purchasing power parity, an emerging lower middle-income country and a member of the G20, is the largest economy in Southeast Asia (about 35% of the region's GDP) and the Association of Southeast Asian Nations (ASEAN) (Section 2.3.2).<sup>1</sup> It is a diverse archipelago nation, rich in natural resources (Sections 4.1 and 4.2), that is urbanizing and modernizing rapidly. Around half of the population is under 30 years old, and the working-age population ratio is set to rise during the next decade. As a result of steady economic expansion, accompanied by lower unemployment, controlled inflation, and helpful government policies, poverty rates and inequality have been falling, and access to public services is broadening.<sup>2</sup> Despite global challenges, including volatility in commodity prices and financial market uncertainty, during the review period and prior to the COVID-19 pandemic, the economy performed well, underpinned by a sound and accommodative macroeconomic policy aimed at maintaining stability while also promoting higher potential growth (Table 1.1).<sup>3</sup> According to the authorities, the resilience of the economy amid deteriorating global economic conditions was partly the result of policy synergy among the Government, Bank Indonesia (the central bank, BI) and related authorities (Sections 1.2.3 and 1.2.4); in light of the COVID-19 outbreak, this synergy is being strengthened further to accelerate the transformation of the economy by reinforcing leading sectors (e.g. manufacturing and tourism), developing the sharia economy, and fostering digital economic and financial innovation (Sections 1.2.4.5, 3.3.3.2, 3.3.3 and 4.4).<sup>4</sup> To address the impact of the COVID-19 outbreak, three stimuli packages were adopted (Box 1.1) and growth forecasts for 2020 were revised downwards with a rebound in 2021; the economy is expected to gather strength in the medium term, to become an advanced high-income country in 2045 (Section 1.2.1).

**Table 1.1 Selected macroeconomic indicators, 2013-19**

	2013	2014	2015	2016	2017	2018	2019 <sup>a</sup>
<b>National accounts (% change, unless otherwise indicated)</b>							
GDP real growth rate	5.6	5.0	4.9	5.0	5.1	5.2	5.0
Consumption	5.7	4.7	4.9	4.3	4.6	5.1	4.9
Private consumption	5.5	5.3	4.8	5.0	5.0	5.1	5.2
Household consumption	5.4	5.1	5.0	5.0	4.9	5.1	5.0
NPISH consumption	8.2	12.2	-0.6	6.6	6.9	9.1	10.6
Government consumption	6.7	1.2	5.3	-0.1	2.1	4.8	3.2
Gross fixed capital formation	5.0	4.4	5.0	4.5	6.2	6.6	4.4
Exports of goods and services	4.2	1.1	-2.1	-1.7	8.9	6.5	-0.9
Imports of goods and services	1.9	2.1	-6.2	-2.4	8.1	11.9	-7.7

<sup>1</sup> World Bank. Viewed at: <https://www.worldbank.org/en/country/indonesia/overview>; European Commission, *Countries and Regions – Indonesia*. Viewed at: <https://ec.europa.eu/trade/policy/countries-and-regions/countries/indonesia/>; and OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en).

<sup>2</sup> Indonesia achieved a sustained decline in poverty rates, from 19.1% of the population in 2000 to 9.4% in 2019. However, income or economic inequality, as measured by the Gini coefficient, rose from its lowest value of 30 points in 2000 to 41 points in 2014, declining to 38 in September 2019, indicating less inequality from 2014 onwards. Bank Indonesia (BI) (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>; BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx); World Bank (2019), *Indonesia Economic Quarterly: Investing in People - December 2019*, 3 December. Viewed at: <https://openknowledge.worldbank.org/bitstream/handle/10986/33033/Investing-in-People.pdf?sequence=1&isAllowed=y>; and OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en).

<sup>3</sup> IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>; and BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

<sup>4</sup> BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

	2013	2014	2015	2016	2017	2018	2019 <sup>a</sup>
XGS/GDP (%) (at current market price)	23.9	23.7	21.2	19.1	20.2	21.0	18.4
MGS/GDP (%) (at current market price)	24.7	24.4	20.8	18.3	19.2	22.0	18.9
Unemployment rate <sup>b</sup> (%)	6.2	5.9	6.2	5.6	5.5	5.3	5.3
Total factor productivity (2010 = 1.0)	1.0	1.0	0.9	0.9	0.9	..	..
Labour productivity (based on hours worked) (2010 = 1.0)	1.2	1.2	1.3	1.3	1.3	..	..
Labour productivity (based on number of employment) (2010 = 1.0)	1.1	1.2	1.2	1.2	1.3	..	..
<b>Prices and interest rates (% , unless otherwise indicated)</b>							
Consumer price index (CPI) (average, % change)	7.0	6.4	6.4	3.5	3.8	3.2	3.0
Time deposit <sup>c</sup> , IDR	7.49	9.30	8.54	7.11	6.60	7.06	6.81
Time deposit <sup>c</sup> , USD	2.10	2.23	1.38	1.18	1.71	2.29	2.35
<b>Exchange rates</b>							
IDR/USD (annual average)	10,461.2	11,865.2	13,389.4	13,308.3	13,380.8	14,236.9	14,147.7
Real effective exchange rate (% change)	..	..	..	..	..	..	..
Nominal effective exchange rate (% change)	..	..	..	..	..	..	..
<b>Money and credit (% change, end-period)</b>							
Broad money (M2)	12.8	11.9	9.0	10.0	8.3	6.3	6.5
Domestic credit to private sector	20.0	12.6	9.6	7.7	7.2	10.3	5.8
<b>General government (% of current GDP)</b>							
Revenue including grants	15.1	14.7	13.1	12.5	12.3	13.1	..
Revenue excluding grants	15.0	14.6	13.0	12.5	12.2	13.0	..
Tax revenue	11.3	10.9	10.8	10.4	9.9	10.2	..
Grants	0.1	0.0	0.1	0.1	0.1	0.1	..
Expenditure	17.3	16.8	15.7	15.0	14.8	14.9	..
Fiscal balance	-2.2	-2.1	-2.6	-2.5	-2.5	-1.8	..
General government debt, gross	24.8	24.7	27.0	28.0	29.4	30.1	30.2
<b>Savings and investment (% of current GDP)</b>							
National savings (gross)	30.7	31.5	32.0	32.0	32.1	31.4	..
National investment	33.8	34.6	34.1	33.9	33.7	34.5	..
Savings-investment gap	-3.2	-3.1	-2.0	-1.8	-1.6	-3.0	..
<b>External data (% of current GDP, unless otherwise indicated)</b>							
Current account	-3.2	-3.1	-2.0	-1.8	-1.6	-2.9	-2.7
Merchandise trade balance	0.6	0.8	1.6	1.6	1.9	0.0	0.3
Exports	20.0	19.7	17.3	15.5	16.6	17.3	15.1
Imports	19.3	18.9	15.7	13.9	14.8	17.4	14.7
Services balance	-1.3	-1.1	-1.0	-0.8	-0.7	-0.6	-0.7
Exports	2.5	2.6	2.6	2.5	2.5	3.0	2.8
Imports	3.8	3.8	3.6	3.3	3.2	3.6	3.5
Capital account	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Financial account (incl. reserve assets)	-3.2	-3.3	-2.1	-1.8	-1.7	-3.1	-2.8
Direct investment	-1.3	-1.7	-1.2	-1.7	-1.8	-1.2	-1.8
Balance of payments	-0.8	1.7	-0.1	1.3	1.1	-0.7	0.4
Merchandise exports (% change in USD)	-2.8	-3.7	-14.9	-3.1	16.9	7.0	-6.8
Merchandise imports (% change in USD)	-1.3	-4.5	-19.7	-4.4	16.2	20.6	-8.8
Service exports (% change in USD)	-3.0	2.6	-5.6	5.0	8.6	23.2	1.3
Service imports (% change in USD)	2.3	-4.2	-7.8	-1.7	7.6	15.2	4.5
International reserves (USD billion, end-period)	99.4	111.9	105.9	116.4	130.2	120.7	129.2
% of GDP	10.9	12.6	12.3	12.5	12.8	11.6	11.5
in months of prospective imports of goods and services	5.9	8.1	8.0	7.6	7.2	6.4	7.6

	2013	2014	2015	2016	2017	2018	2019 <sup>a</sup>
External debt (USD billion, end-period)	266.1	293.3	310.7	320.0	352.5	375.4	404.3
Debt service ratio <sup>d</sup>	19.9	29.9	34.6	37.5	29.4	26.0	..

.. Not available.

a Estimates.

b As at August.

c Six-months' time deposits at commercial banks, weighted average at end-period.

d Per cent of exports of goods, services and primary income.

Source: Statistics Indonesia; BI; IMF; Asian Development Bank (ADB); Asian Productivity Organization, *Productivity Measurement*. Viewed at: <https://www.apo-tokyo.org/wedo/productivity-measurement/>; and data provided by the authorities.

### Box 1.1 Indonesia's response to the COVID-19 challenge

To address COVID-19 challenges, several support initiatives, including three temporary fiscal stimulus packages and monetary policy measures, were undertaken without delay to minimize the economic impact and shore up growth.

Fiscal and non-fiscal measures have been focused on: bolstering the resilience of sectors affected by the pandemic; maintaining public purchasing power; and ensuring business continuity. Such policies allow for the acceleration of public spending, particularly during the first quarter of 2020, and for the reallocation of budget resources, initially concentrating on healthcare and social assistance rather than non-emergency materials and capital spending.

A first IDR 10.4 trillion, or 0.06% of GDP, stimulus package, seemingly consisting mainly of reclassification and front-loading of previous spending commitments, was announced the week of 24 February 2020 to support consumer spending and tourism (Table A1.1). It includes an aviation turbine fuel subsidy, flight ticket incentives to ten tourism destinations, and tax incentives for hotels and restaurants.

A second package amounting to IDR 22.9 trillion or 0.19% of GDP was announced on 13 March 2020 to stimulate spending and trade, and to maintain purchasing power and safeguard food supply through fiscal, non-fiscal, financial sector and food policy measures (Table A1.2).

A third package amounting to IDR 405.1 trillion was announced on 31 March 2020. Under it, corporate income tax would be reduced by 3 percentage points to 22% over 2020-21 and to 20% as from 2022. In addition, IDR 70 trillion would be used for tax incentives and SMEs support. Furthermore, the package includes IDR 110 trillion for social protection (including food assistance and electricity discounts and waivers for 10 million households).

Under Government Regulation (PP) No. 23/2020 on the national economic recovery programme (PEN), which took effect on 11 May 2020, the authorities aim to, *inter alia*, provide support to ailing state-owned enterprises (SOEs) and small businesses through state capital injections (PMN), fund placements at certain banks, government investment, and state guarantees. The PMN for SOEs aims to strengthen the capital structure of companies or their subsidiaries affected by the outbreak, and increase their capacity to carry out economic recovery programmes mandated by the Government. The programme was allocated IDR 318.09 trillion (USD 21.28 billion), of which more than IDR 152 trillion is destined to SOEs, including the national flag carrier Garuda Indonesia (IDR 8.5 trillion working capital), the steelmaker PT Krakatau Steel (IDR 3 trillion working capital), the State Logistics Agency (BULOG, working capital IDR 13 trillion), the state-owned oil and gas company Pertamina (IDR 48.25 trillion accelerated compensation payments), and the electricity company PLN (IDR 45.42 trillion accelerated compensation payments) (Sections 3.3.5, 4.1, 4.2 and 4.3). Furthermore, the Government may place funds at an interest rate equivalent to the lowest interest rate of government bonds (SBNs) purchased by the BI at domestic banks; these banks are called participant banks, are at least 51% owned by Indonesian individuals or entities, are categorized as healthy banks according to the Financial Services Authority, and are the country's 15 largest banks in assets value. Participant banks are to support the provision of liquidity for other banks, including secondary banks, that had also provided loan restructuring and disbursed additional loans to businesses. Moreover, under the PEN, IDR 6 trillion was set aside for micro, small and medium enterprises (MSMEs) new loan guarantees, and IDR 34.15 trillion in the form of loan interest subsidies for ultra-micro enterprises, MSMEs and cooperatives.

Several monetary policy measures were also adopted. On 9 March 2020, the BI announced measures to stabilize the rupiah, including: cutting the US dollar reserve requirement ratio (RRR) from 8% to 4%, and the rupiah RRR by 50 basis points, starting from 1 April 2020 (only for banks with clients engaged in import and export activities). Furthermore, it stepped up interventions to stabilize the rupiah in the domestic non-deliverable forward (DNDF) and spot markets; to purchase SBNs on the secondary market; and to increase the frequency of FX swap auctions for 1-, 3-, 6- and 12-month tenors from three times per week to daily auctions in order to ensure adequate liquidity, effective 19 March 2020. On 19 March 2020, the BI decreased the policy rate by 25 basis points. On 31 March 2020, it bought IDR 166 trillion (USD 10 billion) of bonds. On 14 April 2020, it cut the RRR by 200 basis points for conventional banks and 50 basis points for Islamic banks (effective 1 May 2020). It also raised the macroprudential liquidity buffer ratio by the same. This must be fulfilled only via government bonds purchased in the primary market.

Presidential Instruction Number 4/2020 on Refocusing of Activities, Budget Reallocation, and Public Procurement in Response to Handle COVID-19 in Indonesia, issued on 23 March 2020, provides for reallocation representing IDR 62 trillion of the state budget and IDR 72 trillion of village funds.

Source: BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx); OECD, *Tackling coronavirus (COVID-19)*. Viewed at: <https://www.oecd.org/coronavirus/en/>; and The Jakarta Post, *Government issues regulation on economic recovery program, focuses on SOEs, MSMEs*. Viewed at: <https://www.thejakartapost.com/news/2020/05/12/government-issues-regulation-on-economic-recovery-program-focuses-on-soes-msmes.html>.

1.2. Prior to the COVID-19 outbreak, risks to the 2019 and 2020 growth outlook were skewed to the downside. They appeared to be mainly exogenous, involving, *inter alia*, trade tensions posing additional risks to commodity prices (i.e. large swings, especially higher oil prices), international trade flows, global business sentiment and investment growth, and weaker-than-expected growth in China.<sup>5</sup>

## 1.2 Recent Economic Developments

### 1.2.1 Growth, income, and employment

1.3. During the review period, the annual average GDP growth rate stood at 5.1%, a minor slowdown compared to the average of 5.9% over the period 2007-12 (Table 1.1). It was driven by solid domestic demand which, in 2018, offset a decline in net exports, supported by an accommodative policy mix instituted by the BI, fiscal stimuli and much-needed infrastructure investment (Section 1.2.3.2, 1.2.4 and 3.3.1).<sup>6</sup> In early 2019, the BI predicted economic growth in the range of 5.1%-5.5% for 2020, a forecast scaled back to 5.0%-5.5% in February 2020 due to possible losses related to China's sizable role in the economy (especially in tourism, exports and investments). After the COVID-19 outbreak, the authorities modified the 2020 outlook, envisaging that the economy either moderately grow by 4.2% or 2.3% (severe scenario), or contract by 0.4% (most severe scenario); in light of the fiscal, monetary and credit restructuring policy measures put in place, the economy was foreseen to grow under the severe scenario.<sup>7</sup> The economy was projected

<sup>5</sup> IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>; and World Bank (2019), *Indonesia Economic Quarterly: Investing in People - December 2019*, 3 December. Viewed at: <https://openknowledge.worldbank.org/bitstream/handle/10986/33033/Investing-in-People.pdf?sequence=1&isAllowed=y>.

<sup>6</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013; OECD (2018), *OECD Economic Surveys Indonesia*, October; BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx); and IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

<sup>7</sup> BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx); Jakarta Post, *Government issues regulation on economic recovery program, focuses on SOEs, MSMEs*. Viewed at: <https://www.thejakartapost.com/news/2020/05/12/government-issues-regulation-on-economic-recovery-program-focuses-on-soes-msmes.html>.

to regain upward momentum in 2021 in line with the post-COVID-19 global economic recovery; on this basis, it would recover to 5.2%-5.6% in 2021.<sup>8</sup> For the medium term, the BI forecasts growth at 5.5%-6.1% based on a world economic recovery boosting global commodity prices, and increased domestic productivity resulting from the structural reforms underway (Section 1.2.4).

1.4. Since 2013, the overall sectoral pattern of Indonesia's GDP and employment has changed slightly (Table 1.2) but services remain the leading activity and a key driver of economic expansion (Section 4.4).<sup>9</sup> The GDP contribution of services and construction rose, whereas that of mining and energy and manufacturing dropped, and that of agriculture, livestock, forestry and fishing remained subject to relatively minor variations. The employment share of services and manufacturing rose, whereas that of agriculture, livestock, forestry and fishing, the second main employer, dropped. During the review period, raising productivity and competitiveness was a major policy priority (Sections 2.2.2, 2.2.3, 2.3.3, 2.4.2, 4.1, 4.2 and 4.3); between 2013 and 2017, overall total factor productivity appears to have slightly dropped, whereas labour productivity rose somewhat (Table 1.1).<sup>10</sup> The economy remains characterized by a combination of MSMEs and large SOEs (Sections 1.2.4.2, 1.2.4.5, 3.3.5, 4.1, 4.2 and 4.3), seemingly suffering from low productivity and limited integration into regional and global value chains (GVCs).<sup>11</sup> According to UNCTAD estimates, in 2017, Indonesia ranked 13<sup>th</sup> (15<sup>th</sup> in 2010) among the world's 25 top exporting developing economies by GVC participation rate; its GVC participation in exports (50%, mostly downstream) stood below the average of both the developed (60%) and developing (56%) exporting economies.<sup>12</sup>

1.5. Solid economic growth contributed to a relatively significant decline of the unemployment rate, to 5.3% in 2019 and to 4.99% in February 2020 (Table 1.1).<sup>13</sup> The unemployment data have yet to reflect the overall impact of the COVID-19 pandemic; in May 2020, the authorities predicted that 2.9 million to 5.2 million workers could lose their jobs during the outbreak, which would erase last

<sup>8</sup> BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

<sup>9</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>.

<sup>10</sup> According to the World Economic Forum's Global Competitiveness Index, in 2019, Indonesia ranked 50<sup>th</sup> out of 141 countries (50<sup>th</sup> out of 144 in 2012-13), down five places from 2018. It ranked 4<sup>th</sup> within ASEAN, behind Singapore (1<sup>st</sup>), Malaysia (27<sup>th</sup>) and Thailand (40<sup>th</sup>). Indonesia's main strengths are its market size and macroeconomic stability. It has a high rate of technology adoption considering the country's stage of development, and the quality of access remains relatively low. Innovation capacity remains limited but is increasing. Reportedly, the relatively low quality of labour, particularly high-skilled labour (professionals and managers), is another key constraint on the competitiveness of Indonesian firms. The increased automation and sophistication of production technology has raised the importance of skills quality for firms. World Bank Group (2018), *Indonesia Economic Quarterly - Strengthening competitiveness*, December. World Economic Forum (2013), *The Global Competitiveness Report 2012-2013*; and World Economic Forum (2019), *The Global Competitiveness Report 2019*.

<sup>11</sup> SOEs receive public subsidies, and operate as monopolists or dominant players in key sectors (Section 4.2); at the same time, the private sector is responsible for over 90% of all jobs. Indonesian firms typically export relatively unsophisticated products, and this pattern has changed little over the past decades. According to the World Bank, four related gaps that inhibit productivity growth and weaken firm-level incentives to innovate are to be addressed; they involve competition (trade and investment restrictions, weak competition framework, and an unpredictable regulatory environment), infrastructure (e.g. energy and transport), human capital (low levels), and finance (access to credit). According to the BI, productivity is expected to increase, consistent with improvements in the investment climate and the positive impact of better domestic infrastructure (including to power plants, toll roads, ports and airports); as at 2019, total factor productivity was forecast to grow at around 1% per year. BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>; World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

<sup>12</sup> According to the IMF, forward GVC participation (the exported domestic value added that is re-exported by the importer) has recently been more than twice the size of backward participation (imported foreign value added that is re-exported), thus suggesting that Indonesia is relatively higher up in GVCs and is particularly vulnerable to spillovers from further downstream. IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>; and UNCTAD (2018), *World Investment Report 2018 - Investment and New Industrial Policies*, Geneva. Viewed at: [https://unctad.org/en/PublicationsLibrary/wir2018\\_en.pdf](https://unctad.org/en/PublicationsLibrary/wir2018_en.pdf).

<sup>13</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>.



year's gains of 2.5 million new jobs.<sup>14</sup> Informality seems to remain pervasive, with around 70% of workers employed informally, and is highest in the agriculture (Section 4.1), construction, and transport and storage sectors; the rate of informality, excluding agriculture, is estimated to be around 60%.<sup>15</sup>

**Table 1.2 Basic economic indicators, 2013-19**

	2013	2014	2015	2016	2017	2018	2019
Real GDP (IDR trillion, 2010 prices)	8,156.5	8,564.9	8,982.5	9,434.6	9,912.9	10,425.4	10,949.2
Current GDP (IDR trillion)	9,546.1	10,569.7	11,526.3	12,401.7	13,589.8	14,838.3	15,833.9
Current GDP (USD billion)	912.5	890.8	860.9	931.9	1,015.6	1,042.2	1,119.2
GDP per capita at current market price (USD)	3,667.4	3,532.7	3,368.1	3,605.0	3,886.0	3,945.5	4,193.1
<b>GDP by economic activity, constant 2010 prices (% change)</b>							
Agriculture, livestock, forestry, and fishing	4.2	4.2	3.8	3.4	3.9	3.9	3.6
Food crops	2.0	0.1	4.3	2.6	2.3	1.5	-1.7
Horticultural crops	0.7	5.2	2.3	2.9	3.7	7.0	5.5
Plantation crops	6.1	5.9	2.0	3.5	4.5	3.8	4.6
Livestock	5.1	5.5	3.6	4.5	4.0	4.6	7.8
Fishing	7.2	7.3	7.9	5.2	5.7	5.2	5.8
Mining and quarrying	2.5	0.4	-3.4	0.9	0.7	2.2	1.2
Oil, gas and geothermal extraction	-3.2	-2.0	0.1	2.1	-3.5	-1.4	-2.8
Manufacturing	4.4	4.6	4.3	4.3	4.3	4.3	3.8
Food products and beverages	4.1	9.5	7.5	8.3	9.2	7.9	7.8
Oil and gas manufacturing industries	-2.6	-2.1	-1.1	2.8	-0.2	0.0	-1.1
Chemicals	5.1	4.0	7.6	5.8	4.5	-1.4	8.5
Transport equipment	14.9	4.0	2.4	4.5	3.7	4.2	-3.4
Construction	6.1	7.0	6.4	5.2	6.8	6.1	5.8
Electricity, gas and water supply; waste management	5.1	5.9	1.3	5.3	1.8	5.5	4.2
Services	6.4	6.0	5.5	5.7	5.7	5.8	6.4
Wholesale and retail trade; car and motorcycle reparations	4.8	5.2	2.5	4.0	4.5	5.0	4.6
Transport and storage	7.0	7.4	6.7	7.4	8.5	7.1	6.4
Accommodation; food and beverage service activities	6.8	5.8	4.3	5.2	5.4	5.7	5.8
Information and communication	10.4	10.1	9.7	8.9	9.6	7.0	9.4
Finance and insurance	8.8	4.7	8.6	8.9	5.5	4.2	6.6
Real estate	6.5	5.0	4.1	4.7	3.6	3.5	5.7
Business services	7.9	9.8	7.7	7.4	8.4	8.6	10.3
Public administration and defence	2.6	2.4	4.6	3.2	2.0	7.0	4.7
Education	7.4	5.5	7.3	3.8	3.7	5.4	6.3
Health and social work activities	8.0	8.0	6.7	5.2	6.8	7.1	8.7
Other service activities	6.4	8.9	8.1	8.0	8.7	9.0	10.6
<b>Share of economic activities in current GDP, at factor cost (%)</b>							
Agriculture, livestock, forestry, and fishing	13.7	13.7	13.9	14.0	13.7	13.4	13.3
Food crops	3.6	3.3	3.6	3.6	3.4	3.2	2.9
Horticultural crops	1.5	1.6	1.6	1.6	1.5	1.5	1.6
Plantation crops	3.8	3.9	3.6	3.6	3.6	3.4	3.4
Livestock	1.6	1.6	1.6	1.7	1.6	1.6	1.7
Fishing	2.3	2.4	2.6	2.7	2.7	2.7	2.8

<sup>14</sup> The Jakarta Post, *Indonesia's unemployment numbers rise to 6.88 million in February*. Viewed at: <https://www.thejakartapost.com/news/2020/05/05/indonesias-unemployment-numbers-rise-to-6-88-million-in-february.html>.

<sup>15</sup> OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en).

	2013	2014	2015	2016	2017	2018	2019
Mining and quarrying	11.3	10.1	7.9	7.4	7.9	8.4	7.6
Oil, gas and geothermal extraction	5.6	4.9	3.4	3.1	3.0	3.2	2.9
Manufacturing	21.6	21.6	21.7	21.3	21.0	20.7	20.5
Food products and beverages	5.3	5.5	5.8	6.2	6.4	6.5	6.7
Oil and gas manufacturing industries	3.4	3.3	2.9	2.4	2.4	2.3	2.2
Chemicals	1.7	1.7	1.9	1.9	1.8	1.7	1.8
Transport equipment	2.1	2.0	2.0	2.0	1.9	1.8	1.7
Construction	9.7	10.1	10.5	10.8	10.8	11.0	11.2
Electricity, gas and water supply; waste management	1.1	1.2	1.2	1.3	1.3	1.3	1.3
Services	42.6	43.3	44.7	45.3	45.4	45.2	46.1
Wholesale and retail trade; car and motorcycle repairs	13.5	13.8	13.7	13.7	13.5	13.6	13.6
Transport and storage	4.0	4.5	5.2	5.4	5.6	5.6	5.8
Accommodation; food and beverage service activities	3.1	3.1	3.1	3.0	3.0	2.9	2.9
Information and communication	3.7	3.6	3.6	3.8	3.9	3.9	4.1
Finance and insurance	4.0	4.0	4.2	4.3	4.4	4.3	4.4
Real estate	2.8	2.9	2.9	2.9	2.9	2.9	2.9
Business services	1.6	1.6	1.7	1.8	1.8	1.9	2.0
Public administration and defence	4.0	3.9	4.0	4.0	3.8	3.8	3.8
Education	3.3	3.3	3.5	3.5	3.4	3.4	3.4
Health and social work activities	1.0	1.1	1.1	1.1	1.1	1.1	1.2
Other service activities	1.5	1.6	1.7	1.8	1.8	1.9	2.0
<b>Share of employment by economic activity (%)</b>							
Agriculture, forestry, and fishing	34.8	34.0	32.9	31.9	29.7	28.8	27.3
Mining and quarrying	1.3	1.3	1.1	1.2	1.1	1.2	1.1
Manufacturing	13.8	13.6	13.5	13.4	14.5	14.7	15.0
Construction	5.6	6.4	7.1	6.7	6.7	6.7	6.7
Electricity, gas and water supply; waste management	0.3	0.4	0.4	0.4	0.6	0.7	0.7
Service	44.2	44.4	44.9	46.3	47.3	48.0	49.2
Wholesale and retail trade; car and motorcycle repairs	18.6	18.3	18.6	18.2	18.6	18.6	18.8
Transport and storage	4.1	4.0	4.0	4.2	4.2	4.4	4.4
Accommodation; food and beverage service activities	3.8	4.2	4.6	5.3	5.7	6.2	6.7
Information and communication	0.5	0.5	0.5	0.6	0.7	0.7	0.7
Finance and insurance	1.3	1.3	1.5	1.5	1.4	1.4	1.7
Real estate	0.2	0.2	0.3	0.3	0.3	0.3	0.3
Business services	1.1	1.1	1.2	1.2	1.4	1.3	1.5
Public administration and defence	3.2	3.2	3.5	4.2	3.8	3.8	3.8
Education	4.5	4.7	4.9	5.1	4.9	4.9	5.0
Health and social work activities	1.1	1.2	1.3	1.5	1.5	1.5	1.5
Other service activities	5.8	5.7	4.7	4.2	5.0	4.8	5.0

Source: Statistics Indonesia. Viewed at: <https://www.bps.go.id/>.

### 1.2.2 Prices

1.6. During the review period, consumer price index (CPI) inflation dropped considerably to enter within the 2018 and 2019 BI target range in 2016, exceeding it slightly in 2017, and then remaining within the band until 2019 (Table 1.1, and Section 1.2.3.1). This reflected, *inter alia*, prudent management of cyclical factors in domestic demand, appreciation in the exchange rate (Section 1.2.3.1), low administered price inflation (energy), and the response to structural improvements, such as the growing role of inflationary expectations in shaping and anchoring inflation, the declining impact of the exchange rate on inflation, and the positive effect of synergy



between the Government and the BI in controlling volatile food inflation.<sup>16</sup> In January 2020, the BI remained committed to maintaining price stability, and forecast that CPI inflation in 2020 would remain within the new target corridor for the years 2020 and 2021.<sup>17</sup>

### 1.2.3 Main macroeconomic policy developments

#### 1.2.3.1 Monetary and exchange rate policy

1.7. The BI, the independent central bank, has continued to carry out exchange rate and monetary policies to achieve a price stability target range set at  $4.5\% \pm 1\%$  (for 2013, 2014),  $4.0\% \pm 1\%$  (2015, 2016, 2017),  $3.5\% \pm 1\%$  (2018, 2019) and  $3.0\% \pm 1\%$  (2020, 2021).<sup>18</sup> During the review period, an accommodative monetary policy mix, adapted to changing external conditions, focused on maintaining macroeconomic stability and sustaining economic growth momentum amid heightened global uncertainty. Various instruments were used, including lowering the monetary policy rate, reducing the statutory reserve requirement, exchange rate flexibility, and foreign exchange intervention (see below).<sup>19</sup> During the review period, policy rates were changed several times, and ranged from 4.25% (6/2020) to 7.75% (1/2014). Interest rate policy sought to create adequate interest rate differentials and bolster the attractiveness of foreign capital investment in domestic financial market assets.<sup>20</sup>

1.8. Since 14 August 1997, the rupiah has had a *de jure* free floating exchange arrangement, and the *de facto* arrangement remains floating.<sup>21</sup> Indonesia maintains an exchange rate system free of restrictions on payments and transfers for current international transactions. According to the IMF, exchange rate flexibility remains critical to the economy's resilience to external shocks. During the review period, exchange rate policy was focused on maintaining exchange rate stability at about the level of fundamentals, so as to serve as a tool for mitigating shocks from external factors. The rupiah stabilization policy was implemented in a twofold strategy: a strategy for optimizing dual interventions by the BI on the forex market and the government bonds market; and a strategy for the management of forex liquidity.<sup>22</sup> The latter was supported by measures to deepen the forex

<sup>16</sup> BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

<sup>17</sup> BI (2020), *Monetary Policy Review January 2020*, 24 January. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-Januari-2020.aspx>.

<sup>18</sup> Under Central Bank Act UU No. 23/1999 on Bank Indonesia, enacted on 17 May 1999 and amended with UU No. 3/2004 on 15 January 2004, the BI is an independent state institution, free from interference by the Government or any other external party. Consequently, the BI is fully autonomous in formulating and implementing each of its tasks and powers. External parties are strictly prohibited from interfering with the BI's tasks, and the BI has the duty to refuse or disregard any attempt of interference in any form by any party. BI, *Bank Indonesia Functions*. Viewed at: <https://www.bi.go.id/en/tentang-bi/fungsi-bi/status/Contents/Default.aspx>. BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>; and OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en).

<sup>19</sup> For example, in June 2019, the BI lowered the rupiah statutory reserve requirement by 50 bps to 6.0%, thus providing IDR 25.3 trillion in direct, additional liquidity to the banking system; in November 2019, it was lowered by a further 50 bps to 5.5%, with effect from 2 January 2020. Furthermore, in July 2019, the BI 7-day (Reverse) Repo Rate (BI7DRR) was reduced by 25 bps to 5.75%, and there were further cuts of 25 bps in August, September and October; thus, in December 2019, the rate was 5.0%. BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx); IMF (2019), *Indonesia : 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>; and BI (2020), *Monetary Policy Review January 2020*, 24 January. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-Januari-2020.aspx>.

<sup>20</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>.

<sup>21</sup> IMF (2019), *Indonesia : 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

<sup>22</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>.

market, including hedging instruments such as overnight index swaps, interest rate swaps, and domestic non-deliverable forwards (as from 1 November 2018, DNDF).

1.9. Between 2013 and 2018, the nominal IDR/USD exchange rate (annual average) depreciated by an overall 36.1% (Table 1.1), driven, *inter alia*, by a decline in net exports in 2018 and escalating trade tensions between the United States and China, which prompted higher risk premiums in emerging markets. This was followed by a 0.6% appreciation in 2019 due to: strong external sector performance involving foreign currency supply from exporters and foreign capital inflows maintained in line with the outlook of the Indonesian economy; highly attractive domestic financial markets; and less financial market uncertainty globally.<sup>23</sup>

### 1.2.3.2 Fiscal policy

1.10. Indonesia's fiscal stance remained prudent; the 2003 Fiscal Law caps the deficit at 3% of GDP and debt at 60% of GDP.<sup>24</sup> The fiscal deficit peaked at 2.6% of GDP in 2015 and bottomed at 1.8% in 2018 (Table 1.1), supported by strong growth in both oil/gas revenues and non-oil/gas revenues; in 2019, it returned to its 2013 level due to lower commodity prices, a contraction in imports affecting total revenue collection, and an acceleration of public expenditure.<sup>25</sup> Fiscal policy has been, *inter alia*, aimed at stimulating economic growth and maintaining fiscal sustainability. Three strategies contributed to the latter: mobilization of revenues while supporting improvement in the investment climate; improving the quality of expenditures for greater effectiveness and productivity in support of priority programmes; and promoting efficiency and innovation for creative financing. The Government steadily refocused public expenditures from inefficient energy subsidies toward productive investments in infrastructure (Sections 4.2.2.1.2 and 4.2.2.2); however, in 2018, as electricity and some fuel prices were frozen, energy subsidies seemingly increased (50% on a year-on-year basis), although they were partially offset by restraints of other expenditures (capital expenditure in particular).<sup>26</sup> According to the IMF, in 2019, revenues remained below peer countries, and insufficient to finance development goals.<sup>27</sup> Gross government debt rose from 24.8% of GDP in 2013 to 30.1% in 2018 (Table 1.1) and 30.2% in 2019, thus remaining under the official cap.

### 1.2.4 Structural policies

1.11. Trade and domestic reform are considered intrinsically linked. Despite the 16 economic policy packages introduced between 2015 and 2018, focusing on improving the investment climate, increasing competitiveness, and accelerating infrastructure development (Sections 2.2.2 and 2.4), it appears that substantial growth-constraining structural bottlenecks, including low tax revenues, shallow financial markets, complex local government regulations, investment restrictions, strong presence of SOEs, and labour and product market rigidities, remain in place; action to address them

<sup>23</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>; and BI (2020), *Monetary Policy Review January 2020*, 24 January. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-Januari-2020.aspx>.

<sup>24</sup> OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en).

<sup>25</sup> World Bank (2019), *Indonesia Economic Quarterly: Investing in People - December 2019*, 3 December. Viewed at: <https://openknowledge.worldbank.org/bitstream/handle/10986/33033/Investing-in-People.pdf?sequence=1&isAllowed=y>; and BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

<sup>26</sup> IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>; World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

<sup>27</sup> Indonesia's general government revenue to GDP ratio dropped from 15.1% (2013) to 13.1% (2018) (Table 1.1). Particularly low, relative to other countries at a similar income level, fiscal revenues (10.2% of GDP, 2018) also resulted in reliance on SOEs and public-private partnership (PPP) to channel recent increases in infrastructure spending, increasing fiscal risks from contingent liabilities. IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>; and OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en).

is ongoing (see below and Sections 3.3.5 and 4.4).<sup>28</sup> The authorities recognize the need for continuous improvement in competitiveness and productivity as well as the imperative to move away from dependence on exports of primary commodities and further support the downstream industry and tourism development (Sections 2.2.2, 4.1, 4.2 and 4.4).<sup>29</sup>

#### 1.2.4.1 Tax reform

1.12. During the review period, Indonesia undertook tax reforms. On the revenue side, the main reforms in 2018 included: the introduction of three joint inspection agencies responsible for assessing the efficiency and accuracy of the value of the profit-sharing obligation and income tax of oil and gas contractor partnership contracts (Section 4.2.2.1.1); and the adjustment of the withholding tax rates on the import of 1,147 types of goods (Section 3.1.4).<sup>30</sup> Furthermore, the authorities aimed, *inter alia*, to increase tax revenues by using an updated tax database and improving tax compliance, including through strengthening the tax administration and simplifying tax design.<sup>31</sup> Important steps were taken to improve tax administration, such as risk-based audits, lifting bank secrecy (Section 4.4), and ongoing development of IT systems, which supported the positive revenue performance in 2018.<sup>32</sup>

1.13. Tax expenditure in the form of tax holidays and tax allowances has been significant, and the first appraisal reports covering the years 2016 (1.6% of GDP) and 2017 (1.5% of GDP) were issued in 2018 and their ratios updated in 2019 (Sections 3.3.1.1.1); in 2018, the ratio stood at 1.5% of GDP.<sup>33</sup> In April 2018, the procedures and criteria to obtain tax holidays were changed and, in November 2018, the terms and procedures for granting corporate income tax reduction to companies in 18 types of pioneer industries were relaxed (Section 3.3.1.1.1). Fiscal incentives were provided to improve the investment climate and competitiveness, including expediting tax refunds; providing super deductions for specific labour-intensive businesses and industries; tax holidays for export-based service industries; and fiscal incentives to accelerate the electric vehicle programme (Section 4.3.6).<sup>34</sup> To minimize the economic impact of COVID-19, temporary (six-month) fiscal incentives were provided for specific taxpayers such as: SMEs, medical equipment companies, and companies listed on the Indonesian Stock Exchange (Box 1.1).

#### 1.2.4.2 Privatization

1.14. During the review period, there was limited privatization action. State involvement in the economy remained important, relatively unchanged, and spread over several activities (e.g. agriculture, mining, energy, manufacturing, finance and insurance, and transportation and storage), thus seemingly crowding out private investors to some extent in some sectors (Sections 3.3.5, 4.1, 4.2, 4.3 and 4.4).<sup>35</sup> SOEs, largely concentrated in relatively capital-intensive sectors such as

<sup>28</sup> World Bank (2019), *Indonesia Economic Quarterly: Investing in People - December 2019*, 3 December. Viewed at: <https://openknowledge.worldbank.org/bitstream/handle/10986/33033/Investing-in-People.pdf?sequence=1&isAllowed=y>; and IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

<sup>29</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>.

<sup>30</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>.

<sup>31</sup> Over the period 2012-16, the number of registered taxpayers rose by almost 12 million, but seemingly registration levels remain low by international standards. OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en); and BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>.

<sup>32</sup> IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

<sup>33</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>.

<sup>34</sup> BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

<sup>35</sup> Reportedly, SOEs are more pervasive across the economy than in any country in the OECD's Product Market Regulation database except China. OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en).

manufacturing, finance and insurance, and transportation and storage, remain a key element in the Government's infrastructure and development strategy.<sup>36</sup> They continue to receive subsidies, and hold *de jure* or *de facto* monopoly or quasi-monopoly positions in activities where competition would be seemingly viable, such as energy generation and distribution, seaports, toll roads, and imports of agricultural inputs and cereal grains.<sup>37</sup> Efforts to increase the use of PPPs were apparently undertaken in the transportation, toll roads and bridges, water supply and sanitation, telecommunications, power, and oil and gas sectors; between 2013 and 2019, 68 projects were tendered.<sup>38</sup>

#### 1.2.4.3 Competition policy and corporate governance

1.15. Lack of competition in an economy harms productivity growth by reducing the firms' incentives for product and process innovation.<sup>39</sup> Since its last Review, Indonesia made some changes to its competition policy framework (Section 3.3.4); efforts were focused on, *inter alia*, improving the implementation by updating certain regulations. Corporate governance, particularly for those businesses not covered by specific corporate governance regulations, remains under development; during the review period, good governance-related regulations were, *inter alia*, passed on publicly listed companies, insurance companies, and financing companies.<sup>40</sup>

#### 1.2.4.4 Labour market policies

1.16. During the review period, reforms in several areas were undertaken; nevertheless, Indonesia seems to be one of the lower-middle-income economies in East Asia and the Pacific with the most rigid employment regulations, particularly on hiring.<sup>41</sup> The legislation makes it difficult for employers to discharge workers who have been employed continuously for at least three months.<sup>42</sup> The practice of outsourcing is restricted.<sup>43</sup> In 2015, a new and uniform method for setting the minimum wage was established.<sup>44</sup> Since 2017, employers are required to formulate a pay scale or salary structure, detailing how salaries are determined for a particular company, taking into account employees' work experience, education, position, job description, and other factors.<sup>45</sup> Employment of foreigners continues to be allowed only in positions that locals cannot fill, and only if regular and systematic training is provided so that Indonesians can eventually replace them; the need for approval of the foreign manpower utilization plan (*rencana penggunaan tenaga kerja asing* — RPTKA) and stringent

<sup>36</sup> For instance, the 2016 plan to accelerate 245 national strategic projects assumed that 30% would be financed by SOE investment. OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en); and World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

<sup>37</sup> World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

<sup>38</sup> BAPPENAS, *PPP Book*. Viewed at: <https://www.bappenas.go.id/id/profil-bappenas/unit-kerja/deputi-bidang-sarana-dan-prasarana/direktorat-pengembangan-kerjasama-pemerintah-dan-swasta/contents-direktorat-pengembangan-kerjasama-pemerintah-dan-swasta/ppp-public-private-partnerships-book/>.

<sup>39</sup> World Bank Group (2018), *Indonesia Economic Quarterly - Strengthening competitiveness*, December 2018.

<sup>40</sup> Online information (<https://practiceguides.chambers.com/practice-guides/corporate-governance-2019/indonesia>).

<sup>41</sup> World Bank (2019), *Doing Business 2020 - Comparing Business Regulation in 190 Economies*, 24 October. Viewed at: <https://www.doingbusiness.org/en/reports/global-reports/doing-business-2020>.

<sup>42</sup> Reportedly, the difficulty of firing employees reduces turnover and new hiring; consequently, companies cope by outsourcing or transferring employees to new positions before firing them. EIU (2019), *Country Commerce - Indonesia*, January.

<sup>43</sup> Ministry of Manpower Regulation No. 19/2012 identifies five service categories where outsourcing is expressly allowed: cleaning, catering, security, support services in the mining and oil and gas sectors, and staff transportation. However, companies can outsource beyond these categories if they can prove the outsourced work is separate from their core operations. EIU (2019), *Country Commerce - Indonesia*, January.

<sup>44</sup> The governors of each province calculate the annual increase by multiplying the current minimum wage by the inflation rate and the annual GDP growth rate. The scheme does not apply to the eight provinces where minimum wages are still below a government-determined basic cost of living. Reportedly, the introduction of a minimum wage resulted in a reduction in both hours of work and employment. World Bank (2019), *Doing Business 2020 - Comparing Business Regulation in 190 Economies*, 24 October. Viewed at: <https://www.doingbusiness.org/en/reports/global-reports/doing-business-2020>; and Government Regulation (GR) No. 78/2015 cited at EIU (2019), *Country Commerce - Indonesia*, January.

<sup>45</sup> Ministry of Manpower Regulation No. 1/2017 cited at EIU (2019), *Country Commerce - Indonesia*, January.



foreign-to-domestic worker ratios remain in place.<sup>46</sup> In 2018, procedures for the employment of foreigners were simplified; these were implemented on 11 July 2018 (Minister of Manpower Regulation No. 10/2018). The Government aims to integrate the foreign employment permit process, including approval by the RPTKA, into an online single submission system (Section 2.4) in the near future. Furthermore, the regulatory framework regarding certain positions that may be occupied by foreign workers in several sectors was revised; previous relevant Decrees of the Minister of Manpower were revoked, and a list of positions in various business fields where foreign employees can be employed, to be evaluated every two years or when needed, was put in place.<sup>47</sup>

1.17. Indonesia continued to integrate gender perspectives into its economic policies, including through the Ministerial Strategic Plan 2015-19 on gender equality and women empowerment. In response to a moratorium policy on sending Indonesian migrant workers abroad (of which almost 70% were women) under Ministerial Regulation No. 2/2016 on General Guidance of Home-Based Industry for Improving Family Welfare, emphasis was placed on economically empowering women, and also on strengthening family resilience.<sup>48</sup>

#### 1.2.4.5 Other

1.18. Action at both central and regional levels was taken to develop MSMEs by corporatizing them in the form of clusters, enabling the formation of networks of similar businesses, thus creating larger economies of scale and facilitating more effective capacity building (Sections 3.2.4, 3.2.5 and 3.3.1.2).<sup>49</sup> Various incentive schemes target MSMEs (Section 3.3.1.2). Under the National Strategy of Cooperatives and MSMEs Development 2020-24, the BI MSME cluster development programme is aimed at reducing the current account deficit, furthering inclusive growth, and reducing inflationary pressures.<sup>50</sup> It focuses on three main activities: agriculture; fisheries and animal husbandry; and creative economy. The BI encourages the development of export-orientated MSMEs, focusing on the main commodities in regions with high export potential, as well as tourism-related products, such as fabrics, crafts and coffee.

1.19. Strengthening the sharia economy and finance to ensure financial transactions based on real assets or projects remained another priority (Sections 3.2.5 and 4.4).<sup>51</sup> Development of the sharia economy is to be implemented by building halal value chains, including the application of business models based on varied partnership schemes ranging from MSMEs to large corporations.

#### 1.2.5 Balance of payments

1.20. The economy's reliance on commodity production continued to expose the country to balance-of-payments risks.<sup>52</sup> The trade balance improved, considerably shifting to a surplus in 2015-17, supported by a rising goods trade surplus, and moving back to deficit in 2018 and 2019 (Table 1.3).

<sup>46</sup> Ministry of Manpower Regulation No. 10 of 2018 on Procedures for the Utilization of Foreign Workers, which implements Government Regulation No. 20 of 2018 on the Utilization of Foreign Workers, SSEK, *Legal Updates*. Viewed at: <https://www.ssek.com/blog/new-indonesian-manpower-regulation-changes-rules-for-foreign-workers>. Presidential Regulation on workers' permits (No. 28/2018) cited at World Bank Group (2018), *Indonesia Economic Quarterly - Strengthening competitiveness*, December 2018.

<sup>47</sup> Minister of Manpower Decree No. 228 of 2019 concerning Certain Positions Allowed to be Occupied by Foreign Workers regulates certain positions that may be occupied by foreign workers in several sectors. It came into effect on 27 August 2019, replacing Minister of Manpower Decree No. 16 of 2015.

<sup>48</sup> According to the authorities, micro-scale businesses are mostly home-based industries (73% run by women with a low level of education). More than 55% are located in rural areas, and more than 70% relate to food production. They have limited access to economic resources, and about 60%-70% of them are run by women.

<sup>49</sup> BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

<sup>50</sup> In the period 2020-24, the Ministry of Cooperatives and SMEs' National Strategy of Cooperatives and MSMEs Development encourages them to, *inter alia*, turn into potential exporters, promote import substitution, and contribute to the GVC process.

<sup>51</sup> The contribution of the sharia economy in Indonesia has steadily expanded its global reach. In 2018, Indonesia's market accounted for approximately 11% of the global sharia market, with contributions from the halal foods industry (13%), fashion (7%), and Muslim-friendly tourism (4%). BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

<sup>52</sup> World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

The current account deficit narrowed from 3.2% of GDP (2013) to 1.6% (2017) after widening to 2.9% (2018) and 2.7% (2019) (Tables 1.1 and 1.3). Moreover, the authorities indicated that the current account deficit narrowed to less than 1.5% of GDP in the first quarter of 2020 compared to 2.8% of GDP in the fourth quarter of 2019. These changes have, *inter alia*, been influenced by developments in commodity (including oil and gas) prices, withholding tax rates (Section 3.1.4), exports or imports of primary raw materials, fuels, (mostly infrastructure-related) capital or consumer goods, exchange rate movements or foreign capital inflows.<sup>53</sup> The import decline has been also linked to policies instituted to manage the current account deficit, including import substitution through expanding B20 biofuel domestic capacity (Section 4.2.2.3) as well as diverting crude oil exports to domestic purposes, which have effectively reduced oil and gas imports.<sup>54</sup> As at end April, the authorities projected the current account deficit to remain manageable in 2020 at less than 2% of GDP.<sup>55</sup>

**Table 1.3 Balance of payments, 2013-19**

(USD million)

	2013	2014	2015	2016	2017	2018	2019
Current account	-29,109	-27,510	-17,519	-16,952	-16,196	-30,633	-30,387
Goods and services balance	-6,237	-3,027	5,352	8,234	11,435	-6,713	-4,243
Goods balance	5,833	6,983	14,049	15,318	18,814	-228	3,511
Exports	182,089	175,293	149,124	144,470	168,883	180,725	168,455
Imports	176,256	168,310	135,076	129,152	150,069	180,953	164,945
Services balance	-12,070	-10,010	-8,697	-7,084	-7,379	-6,485	-7,754
Receipts	22,944	23,531	22,221	23,324	25,328	31,207	31,645
Payments	35,014	33,541	30,918	30,407	32,707	37,692	39,398
Primary income	-27,050	-29,703	-28,379	-29,647	-32,131	-30,815	-33,773
Credit	2,602	2,130	2,822	4,048	5,575	9,302	7,373
Compensation of employees	200	206	213	219	228	241	231
Investment income	2,402	1,924	2,609	3,829	5,347	9,061	7,141
Debit	29,652	31,832	31,201	33,695	37,706	40,117	41,145
Compensation of employees	1,338	1,406	1,574	1,772	1,735	1,744	1,711
Investment income	28,314	30,426	29,627	31,923	35,970	38,373	39,434
Secondary income	4,178	5,220	5,508	4,460	4,500	6,895	7,629
Credit	8,508	9,374	10,362	9,832	9,967	12,220	12,677
Personal transfers	7,415	8,345	9,447	8,687	8,761	10,974	11,435
Debit	4,330	4,154	4,853	5,371	5,467	5,325	5,048
Capital account	45	27	17	41	46	97	39
Balance on current and capital account	-29,064	-27,483	-17,502	-16,912	-16,149	-30,536	-30,348
Financial account	21,926	44,916	16,843	29,306	28,686	25,122	36,651
Direct investment	12,170	14,733	10,704	16,136	18,502	12,511	20,145
Indonesia's direct investment abroad	-6,647	-7,077	-5,937	12,215	-2,077	-8,053	-3,411
Direct investment into Indonesia	18,817	21,811	16,641	3,921	20,579	20,563	23,556

<sup>53</sup> BI (2020), *Monetary Policy Review January 2020*, 24 January. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-Januari-2020.aspx>; OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en); and World Bank (2019), *Indonesia Economic Quarterly: Investing in People - December 2019*, 3 December. Viewed at: <https://openknowledge.worldbank.org/bitstream/handle/10986/33033/Investing-in-People.pdf?sequence=1&isAllowed=y>.

<sup>54</sup> BI (2020), *Monetary Policy Review January 2020*, 24 January. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-Januari-2020.aspx>.

<sup>55</sup> BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx); and BI (2020), *Monetary Policy Review January 2020*, 24 January. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-Januari-2020.aspx>.

	2013	2014	2015	2016	2017	2018	2019
Portfolio investment	10,873	26,067	16,183	18,996	21,059	9,312	21,685
Financial derivatives	-334	-156	20	-9	-128	34	179
Other investment	-783	4,272	-10,064	-5,817	-10,747	3,266	-5,358
Reserve assets <sup>a</sup>	7,325	-15,248	1,098	-12,089	-11,585	7,131	-4,676
Net errors and omissions	-186	-2,184	-439	-305	-950	-1,717	-1,627

a Negative represents surplus and positive represents deficit.

Source: BI, *Indonesian Financial Statistics*. Viewed at: <https://www.bi.go.id/en/statistik/seki/terkini/eksternal/Contents/Default.aspx>.

1.21. Indonesia's gross external debt, which remains largely long-term (86.3% in 2018), rose steadily over the review period, reflecting an increase in external debt of the non-bank private sector (Table 1.1); it grew by 51.9% in the period 2013-19.<sup>56</sup> As a result, the debt service ratio peaked at 37.5% of GDP (2016) and dropped to 26.0% in 2018, much higher than the 2013 level. The current account deficit has increasingly been financed by volatile short-term capital flows, creating external vulnerabilities that have seemingly intensified since 2018.<sup>57</sup> According to the IMF, general government external debt has been stable, including internationally issued bonds, holdings of domestic bonds by non-residents, and SOEs' external loans and debt securities.<sup>58</sup> According to the OECD, in 2018, external debt was low (moderate, according to the IMF) relative to the past and to other countries.<sup>59</sup>

1.22. Foreign exchange reserves peaked in 2017 and then declined slightly, registering an overall rise of about 30% (2013-19) to USD 129.2 billion (Table 1.1). This was mainly due to oil and gas foreign exchange receipts, government foreign loan withdrawals, government issuances of global bonds, and other foreign exchange receipts. At end-December 2019, they were equivalent to 11.5% of GDP and 7.6 months of imports of goods and services, well above the international adequacy standard of 3.0 months of imports of goods and services, or 7.3 months of imports and servicing government external debt, compared to 10.9% of GDP and 5.9 months in 2013, and almost 32% of the external debt.<sup>60</sup> They peaked again at USD 130.5 billion in May 2020.

### 1.3 Developments in Trade and Investment

#### 1.3.1 Trends and patterns in merchandise and services trade

1.23. The moderate exposure of Indonesia's economy to international trade, its degree of openness, and relatively weak integration into GVCs continued to be reflected by the ratio of its trade (exports plus imports) in goods and services to GDP; this ratio dropped considerably from 48.6% in 2013 to

<sup>56</sup> BI (2019), *2018 Economic Report on Indonesia*, 28 May. Viewed at: <https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>; and IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

<sup>57</sup> In 2018, non-resident investors held about 40% of rupiah-denominated government bonds and a third of corporate debt financing, leaving the country vulnerable to capital flow reversals. IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>; and World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

<sup>58</sup> IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

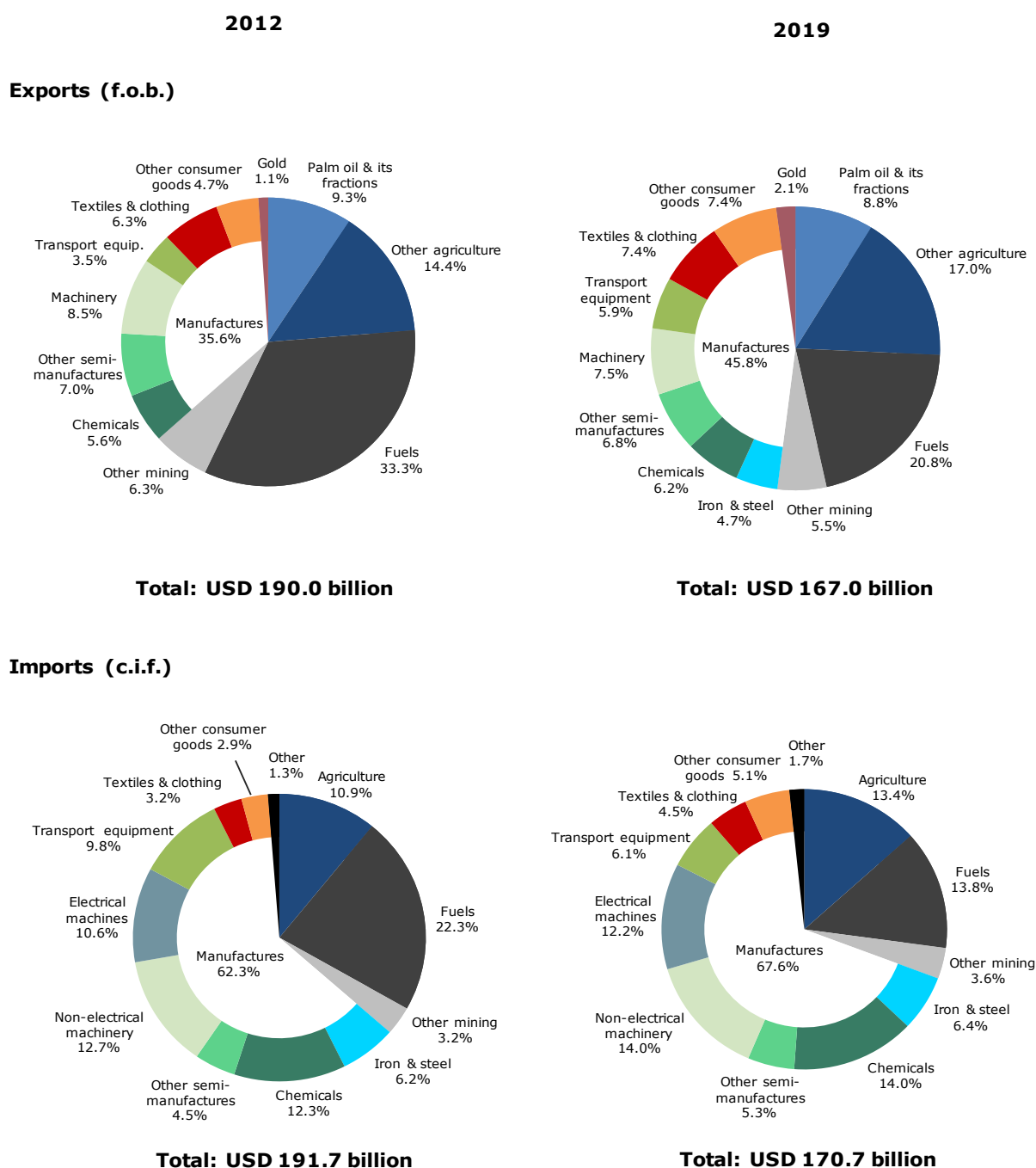
<sup>59</sup> OECD (2018), *OECD Economic Surveys: Indonesia 2018*, OECD Publishing, Paris. Viewed at: [https://doi.org/10.1787/eco\\_surveys-idn-2018-en](https://doi.org/10.1787/eco_surveys-idn-2018-en).

<sup>60</sup> BI (2020), *Monetary Policy Review January 2020*, 24 January. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-Januari-2020.aspx>; and BI (2020), *Indonesia's International Investment Position Report - Quarter IV/2019*, 30 April. Viewed at: <https://www.bi.go.id/en/publikasi/neraca-pembayaran/Pages/PIII-Tw4-2019.aspx>.

37.3% in 2019 (Table 1.1). This situation appears to have slowed the growth of the non-commodity tradable sectors.<sup>61</sup>

1.24. Since its previous Review, Indonesia's merchandise trade (both for imports and exports) has remained dependent on manufactures (Chart 1.1, Tables A1.3 and A1.4). The share of palm oil and its fractions, fuels, machinery, other semi-manufactures, and other mining in total exports dropped, whereas the share of all other products rose. The share of fuels and transport equipment in total imports declined, whereas the share of all other products has risen.

**Chart 1.1 Product composition of merchandise trade, 2012 and 2019**



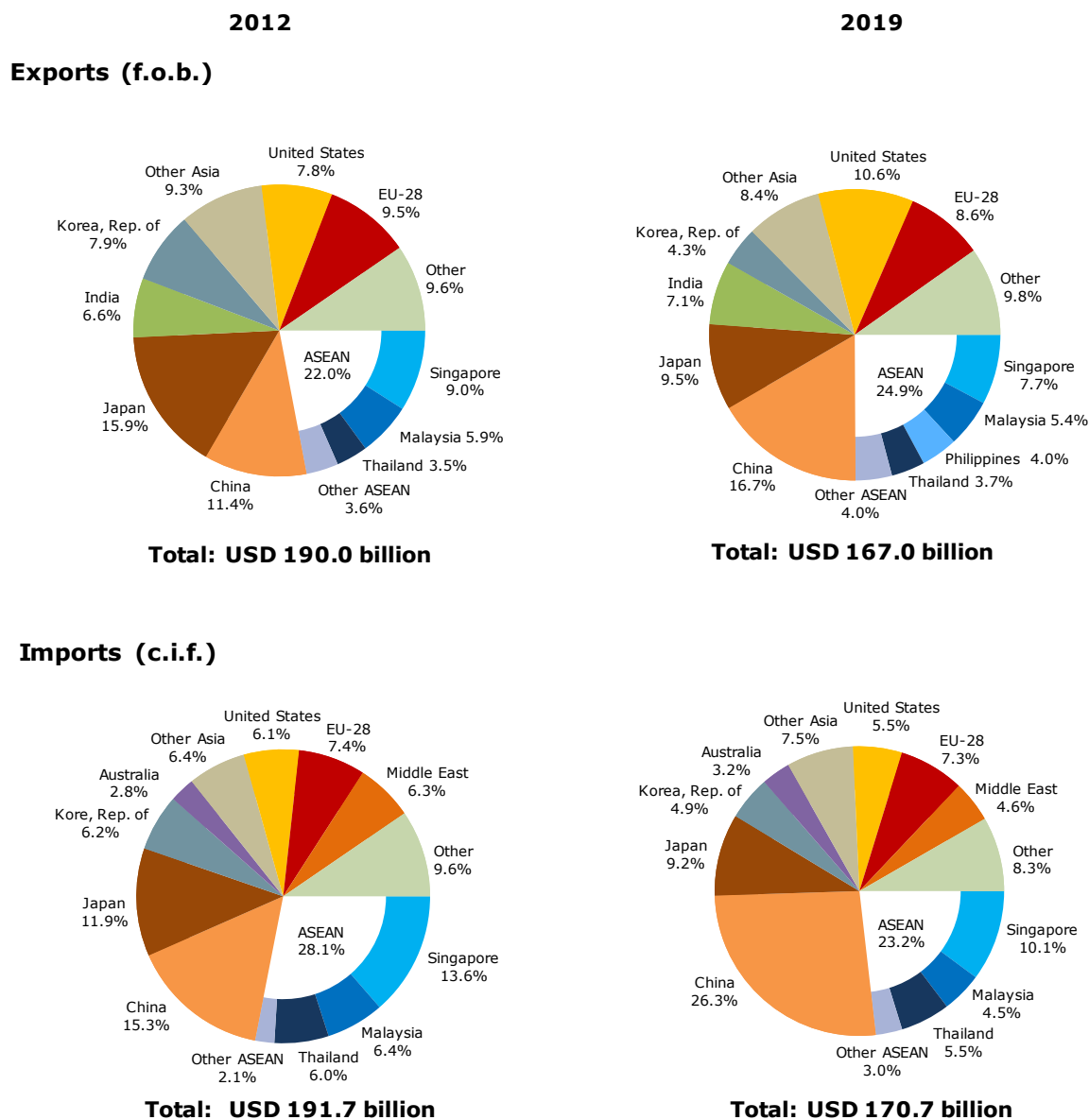
Source: UNSD, Comtrade database (SITC Rev.3).

<sup>61</sup> World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.



1.25. In the same period, while the share of Indonesia's merchandise exports to economies in the region slightly declined, their share in Indonesia's imports rose (Chart 1.2, Tables A1.5 and A1.6); however, regarding ASEAN, the opposite occurred. Notwithstanding some minor fluctuations in trade shares, Indonesia's main trading partners remain China, Japan, the European Union and the United States. The share of Indonesia's merchandise trade with China rose steadily. Japan's, Singapore's and the Republic of Korea's shares of both imports and exports decreased; the same applied regarding exports to the United States, while the opposite occurred regarding imports.

**Chart 1.2 Direction of merchandise trade, 2012 and 2019**



Source: WTO Secretariat calculations, based on UNSD, Comtrade database.

1.26. According to the authorities, export gains stemmed from the diversification of products and markets, as well as several domestic policies.<sup>62</sup> Iron and steel, automotive, pulp and wastepaper, gold, and textile exports performed well in 2019 as a result of improved competitiveness. Indonesia also successfully diversified its export markets for several commodities, such as iron and steel, by exporting more to ASEAN countries and Saudi Arabia.

<sup>62</sup> BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

1.27. During the review period, Indonesia remained a net importer of services, running a declining deficit in the services account amounting to 0.7% of GDP in 2019 compared to 1.3% in 2013 (Section 1.2.5, and Tables 1.1 and 1.4); the authorities indicated that this drop was due to the significant improvement in the performance of travel services sector as well as other services sectors, including the reduction of trade deficits in insurance. Travel, transportation and other business services remain the major traded services.

**Table 1.4 Trade in services, 2013-19**

	2013	2014	2015	2016	2017	2018	2019
Total credit (USD billion)	22.9	23.5	22.2	23.3	25.3	31.2	31.6
	(% of total credit)						
Manufacturing services on physical inputs owned by others	1.9	1.8	1.6	1.5	1.4	1.2	1.2
Maintenance and repair	0.6	0.4	1.3	1.8	0.7	0.8	1.0
Transportation	15.7	16.1	15.6	15.3	13.7	11.5	12.4
Passenger	5.2	5.5	5.8	5.8	6.1	4.8	4.7
Freight	7.5	7.4	6.3	7.2	5.1	4.9	5.6
Other	3.1	3.1	3.4	2.3	2.5	1.8	2.1
Travel	39.7	43.6	48.4	48.0	51.9	52.6	53.5
Business	13.2	14.5	16.3	16.1	16.1	17.0	17.0
Personal	26.6	29.1	32.2	31.9	35.8	35.6	36.5
Construction	3.7	3.0	1.7	1.0	1.5	1.3	1.5
Insurance and pensions	0.1	0.1	0.2	0.3	0.3	0.5	0.5
Financial services	1.1	0.9	1.1	1.4	2.5	2.1	1.3
Charges for intellectual property	0.2	0.3	0.2	0.2	0.2	0.2	0.6
Telecommunications, computer and information services	4.5	4.8	4.4	4.2	3.9	3.9	4.1
Other business services	28.9	25.6	22.1	23.0	20.8	22.3	20.8
Personal, cultural and recreational services	0.8	0.6	0.5	0.4	0.5	1.2	0.7
Government goods and services n.i.e.	2.7	2.6	2.8	2.9	2.6	2.3	2.3
Total debit (USD billion)	35.0	33.5	30.9	30.4	32.7	37.7	39.4
	(% of total debit)						
Maintenance and repair	1.1	1.4	2.0	2.5	1.1	1.2	1.3
Transportation	35.8	35.7	31.1	30.0	31.6	33.0	29.5
Passenger	7.4	7.7	8.1	7.8	8.1	7.6	8.0
Freight	25.8	25.2	21.4	19.9	21.0	22.4	19.6
Other	2.6	2.8	1.6	2.3	2.5	3.0	1.9
Travel	21.9	22.9	23.6	24.9	25.3	27.4	28.7
Business	6.4	6.7	6.9	7.1	7.1	6.3	6.6
Personal	15.5	16.2	16.7	17.7	18.2	21.1	22.1
Construction	2.4	2.0	1.5	0.4	0.6	0.4	1.2
Insurance and pensions	3.0	2.9	3.0	2.4	2.0	1.9	2.2
Financial services	2.0	1.9	2.4	3.0	3.3	3.0	2.2
Charges for intellectual property	5.0	5.6	5.3	5.7	5.8	3.9	4.6
Telecommunication, computer and information services	4.4	4.8	5.8	7.1	7.7	7.6	8.0
Other business services	21.9	20.8	24.5	23.7	22.0	21.3	21.9
Personal, cultural and recreational services	0.8	0.7	0.2	0.2	0.2	0.2	0.2
Government goods and services n.i.e.	1.7	1.4	0.5	0.2	0.4	0.1	0.2

Source: IMF e-library data. Viewed at: <http://data.imf.org/?sk=7A51304B-6426-40C0-83DD-CA473CA1FD52&sid=1542633711584>; and BI, *Indonesia's Balance of Payments and International Investment Position*.

### 1.3.2 Trends and patterns in foreign direct investment

1.28. Foreign direct investment (FDI) is not only an additional source of capital. It is also considered to bring with it entrepreneurship, management skills and, especially, new technology, which contribute to improved multi-factor productivity. According to UNCTAD estimates, in 2018, Indonesia ranked 16<sup>th</sup> (47<sup>th</sup> in 2016) among the world's top 20 FDI inflow host economies. This rise reflected, *inter alia*, investment-related policy developments (Sections 2.4, 4.2 and 4.3).<sup>63</sup> During the review period, FDI inflows were relatively irregular, due to policy developments; they bottomed in 2016 at USD 3.9 billion, and peaked in 2019 at USD 23.4 billion (Table 1.5), due to both external and internal factors, such as improved ease of doing business, decreasing tension in global trade wars, and Indonesia's presidential election outcome.<sup>64</sup> FDI inflows were mainly concentrated in manufacturing, financial intermediation, and trade and repair activities; in 2019, they originated mainly in Japan and Singapore. In January 2020, the BI expected investment to continue increasing due to infrastructure development and surging business confidence as a result of expanding exports and improvements in the ease of doing business, in line with current government policy, including the implementation of the Omnibus Law on Job Creation (Section 2.2.3).<sup>65</sup>

**Table 1.5 FDI inflows by sector and origin, 2013-19**

(USD million)

	2013	2014	2015	2016	2017	2018	2019 <sup>a</sup>
<b>Total</b>	<b>18,817</b>	<b>21,810</b>	<b>16,642</b>	<b>3,921</b>	<b>20,579</b>	<b>20,563</b>	<b>23,429</b>
<b>By sector:</b>							
Agriculture, hunting and forestry	1,895	4,021	4,049	2,768	3,614	3,116	1,860
Fishing	73	137	884	-422	18	25	24
Mining and quarrying	2,486	2,511	3,074	772	-1,294	-5,883	1,730
Manufacturing	8,521	7,513	3,714	7,279	9,615	11,338	10,242
Electricity, gas, and water supply	357	252	-251	438	1,015	83	1,470
Construction	341	141	43	412	184	173	1,119
Services	5,146	7,235	5,132	-7,328	7,427	10,484	5,991
Trade and repair	987	1,926	1,091	2,006	4,555	5,262	2,837
Hotels and restaurants	1	-7	0	5	-1	137	3
Transportation, storage, and communication	1,952	1,921	1,637	2,060	527	2,991	-1,321
Financial intermediation	516	1,528	1,110	-13,156	34	1,310	3,238
Real estate, and business activities	865	1,368	366	870	1,704	243	271
Other	825	499	928	887	608	541	963
<b>By origin:</b>							
Japan	5,836	5,793	4,010	2,499	3,913	5,679	8,263
Singapore	10,723	12,090	8,847	8,407	9,413	10,334	6,309
EU-28	-1,730	345	-2	1,554	5,349	540	2,644
Thailand	131	231	47	613	-232	164	1,089
Korea, Rep. of	866	953	228	199	16	109	1,039
Canada	152	106	81	-3	-27	-25	895
United States	741	-1,098	603	-335	-2,458	-3,936	816
China	67	1,068	324	355	1,994	3,398	741

<sup>63</sup> UNCTAD (2018), *World Investment Report 2018 – Investment and New Industrial Policies*, Geneva. Viewed at: [https://unctad.org/en/PublicationsLibrary/wir2018\\_en.pdf](https://unctad.org/en/PublicationsLibrary/wir2018_en.pdf); and UNCTAD (2019), *World Investment Report 2019 – Special Economic Zones*, 12 June, Geneva. Viewed at: <https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=2460>.

<sup>64</sup> According to the World Bank, most of the FDI is driven by the desire to extract and/or process natural resources or to serve the large domestic market. Foreign-equity limits, sectoral reservations for MSMEs, local content requirements, and local government regulations have raised the cost of investing in Indonesia (Sections 2.4.2, 3.1.7, 3.3.6 and 4.2). World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia – Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October; and World Bank Group (2018), *Indonesia Economic Quarterly – Strengthening competitiveness*, December 2018.

<sup>65</sup> BI (2020), *Monetary Policy Review January 2020*, 24 January. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-Januari-2020.aspx>.

	2013	2014	2015	2016	2017	2018	2019 <sup>a</sup>
Hong Kong, China	416	290	1,239	1,564	548	1,161	498
Cayman Island	30	53	34	5	-141	84	232
Chinese Taipei	100	87	21	23	-1	31	121
India	9	3	37	54	40	85	58
Turkey	17	12	8	4	2	20	41
Viet Nam	5	9	6	11	20	21	23
Philippines	8	1	2	10	14	17	13
Brazil	3	-1	23	17	15	17	10

a Estimates.

Source: BI, *Indonesian Financial Statistics*. Viewed at:  
<https://www.bi.go.id/en/statistik/seki/terkini/eksternal/Contents/Default.aspx>.

## 2 TRADE AND INVESTMENT REGIMES

2.1. Since its previous TPR in 2013, Indonesia has undertaken the update of its trade-related and investment policies, as well as institutional and regulatory reform initiatives, supported by, *inter alia*, Economic Policy Packages (EPPs) in areas including transparency, anti-corruption, investment promotion, and economic dispute resolution. Indonesia remains committed to the multilateral trading system. During the review period, it expanded its WTO commitments by ratifying the Trade Facilitation Agreement (TFA). In addition, it continued to focus on strengthening regional economic integration ties through the implementation and/or negotiation of several ASEAN agreements and bilateral RTAs. It submitted numerous notifications, and was involved in several dispute settlement cases in the WTO. It also undertook efforts to liberalize and streamline its FDI regime in several areas, despite persisting limitations in certain activities. Its international investment agreements have been subject to changes to review their provisions before renewal.

### 2.1 General Framework

2.2. During the review period, the Constitution (last amended on 11 August 2002) remained unchanged, despite amendment considerations in April 2016. Under Article 33 of Chapter XIV (national economy and social welfare), important means of production should be controlled by the State, and the economy should be organized under certain principles including self-sufficiency.<sup>1</sup>

2.3. The political system consists of the legislative, executive and judicial branches.<sup>2</sup> The executive branch remains centralized under the President, Vice President, and the Cabinet of Ministers. The Cabinet is a Presidential cabinet in which the ministers report to the President and do not represent specific political parties. Both the President and Vice President are chosen through presidential elections. They serve for a term of five years that can be extended once by another term of five years if re-elected. General elections were last held on 17 April 2019, and the next are due in 2024.

2.4. The legislative powers remain under the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* (MPR)) which has the power to set or change the Constitution and appoint the President.<sup>3</sup> The MPR consists of People's Representative Council (*Dewan Perwakilan Rakyat* (DPR)) and Regional Representative Council (*Dewan Perwakilan Daerah* (DPD)) members who are elected via general election for a five-year term. DPR members are elected through proportional representation, and every province (see below) elects four members to the DPD (who serve for a five-year term) on non-partisan basis. The DPR draws up and passes laws, produces the annual budget in cooperation with the President, and oversees the general performance of political affairs.<sup>4</sup> The DPD deals with bills, laws, and matters that are related to the regions, thereby increasing regional representation at the national level.<sup>5</sup> Currently, the MPR has 575 members from the DPR and 136 members from the DPD. The Constitution authorizes the President to conclude treaties with other states, and requires DPR approval therefor.<sup>6</sup>

<sup>1</sup> More specifically, sectors of production which are considered important for the country and affect the life of the people shall be under the power of the State. It is also stated that the organization of the national economy shall be conducted on the basis of economic democracy, upholding the principles of togetherness, efficiency with justice, continuity, environmental perspective, self-sufficiency, and keeping a balance in the progress and unity of the national economy. The 1945 Constitution of the Republic of Indonesia as amended by the First Amendment of 1999, the Second Amendment of 2000, the Third Amendment of 2001 and the Fourth Amendment of 2002. Library of Congress, *Indonesia, Constitutional Amendment to be Considered*. Viewed at: <https://www.loc.gov/law/foreign-news/article/indonesia-constitutional-amendment-to-be-considered/>; and WIPO IP Portal, *the 1945 Constitution of the Republic of Indonesia*. Viewed at: <https://wipolex.wipo.int/en/text/200129>.

<sup>2</sup> Global Edge, *Indonesia: Government*. Viewed at: <https://globaleedge.msu.edu/countries/indonesia/government>.

<sup>3</sup> Global Edge, *Indonesia: Government*. Viewed at: <https://globaleedge.msu.edu/countries/indonesia/government>.

<sup>4</sup> The House of Representatives of the Republic of Indonesia, *About the House*. Viewed at: <http://www.dpr.go.id/en/tentang/pengambilan-keputusan>.

<sup>5</sup> DPD, Republic of Indonesia. Viewed at: [https://dpd.go.id/halaman-700\\_fungsi-tugas--wewenang](https://dpd.go.id/halaman-700_fungsi-tugas--wewenang).

<sup>6</sup> Article 11 of the Constitution; Law No. 37 of 1999 on Foreign Relations; Law No. 24 of 2000 on International Treaties; Law No. 24 of 2000 replaces Presidential Letter No. 2826 of 1960 on the Conclusion of Treaties with Foreign States; and Law No. 7 of 2014 on Trade. Ministry of Foreign Affairs, *Foreign Policy: Foundation, Vision and Mission*. Viewed at: [https://kemlu.go.id/portal/en/read/21/halaman\\_list\\_lainnya/related-regulations](https://kemlu.go.id/portal/en/read/21/halaman_list_lainnya/related-regulations).

2.5. Judicial power is implemented by the Supreme Court (*Mahkamah Agung*) and the judicial bodies under it, in the form of public courts, religious affairs courts, military tribunals, state administrative courts, and a Constitutional Court.<sup>7</sup> The Supreme Court is the final court of appeal, and high courts in principal cities deal with appeals from district courts. Supreme Court judges are chosen by the President, who selects from nominees presented by the Judicial Commission, a special body whose members are appointed by the MPR. The chief justice and his/her deputies are chosen from among the Supreme Court justices by the justices themselves. The Constitutional Court monitors whether decisions made by the Cabinet and the MPR are in line with the Constitution.

2.6. Indonesia is divided into 33 provinces, including the two special territories of Pemerintah Aceh and Yogyakarta and one capital region of Jakarta. Local governments maintain wide responsibilities, making Indonesia one of the largest decentralized countries in the world.<sup>8</sup> Most competences are delegated to local governments, with the central Government retaining responsibility only for areas of national security, foreign and monetary policy, justice, governance and planning, and religious affairs. In 2015, about 53% of total public spending (excluding subsidies and interest payments) was conducted by sub-national governments, with district governments managing about 38%, and provinces the remaining 15%.<sup>9</sup> Local governments are responsible for education, healthcare, labour, public works, spatial planning, telecommunications, housing, transport, etc. However, the task of revenue collection remains primarily in the hands of the central Government. To ensure that the regional and local governments have sufficient resources to undertake their responsibilities, a system of intergovernmental fund transfers is in place. This guarantees that at least 26% of net domestic revenues goes to local governments.

2.7. The regional areas' funding sources consist of Own Source Revenue, the Fiscal Balance/Revenue Sharing Fund (*Dana Bagi Hasil*, DBH), the General Allocation Fund (*Dana Alokasi Umum*, DAU), and the Special Allocation Fund (*Dana Alokasi Khusus*, DAK). These are directly managed by the regional government through the Regional Revenue and Expenditure Budget (APBD).<sup>10</sup> The DAU is aimed at minimizing fiscal imbalances among sub-national governments. DAU transfers are formula-based, consisting of a basic allocation (proportion of personnel salary) and a fiscal gap (fiscal need-fiscal capacity).<sup>11</sup> This ceiling fund is allocated to the provinces (14.1% since 2017, previously 10%) and the districts and municipalities (85.9% since 2017, previously 90.0%), and it accounts for, on average, 50% of local revenues. In 2019, additional DAU funding assistance for urban villages was introduced. The DBH consists of: the DBH from taxes (a shared tax system) based on receipts from personal income tax, etc; and the DBH from natural resources, which is based on revenues derived from forestry, mining, oil, etc. The DAK is a transfer system to fund responsibilities that are considered as national priorities; since 2016, it has become based on programme proposals (previously, it was formula-based) by local governments, and is split into DAK Physical and DAK Non-Physical. DAK Physical is a fund earmarked for physical capital expenditure (previously known as DAK), and DAK Non-Physical is used for funding operational costs and incentives.

## 2.2 Trade Policy Formulation and Objectives

### 2.2.1 Trade policy formulation

#### 2.2.1.1 Executive branches of government

2.8. Trade-related policymaking is undertaken through a variety of government agencies (Table 2.1). The Minister of Trade remains responsible for the coordination of trade policy, and for

<sup>7</sup> Indonesia Investments, *General Political Outline of Indonesia*. Viewed at: <https://www.indonesia-investments.com/culture/politics/general-political-outline/item385>.

<sup>8</sup> Law 22 of 1999. OECD. Viewed at: <https://www.oecd.org/regional/regional-policy/profile-Indonesia.pdf>.

<sup>9</sup> World Bank. Viewed at: <http://pubdocs.worldbank.org/en/657051513163708686/IEQ-Dec-2017-ENG.pdf>.

<sup>10</sup> Ni Putu Santi Suryantini, Ica Rika Candraningrat and Ni Made Wulandari Kusumadewi (2017), *The influence of DAU (GENERAL ALLOCATION FUND) AND DAK (SPECIAL ALLOCATION FUND) on capital expenditure of Bali Province*, Economics & Business Solutions Journal Volume 1, Number 2, 2017, 1-9. Viewed at: <http://journals.usm.ac.id/index.php/ebsj/article/view/620> and <https://docplayer.net/62990497-The-influence-of-dau-general-allocation-fund-and-dak-special-allocation-fund-on-capital-expenditure-of-bali-province.html>.

<sup>11</sup> OECD. Viewed at: <https://www.oecd.org/regional/regional-policy/profile-Indonesia.pdf>.

supporting Indonesia in international trade negotiations, including the WTO. S/he is also responsible for negotiating trade agreements. However, other government institutions and agencies may make proposals. During the review period, the Government created a trade negotiating team (*Tim Perunding Perjanjian Perdagangan Internasional*), directed by the Coordinating Minister of Economic Affairs and chaired by the Minister of Trade, under the Ministry of Trade (MoT).<sup>12</sup> The objective of the team is to enhance Indonesia's active role in trade negotiations in multilateral, regional and bilateral forums, based on national interest. It formulates and determines the country's negotiating position, especially regarding improving access to international markets and boosting economic growth. In addition, the Advocacy Bureau of the MoT, established in 2016, provides essential support services during negotiations, and analyses and recommends changes to agreements.<sup>13</sup>

**Table 2.1 Main institutions involved in trade and investment policymaking, 2020**

Institution	Trade- and investment-related responsibilities
Coordinating Ministry of Economic Affairs	Sits above line ministries. Responsible for ensuring coherence of economic policy (including trade policy) across the Government, including in the formulation of regulations.
Ministry of Trade (MoT)	Coordination of trade policy and supporting Indonesia in international trade negotiations, including the WTO. The secretariat for Indonesia's anti-dumping committee (KADI) is located in the MoT.
Ministry of Finance (MoF)	Responsible for tariffs; works with Team Tariff. The MoF has final authority to make changes in tariffs, export taxes, and other duties applied at the border. Formal decisions on tariffs are contained in decrees from the Minister of Finance.
Team Tariff	Inter-ministerial advisory body on tariff policy, charged with reviewing Indonesia's tariff. Composed of Ministries of Finance, Industry, Trade, Agriculture, and Economic Affairs.
Capital Investment Coordinating Board (BKPM)	At national level, charged with providing investor services, formulating investment policies, and coordinating with national government agencies and regional governments. Several overseas offices promote investment into Indonesia. The BKPM Chairman reports directly to the President. The BKPM was responsible for the issuance of the new negative investment list.
National Development Planning Agency (Bappenas)	Responsible for formulating national development plans; has developed a number of regulatory reform tools.
National Committee on Technical Trade Barriers (Komnas HTP)	Established in 2017, responsible for providing recommendations related to the implementation of the WTO TBT Agreement, TBT issues, Indonesia's position at the WTO TBT Meeting, and coordinating with related stakeholders to provide scientific data, regulatory impact assessments on draft regulations, and analysis on technical regulations, and assess issues related to TBT. Komnas HTP's Head reports directly to the Head of the National Standardization Agency.

Source: WTO document WT/TPR/S/278/Rev.1, 16 July 2013; and information provided by the authorities.

### 2.2.1.2 Advisory bodies

2.9. The Government is required to offer the public the opportunity to give input into the rule-making process, orally or in writing, and consultations are undertaken on an *ad hoc* basis as issues arise.<sup>14</sup> During the review period, it continued to interact with the private sector in relation to trade and investment policies, laws, and regulations. The private sector is mainly represented by

<sup>12</sup> Its members consist of: the Ministers of Foreign Affairs; Law and Human Rights; Finance; Health; Manpower; Industry; Energy and Mineral Resources; Public Works and Public Housing; Transportation; Communication and Informatics; Agriculture; Environment and Forestry; Marine and Fisheries; Village, Development of Disadvantaged Regions and Transmigration; Tourism; and Secretary of State; as well as the Cabinet Secretary; and the Heads of the National Standardization Agency; the BKPM; the National Agency of Drug and Food Control; and the Indonesian Chamber of Commerce and Industry. Regulation of the Minister of Trade No. 82 of 2017 based on Article 86, paragraph (2) of Law No. 7 of 2014 on Trade, which allows the Government to form a team of negotiators in the field of international trade. MoT, *Regulation No. 82/2017*. Viewed at: <http://www.apbi-icma.org/uploads/files/old/2018/02/Permendag-82-Tahun-2017-English-Version-.pdf>; and Law No. 7 of 2014 *About Trade*. Viewed at: <https://eservice.insw.go.id/files/atr/Law%20No.%207%20of%202014%20on%20Trade.pdf>.

<sup>13</sup> Minister of Trade Decree No 8 of 2016; and Thomson Reuters, *International trade in goods and services in Indonesia: overview*. Viewed at: [https://uk.practicallaw.thomsonreuters.com/w-017-5557?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhpc=1](https://uk.practicallaw.thomsonreuters.com/w-017-5557?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhpc=1).

<sup>14</sup> Law No. 12 of 2011 on *Legislation Making*. Viewed at: <http://ditjenpp.kemenkumham.go.id/arsip/terjemahan/52.pdf>.



the Indonesian Chamber of Commerce and Industry (*Kamar Dagang dan Industri* (KADIN), the umbrella organization of business chambers and associations. KADIN focuses on all matters relating to trade, industry and services, and is committed to tapping potentials and synergies of the national economy, offering a strategic forum for Indonesian entrepreneurs.<sup>15</sup> KADIN Indonesia Business Service Desk (KADIN BSD) is the international business services unit of KADIN.<sup>16</sup> It provides an independent view on new opportunities and developments in the economy.

2.10. Technical support on trade-related policy matters continues to be provided by international and regional organizations such as the World Bank, the United Nations Development Programme (UNDP) and the Asian Development Bank (ADB) (Section 2.3.1.2).

## 2.2.2 Trade and related policy objectives

2.11. During the review period, Indonesia's trade and investment policy vision was set within the broader framework of the Master Plan of National Industry Development 2015-35.<sup>17</sup> The Master Plan's objective is international industry cooperation, with the aim of: protecting and increasing market access for local industry products; opening industrial resource access to support the enhancement of local industry productivity and competitiveness; increasing the integration of local industry into the global supply chain; and increasing industrial investment cooperation to develop local industry.<sup>18</sup> The targets of developing international industry cooperation include increasing: the number of countries as export destinations of industrial products; the access of national industry to the utilization of industrial resources through technical cooperation; the utilization of global supply chain networks; and the number of industrial investment forums in foreign countries.

2.12. The implementation of the Master Plan is set out in three phases, to achieve the long-term vision of industrial development.<sup>19</sup> The first phase (2015-19) included: increasing the added value of natural resources in agricultural, mineral, and oil processing upstream industries; and selectively developing supporting and anchoring industry through preparing skilful and competent human resources, and increasing the mastery of technology. The second phase (2020-24) is aimed at achieving competitive advantage and environmentally friendly industries through strengthening industrial structure and technological mastery supported by qualified human resources. The third phase (2025-35) is aimed at making Indonesia a strong industrial country with a sound and deep industrial structure that is globally competitive, innovative and has technology bases.

2.13. The National Medium-Term Development Plan (RPJMN) 2015-19 contained national development strategies, public policies, priority projects, ministry/institution and cross-ministry/institution programmes, regional and cross-regional development priorities, and a macroeconomic framework, including the indicative direction of the fiscal policy regulatory and funding framework.<sup>20</sup> It also served as guidance for government and industrial stakeholders in industrial planning and development.

2.14. The RPJMN for 2020-24 under Presidential Regulation No. 18/2020 sets targets of economic growth at 5.7%-6.0%, poverty rate at 6%-7%, and Gini ratio at 0.36-0.374. Its seven development agendas consist of: economic resilience for quality and equitable growth; regional development for inequality reduction; qualified and competitive human resources; mental revolution and cultural development; infrastructure for the economy and basic services; environment, disaster resilience, and climate change; and stable political, legal, and security affairs, and transformation of public services. The first development agenda's objectives include: strengthening the pillars of economic growth and competitiveness; increasing high value-added exports and strengthening the manufactured local content level; increasing value-added employment and investment in the real sector; industrialization, strengthening entrepreneurship, MSMEs, and cooperatives; meeting

<sup>15</sup> Indonesian Chamber of Commerce and Industry. Viewed at: <https://bsd-kadin.org/kadin-indonesia/>.

<sup>16</sup> Indonesian Chamber of Commerce and Industry. Viewed at: <https://bsd-kadin.org/kadin-bsd/>.

<sup>17</sup> Republic of Indonesia. Ministry of Industry. Industry Facts and Figures. 2017. Viewed at: <https://kemenperin.go.id/majalah/11/facts-and-figures-industri-indonesia>.

<sup>18</sup> Republic of Indonesia. Ministry of Industry. Industry Facts and Figures. 2017. Viewed at: <https://kemenperin.go.id/majalah/11/facts-and-figures-industri-indonesia>.

<sup>19</sup> Republic of Indonesia. Ministry of Industry. Industry Facts and Figures. 2017. Viewed at: <https://kemenperin.go.id/majalah/11/facts-and-figures-industri-indonesia>.

<sup>20</sup> Presidential Decree No. 2 of 2015 on the National Medium-Term Development Plan (RPJMN) 2015-2019. Online information. Viewed at: <https://setkab.go.id/en/government-has-issued-medium-term-development-plan-2015-2019/>.



energy needs by prioritizing an increase in new and renewable energy; increasing the quantity/availability of water to support economic growth; increasing the availability, access, and quality of food for consumption; and improving maritime and marine management. The first agenda's national priority projects comprise: ten priority tourism destinations; nine industrial areas outside Java and 31 smelters; facilitating ease of doing business and the establishment of 350 farming and fishery corporations; Industry 4.0 in five priority subsectors (food and beverages, textiles and apparel, automotive, electronics, and chemicals and pharmaceuticals); developing palm oil-based renewable energy; revitalizing ponds at shrimp and milkfish production centres; and bring fishery port and fish markets in line with international standards. The fifth development agenda's objectives include: digital transformation; energy and electricity; basic service infrastructure; economic infrastructure; and infrastructure to support urban areas. Its national priority projects include: ICT infrastructure to support digital transformation; toll road, trans-road, railway, port network, and mass public transport system plans; 18 multi-purpose dams; a 27,000 MW power plant, 19,000 km of transmission lines, and a 38,000 MVA substation; and the development and expansion of oil refinery and natural gas pipelines.

2.15. Sixteen Economic Policy Packages (EPPs) were introduced between 2015 and 2018, and are still ongoing (Table 2.2). Each has a different implementation phase, and they focus on improving the investment climate, increasing competitiveness, and accelerating infrastructure development. The EPPs are operated by a Task Force of Economic Policy Implementation Acceleration and Effectiveness, consisting of four working groups and one support unit, led by the Coordinating Ministry for Economic Affairs (Table 2.3).<sup>21</sup> The objectives of the EPPs include: regulatory harmonization; simplifying the bureaucratic process; and ensuring legal compliance. Deregulation policies are directed at reducing duplication, harmonizing regulations, and eliminating inconsistencies. The EPPs include revisions and/or cancellations of 225 regulations, of which 54 are at the Presidential level and 171 at the ministerial level. According to the authorities, the trade-related EPP actions include: provision of import and export data to ministries and institutions through the Indonesia National Single Window (INSW); availability of single stakeholder information data within the Indonesia Single Risk Management framework at the INSW portal; expansion of the application of import and export declaration forms, and their integration into the INSW portal to implement the INSW nationally in 21 Customs and Excise Inspection and Service Offices, to improve user efficiency and supervision effectiveness.

**Table 2.2 Economic Policy Package phases**

Phase	Description
<b>Phase I</b> (9 September 2015)	Improving national industry competitiveness
<b>Phase II</b> (29 September 2015)	Easing permit requirement, and simplifying export proceeds requirement
<b>Phase III</b> (7 October 2015)	Financial services facilitation, export financing, and elimination of unnecessary burdens on businesses
<b>Phase IV</b> (15 October 2015)	Social safety net, and improvement of inhabitants' welfare
<b>Phase V</b> (22 October 2015)	Improving industry and the investment climate through tax incentives and the deregulation of sharia banking
<b>Phase VI</b> (6 November 2015)	Stimulating economic activities in border areas, and facilitating strategic commodity availability
<b>Phase VII</b> (7 December 2015)	Stimulating business activities in labour-intensive industries nation-wide, through incentives in the form of accelerating the land certification process for individuals
<b>Phase VIII</b> (21 December 2015)	Resolving land acquisition disputes, intensifying domestic oil production, and stimulating domestic parts and aviation industries
<b>Phase IX</b> (27 January 2016)	Accelerating electricity generation, stabilizing meat prices, and improving the rural-urban logistics sector
<b>Phase X</b> (11 February 2016)	Revising the negative investment list, and improving protection for SMEs
<b>Phase XI</b> (29 March 2016)	Stimulating the national economy through facilitation of measures for SMEs and industries
<b>Phase XII</b> (28 April 2016)	Improving Indonesia's rank on Ease of Doing Business
<b>Phase XIII</b> (25 August 2016)	Low-cost housing for low-income communities

<sup>21</sup> Indonesia Investment Co-ordinating Board, *Investment Policy Updates: Presidential Regulation No. 91 of 2017 on Acceleration of Doing Business*, 2018. Viewed at: [http://www.pma-japan.or.id/bundles/bsibkpm/download/BKPM%20Presentation%20-%20PR%2091-2017\\_3.pdf](http://www.pma-japan.or.id/bundles/bsibkpm/download/BKPM%20Presentation%20-%20PR%2091-2017_3.pdf).

Phase	Description
<b>Phase XIV</b> (10 November 2016)	Roadmap for e-commerce
<b>Phase XV</b> (15 June 2017)	Improving logistics
<b>Phase XVI</b> (16 November 2018)	Improving competitiveness and the domestic economy

Note: In addition to the 16 Policy Packages, on 31 August 2017, the Government issued Presidential Regulation No. 91/2017 for enhancing business licence service standards.

Source: Coordinating Ministry for Economic Affairs.

**Table 2.3 Economic Policy Package working groups**

Working group	Chaired by	Function
<b>Policy Campaign</b>	Minister of Trade	Campaigning, socialization, dissemination, roadshows, business matching, CEO meetings, and talk shows/dialog
<b>Compliance</b>	Chief of Presidential Staff	Completing all of the regulations and technical regulations necessary for the implementation of economic deregulation Ensuring regulation compliance
<b>Regulatory Impact</b>	Senior Deputy of Bank Indonesia	Observing, analysing, and evaluating the implementation of policies/regulations and their impact Reviewing for the "next" deregulation
<b>Damage Control Channel/The Bottleneck</b>	Minister of Law and Human Rights	Serving as a complaint channel for the implementation of the deregulation policy Handling cases related to the implementation of the deregulation policy
<b>Support Unit</b>	-	Supporting the administration of the working group Coordinating with the ministry/board and local government Business clinic and public-private consultation for testing policy effectiveness

Source: Indonesia Investment Coordinating Board (2018), *Investment Policy Updates: Presidential Regulation No. 91/2017 on Acceleration of Doing Business*, 28 February.

2.16. In 2018, the Making Indonesia 4.0 roadmap was launched.<sup>22</sup> Its purpose is to assist the Capital Investment Coordinating Board (BKPM) to carry out its role in promoting foreign and domestic direct investment in five sectors: food and drink; automotive; textiles; electronics; and chemicals.<sup>23</sup> The sectors are to be encouraged to increase their use of technology and digitization in order to enhance their capabilities and productivity. The roadmap aims to use these sectors to boost Indonesia's growth prospects over the period 2018-30, and to upgrade the country's position in GVCs. The Government set ten national priorities for Making Indonesia 4.0: reform material flows (enhance domestic upstream material production); redesign industrial zones (build a single nationwide industry zoning roadmap; resolve zoning inconsistency challenges); embrace sustainability (opportunities under global sustainability trends, e.g. biofuel, and renewables); technologically empower 3.7 million SMEs (e.g. build an SME e-commerce and technology bank); build nationwide digital infrastructure (advance network and digital platforms); attract foreign investments (engage top global manufacturers with attractive offers, and accelerate technology transfer); upgrade human capital (redesign education curriculums, and create professional talent mobility programmes); establish innovation ecosystems (enhance research and development centres by Government, private sector and universities); incentivize technology investments (introduce, *inter alia*, tax exemptions/non-tax subsidies for technology adoption, and support funding); and reoptimize regulations and policies (build more coherent policies/regulations through cross-ministry collaboration).

<sup>22</sup> Ministry of Industry, *Indonesia's Fourth Industrial Revolution, Making Indonesia 4.0*, 2018. Viewed at: <https://kemenperin.go.id/download/18449>.

<sup>23</sup> BKPM, *Indonesia Economic Update*. Viewed at: <https://www3.investindonesia.go.id/en/why-invest/indonesia-economic-update/making-indonesia-4.0-indonesias-strategy-to-enter-the-4th-generation-of-ind>.

### 2.2.3 Trade laws and regulations

2.17. The regulatory framework consists of: the Constitution; decrees of the People's Consultative Assembly; laws; government regulations substituting laws; ministerial regulations; Presidential decrees; provincial/regional regulations; and regency/city regulations.<sup>24</sup> Law No. 7 of 2014 grants the Government authority to intervene in international trade by: restricting exports to ensure local demand is met; guaranteeing the supply of raw materials for domestic industries; and preparing the country for large price increases in global commodities markets.<sup>25</sup>

2.18. During the review period, the law-making regulatory framework remained broadly unchanged.<sup>26</sup> The EPPs (Section 2.2.2) are key to the regulatory reform process, and remain important for the development of a stronger rule of law and an effective rules-based system. According to the authorities, the Government also initiated the simplification of regulations, through the preparation of omnibus laws aimed at improving the investment environment, boosting competitiveness in MSMEs, and generating employment. As at June 2020, the Government was preparing to submit two draft laws to Parliament, namely the Omnibus Law on Job Creation, intended to facilitate business to create more jobs, and the Omnibus Law on Taxation; originally, these Laws were to be submitted to Parliament in January 2020 and implemented in April 2020. The Omnibus Law on Job Creation would directly affect trade policy, and cover 11 clusters, including: implementation of licensing endeavours; investment regulations; labour reform; empowerment and protection of MSMEs; ease of doing business; research and innovation support; government administration; penalties; land acquisition; ease of government investments and projects; and the Special Economic Zone (SEZ) (Sections 2.4.4 and 3.2.4.2.4). As at 12 December 2019, 82 laws and 1,194 articles were identified to be harmonized through the Omnibus Law on Job Creation. The Omnibus Law on Taxation is to encompass six clusters: investment funding; territorial tax system; personal taxation; taxpayer compliance; business equity; and tax facilitation. It is to consist of 28 articles, and amend the following seven laws: Income Tax Law (last amended in 2008); VAT Law (last amended in 2001); Taxation General Provisions and Procedures Law (last amended in 2009); Customs Law (last amended in 2006); Excise Law (last amended in 2009); Regional Tax and Levies Law (last amended in 2009); and Regional Government Law (last amended in 2008).

2.19. Indonesia's objectives of good regulatory practice consist of: internal coordination of the rule-making activity (managing regulatory reform, and coordination with trade and competition officials); regulatory impact assessments (ensuring that better policy options are chosen, by establishing a systematic and consistent framework for assessing the potential impacts of government action, including impacts on trade); and public consultation mechanisms to improve transparency (such as the publication of comments and other practices that allow wide access, and increasing the quality of consultation mechanisms). According to the authorities, good regulatory practice has been implemented in several relevant ministries/agencies through: Presidential Instruction No. 7 of 2017 concerning Decision, Supervision, Control, and Implementation of Policy at the Ministry and Government's Body Level; Minister of Industry Regulation No. 40 of 2017 concerning the Guidance to Formulate Regulations in the Ministry of Industry; Minister of Finance Regulation No. 123/PMK.01/2012 and Circular Letter of Ministry of Finance No. SE-3/MK.01/2016; National Standardization Body Regulation No. 9 of 2016 concerning Procedures of the Formulation of Laws in the National Standardization Body of the Republic of Indonesia; and Minister of National Planning Agency Regulation No. 6 of 2018 concerning Decision-Making Rules.<sup>27</sup>

### 2.2.4 Transparency

2.20. Indonesia attaches importance to making laws more transparent and readily accessible. Most laws are still published in the Bahasa Indonesia language only (some are translated into English, depending on the need or interest) in the Official Gazette; they are available to all individuals and

<sup>24</sup> Law No. 12 of 2011, Article 7, paragraph (1) concerning the Formation of Laws and Regulations as amended by Law No. 15 of 2019.

<sup>25</sup> Law No. 7 of 2014 About Trade. Viewed at: <https://eservice.insw.go.id/files/atr/Law%20No.%207%20of%202014%20on%20Trade.pdf>.

<sup>26</sup> Law No. 12 of 2011 on Legislation Making. Viewed at: <http://ditjenpp.kemenkumham.go.id/arsip/terjemahan/52.pdf>.

<sup>27</sup> Under Presidential Instruction No. 7/2017, ministers/heads of agencies are required to consult with their respective coordinating ministers before taking decisions that are strategic or have wide-ranging implications for the public; the Instruction also empowers a coordinating ministry to veto any ministry/agency regulation or policy not in line with the President's vision and mission.

institutions, both in hard copy and online. In addition, the websites of relevant ministries and agencies contain information mostly in the Bahasa Indonesia language. Indonesia ranked 88<sup>th</sup> out of 193 economies (97<sup>th</sup> out of 190 in the 2012 Index) in the 2020 UN E-Government Development Index.<sup>28</sup> Since 2014, Indonesia has introduced an integrated management and data exchange system (MANTRA) as a Government Service Bus (GSB).<sup>29</sup> The GSB is used by various ministries. To promote transparency and predictability in the trade regime, the Indonesia National Trade Repository is in place since 2011 (Section 3.1.1.1).<sup>30</sup>

2.21. As in all countries, a lack of transparency, and thus a lack of public accountability, creates scope for administrative discretion and therefore corruption. During the review period, long-term (2012-25) and medium-term (2012-14) national strategies for the prevention and eradication of corruption were put in place. Under Presidential Regulation No. 54/2018, the National Strategy of Corruption Prevention (*Strategi Nasional Pencegahan Korupsi*, Stranas PK) has three focuses: the licensing and trade system; state finance management; and law enforcement and bureaucratic reform, as detailed in the 2019-20 Corruption Prevention Action, with 11 actions and 24 sub-actions involving 34 provinces and 48 ministries and institutions.<sup>31</sup> Public institutions involved in preventing and countering corruption include the: Corruption Eradication Commission (KPK), an autonomous government agency; Attorney General's Office; judiciary; Ministry of Law and Human Rights; Ministry of Foreign Affairs; Ministry of Finance; Indonesian National Police; Supreme Audit Board; Finance and Development Supervisory Agency (BPKP); Ombudsman of the Republic of Indonesia; Indonesian Financial Transaction Reports and Analysis Centre/Financial Intelligence Unit (PPATK/INTRAC); Financial Services Authority (*Otoritas Jasa Keuangan*, OJK); Ministry of National Development Planning (MNDP); Ministry of Administration and Bureaucratic Reform (MARBR); Civil Service Commission; National Public Procurement Agency; and Judicial Commission. Stranas PK is steered by the National Team of Corruption Prevention, consisting of the KPK, the MNDP, the MARBR, the Ministry of Home Affairs, and the Presidential Staff Office. The KPK is in charge of the coordination and supervision of authorized institutions in their anti-corruption activities, and conducting corruption-prevention measures, including awareness-raising (Article 6, Law No. 19 of 2019 on the Second Amendment to Law No. 30 of 2002 on KPK).<sup>32</sup> Further corruption-prevention units may be established in every government agency. Each government agency enforces programmes related to corruption prevention.<sup>33</sup> The KPK cooperates with the BPKP to ensure the coordination and supervision of corruption-prevention programmes in provincial, district and local governments.<sup>34</sup> Programmes are constantly being improved for a more significant impact; according

<sup>28</sup> E-government was developed in order to provide and improve the quality of public services, to make them effective, efficient, transparent and accountable. I P M Astawa and K C Dewi (2018), *E-government Facilities Analysis for Public Services in Higher Education*, J. Phys.: Conf. Ser. 953 012061; and UN Department of Economic and Social Affairs, *E-Government Survey 2020*. Viewed at: <https://publicadministration.un.org/en/research/un-e-government-surveys>.

<sup>29</sup> The MANTRA application facilitates the exchange of data between government agencies despite differing databases, applications and operating systems. Viewed at: [https://translate.google.ch/translate?hl=en&sl=id&u=https://kominfo.go.id/index.php/content/detail/3319/Aplikasi%252Be-Government/0/e\\_government&prev=search&pto=aue](https://translate.google.ch/translate?hl=en&sl=id&u=https://kominfo.go.id/index.php/content/detail/3319/Aplikasi%252Be-Government/0/e_government&prev=search&pto=aue).

<sup>30</sup> INSW, *Indonesia National Trade Repository*. Viewed at: <https://intr.insw.go.id/>.

<sup>31</sup> In terms of the licensing and trade system, the actions deal with service improvement and compliance of licensing and capital investment through the online single submission system, as well as improvement of data governance and compliance regarding the extractive, forestry, and plantation sectors through a map mechanism. The action related to state finance covers the integration of electronic-based planning and budgeting systems. The actions under the third focus are strengthening the implementation of bureaucratic reform by building integrity zones in government institutions, integrating law enforcement efforts, and improving the integrity of the state apparatus. KPK, *KPK Hands National Strategy Document To President*. Viewed at: <https://www.kpk.go.id/en/news/highlights/787-kpk-hands-national-strategy-document-to-president>.

<sup>32</sup> *Review of the implementation of the United Nations Convention against Corruption*, Indonesia, 2018. Viewed at: <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/4-6June2018/V1802693e.pdf>.

<sup>33</sup> These programmes comprise: the Zone of Integrity (*Zona Integritas*) is predicated on government agencies whose human resources are committed to Free of Corruption Territory (WBK)/Clean and Serve Bureaucracy Area (WBBM) bureaucratic reform; the Report of State Officials Wealth (*Laporan Harta Kekayaan Penyelenggara Negara*), including its examination and publication; and the operation of the Gratuities Control Unit (*Unit Pengendalian Gratifikasi*), a unit in various state agencies that provide services and information on gratuities control. Furthermore, in 2015, the KPK issued the Guidelines for Gratuities Control.

<sup>34</sup> Presidential Regulation No. 54 of 2018 concerning National Strategy on Corruption Prevention.

to the authorities, the Zone of Integrity Programme succeeded in improving the Anti-Corruption Perception Index and the Public Service Perception Index.<sup>35</sup>

2.22. Indonesia is a signatory of the UN Convention against Corruption (UNCAC) (signed 18 December 2003, ratified 19 September 2006) whose 186 parties (as at end-2019) are required to identify criminal and other offences which are considered to be acts of corruption. Indonesia participated in the review of the implementation of this Convention in period 1 (2011-15) and period 2 (2016-19).<sup>36</sup> The UNCAC review cycles assist countries in the implementation of the UNCAC into domestic laws, by identifying critical areas and recommendations via a peer-review process.<sup>37</sup> Following the first UNCAC review cycle, Indonesia introduced corporate liability for corruption offences; as a result, in 2018, the KPK investigated five companies for corruption.<sup>38</sup> Another advancement resulting from the second UNCAC review cycle was the introduction of beneficial ownership, which increases transparency in the private sector, and prevents conflicts of interest and money laundering, by having all listed or registered companies share information publicly. In March 2018, a presidential regulation gave companies one year to disclose the identities of their beneficial owners to the Government.<sup>39</sup>

2.23. Indonesia adopted non-binding initiatives aimed at preventing corruption in the private sector. It also issued OJK Regulation No. 21/POJK.04/2015, Corporate Governance Guideline for Public Companies.<sup>40</sup> The International Standards on Auditing were adopted as Indonesia's Public Accountant Professional Standards in 2012. Publicly listed companies are required to implement the principle of full disclosure in their financial statements. However, there is no law or regulation requiring the full disclosure or fair presentation of financial statements by private sector entities other than publicly listed companies, as foreseen under Article 12(3) of the UNCAC.<sup>41</sup>

2.24. As a member of the Asia-Pacific Group on Money Laundering (APG), PPAK/INTRAC completed a National Risk Assessment (NRA) of Money Laundering and Terrorism Financing Acts in 2015.<sup>42</sup> In 2019, the PPAK/INTRAC updated the 2015 NRA Criminal Act of Money Laundering (TPPU) with the aim of ensuring that the TPPU mitigation efforts by stakeholders remained in line with the relevant risks. The PPAK is currently (in 2020) implementing the latest NRA, which is to be released in 2021.

## 2.3 Trade Agreements and Arrangements

### 2.3.1 WTO

#### 2.3.1.1 Features

2.25. Indonesia was an original GATT contracting party, and has been a Member of the WTO since its founding in 1995. It grants at least most-favoured-nation (MFN) treatment to all its trading partners. During the review period, Indonesia improved its WTO commitments by ratifying the WTO

<sup>35</sup> The Anti-Corruption Perception Index and the Public Service Perception Index reflect public opinion on government efforts to prevent corruption and to give quality service in the public sector. It was based on a survey conducted by the MARBR and Statistics Indonesia, involving more than 34,000 respondents in 1,267 workplaces in Indonesia.

<sup>36</sup> UNCAC. Viewed at: <https://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=IDN>.

<sup>37</sup> UNCAC. Viewed at: <https://www.unodc.org/southeastasiaandpacific/en/what-we-do/anti-corruption/topics/31-indonesia-shares-progress-towards-uncac-implementation.html>.

<sup>38</sup> UNCAC. Viewed at: <https://www.unodc.org/southeastasiaandpacific/en/what-we-do/anti-corruption/topics/31-indonesia-shares-progress-towards-uncac-implementation.html>.

<sup>39</sup> Presidential Regulation No. 13/2018 regarding the Application of the Know-Your-Corporation-Beneficial-Owner Principle in the Context of the Prevention and Eradication of Criminal Acts of Money Laundering and Terrorism Financing.

<sup>40</sup> Review of implementation of the United Nations Convention against Corruption, Indonesia, 2018. Viewed at: <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/4-6June2018/V1802693e.pdf>.

<sup>41</sup> According to the authorities, this is due to the typically widely dispersed ownership base that publicly listed companies hold and, therefore, the number of shareholders that these companies are accountable to. Private companies that do not rely on the public for investment usually need only comply with minimal disclosure requirements, and are not subject to OJK reporting obligations.

<sup>42</sup> APG, *Members and Observers: Indonesia*. Viewed at: <http://www.apgml.org/members-and-observers/members/details.aspx?m=7f4ab684-6496-493f-adc8-c37cd233a7b3>.



TFA (5 December 2017), with 88.7% (based on notification data) implementation commitments to date across all categories (Section 3.1.1.1).<sup>43</sup>

2.26. During the review period, Indonesia remained active in WTO dispute settlement activities. As at January 2020, its involvement in new cases comprised: 6 complaints by Indonesia (1 case in consultation); 10 complaints against it (4 cases in consultation); and its participation as a third party in 39 cases (Table 2.4).

**Table 2.4 Involvement in WTO dispute settlement: January 2013 to July 2020**

Dispute	Raised by/against	Request for consultation	Panel established/ panel report circulated	Current status	Document series
<b>Complaints by Indonesia</b>					
Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	Indonesia/ Australia	20/09/2013	26/03/2014/ 28/06/2018	Report(s) adopted; no further action required on 28/08/2018	DS467
Anti-Dumping and Countervailing Duty Investigations on Certain Paper Products from Indonesia	Indonesia/ Pakistan	27/11/2013		04/04/2012 Appellate Body Report circulated	DS470
Anti-Dumping Measures on Biodiesel from Indonesia	Indonesia/ European Union	10/06/2014	31/08/2015/ 25/01/2018	Report(s) adopted, with recommendation to bring measure(s) into conformity on 28 February 2018	DS480
Anti-Dumping and Countervailing Measures on Certain Coated Paper from Indonesia	Indonesia/ United States	13/03/2015	04/02/2016/ 06/12/2017	Report(s) adopted; no further action required on 12 January 2018	DS491
Anti-Dumping Measures on A4 Copy Paper	Indonesia/ Australia	01/09/2017	27/04/2018/ 04/12/2019	Report(s) adopted, with recommendation to bring measure(s) into conformity on 27 January 2020	DS529
Certain measures concerning palm oil and oil palm crop-based biofuels	Indonesia/ European Union	09/12/2019	29/07/2020	In consultations on 9 December 2019	DS593
<b>Complaints against Indonesia</b>					
Importation of Horticultural Products, Animals and Animal Products	United States/ Indonesia	10/09/2013		In consultations on 30 August 2013	DS465
Importation of Horticultural Products, Animals and Animal Products	New Zealand/ Indonesia	30/08/2013		In consultations on 30 August 2013	DS466

<sup>43</sup> WTO, *Trade Facilitation Agreement Database*. Viewed at: <https://www.tfadatabase.org/members/australia>.

Dispute	Raised by/against	Request for consultation	Panel established/ panel report circulated	Current status	Document series
Importation of Horticultural Products, Animals and Animal Products	New Zealand/ Indonesia	08/05/2014	20/05/2015/ 22/12/2016	Report(s) adopted, with recommendation to bring measure(s) into conformity on 22 November 2017	DS477
Importation of Horticultural Products, Animals and Animal Products	United States/ Indonesia	08/05/2014	08/10/2015 22/12/2016	Authorization to retaliate requested (including 22.6 arbitration) on 15 August 2018	DS478
Recourse to Article 22.2 of the DSU in the US — Clove cigarettes dispute	European Union/ Indonesia	13/06/2014		Settled or terminated (withdrawn, mutually agreed solution) on 6 May 2015	DS481
Measures Concerning the Importation of Chicken Meat and Chicken Products	Brazil/ Indonesia	16/10/2014	03/12/2015/ 17/10/2017	Compliance proceedings ongoing on 24 June 2019	DS484
Safeguard on Certain Iron or Steel Products	Chinese Taipei/ Indonesia	12/02/2015	28/09/2015/ 18/08/2017	Report(s) adopted, with recommendation to bring measure(s) into conformity on 28 August 2018	DS490
Safeguard on Certain Iron or Steel Products	Viet Nam/ Indonesia	01/06/2015	28/10/2015/ 18/08/2017	Report(s) adopted, with recommendation to bring measure(s) into conformity on 28 August 2018	DS496
Measures Concerning the Importation of Bovine Meat	Brazil/ Indonesia	04/04/2016		In consultations on 4 April 2016	DS506
Measures Relating to Raw Materials	European Union/ Indonesia	22/11/2019		In consultations on 22 November 2019	DS592

Source: WTO Secretariat.

### 2.3.1.2 Trade-related technical assistance

2.27. Aid for Trade support to Indonesia grew from average disbursements of USD 755.8 million during 2006-08 to USD 1.2 billion in 2017; in 2015, the top donors were Japan (34%), France (28%), and Germany (22%).<sup>44</sup> The authorities indicated that several development partners, i.e. Japan, the United States, Australia, France, the Republic of Korea, and Chinese Taipei, contributed to improving human resources capacity through technical assistance programmes in areas such as SME export capacity, market access and trade promotion, consumer protection, trade policy and facilitation development, and human competency and capacity building. To enhance economies in the region, Indonesia has provided trade-related technical assistance in the field of legal metrology and consumer protection to the Democratic Republic of Timor-Leste since 2017.

2.28. Technical support is provided by international and regional organizations (Section 2.2.1.2). Between 2013 and 2016, the World Bank provided technical support through its Multi Partners Facility for Trade and Investment Climate programme, focusing on investment, business, trade logistics, and connectivity. Meanwhile, until 2019, the ADB provided support through its Stepping Investment for Growth Acceleration Program. Furthermore, technical support was received from Canada (Trade and Private Sector Assistance Program), Australia (Australia-Indonesia Partnership Program for Economic Development), the European Union (ASEAN Regional Integrating Support),

<sup>44</sup> WTO, *Aid for Trade at a Glance - Indonesia*. Viewed at: [https://www.wto.org/english/tratop\\_e/devel\\_e/a4t\\_e/profiles\\_e/idn\\_e.pdf](https://www.wto.org/english/tratop_e/devel_e/a4t_e/profiles_e/idn_e.pdf).



and Germany (Gesellschaft für Internationale Zusammenarbeit GmbH). Their projects helped enhance sustainable trade and investment, especially for SMEs; reform licensing procedures and e-government services for business; boost export competitiveness and integrate GVCs through trade facilitation; and provide the effective risk management scheme for import licensing and post-border control.

### 2.3.1.3 Notifications

2.29. During the review period, Indonesia submitted several notifications to the WTO. From 1 January 2013 to August 2020, its notifications pertained to provisions of the Agreement on Agriculture (40), the Agreement on Subsidies and Countervailing Measures (13), the Agreement on Sanitary and Phytosanitary Measures (81), the Agreement on Technical Barriers to Trade (79), the Agreement on Regional Trade Agreements (3), and the Agreement on Import Licensing Procedures (38) (Table A2.1). However, notifications are outstanding in areas such as Trade-Related Investment Measures (TRIMs), and quantitative restrictions. In April 2020, the authorities indicated that a notification on Rules of Origin had already been submitted but had not yet been recorded in the WTO Database; concerning those on TRIMs and pre-shipment inspection, they were still under discussion at the relevant ministries.

### 2.3.2 Regional and preferential agreements

2.30. Indonesia has been following a policy of increasing regional and international integration via economic-trade cooperation initiatives (see below). Currently, it has 11 RTAs in force (Table 2.5). In parallel with ASEAN undertakings, Indonesia maintains bilateral RTAs with Pakistan (IP-PTA) and Japan (IJEPA); they completed their review process for further expansion and improvement. The further-liberalized IP-PTA has been in force since 2019, whereas the protocol to amend the IJEPA was still under negotiation as at April 2020. Intra- and extra-regional exports rely partly on ASEAN preferences (Table 2.5 and Section 1.3.1).

2.31. During the review period, Indonesia signed bilateral RTAs with Australia, the EFTA States, and Mozambique but none had entered in force by April 2020. Building on the ASEAN-Australia-New Zealand Free Trade Agreement, an Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA) covering, *inter alia*, trade in goods (tariffs, NTMs, and trade facilitation) and services as well as investment was ratified by both countries in February 2020. However, as at April 2020, no indication of its date of entry into force and expected WTO notification was available with the authorities.<sup>45</sup> The broad-based EFTA-Indonesia Comprehensive Economic Partnership Agreement (CEPA) covering trade in goods, trade in services, investment, intellectual property rights, government procurement, competition, trade and sustainable development, and cooperation was signed on 16 December 2018; as at April 2020, it was expected to enter in force by the second semester of 2020.<sup>46</sup> The Indonesia-Mozambique Preferential Trade Agreement (PTA) was signed on 27 August 2019, covering only trade in goods; however, as at April 2020, it had not entered into force. On 25 November 2019, a Joint Declaration on the Conclusion of the Negotiations for the Indonesia-Korea Comprehensive Economic Partnership Agreement (CEPA) was issued, and both parties agreed to sign the Agreement in the first semester of 2020. In November 2019, the MoT prioritized the prompt conclusion of several international trade negotiations, including the Indonesia-Tunisia PTA (4<sup>th</sup> round of negotiations was to be held in July 2020), the Indonesia-Morocco PTA (1<sup>st</sup> round of negotiations was to be held in the first half of 2020), the Indonesia-Bangladesh PTA (3<sup>rd</sup> round of negotiations was to be held in the first half of 2020), the Indonesia-Mauritius PTA (2<sup>nd</sup> round of negotiations was to be held in the first half of 2020), the Indonesia-Iran PTA (five rounds of negotiations held), the Indonesia-European Union CEPA (IEU-CEPA) (10<sup>th</sup> round of negotiations was to be held on 16-20 March 2020), and the Indonesia-Turkey CEPA (IT-CEPA) (5<sup>th</sup> round of negotiations was to be held on 21-23 April 2020). However, the meetings of the

<sup>45</sup> Upon its full implementation, over 99% of Australian-originating goods exported to Indonesia are to enter duty free or under significantly improved or preferential arrangements; Australia is to eliminate all remaining tariffs on imports of Indonesian goods upon entry into force. Market access outcomes on services and investment are forecast to provide increased certainty to Australian businesses and services suppliers in the Indonesian market, including guaranteed levels of Australian ownership. Australian Government, Department of Foreign Affairs and Trade. Viewed at: <https://www.dfat.gov.au/trade/agreements/not-yet-in-force/iacepa/outcomes-documents/Pages/outcomes-goods.aspx>, <https://www.dfat.gov.au/trade/agreements/not-yet-in-force/iacepa/Pages/ia-cepa-key-outcomes-for-australia.aspx>.

<sup>46</sup> EFTA, *Indonesia*. Viewed at: <https://www.efta.int/free-trade/Free-Trade-Agreement/Indonesia>.

IEU-CEPA and the IT-CEPA had to be postponed due to the COVID-19 outbreak, and a new schedule was to be determined. In addition, in June 2020, Indonesia and Colombia agreed to initiate and complete a joint feasibility study for increasing the access of several export goods to both markets.

**Table 2.5 RTAs in force: main features, 2020**

<b>RTAs entered into force</b>	
<b>ASEAN-Australia-New Zealand</b>	
Type of agreement	Free trade agreement
Date of signature	27/02/2009
Entry into force	01/01/2010
End of the transition period	2025
Coverage (selected features)	Goods and services
Indonesia merchandise trade (2018):	
Australia	3.1% of total imports; 1.6% of total exports
New Zealand	0.4% of total imports; 0.3% of total exports
WTO consideration status	Factual presentation distributed
WTO document series	WT/REG284/1/Rev.1 (Goods and Services)
<b>ASEAN-China (ACFTA)</b>	
Type of agreement	Free trade agreement and investment agreement
Date of signature	29/11/2004 (goods); 14/01/2007 (services); 15/08/2007 (investment)
Entry into force	01/01/2005 (goods); 01/07/2007 (services); 01/01/2010 (investment)
End of the transition period	2020
Coverage (selected features)	Goods and services
Indonesia merchandise trade (2018)	24.1% of total imports; 15.1% of total exports
WTO consideration status	Factual presentation distributed
WTO document series	WT/REG279/1 (Services)
<b>ASEAN-India (AIFTA)</b>	
Type of agreement	Free trade agreement
Date of signature	13/08/2009 (Goods); 13/11/2014 (Services)
Entry into force	01/01/2010 (Goods); 01/07/2015 (Services)
End of the transition period	2024
Coverage (selected features)	Goods and services
Indonesia merchandise trade (2018)	2.7% of total imports; 7.6% of total exports
WTO consideration status	Factual presentation distributed
WTO document series	WT/COMTD/RTA/8/1 (Goods); WT/REG372/1 (Services)
<b>ASEAN-Japan (AJCEP)</b>	
Type of agreement	Free trade agreement
Date of signature	31/03/2008
Entry into force	01/03/2010
End of the transition period	2026
Coverage (selected features)	Goods
Indonesia merchandise trade (2018)	9.5% of total imports; 10.8% of total exports
WTO consideration status	Factual presentation distributed
WTO document series	WT/REG277/1 (Goods)
<b>ASEAN-Republic of Korea (AKFTA)</b>	
Type of agreement	Free trade agreement and investment agreement
Date of signature	24/08/2006 (Goods); 21/11/2008 (Services); 02/06/2009 (Investment)
Entry into force	01/01/2010 (Goods); 14/10/2010 (Services); 01/09/2009 (Investment)
End of the transition period	2024
Coverage (selected features)	Goods and services
Indonesia merchandise trade (2018)	4.8% of total imports; 5.3% of total exports
WTO consideration status	Factual presentation distributed
WTO document series	WT/COMTD/RTA13/1 (Goods); WT/REG287/1 (Services)
<b>ASEAN Free Trade Area</b>	
Type of agreement	Free trade agreement
Date of signature	28/01/1992
Entry into force	01/01/1993
End of the transition period	2018
Coverage (selected features)	Goods
Indonesia merchandise trade (2018)	24.4% of total imports; 23.4% of total exports
WTO consideration status	Not subject to the preparation of a factual presentation. Report adopted.
WTO document series	L/4735

<b>RTAs entered into force</b>	
<b>Global System of Trade Preferences among Developing Countries (GSTP)</b>	
Type of agreement	Partial scope agreement
Date of signature	13/04/1988
Entry into force	19/04/1989
End of the transition period	1989
Coverage (selected features)	Goods
Indonesia merchandise trade (2018)	36.5% of total imports; 41.8% of total exports
WTO consideration status	Not subject to the preparation of a factual presentation. No Report adopted.
WTO document series	L/6564
<b>Indonesia-Pakistan Preferential Trade Agreement (IP-PTA)</b>	
Type of agreement	Partial scope agreement
Date of signature	03/02/2012
Entry into force	01/09/2013
End of the transition period	2019
Coverage (selected features)	Goods
Indonesia merchandise trade (2018)	0.3% of total imports; 1.4% of total exports
WTO consideration status	Factual presentation to be done. Data was to be submitted by the Parties by 07/04/2020.
WTO document series	WT/COMTD/RTA12/N/1
<b>Indonesia-Japan Economic Partnership Agreement (IJEPA)</b>	
Type of agreement	Free trade agreement and economic integration agreement
Date of signature	20/08/2007
Entry into force	01/07/2008
End of the transition period	2023
Coverage (selected features)	Goods and services
Indonesia merchandise trade (2018)	9.5% of total imports; 10.8% of total exports
WTO consideration status	Factual presentation distributed
WTO document series	WT/REG241/1 (Goods and Services)
<b>ASEAN-Hong Kong, China</b>	
Type of agreement	Free trade agreement and economic integration agreement
Entry into force	
Date of signature	01/01/2005 (Goods); 01/06/2007 (Services)
End of the transition period	29/11/2004 (Goods); 14/01/2007 (Services)
Coverage (selected features)	Goods and services
Indonesia merchandise trade (2018)	1.4% of total imports; 1.4% of total exports
WTO consideration status	Not notified to the WTO
WTO document series	
<b>ASEAN Framework Agreement on Services (AFAS)</b>	
Type of agreement	Partial scope agreement
Entry into force	12/08/1998
Date of signature	
End of the transition period	
Coverage (selected features)	Services
Indonesia merchandise trade (2018)	
WTO consideration status	
WTO document series	Not notified to the WTO

Source: WTO Secretariat, based on information from the WTO RTA Database. Viewed at: <http://rtais.wto.org/UI/PublicSearchByMemberResult.aspx?membercode=360>; and UNSD, Comtrade Database. Viewed at: <https://comtrade.un.org/>.

## ASEAN

2.32. Indonesia is a member of ASEAN and, over the review period, continued its efforts to reinforce its membership and deepen integration within the group. On 31 December 2015, ASEAN established the ASEAN Economic Community (AEC), built on four inter-related and mutually reinforcing characteristics: a single market and production base; a highly competitive economic region; a region of equitable economic development; and a region fully integrated into the global economy.<sup>47</sup> Under

<sup>47</sup> WTO document WT/TPR/S/394, 14 October 2019; ASEAN, *ASEAN Economic Community*. Viewed at: <http://www.asean.org/wp-content/uploads/2012/05/56.-December-2015-Fact-Sheet-on-ASEAN-Economic->

the AEC 2015, intra-ASEAN import tariffs were virtually eliminated, and formal restrictions in the services sector were gradually removed. The AEC Blueprint 2025 is to guide ASEAN economic integration from 2016 to 2025, and will entail the following characteristics: a highly integrated and cohesive economy; a competitive, innovative, and dynamic ASEAN; enhanced connectivity and sectoral cooperation; a resilient, inclusive and people-oriented, people-centred ASEAN; and a global ASEAN. On 6 September 2016, ASEAN leaders adopted the Master Plan on ASEAN Connectivity 2025 (MPAC 2025), which succeeded the Master Plan on ASEAN Connectivity 2010 and focuses on five strategic areas: sustainable infrastructure, digital innovation, seamless logistics, regulatory excellence, and people mobility.<sup>48</sup>

2.33. Two Agreements were signed on the side-lines of the 25<sup>th</sup> ASEAN Economic Ministers' Retreat on 23 April 2019.<sup>49</sup> The first, the ASEAN Trade in Services Agreement, encompasses all the achievements that the ASEAN member States have made to date under the AFAS. It also provides the mandate for countries to transition towards a negative-list approach for even deeper integration in the future. The second, the Fourth Protocol to Amend the 2009 ASEAN Comprehensive Investment Agreement, incorporates obligations on the prohibition of performance requirements that will ensure ASEAN investors continue to get the best treatment through this Agreement.

2.34. Like all ASEAN members, Indonesia has been following its agreed schedule for reducing tariffs on goods originating in its trading partners under the ASEAN Trade in Goods Agreement (ATIGA). Indonesia has made significant progress in lowering intra-regional tariffs.<sup>50</sup> More than 99% of the products in the Inclusion List of the ASEAN-6, comprising Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand, have been brought down to the 0%-5% tariff range.<sup>51</sup> As 99.20% of the tariff lines in the List reached zero import duty, only a minor part are subject to import duties. Between 2013 and 2018, Indonesia's exports to ASEAN countries rose at an average annual rate of 0.5%; during the same period, its exports to the rest of the world declined at an average annual rate of 0.44%. According to the authorities, this is indicative of the fact that the preferential tariff under ATIGA, with a 10.79% average utilization between 2013 and 2018, is adequately effective.<sup>52</sup>

2.35. Indonesia follows the established schedule for the liberalization of trade in services under the AFAS. It continued to improve its undertakings under the ninth (27 November 2015) and tenth (11 November 2018) packages of GATS-plus commitments that included business services, computer and related services, rental/leasing services without operators, other business services, and air transport services (Section 4.4.5.2).<sup>53</sup>

2.36. In addition to the ASEAN Free Trade Area and the AFAS, Indonesia is a signatory to six other ASEAN RTAs, with: China; India; Japan; the Republic of Korea; Australia-New Zealand; and Hong Kong, China (Table 2.5). During the review period, the ASEAN-India Free Trade Area was expanded to cover trade in services. The ASEAN-Hong Kong, China Investment Agreement was signed on 18 May 2018 and entered into force on 17 June 2019. In 2012, ASEAN countries initiated the negotiation of the Regional Comprehensive Economic Partnership (RCEP) with their six ASEAN FTA partners (Australia, China, India, Japan, the Republic of Korea, and New Zealand).<sup>54</sup> The negotiation includes trade in goods and services, investment, economic and technical cooperation, intellectual property, competition, dispute settlement, e-commerce, SMEs, and other issues. As at November 2018, negotiating countries were determined to conclude a modern, comprehensive,

[Community-AEC-1.pdf](#); and ASEAN Economic Community Blueprint 2025. [http://www.asean.org/Viewed at: /storage/2016/03/AECBP\\_2025r\\_FINAL.pdf](http://www.asean.org/Viewed%20at%20:/storage/2016/03/AECBP_2025r_FINAL.pdf).

<sup>48</sup> ASEAN, *ASEAN Leaders Adopt Master Plan on Connectivity 2025*. Viewed at: <http://asean.org/asean-leaders-adopt-master-plan-on-connectivity-2025/>.

<sup>49</sup> ASEAN, *ASEAN economic ministers discuss AEC progress, global economy at retreat*. Viewed at: <https://asean.org/asean-economic-ministers-discuss-aec-progress-global-economy-retreat/>.

<sup>50</sup> ASEAN, *The ASEAN Free Trade Area*. Viewed at: <https://asean.org/asean-economic-community/asean-free-trade-area-afta-council/>.

<sup>51</sup> ASEAN *The ASEAN Free Trade Area*. Viewed at: <https://asean.org/asean-economic-community/asean-free-trade-area-afta-council/>.

<sup>52</sup> Statistics Indonesia, supplied by the Ministry of Trade.

<sup>53</sup> Baker McKenzie, *What's New on Indonesia's Schedule of Commitments under AFAS 9<sup>th</sup> Package*. Viewed at: [https://www.bakermckenzie.com/-/media/files/insight/publications/2016/03/whats-new-on-indonesias-schedule-of-commitments/al\\_jakarta\\_newschedulecommitments\\_mar16.pdf?la=en](https://www.bakermckenzie.com/-/media/files/insight/publications/2016/03/whats-new-on-indonesias-schedule-of-commitments/al_jakarta_newschedulecommitments_mar16.pdf?la=en).

<sup>54</sup> ASEAN, *Regional Comprehensive Economic Partnership*. Viewed at: [http://asean.org/?static\\_post=rcep-regional-comprehensive-economic-partnership%20](http://asean.org/?static_post=rcep-regional-comprehensive-economic-partnership%20).

high-quality, and mutually beneficial RCEP in 2019.<sup>55</sup> In November 2018, the ASEAN members concluded an Agreement on Electronic Commerce (Section 4.4.7). They also participated in the negotiation and implementation of several ASEAN agreements/regulations, including those on: rules of origin for the ASEAN-China Free Trade Area; rules of origin for the ASEAN-India Free Trade Area; and further liberalization of goods under sensitive lists under the ASEAN-Korea Free Trade Area and the ASEAN-China Free Trade Area. The implementation of recommendations from the ASEAN-Australia-New Zealand FTA's General Review commenced in April 2019.

### 2.3.3 Other agreements and arrangements

2.37. Indonesia participates in a number of regional institutions, including the ADB and the Asia-Pacific Economic Co-operation (APEC) forum. An APEC review of Indonesia's Assessment of the Achievements of the Bogor Goals based on its Individual Action Plan was undertaken in 2018.<sup>56</sup> Trade- and investment-related policy developments highlighted at this review comprised: the elimination of import duties on sports goods; the use of export duties; reforms facilitating the issuance of import licences for some products; open services policies allowing the employment of foreign construction workers; the 2016 negative investment list to increase FDI and competitiveness through liberalization; the new Patent Law and the new Trademark Law; a checklist to review the suitability of legislation regarding fair competition policy principles; a procurement dispute settlement service to facilitate faster and more efficient settlement of disputes; the 16 EPPs (Section 2.2.2); and Presidential Regulation No. 21 of 2016 granting visa-free entry to passport holders from 169 economies with a maximum stay of 30 days (Section 4.4.6).

2.38. Indonesia is a member of the G20 group of the world's largest economies. Indonesia is also a member of the following organizations: the ADB, the Organization of the Petroleum Exporting Countries (suspended participation on 30 November 2016, Section 4.2.2.1.1), and the Asian Productivity Organization.

2.39. Indonesia continued to benefit from several Generalized System of Preferences (GSP), including those of Armenia, Australia, Belarus, the European Union, Japan, Kazakhstan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and the United States.<sup>57</sup> According to certificate-of-origin based data of the MoT, the utilization rate of these schemes remained relatively unchanged in the period 2017-19 and, as at 2019, was as follows: 99.91% for the European Union; 95.58% for the United Kingdom; 83.73% for the Russian Federation and Belarus; 39.73% for Norway; 6.95% for Switzerland; 1.11% for New Zealand; and 0.53% for Japan.

2.40. Indonesia remains a signatory of the GSTP framework for the exchange of trade preferences among developing countries in order to promote intra-developing-country trade (Table 2.5); despite the relatively important share of trade with GSTP partners, its preferential treatment coverage is not significant. According to the authorities, Indonesia's participation in the GSTP has not yet provided much trade benefits. This is because there have not been any developments in the framework agreement since the Sao Paulo Rounds in 2010, and various challenges affecting the GSTP's ability to fully deliver its potential emerged. Consequently, its level of engagement gradually declined, and the GSTP fell into passivity. During the review period, Indonesia's GSTP utilization ranged from 0.02% (2016, 2018) to 0.07% (2014) of total exports to other participants.

## 2.4 Investment Regime

2.41. During the review period, Indonesia undertook efforts to liberalize and streamline its FDI regime in several areas, e.g. the regulatory framework, the negative investment list and the business/investment licensing system. The priority of phase X of the EPPs (Section 2.2.2) was to revise the negative investment list. As a result, in 2016, the reform came with the issuance of the

<sup>55</sup> As at late 2018, seven Chapters, namely those on Economic and Technical Cooperation, SMEs, Customs Procedures and Trade Facilitation, Government Procurement, Institutional Provisions, Sanitary and Phytosanitary Measures, and Standards, Technical Regulations and Conformity Assessment Procedures, were concluded. ASEAN. Viewed at: [https://asean.org/storage/2018/11/RCEP-Summit-2\\_Joint-Leaders-Statement\\_FINAL2.pdf](https://asean.org/storage/2018/11/RCEP-Summit-2_Joint-Leaders-Statement_FINAL2.pdf).

<sup>56</sup> APEC, *Joint Leaders' Statement on the Regional Comprehensive Economic Partnership Negotiations*. Viewed at: <https://www.apec.org/About-Us/About-APEC/Achievements-and-Benefits/2018-Bogor-Goals>.

<sup>57</sup> WTO, *Preferential Trade Arrangements*. Viewed at: <http://ptadb.wto.org/Country.aspx?code=360>; and UNCTAD (2015), *Generalized System of Preferences – List of Beneficiaries*, 1 February. Viewed at: [http://unctad.org/en/PublicationsLibrary/itcdtsbmisc62rev6\\_en.pdf](http://unctad.org/en/PublicationsLibrary/itcdtsbmisc62rev6_en.pdf).



new negative list (Table 2.2 and Section 2.4.2), which lifted or eased foreign equity restrictions in key sectors and brought Indonesia's FDI regime closer to international and regional levels of openness. According to the OECD, the current framework remains fairly restrictive to foreign investors overall.<sup>58</sup> Despite an overall improvement, Indonesia's international ranking in terms of ease of doing business remains relatively low compared to several neighbouring countries.<sup>59</sup>

2.42. The BKPM remains responsible for promoting foreign investment and approving investment licences via the online single submission (OSS) system in all 20 sectors, except in mining, oil and gas, and banking and financial services, where approvals are obtained from the Ministry of Energy and Mineral Resources, the Financial Services Authority (OJK) and BI, respectively (Section 2.4.3). The Investor Relations Unit, jointly run between the coordinating Ministry of Economic Affairs, the Ministry of Finance and BI, remains in place with the purpose of communicating Indonesian economic policy and addressing concerns of investors.<sup>60</sup>

#### 2.4.1 Regulatory framework

2.43. During the review period, the regulatory framework was updated in certain areas. Investment Law 25 of 2007 allows foreign companies or individuals to buy shares in existing foreign or domestic companies in sectors open to foreign investment.<sup>61</sup> The Law specifies that a limited liability foreign investment company (*penanaman modal asing* (PMA)) incorporated in Indonesia must be formed, in which the foreign investor goes into partnership with an Indonesian person or entity as shareholders. In addition, foreign individuals or foreign-owned companies may acquire shares in an existing domestic-capital investment company (*penanaman modal dalam negeri* (PMDN)) and convert it to a PMA, if the foreign ownership does not exceed the ceilings set by the Government. Foreign investors can have up to 100% ownership, or between 45% and 95% ownership in certain industries, but this varies within sectors and business fields (Section 2.4.2).<sup>62</sup> The Investment Law directly prohibits any agreement concerning foreign or domestic investors where shares are held for another person. Presidential Decree 13 of 2018 strengthened the 2007 Law preventing these arrangements and money-laundering and terrorist financing, by requiring all Indonesian companies to report their beneficial ownership structures.<sup>63</sup> Regulation 14 of 2015 of Regulation No. 5 of 2019 (replacing Capital Investment Co-ordinating Board (BKPM) Regulation No. 14 of 2015 concerning Amendments to BKPM Regulation No. 6 of 2018 concerning Guidelines and Procedures for Licensing and Investment Facilities) (Section 2.2.1.1) stipulates that listed PMDNs must change to PMA status if their articles of association contain the names of foreign shareholders and their capital structure has changed due to foreign investor entry.

2.44. Presidential Regulation No. 44 of 2016, regarding foreign ownership, location, and special permits in specific sectors, updated the list of business fields that are closed to investment, and those that are open to it with conditions (Section 2.4.2).<sup>64</sup> The Regulation divides investment fields

<sup>58</sup> OECD, *OECD Investment Policy Reviews – Southeast Asia*. Viewed at: <https://www.oecd.org/daf/inv/investment-policy/Southeast-Asia-Investment-Policy-Review-2019.pdf>.

<sup>59</sup> In the World Bank's Doing Business 2020 study, Indonesia ranked 73<sup>rd</sup> out of 190 economies for ease of starting a business (in 2013, it ranked 128<sup>th</sup> out of 185 countries). The 2020 report highlighted Indonesia's reforms regarding starting businesses, paying taxes, trading across borders, improving electricity, and enforcing contracts. Indonesia scored best in getting electricity (22); protecting minority investors (37); resolving insolvency (38); and getting credit (48). It scored lowest in starting a business (140); enforcing contracts (139); trading across borders (116); and registering a property (106). World Bank, *Economy Profile Indonesia, Doing Business 2020*. Viewed at:

<https://www.doingbusiness.org/content/dam/doingBusiness/country/i/indonesia/IDN.pdf>; and World Bank, *Doing Business 2013, Smarter Regulations for Small and Medium-size Enterprises*. Viewed at: <https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB13-full-report.pdf>.

<sup>60</sup> BI, *Investor Relations Unit*. Viewed at: <https://www.bi.go.id/en/iru/default.aspx>.

<sup>61</sup> Economist Intelligence Unit, *Country Report, Indonesia*, September 2019.

<sup>62</sup> Ministry of Industry, *Industry Facts and Figures, 2017*. Viewed at: <https://kemenperin.go.id/majalah/11/facts-and-figures-industri-indonesia>.

<sup>63</sup> Baker Mckinsey, *Limited Liability Companies Must Now Report Their Beneficial Owners*, 2018. Viewed at: <https://www.bakermckenzie.com/en/insight/publications/2018/03/limited-liability-companies>.

<sup>64</sup> Law No. 44 of 2016 concerning Lists of Business Fields that are Closed to and Business Fields that are Open with Conditions to Investment. Viewed at: [https://www2.bkpm.go.id/images/uploads/prosedur\\_investasi/file\\_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf](https://www2.bkpm.go.id/images/uploads/prosedur_investasi/file_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf).

into three types: open; closed (negative investment list); and open with conditions.<sup>65</sup> The investment fields that are open with conditions consist of partnerships with SMEs; they involve restricted foreign ownership, specific locations, special permits, 100% domestic capital, and limited capital ownership within the scope of ASEAN cooperation.

2.45. Presidential Regulation No. 91 of 2017 on the acceleration of doing business provides, *inter alia*, for the implementation of EPP Phase XVI (Sections 2.2.2 and 2.4.4).<sup>66</sup>

2.46. According to the authorities, Presidential Regulation No. 20 of 2018 simplified the licensing procedure framework (documentation, and criteria) for foreigners wishing to work in Indonesia (Section 1.2.4.4).

## 2.4.2 Restricted activities

2.47. During the review period, the negative investment list, which includes sectors that are completely or partially closed to investment, was revised twice, in 2014 and 2016. The 2016 list (Table 2.6) reaffirmed a more positive attitude towards foreign investment, as the 2014 list had partly reversed the liberalization trend by introducing more stringent rules for foreign investors in some key sectors, such as mining. The 2016 list relaxed and/or replaced entirely the provisions of the previous list.<sup>67</sup> The list was issued following extensive discussions between the Government and the corporate sector, with the objective of raising FDI levels and competitiveness through further liberalization of certain sectors. The revisions in the 2016 list included opening of 45 business lines to full foreign ownership in the following sectors: maritime and fishery; energy and mineral resources; industry; public works; trade; tourism and creative economy; transportation; communication and informatics; and health.<sup>68</sup> In addition, the list increased the foreign shareholding ceilings in 39 business lines; and allowed foreign participation in another 26 that had been closed off entirely in the previous list. Furthermore, it removed the need for specific recommendation requirements from the relevant ministries for 83 lines. Indonesia's commitments contained the ASEAN Comprehensive Investment Agreement (Section 2.3.2) of 2009 schedule and reservation list remain in place; investors that are natural persons or juridical persons of ASEAN member States (ASEAN Investors) may enjoy a higher foreign ownership percentage in certain sectors (Table 2.5).<sup>69</sup>

2.48. There are business lines which are now: specifically closed; have increased minimum project value requirements; or have reduced levels of permitted foreign investment.<sup>70</sup> These provide more protection for local SMEs by: reserving 19 additional business lines for local SMEs under the public works sector<sup>71</sup>; increasing the project values of 39 business lines under the public work sector<sup>72</sup>;

<sup>65</sup> Ministry of Industry, *Industry Facts and Figures 2017*. Viewed at: <https://kemenperin.go.id/majalah/11/facts-and-figures-industri-indonesia>.

<sup>66</sup> Presidential Regulation No. 91 of 2017 concerning acceleration of business implementation. Viewed at: [http://www.pma-japan.or.id/bundles/bsibkpm/download/05323\\_PERPRES\\_91\\_TAHUN\\_2017\\_Translated\\_\(SCAN\)\\_44.pdf](http://www.pma-japan.or.id/bundles/bsibkpm/download/05323_PERPRES_91_TAHUN_2017_Translated_(SCAN)_44.pdf).

<sup>67</sup> Law No. 39 of 2014 on List of Business Fields Closed to Investment and Business Fields Open, with Conditions, to Investment. Viewed at: <http://www.indonesia-investments.com/upload/documents/Negative-Investment-List-Indonesia-Daftar-Negatif-Investasi-Indonesia-Investments.pdf>.

<sup>68</sup> Global Business Guide, *Indonesia Foreign Investment – The 2016 Negative List*. Viewed at: [http://www.qbgindonesia.com/en/main/legal\\_updates/indonesia\\_foreign\\_investment\\_the\\_2016\\_negative\\_list.php](http://www.qbgindonesia.com/en/main/legal_updates/indonesia_foreign_investment_the_2016_negative_list.php); and Hadiputranto, Hadinoto and Partners, *Liberalized Business Lines*. Viewed at: [http://f.datasrvr.com/fr1/316/73986/Corporate\\_Securities\\_-\\_Indonesia\\_Foreign\\_Investment\\_-\\_The\\_2016\\_Negative\\_List\\_\(May\\_2016\).pdf#page=7](http://f.datasrvr.com/fr1/316/73986/Corporate_Securities_-_Indonesia_Foreign_Investment_-_The_2016_Negative_List_(May_2016).pdf#page=7).

<sup>69</sup> Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH (2015), *Information Seminar on the ASEAN Comprehensive Investment Agreement (ACIA) Towards Free Flow of Investment in the ASEAN Single Market*, 11 September. Online information. Viewed at: <http://investasean.asean.org/index.php/page/view/asean-free-trade-area-agreements/view/757/newsid/871/the-asean-comprehensive-investment-agreement.html>.

<sup>70</sup> Global Business Guide, *Indonesia Foreign Investment – The 2016 Negative List*. Viewed at: [http://www.qbgindonesia.com/en/main/legal\\_updates/indonesia\\_foreign\\_investment\\_the\\_2016\\_negative\\_list.php](http://www.qbgindonesia.com/en/main/legal_updates/indonesia_foreign_investment_the_2016_negative_list.php); and Hadiputranto, Hadinoto and Partners, *Liberalized Business Lines*. Viewed at: [http://f.datasrvr.com/fr1/316/73986/Corporate\\_Securities\\_-\\_Indonesia\\_Foreign\\_Investment\\_-\\_The\\_2016\\_Negative\\_List\\_\(May\\_2016\).pdf#page=7](http://f.datasrvr.com/fr1/316/73986/Corporate_Securities_-_Indonesia_Foreign_Investment_-_The_2016_Negative_List_(May_2016).pdf#page=7).

<sup>71</sup> Examples include predesign and architecture consultancy services, architecture design services, and contract administration services; previously, foreign investment was permitted up to 55%.

<sup>72</sup> Examples include construction services using low and medium technology, and/or being low- and medium-risk and/or the project value being below IDR 50 billion; therefore, foreign-owned construction services companies can only qualify for projects with a value of over IDR 50 billion.



and adding 3 business lines that require a partnership with a local SME.<sup>73</sup> According to the authorities, investment in activities such as e-commerce, film production, crumb rubber, cold storage, sports centres, bars and cafés, restaurants, hospital management, and pharmaceutical raw materials was further opened.

**Table 2.6 Negative investment list 2016, foreign equity ceilings**

Sector	Activity	Maximum foreign capital unless otherwise specified (%)
<b>Agriculture</b>	Seeding/seedling business of staple food crops; and cultivation business of staple food crops (corn, soy, groundnut, mung bean, and other food crops, such as cassava and sweet potatoes) in an area of more than 25 ha	49%
	Plantation seeding business for non-main crops; plant cultivation for land areas exceeding 25 ha (non-main crops); certain plantation businesses of 25 ha or more; and processing industries for plantation products	95%
<b>Forestry</b>	Exploitation of timber forest products of natural forests	100% domestic capital
	Procurement and distribution of forest plant seeds and seedlings (export and import of forest plants seed and seedlings)	100% domestic capital
	Certain nature tourism businesses	49% (and 70% for foreign capital ownership by ASEAN countries)
<b>Maritime and fisheries</b>	Fishery catching business using a fishing ship in Indonesian water territory or open sea	100% domestic capital
<b>Energy and mineral resources</b>	Operation and maintenance of geothermal facilities	90%
	Geothermal drilling services	95%
	Onshore oil and gas drilling services	100% domestic capital
	Offshore oil and gas drilling services	75%
	Oil and gas, geology and geophysical surveying services	49%
	Power plant <1 MW	100% domestic capital
	Small-scale power plant (1-10 MW)	49%
	Geothermal power plant with a capacity of <10 MW	67%
	Power plant transmission and distribution	95% (100% for the purpose of PPP during the concession period)
	Construction and installation of electric power: installation of high/extra-high voltage electric power utilization	49%
	Construction and installation of electric power: installation of low/medium voltage electric power utilization	100% domestic capital
	Power plant >10 MW	95% (100% for the purpose of PPP during the concession period)
<b>Industry</b>	Car maintenance and repair	49%
	Sugar industry (white, refined and raw)	Reserved for partnerships with SMEs
<b>Defence</b>	Main and/or supporting equipment industry (according to the authorities, equipment is a component similar to tools, and the main tool industry limitation remains at 100% domestic capital)	49% (and 51% SOEs) <sup>a</sup>
	Raw material for explosives (ammonium nitrate) and the industry of explosive materials and its components for industry need	49% (and 51% SOEs) <sup>a</sup>

<sup>73</sup> The three business lines include the sugar industry (white sugar, refined sugar, and raw sugar); salting/drying fish and other water biota industry; and retail trading through mail order or the Internet.

Sector	Activity	Maximum foreign capital unless otherwise specified (%)
<b>Public works</b>	Business services /construction consultant services using advanced technology and/or being high-risk and/or the work value being more than IDR 10 billion	67% (and 70% for foreign capital ownership by ASEAN countries)
	Construction services using advanced technology and/or being high-risk and/or the work value being more than IDR 50 billion	67% (and 70% for foreign capital ownership by ASEAN countries)
<b>Trade</b>	Drinking water business	95%
	Private cleaning services; various retail businesses; large trade based on fees or contracts (agency service/agent commission); various survey services; property/real estate broker based on fees or contracts; rental service of land transport equipment (rental without operator); rental of machinery (agricultural, construction, civil engineering, office machinery, and other); building cleaning services; and other activity services (laundry services, barbershops, beauty salons, tailors, and other)	100% domestic capital
<b>Culture and tourism</b>	Film promotional facilities, advertisements, posters, stills, photos, slides, negatives, banners, pamphlets, billboards, folders, etc.	100% domestic capital (and 51% for foreign capital ownership by ASEAN countries)
	Hotels (one- and two-starred); guest houses; catering; conventions; cultural object tourism business; catering; spas; natural tourism business outside conservation areas	Hotels (one- and two-starred) 67%; motels and guest houses 67% (70% for foreign capital ownership by ASEAN countries); catering 67% (70% for foreign capital ownership by ASEAN countries); conventions 67% (70% for foreign capital ownership by ASEAN countries); cultural object tourism business, if museum management 67% (70% for foreign capital ownership by ASEAN countries), but if management of historical or archaeological remains, such as temples, Sultan's palace, inscriptions, ruins, ancient buildings only 67%; spas 51%; and natural tourism business outside conservation areas 67%
	Other accommodation services (i.e. motel and lodging services); tourism travel bureaux; recreational and entertainment business	67% (and 70% for foreign capital ownership by ASEAN countries); and karaoke and "dexterity" 67%
	Sporting facilities excluding swimming pools, tennis courts, football fields and fitness centres	100% domestic capital
<b>Transportation</b>	Cargo land transportation; special cargo land transportation; passenger land transportation (scheduled and unscheduled); domestic and international sea transportation; inter-district/intercity general and pioneering inland water transportation; river and lake transportation (for passengers, tourism, general freight, special freight, and hazardous freight); airport services; provision and operation of crossing of rivers and lake harbours; domestic and international scheduled/non-scheduled air transportation; and operation of passenger land transport facilities (public facilities and general cargo terminals only)	49%

Sector	Activity	Maximum foreign capital unless otherwise specified (%)
	International passenger transportation (excluding cabotage); and international freight overseas transportation (excluding cabotage)	70% for foreign capital ownership by ASEAN countries
	Provision of harbour facilities (jetties, buildings, tugs at cargo container terminals, liquid bulk terminals, dry build terminals, and roll-off terminals)	49% <sup>b</sup>
	Salvage and/or underwater works	... <sup>d</sup>
	Supporting transport business in terminals; air transportation support services (computer-based reservation system, passenger and cargo ground handling, and aircraft leasing); air freight forwarding services; and airline general sales agents	67%
	Loading and unloading of goods services (maritime cargo handling services)	67% (and 70% for foreign capital ownership by ASEAN countries)
<b>Communication and informatics</b>	Fixed and mobile telecommunications network services; telecommunications network providers; content telecommunication services; call centres and other added-value telephony services; Internet service providers; data communication system providers; public Internet telephony services; and Internet interconnection services (network access points, and other multimedia services)	67%
	Public broadcasting agencies, radio and television	Monopoly for the public broadcasting agency
	Providers, operators (operation and renting) and construction service providers for telecommunication towers	100% domestic capital
	Publishing of newspapers, magazines, and bulletins (press)	100% domestic capital
	Mail providers	49%
	Electronic commerce transaction providers with an investment value of less than IDR 100 billion	49%
<b>Financial</b>	Investment, working capital and multi-purpose companies; venture capital	85%
	Loss/life insurance companies; reinsurance companies; insurance agent and broker companies; and actuarial consultant service companies	80%
	Guarantee companies	30%
	Non-bank foreign exchange traders	100% domestic capital
	Money market broker companies	... <sup>c</sup>
<b>Banking</b>	Conventional banks; and sharia banks	... <sup>c</sup>
	Conventional smallholder credit banks; and sharia smallholder credit banks	100% domestic capital
<b>Manpower sector</b>	Indonesian worker placement services for overseas	100% domestic capital
	Indonesian worker placement services in Indonesia; worker/labour service providers; and work training	49%
<b>Health</b>	Patent medicine industry	85%
	Medical equipment testing institutions; pest control/fumigation services; and medical and ambulatory services	67%
	Narcotic manufacturers (pharmaceutical industry); and narcotic pharmaceutical wholesalers	... <sup>d</sup>
	Traditional medicine processing; raw material pharmaceutical wholesale business; pharmacies, drugstores, health equipment stores, and opticians; and basic medical clinic services (private maternity hospitals, general medical service clinics/ public medical clinics, and residential health services)	100% domestic capital
	Hospitals; basic and special medical clinics (specialized medical services clinics; dental services; nursing services; other hospital services such as medical rehabilitation clinics)	67% (70% for foreign capital ownership by ASEAN countries)
	Medical equipment suppliers	49% <sup>d</sup>

Sector	Activity	Maximum foreign capital unless otherwise specified (%)
Security	Security consulting services; security guard providers, money and valuable goods transportation guards, security services using animals; security services of equipment application; and security education and training services	49% <sup>e</sup>

- a Recommendation from the Ministry of Defence.
- b Subject to special permits from the Ministry of Transportation for the minimum foreign capital requirement.
- c Subject to a special licence from the Financial Services Authority.
- d Subject to a special licence from the Ministry of Health.
- e Operational licence from the National Police Headquarters.

Note: The listed activities are based on the Indonesian Standard Industrial Classification Codes (KBLI), 2016. Viewed at: <http://www.bkpm-jpn.com/assets/up/2017/04/160630-english-dni-rev.pdf>.

Source: *Presidential Regulation No. 44 of 2016 concerning Lists of Business Fields Closed to Investment and Business Fields Open with Conditions to Investment*. Viewed at: [https://www2.bkpm.go.id/images/uploads/prosedur\\_investasi/file\\_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf](https://www2.bkpm.go.id/images/uploads/prosedur_investasi/file_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf).

2.49. In addition, under the negative investment list, private participation by both domestic and foreign investors is closed in some sectors for reasons of national security, public health, safety, protecting the environment, preserving national heritage, or upholding public morals.<sup>74</sup> Affected sectors include casinos, the provision and operation of passenger transport terminals, aids for shipping and airplane navigation, and the manufacture of alcoholic beverages. Although the 2016 list liberalized several sectors, foreign investment remains prohibited in the following business activities: the publication of newspapers and magazines; foreign exchange trading by non-banks; the retail sale of footwear, electronics, jewellery, cosmetics, food, and beverages; oil-and-gas well operation and maintenance; and oil-and-gas design and engineering services.

2.50. In 2018, the Government announced plans to revise the list further by opening several activities to 100% foreign participation.<sup>75</sup> The activities under consideration included: geothermal surveying and drilling; power generation of less than 10 MW; manufacture of some medical devices and over-the-counter drugs; cigarette manufacturing; provision of fixed and mobile telecommunications networks; Internet access services; and Internet and postal-based retailing; and operation of art galleries.

### 2.4.3 Registration and approval

2.51. In 2018, the Government launched the online single submission (OSS) system for investment approvals.<sup>76</sup> The system is intended to be the single reference in Indonesia for business licensing, and will be the gateway for the existing government services system at ministerial and regional levels. According to the authorities, the advantages of using the OSS include: secured business licences in under an hour; availability of standardized business licences; licences electronically integrated; and accessibility at anytime and anywhere. The licensing process is monitored by a Task Force, a different entity from the OSS agency (i.e. BKPM), thus increasing transparency. The system is administered by the BKPM, which will also establish the rules and procedures for issuing business licences through the system.<sup>77</sup> The BKPM also has the authority to issue business licences for, and on behalf of, ministries, heads of agencies, governors, regents and mayors, in the form of electronic documents that will be stamped with an electronic signature.<sup>78</sup>

<sup>74</sup> Economist Intelligence Unit, Country Report, Indonesia, September 2019.

<sup>75</sup> The Jakarta Post, *Government revives talk on relaxing negative investment list*. Viewed at: <https://www.thejakartapost.com/news/2019/07/18/government-revives-talk-on-relaxing-negative-investment-list.html>.

<sup>76</sup> Regulation No. 24 of 2018 concerning OSS. Viewed at: <https://oss.go.id/portal/home/download/pdf/PP-24-2018-OSS-dan-Lampiran-HVS>.

<sup>77</sup> Indonesia Investments, *Indonesia to Launch Upgraded Online Single Submission (OSS) System*. Viewed at: <https://www.indonesia-investments.com/news/todays-headlines/indonesia-to-launch-upgraded-online-single-submission-oss-system/item9096>.

<sup>78</sup> BKPM, *Guidelines for using the OSS*. Viewed at: <https://oss.go.id/portal/>.

2.52. The OSS provides an integrated system to facilitate the issuance of Business Identification Numbers (*Nomor Induk Berusaha*, NIBs) and business licences in virtually all sectors (see above). Banks and non-bank financial institutions are required to register for an NIB through the OSS before applying for a business licence to the OJK/BI. The BI implemented an online integrated licensing process on 1 May 2020; it includes the licensing process for monetary, macro prudential, and payment systems, as well as the rupiah money management sector. By January 2020, the BKPM had processed 28 types of licences through its online portal, such as permits for oil-and-gas companies, mining firms, and property developers; approval of import-duty concessions; and income tax reductions and exemptions.<sup>79</sup>

#### 2.4.4 Investment promotion

2.53. Indonesia offers incentive facilities to increase FDI in certain activities, based on internal and external considerations.<sup>80</sup> Internal considerations are priority fields based on the roadmap for the development of each sector; interest in regional development; and synchronization of inter-sector policies. External considerations include international best practice; tighter global competition; and commitment to bilateral, regional, and multilateral trade. Fiscal incentives, non-fiscal incentives, and other benefits remain available in accordance with the legislation in force. Fiscal incentives were strengthened, and include: tax holidays (to enhance direct investment, particularly in pioneer industries<sup>81</sup>) (since 2018) (Sections 3.3.1.1.1.1, 4.2.2.1.2, 4.3.3, 4.3.5 and 4.4.5.1); corporate income tax allowance<sup>82</sup> (since 2016) (Section 3.3.1.1.1.1); and the exemption of import duty for imports of capital goods and of raw materials for investment (Section 3.1.3.6). In addition, investors in Indonesia can also take advantage of non-fiscal incentives, such as: One-Stop Services<sup>83</sup>; eased immigration permits for foreign workers<sup>84</sup>; and customs facilities.<sup>85</sup> Under the Investment Law (Articles 14 and 21), these incentives are available to both domestic and foreign investors under the same conditions.

2.54. According to the authorities, other investment incentives cover: SEZs; industrial zones; free trade zones (FTZs) and ports; MSMEs; and e-commerce (Sections 3.2.4 and 4.4.7). SEZ investment incentives focus on no collection of VAT and the luxury goods sales tax; customs tax exemptions; tax allowances and tax holidays; suspension of import duties; and zero import duty for manufacturing of goods produced using local components of a specific level, meaning a minimum of

<sup>79</sup> OSS online information. Viewed at: <https://oss.go.id/portal/>

<sup>80</sup> Ministry of Industry, *Industry Facts and Figures, 2017*. Viewed at: <https://kemenperin.go.id/majalah/11/facts-and-figures-industri-indonesia>.

<sup>81</sup> On 30 May 2018, the BKPM issued Regulation of Investment Coordinating Board No. 5 of 2018 on Details of Business and Production Types for Pioneering Industries That Can Be Granted the Corporate Income-Tax Deduction Facility as Well as Guidelines and Procedures for the Granting of Corporate Income-Tax Deductions (Perka BKPM No. 5/2018). Under this Regulation, 100% of the total payable corporate income tax is deducted, under certain conditions to 17 pioneer industries. A pioneer industry is defined as: having wide interconnection with other industries, giving high value added and externality; introducing new technology; and bringing strategic value to the national economy. Pioneer industries are listed in Appendix 1 of Perka BKPM No. 5/2018 regarding List of Business Detail and Production Type From Every Pioneer Industry Coverage. They consist of the following industry types: base metal upstream; refinery and/or oil refinery and natural gas; petrochemicals based on petroleum; basic inorganic chemistry; basic organic chemicals sourced from agricultural, plantation, or forestry products; pharmaceutical raw materials; manufacture of semi-conductor and other major components of computers; manufacture of communication equipment main components; manufacture of health main components; manufacture of industry main components; manufacture of machine main components; manufacture of robotic components which are integrated into the machine manufacture industry; manufacture of ship main components which are integrated into the ship manufacture industry; manufacture of plane main components; manufacture of train main components; power plant machines; and "economy infrastructure". Indonesia Foreign Investment Law. Viewed at: <http://www.indonesiaforeigninvestmentlaw.com/business/details-of-business-and-production-types-for-pioneering-industries-that-can-be-granted-the-corporate-income-tax-deduction-facility-as-well-as-guidelines-and-procedures-for-the-granting-of-corporate-in/>.

<sup>82</sup> The incentive is given in accordance with Government Regulation (PP) No. 9 of 2016 concerning amendment to Government Regulation No. 18 of 2015 on Tax Allowance.

<sup>83</sup> Presidential Regulation No. 27 of 2009 concerning One Stop Services in Investment Sector.

<sup>84</sup> Regulation of the Minister of Manpower and Transmigration No. 02 of 2008 concerning System and Procedures of Foreign Workers.

<sup>85</sup> Custom facilities such as: (i) immediate care (rush handling); (ii) demolition/hoarding outside the customs, temporary import; (iii) granting permits issued prior to the import of goods that still owe duty and taxes in the framework of the risk import assurance; (iv) importers' priority lane; and (v) importer Main Partner, and the Preliminary Notice (Pre-notification).

30% of local content for raw material imports to benefit from zero import duty for four years, and two years without local content. Investment incentives for industrial zones include: VAT exemptions on the import or delivery of capital goods; import duty exemptions on machinery, goods, and materials; and tax allowances and tax holidays. FTZ and port operations are exempt from: import duty; VAT; luxury goods sales tax; and customs duty. In addition, investments in MSMEs are encouraged through a reduction in MSMEs' tax from 1.0% to 0.5% of gross revenue. Lastly, investment in e-commerce is promoted via 0.5% income tax and 1.0% VAT on non-small entrepreneurs' sales from customs areas to the domestic market. The authorities indicated that the majority of these incentives are available to both domestic and foreign investors under the same conditions.

2.55. Under Presidential Regulation No. 91 of 2017, Indonesia promotes investment by enhancing the business licence service. The policy goals of this initiative include: efficient, streamlined, and integrated business licence service standards; accelerating business licensing processes; providing business licensing process assurance in terms of costs and lead times; increasing coordination and synergies between central and regional government; overcoming barriers to doing business in Indonesia; and implementing integrated licensing processes (OSS) (Section 2.4.3). The policy is divided into two phases which are implemented in parallel. The first focuses on: forming a Task Force to identify and overcome end-to-end licensing barriers; implementing a licensing checklist for SEZs, FTZs, industrial zones, and tourist zones; and utilizing data sharing. The second phase includes: business licence regulatory reforms; and the implementation of the OSS. As at July 2020, both phases were still at the implementation and coordination stage.

2.56. A rapid licensing service, the Priority Licensing Service, was implemented to boost investment in almost every sector, subject to certain conditions, e.g. minimum investment of IDR 100 billion or minimum employment of 1,000 domestic workers.<sup>86</sup> Similarly, a regulation to simplify licensing within the minerals and coal mining sector through shorter bureaucratic processes and fewer requirements was enforced in 2017. In working towards improving the business environment, Government Regulation No. 24 of 2018 on Electronic Integrated Business Licensing Services reflected the authorities' objective of shifting from a pre-commencing supervision system to a post-commencing one. This is done by reducing a large number of required business licences and permits, and by simplifying the application processes and implementing OSS (Section 2.4.3). This regulation mandates that any existing or newly established businesses in Indonesia must obtain an NIB and a business licence by using the OSS system (Sections 2.4.3 and 3.3.1.1.1.1).

#### 2.4.5 Dispute settlement

2.57. The main methods used to resolve commercial disputes are litigation, arbitration and alternative dispute resolution.<sup>87</sup> Each case before the courts is determined based on its particular facts and merits. Indonesian general courts, comprising district courts, high courts and the Supreme Court, hear civil lawsuits, administrative lawsuits and criminal claims. Certain courts have specialized jurisdiction, and address specific areas of law, which include a commercial court which specifically address bankruptcy and intellectual property cases. Resolving commercial disputes in arbitration or alternative dispute resolution, such as consultation, negotiation, mediation, conciliation, and expert opinion, is governed by Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution; the Indonesian National Board of Arbitration (*Badan Arbitrase Nasional Indonesia*, BANI) is the principal and independent domestic arbitration institution. Under the judicial power law and the Judges' Code of Ethics, judges must maintain independence and impartiality, and rule without any intervention from any party outside the judicial power.<sup>88</sup> The claimant is required to pay a registration fee when submitting a suit to the district court. Court costs are decided by the judge ruling on the case, and are usually borne by the losing party.<sup>89</sup> In January 2019, the Director General of the General

<sup>86</sup> APEC, *Assessment of Achievements of the Bogor Goals in 2018*. Viewed at: <https://www.apec.org/About-Us/About-APEC/Achievements-and-Benefits/2018-Bogor-Goals>.

<sup>87</sup> Baker McKenzie, *Dispute Resolution around the World - Indonesia*. Viewed at: [https://www.bakermckenzie.com/-/media/files/insight/publications/2016/10/dratw/dratw\\_indonesia\\_2009\\_updated.pdf?la=en](https://www.bakermckenzie.com/-/media/files/insight/publications/2016/10/dratw/dratw_indonesia_2009_updated.pdf?la=en).

<sup>88</sup> Global Legal Insights, *Litigation & Dispute Resolution 2020 - Indonesia*. Viewed at: <https://www.globallegalinsights.com/practice-areas/litigation-and-dispute-resolution-laws-and-regulations/indonesia>.

<sup>89</sup> Thomson Reuters, *Enforcement of judgments and arbitral awards in Indonesia: overview*. Viewed at: [https://uk.practicallaw.thomsonreuters.com/2-619-0724?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhcp=1#co\\_anchor\\_a563445](https://uk.practicallaw.thomsonreuters.com/2-619-0724?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1#co_anchor_a563445).



Judiciary Body of the Indonesian Supreme Court issued Guidelines on the Enforcement of Judgements by the district courts. These guidelines assist district courts in enforcing all civil, criminal, and administrative decisions, including requests for national and international arbitration awards.<sup>90</sup>

2.58. Since 1982 Indonesia has been a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, an internationally recognized instrument of international arbitration, requiring courts of contracting States to give effect to arbitration agreements, and to recognize and enforce arbitration awards made in other States, subject to specific limited exceptions. It is also party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID, or the Washington Convention). Since 2013, there have been two investment disputes: *Nusa Tenggara Partnership B.V. and PT Newmont Nusa Tenggara v. Republic of Indonesia* (ICSID, ARB 14/15) and *Oleovest Pte Ltd v. Republic of Indonesia* (ICSID, ARB/16/26). According to the authorities, most of the disputes involving the Government and other countries were based on an international investment treaty.

#### 2.4.6 Investment treaty developments

2.59. Indonesia maintains 24 active bilateral investment treaties (BITs) (out of 63 signed BITs); no new BITs have been signed since 2008.<sup>91</sup> Between 2013 and 2015, Indonesia formally notified more than 20 of its BIT partners that it would discontinue these treaties; this move was in order to allow the authorities to align their provisions with latest legislation before renewal.<sup>92</sup> As at April 2020, Indonesia was involved in new BIT negotiations with Switzerland, and was also finalizing those with Singapore and the United Arab Emirates.<sup>93</sup>

2.60. As at February 2020, Indonesia was party to 70 bilateral agreements for avoidance of double taxation (DTAs); 11 new DTAs, involving Armenia (2017), Belarus (2019), Croatia (2013), Hong Kong, China (2013), India (2017), Lao PDR (2017), Morocco (2013), Papua New Guinea (2015), Serbia (2019), Suriname (2014), and Tajikistan (2020), entered into force during the review period.

<sup>90</sup> The Guideline on the Execution of Decisions at the District Court (published in Bahasa Indonesia language). Viewed at: <https://badilum.mahkamahagung.go.id/publik/publikasi/2820-pedoman-eksekusi-pada-pengadilan-negeri.html>.

<sup>91</sup> They comprise those with: the Republic of Korea; Thailand; Jordan; Bangladesh; the Czech Republic; Syria; Mongolia; Cuba; Turkmenistan; Iran; Denmark; the Russian Federation; Mauritius; Morocco; Sudan; Sweden; Poland; Australia; Finland; Tunisia; Ukraine; Uzbekistan; Qatar; and Chinese Taipei.

<sup>92</sup> Nine BITs have been fully terminated, although "survival clauses" or "sunset clauses" in such treaties may continue to protect previously made investments for further periods of time. The nine BITs are with: China (effective termination: 31 March 2015); Lao PDR (13 October 2015); Malaysia (20 June 2015); the Netherlands (30 June 2015); Italy (23 June 2015); France (28 April 2015); the Slovak Republic (28 February 2015); Bulgaria (25 January 2015); and Egypt (30 November 2014). The BIT with Argentina was extinguished by mutual agreement on 19 October 2016, in such a way that its "survival clause" would not apply. BITs with the following countries lapsed: Spain (on 11 November 2016); Cambodia (7 January 2016); India (7 April 2016); Romania (7 January 2016); Turkey (7 January 2016); Viet Nam (7 January 2016); Hungary (12 February 2016); Singapore (20 June 2016); Pakistan (2 December 2016); Switzerland (8 April 2016); and Kyrgyzstan (18 February 2018). Bilaterals.Org, *Indonesia ramps up termination of BITs – and kills survival clause in one such treat – but faces new \$600 mil. Claim from Indian mining investor*. Viewed at: <https://bilaterals.org/?indonesia-ramps-up-termination-of-> and Lampung University, Journal of Legal, Ethical and Regulatory Issues, Vol. 21, Issue 1, Lu Hamzah (2018), *Bilateral Investment Treaties (BITS) in Indonesia: A Paradigm Shift, Issues and Challenges*,. Viewed at: <https://www.abacademies.org/articles/Bilateral-investment-treaties-bits-in-indonesia-a-paradigm-shift-issues-and-challenges-1544-0044-21-1-148.pdf>.

<sup>93</sup> APEC, *Assessment of Achievements of the Bogor Goals in 2018*. Viewed at: <https://www.apec.org/About-Us/About-APEC/Achievements-and-Benefits/2018-Bogor-Goals>.



### 3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1. During the review period, the general thrust of Indonesia's trade policy was revised in several areas.

3.2. The tariff is one of the main trade policy instruments. It remains transparent, as virtually all tariff lines are *ad valorem*; the simple average applied MFN tariff rate (10.1%, 2020) and its complexity increased, whereas peak rates remained unchanged. At present, 89.5% of all lines in Indonesia's tariff schedule are bound but, despite a decrease, the large gap between the simple averages of the MFN applied and bound rates suggests persistent high unpredictability in market access conditions; furthermore, the applied MFN rates on 99 tariff lines appear to exceed their corresponding bound rate by 5 percentage points. Several trade facilitation initiatives were undertaken, and changes were brought to the *de minimis* value for import duty exemptions, and a flat customs duty for consignment and e-commerce traded goods was introduced.

3.3. Import prohibitions, restrictions and licensing remain in place to protect the national interest in several areas and, in general, their scope was seemingly expanded. The main legislative framework governing anti-dumping, countervailing, and safeguard measures remained virtually unchanged; recourse to anti-dumping action dropped slightly but measures in force were on the rise. Recourse to safeguard action dropped but Indonesia remains one of WTO's most frequent initiators of investigations and resulting actions. It continued to use local content requirements in certain areas to protect and/or develop domestic industries.

3.4. During the review period, export taxes on certain commodities remained a tool for attaining several policy objectives, and a withholding tax was introduced; the export taxes' product coverage remained relatively unchanged, but the rates were revised. The scope of export prohibitions and licensing was slightly expanded, and some new requirements were added. Indonesia continued to support exports through tax and non-tax incentives available via free trade zones, bonded zones, export-orientated production entrepôts and special economic zones (SEZs) schemes, two of which allow for corporate tax holidays. Export finance, guarantees and credit insurance have been increasingly focused on a number of government-designated leading export commodities, penetration to non-traditional export markets, encouraging growth of export-oriented MSMEs, and the implementation of special-assignment export projects in synergy with a number of SOEs.

3.5. Indonesia continues to offer various fiscal incentives to support businesses including VAT and luxury goods sales tax facilities, corporate income tax holidays and tax allowances. New incentive schemes aim at supporting labour-intensive, vocational and research and development activities; incubators; and the geothermal sector. Non-fiscal incentives, in the form of loans and interest rate subsidies, continue to be available, mainly to MSMEs.

3.6. In 2014, a standardization and conformity assessment law was enacted to, *inter alia*, cover metrology. Specific trade concerns involving conformity assessment have been raised by several Members regarding measures on various processed and unprocessed foods (particularly with respect to halal requirements); toys; ceramics; cell phones and computers; broadband equipment; and alcoholic beverages. Various new labelling requirements have been introduced. Over the review period, key SPS developments have included entry into force of new laws on animal, fish and plant quarantine; livestock services and animal health; halal product assurance; the protection and empowerment of farmers; and amendments to the Law concerning State Crops. SPS measures on beef, chicken meat and chicken products, and animal and plant/horticultural products have been subject to WTO Members' concerns in the SPS Committee and/or in dispute settlement proceedings.

3.7. While there were no changes to the main legal framework for competition policy over the review period, key new regulations were issued. Price controls are in place for rice and, on an ad hoc basis, for other goods deemed to be basic necessities. Maximum prices are set for medicines and medical devices used in the National Health Insurance programme. The coal sales price for coal purchased by the state electricity company to generate electricity for public purposes has been regulated since 2018.

3.8. State involvement in the economy persists although there was privatization activity in the areas of mining, construction/engineering; development, maintenance and management of toll roads;

steel; airlines; and cement. One state-trading entity (Perum BULOG) continues to import rice as well as other staple goods when instructed by the Government.

3.9. Government procurement remains centralized in terms of regulations and systems but decentralized for procurement execution. The regulatory framework for government procurement was revised in 2018. This, *inter alia*, has significantly expanded procurement price preferences for goods and services incorporating at least 25% local content for all bids over a certain threshold, as well as thresholds for international tenders. Bid-rigging remains of concern.

3.10. Over the review period, new patent, copyright, and marks and geographical indications legislation and regulations have entered into force. Additionally, Indonesia has acceded to the Beijing Treaty on Audiovisual Performances; the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled; the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, and the Nagoya Protocol on Access to Genetic Resources.

### **3.1 Measures Directly Affecting Imports**

#### **3.1.1 Customs procedures, valuation, and requirements**

##### **3.1.1.1 Customs procedures**

3.11. During the review period, in line with its WTO trade facilitation commitments, Indonesia undertook several initiatives (see below), including: the acceptance of the WTO Trade Facilitation Agreement (TFA); the launching of the Authorized Economic Operator (AEO) programme; the Post-Border Import Supervision Policy; participation in the ASEAN Single Window; and the integration of the Indonesia Single Risk Management within the Indonesia National Single Window platform.

3.12. Indonesia ratified the TFA on 5 December 2017, and availed itself of the flexibilities for developing countries in Section II of it, which allows for self-designation of capacity-building needs and dates of implementation. Indonesia notified all four Section I transparency provisions under Category A, and its Category B commitments should be implemented by 22 February 2022; as at February 2020, Indonesia had attained an 88.7% implementation rate relating to category A commitments.<sup>1</sup>

#### **Regulatory developments**

3.13. During the review period, the basic customs legislation, i.e. the Customs Law 17/2006 and its enforcement regulations, remained virtually unchanged. Several enforcement-related regulations were issued, including: Government Regulation (GR) No. 20/2017; and Minister of Finance Regulation No. 40/PMK.04/2018 on Control of Import or Export of Goods that are Suspected of Originating or Resulting from Violations of Intellectual Property Rights. These Regulations mandate Customs to carry out *ex officio* actions on the import or export of goods infringing intellectual property rights (Section 3.3.7.3). The Directorate General of Customs and Excise (DGCE), under the Ministry of Finance (MoF), continues to implement customs legislation. Other agencies are also involved, depending on their area of responsibility, e.g. the Ministry of Agriculture in SPS inspection and licensing procedures at the border (below and Sections 3.1.5.2 and 3.3.3).

#### **Registration requirements**

3.14. Importers' main registration requirements remained virtually unchanged.<sup>2</sup> The use of a customs broker is not mandatory. All importers must be registered with the DGCE. They are given a single business identification number (*Nomor Induk Berusaha* (NIB)) via the online single submission (OSS) portal, which replaced the customs identification number (*Nomor Induk Kepabeanan*) in 2017, a prior requirement to obtain an importer registration number

<sup>1</sup> WTO documents G/TFA/N/IDN/1, 1 June 2018; and G/TFA/N/IDN/2, 23 July 2019. WTO, *Rate of implementation commitments*. Viewed at: <https://tfadatabase.org/members/indonesia/timeline-of-implementation-commitments-explanation>.

<sup>2</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

(*angka pengenal importir* (API)). In addition, the DGCE still uses the taxpayer identification number (*Nomor Pokok Wajib Pajak*) for verification.<sup>3</sup> Both the NIB and the API may be obtained online from the OSS portal launched in July 2018 (Section 2.4.3).<sup>4</sup>

3.15. Two types of API remain in place: the General API (API-U) and the Producer API (API-P). Each importer may obtain only one type of API. Since 2013, this dual registration system has been modified several times, and remains regulated by Minister of Trade Regulation No. 75/2018 (entry into force on 20 July 2018).<sup>5</sup> The authorities indicated that there are no longer exceptions for SOEs and for imports where there is a special relationship between the importing and exporting companies.<sup>6</sup> The API-P is available to importers of goods for their own use, such as capital goods, raw materials, auxiliary materials and/or materials to support the production process; trading or transfer of these imports is not allowed (except for market-testing purposes, under certain conditions). In 2016, the MoT abolished the API holder requirement to secure a special importer identity number for imports of certain commodities, such as rice, electronic products, sugar, corn, soybeans, toys, footwear, and textiles.<sup>7</sup> Under the Regulation, an API may not be required for temporarily imported goods, promotional products, goods imported for research or scientific development purposes, consignments, donations such as for natural disasters, medicines and health equipment that use the government budget, non-tradable sample goods, etc. The API is valid for as long as the importer operates but must be renewed every five years. Under the Regulation, all API holders are required to submit quarterly reports via the OSS portal. Between 2013 and 2018, the API-U and API-P numbers dropped by 65.7% (3,270 in 2018) and 85.8% (736 in 2018), respectively, as a result of the introduction of the NIB (see above).

### Documentation requirements

3.16. The import of goods remains subject to the verification of documentation by the DGCE, and physical inspection in certain specific circumstances. Documentation requirements remain unchanged, and include an import declaration form, a pro-forma invoice, a commercial invoice, a bill of lading, and a packing list. A certificate of origin (e.g. for tariff preferences, prohibitions, and restrictions measures (*lartas*)), an insurance certificate, and other relevant documents may be required for certain items subject to certain conditions.<sup>8</sup> Additional certificates are often required by technical agencies with an interest in the content and conformity of the imported product, such as food, pharmaceuticals, seeds, or chemicals (Sections 3.1.5.2 and 3.3.2).

3.17. The Indonesia National Single Window (INSW) ([www.insw.go.id](http://www.insw.go.id)), in place since 2007, continues to allow for, *inter alia*, the single submission of customs documents and applications for trade licences, the payment of duties, synchronized processing, and a final decision by Customs. Since 31 May 2018, the use of the INSW system is compulsory under PR No. 44/2018 on Indonesia National Single Window.<sup>9</sup> This Regulation expanded the INSW coverage to quarantine and port documents (sea and air).<sup>10</sup> It now integrates all customs documents, quarantine documents, licensing documents, port/airport documents, and other documents relating to export and/or import to be submitted by service users to relevant ministries/institutions. In 2018, a Single Stakeholder Information database was set up on the INSW's website. It consists of more than 300 business identities categorized as low risk. The Regulation established a National Single Window Institution

<sup>3</sup> MoF Regulation No. 219/2019; and Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>4</sup> Pursuant to GR No. 24 of 2018 on Integrated Business Licensing Services through Electronic Systems, on 9 July 2018, the Government launched the OSS web portal. Viewed at: [www.oss.go.id](http://www.oss.go.id).

<sup>5</sup> Minister of Trade Regulation No. 75/2018 replacing Regulation No. 70/2015. Viewed at: [http://jdih.kemendag.go.id/backendx/image/regulasi/26220717\\_PERMENDAG\\_NOMOR\\_75\\_TAHUN\\_2018.pdf](http://jdih.kemendag.go.id/backendx/image/regulasi/26220717_PERMENDAG_NOMOR_75_TAHUN_2018.pdf).

<sup>6</sup> Article 6 of Minister of Trade Regulation 27/2012 (as amended) sets out the conditions under which a special relationship may be recognized.

<sup>7</sup> These importers are no longer subject to any other requirements, apart from those related to import licensing provided for under MoT Regulations 48/2015 and 70/2015. Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>8</sup> Director General Regulation No. 16/2016 (PER-16/2016); and US Department of Commerce, International Trade Administration, *Export Solutions*. Viewed at: <https://www.export.gov/article?id=Indonesia-Import-Requirements-and-Documentation>.

<sup>9</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>10</sup> Perpres No. 44/2018 revokes PR No. 10 of 2008 on Use of Electronic System on Indonesian National Single Window, last amended in 2012, and PR No. 76 of 2015 on Manager of Indonesia National Single Window Portal. Indonesia Foreign Investment Law, *Indonesia National Single Window*. Viewed at: <http://www.indonesiaforeigninvestmentlaw.com/business/indonesia-national-single-window/>.

(LNSW) under the MoF as the INSW-operating agency replacing the PP-INSW (Pengelola Portal-Indonesia National Single Window). In terms of logistics, the INSW facilitates the smooth flow of goods by integrating ship loading and unloading systems through Inaportnet (an electronic portal facilitating the exchange of data and information on port services) and accelerating the process of shipping goods.<sup>11</sup> As at November 2018, the INSW was implemented in 75 major ports, accounting for 95% of import/export activities, and involving more than 67,000 importers and exporters.<sup>12</sup> As at 31 December 2019, the INSW was operational at 93 customs offices, including five main seaports and airports (eight in 2012). The authorities indicated that, in 2019, around 97% (90% in 2012) of trade entered or left Indonesia through these 93 customs entry points. According to the authorities, between 2007 and June 2020, 10.3 million import declarations and 16.3 million export declarations were processed electronically through the INSW system.

3.18. At the regional level, Indonesia participates in the ASEAN Single Window (ASW), a regional initiative agreed in 2005 that connects and integrates the national single windows of ASEAN member States (AMSs); it became operational in early 2020.<sup>13</sup> The ASW's objective is to expedite cargo clearance and promote ASEAN economic integration by enabling the electronic exchange of border trade-related documents among AMSs. On 1 January 2018, the ASW Live Operation began in five countries, namely Indonesia, Malaysia, Singapore, Thailand and Viet Nam; by 30 December 2019, all AMSs (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam) had joined the Operation, where the granting of preferential tariff treatment is based on the Electronic Certificate of Origin (ASEAN Trade in Goods Agreement (ATIGA) e-Form D) exchanged through the ASW.<sup>14</sup> The exchange of more documents through the ASW in the near future is currently under preparation. The following documents are likely to be able to be submitted through the ASW in the future, subject to the readiness of each AMS: ASEAN Customs Declaration Document, electronic Phytosanitary Certificate, electronic Animal Health Certificate, and electronic Food Safety Certificate.

### **Authorized Economic Operator programme**

3.19. Following preparatory work since 2010, Indonesia launched the Authorized Economic Operator (AEO) programme in February 2015.<sup>15</sup> The programme is aimed at ensuring: a safe supply chain; the active participation of AEO participants in securing the trade chain; efficient business practices for AEO participants; simplification of customs procedures; and compliance and recognition of international standards. Upon compliance with certain conditions and criteria, the DGCE may grant AEO status to seven categories of operators in the supply chain: importers; exporters; customs service management company PPJK (Perusahaan Pengurusan Jasa Kepabeanan); temporary storage TPS (*Tempat Penimbunan Sementara*) entrepreneurs; TPB (*Tempat Penimbunan Berikat*) entrepreneurs; carriers; and other parties.<sup>16</sup> The expected benefits of the programme consist of:

<sup>11</sup> Ekonomi, *Indonesia Pmer Kesuksesan ISRM dan INSW ke Presiden Erdogan*. Viewed at: <https://ekonomi.bisnis.com/read/20181129/9/864489/indonesia-pamer-kesuksesan-isrm-dan-insw-ke-presiden-erdogan>.

<sup>12</sup> Ekonomi, *Indonesia Pmer Kesuksesan ISRM dan INSW ke Presiden Erdogan*. Viewed at: <https://ekonomi.bisnis.com/read/20181129/9/864489/indonesia-pamer-kesuksesan-isrm-dan-insw-ke-presiden-erdogan>.

<sup>13</sup> ASW, *What is the ASEAN Single Window?* Viewed at: <https://asw.asean.org/component/content/?view=featured>.

<sup>14</sup> Ekonomi, *Indonesia Pmer Kesuksesan ISRM dan INSW ke Presiden Erdogan*. Viewed at: <https://ekonomi.bisnis.com/read/20181129/9/864489/indonesia-pamer-kesuksesan-isrm-dan-insw-ke-presiden-erdogan>.

<sup>15</sup> Preparatory work was based on: Articles 3 and 4 of Law No. 10 of 1995 as amended by Law No. 17 of 2006 concerning Customs, especially related to the implementation of selective customs inspection as recommended by WCO SAFE FOS as special customs treatment to AEOs; and Presidential Instruction No. 1 of 2010 concerning the Acceleration of the Implementation of the 2010 National Development Priorities, which listed one form of policy and customs information technology development as the application of AEOs. DGCE, *AEO* (in Bahasa Indonesia only). Viewed at: <http://www.beacukai.go.id/arsip/pab/aeo.html>; and WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>16</sup> The AEO Conditions and Requirements cover: compliance with customs regulations; maintenance of a trade data management system; financial ability; consultation, collaboration and communication systems; education, training, and care; exchange, access, and confidentiality of information; cargo security; security of movement of goods; location security; employee safety; security of trading partners; crisis management and incident recovery; and system planning and implementation. Minister of Finance Regulation PMK 227/PMK.04/2014 concerning Authorized Economic Operators; and Director General Regulation No. PER-4/BC/2015 concerning Procedures for Granting Customs Recognition as an Authorized Economic Operator. Viewed (in Bahasa Indonesia only) at: <http://www.beacukai.go.id/arsip/pab/aeo.html>.

speeding up the process of releasing goods with a minimum of document verification and/or physical inspection, thus reducing logistics costs; worldwide recognition of AEO companies as safe, secure and compliant business partners in international trade; increasing the effectiveness of DGCE supervision, service and efficiency of resource allocation; and recognition of Indonesia as a trustworthy country in international trade, resulting in a positive impact on the national economy. As at February 2020, there were 126 AEO-certified companies, and 144 AEO certificates had been issued.<sup>17</sup> AEO companies undertook from 8.63% (2015) to 33.33% (2018) of total imports in value terms.

### **Customs Main/Prominent Partners programme**

3.20. The Customs Main/Prominent Partners (MITA) programme, dating back to 2002, remains in place; its regulatory framework was last updated in 2017.<sup>18</sup> Participating companies continue to benefit from special customs services, including: relatively fewer customs checks; transposition of imported goods directly from maritime transportation facilities to land transportation facilities, without being stockpiled and without submitting an application ("truck losing"); partial release of imported goods from containers ("stripping" (part off container)) under certain conditions; use of corporate guarantees for all customs activities; and payment of customs obligations of producer-importers in the form of periodic payments. In accordance with Article 3 of DGCE Regulation No. PER-11/BC/2017, beneficiaries must meet some requirements, including: a good compliance reputation regarding their import and/or export activities for the past six months; and no arrears of customs, excise and/or tax obligations relating to imports.<sup>19</sup> As at 20 March 2018, a total of 301 companies were designated as MITAs; MITA companies accounted from 0.07% (2013) to 3.57% (2019) of total imports in value terms.

### **Import verification**

3.21. During the review period, prior import verification requirements remained in place to ensure compliance of certain goods with the relevant legislative/regulatory provisions. Its legal framework was last changed in 2018.<sup>20</sup> Since November 2002, KSO Sucofindo - Surveyor Indonesia (KSO SCISI)

<sup>17</sup> DGCE. Viewed (in Bahasa Indonesia only) at: <http://www.beacukai.go.id/arsip/pab/aeo.html>.

<sup>18</sup> Relevant legislation is contained in: KEP-58/BC/2002, 27 August 2002, Concerning Priority Lane Tests, which was superseded by PER11/BC/2017, 19 June 2017, Concerning Guidelines for Implementing Customs Main Partners. Viewed (in Bahasa Indonesia only) at: <http://www.beacukai.go.id/arsip/pab/aeo.html>; Regulation of the Minister of Finance of the Republic of Indonesia No. 211/PMK.04/2016 concerning Amendments to the Minister of Finance Regulation No. 229/PMK.04/2015 concerning Customs Main Partners; and Regulation of the Director General of Customs and Excise No. PER-11/BC/2017 Regarding the Implementation Guidelines for Customs Main Partners. Viewed (in Bahasa Indonesia only) at: <http://www.beacukai.go.id/arsip/pab/aeo.html>.

<sup>19</sup> Good compliance means, *inter alia*: never make a major mistake in stating the quantity, type of goods, and/or customs value in the customs notification; never misuse facilities in the field of customs and/or excise; never receive recommendations based on the results of the customs audit stating that the internal control system is not good and/or cannot be audited (unauditable); and never lend customs modules to other parties.

<sup>20</sup> The legislative framework in this area contains: Minister of Trade Regulations No. 46/M-DAG/PER/8/2014 concerning General Provisions for the Verification or Technical Tracing in the Trade Sector, 8 August 2014; No. 85/M-DAG/PER/10/2015 Jo; No. 64/M-DAG/PER/8/2017 concerning Provisions on the Import of Textiles and Textile Products; No. 07/M-DAG/PER/1/2018 on the Provisions of Import of Clinker Cement and Cement; No. 117/M-DAG/PER/12/2015 concerning Provisions on the Import of Sugar; No. 127/M-DAG/PER/12/2015 concerning Import Provisions for Used Capital Goods; No. 31/M-DAG/PER/5/2016 concerning Import Provisions for Non-Hazardous and Toxic Waste Substances (NON B3); No. 40/M-DAG/PER/9/2009 on Verification or Technical Tracing on the Import of Sheet Glass; No. 01/M-DAG/PER/1/2017 concerning Provisions on Export of Processed and Purified Mining Products; No. 6/M-DAG/PER/7/2007 on Verification or Technical Assessment of Imported Ceramic; No. 62/M-DAG/PER/8/2015 on Import Provisions for Nitrocellulose; No. 76/M-DAG/PER/9/2015 concerning Revocation of Minister of Trade Regulation No. 11/M-DAG/PER/3/2010 on Import Provisions of Machine, Machineries, Raw Materials, Unrecorded Optical Discs and Recorded Optical Discs as revised by Minister of Trade Regulation No. 35/M-DAG/PER/5/2012; No. 77/M-DAG/PER/12/2016 Jo. No. 06/2018 concerning Provision of Import of Tyres; No. 82/M-DAG/PER/12/2016 Jo. 22 Tahun 2018 on Import Provisions for Iron, Steel, Alloy Steel and their Derivative Products; No. 83/M-DAG/PER/10/2015 on Provision of Imports of Ozone Depleting Substances; No. 84/M-DAG/PER/10/2015 Jo. 18 concerning Import Provision of Refrigeration System-based Goods; No. 84/M-DAG/PER/2016 Jo. 12/M-DAG/PER/2/2017 on Export Provisions for Forestry Industrial Products; No. 86/M-DAG/PER/10/2015 concerning Provisions on Imports of Batik and Batik Motif Textiles and Textile Products; No. 87/M-DAG/PER/10/2015 on the Provisions of Import of Certain Products; and



on Import Verification Program (VPTI) ([www.scisi.co.id](http://www.scisi.co.id)), an operational cooperation between two SOEs (PT Sucofindo (or PT Superintending Company of Indonesia) and PT Surveyor Indonesia), has undertaken these procedures on behalf of the MoT. The KSO SCISI maintains seven branch offices abroad (China; Singapore; Malaysia; Hong Kong, China; Thailand; Republic of Korea; and Viet Nam) and cooperates with nine affiliate surveyor firms (Bureau Veritas, Cotecna, SGS, Baltic Control, CIC, Alex Stewart International, Intertek, CWM, and OMIC). A surveyor report outlining the surveyor firm's inspection results is a documentary requirement for certain goods. The verification requirements' (VPTI) product coverage was expanded to 29 (19 in 2013) product categories (338 items in 2020), to cover: textiles and textile products; nitrocellulose; rice; salt; precursors; sugar; ceramics; multifunction colour copiers and printers; non-hazardous and toxic waste; electronics; food and beverages; footwear; children's toys; glass sheet; herbs and food supplements; hazardous and noxious substances; ozone layer-depleting substances; horticultural products; cell phones, handheld computers and tablet computers; apparel; cooling system-based goods; textiles, batik and batik motif textile products; tyres; iron and steel, alloy steel and their derivative products; pearls; tobacco; saccharin, cyclamate, and preparations of alcohol-containing odour; and hand tools.<sup>21</sup> Most of these imported goods are subject to import or export licensing requirements (see below and Section 3.2.3.2), and some are also subject to port-of-entry supervision (see above). So far, Indonesia has never submitted a pre-shipment inspection notification *per se* to the WTO (Section 2.3.1.3).<sup>22</sup> During the review period, Indonesia was a respondent in WTO dispute settlement cases relating to, *inter alia*, its VPTI measures on the importation of horticultural products, animals and animal products (Section 2.3.1.1).<sup>23</sup>

### **Risk management customs clearance**

3.22. Customs clearance for shipments continues to be carried out under different channels according to the risk levels associated with them as evaluated by the automated risk management system (Table 3.1).<sup>24</sup> Since May 2016, there have been only three service lanes and supervision for the release of imported goods, namely the green lane, the yellow lane and the red lane (Table 3.1); between 2013 and May 2016, five types of lanes, i.e. red, yellow, green, priority MITA, and non-priority MITA, were in place.<sup>25</sup> As at May 2020, 626 importers and/or exporters were provided with special services in the field of customs. At the time of the previous Review, customs clearance took a few minutes for "prioritized" and "non-prioritized" MITA partners, and a maximum of three days for goods passing through the red channel; during the review period, the DGCE performed around 473 (previously 520) post-clearance audits on average per year. Requirements for some products (e.g. fishery products, alcoholic beverages, salt, certain veterinary medicines, ozone-depleting substances, refrigeration system goods, and batik and batik motif textiles and textile products) to pass through specified ports of entry for different reasons (e.g. safety, health, or religious) remain in place, and were updated.<sup>26</sup> Since 2018, the importation of alcoholic beverages

No. 82/M-DAG/PER/12/2012 concerning Import Provision on Mobile Phones, Handheld, Tablet Computers. INSW, *Non-Tariff Measures*. Viewed at: <https://intr.insw.go.id/ntm.php>.

<sup>21</sup> In 2013, it only covered: (i) sugar; (ii) rice; (iii) salt; (iv) precursors; (v) optical discs (empty and filled), and machines and materials used to produce them; (vi) textiles and textile products; (vii) ozone-depleting substances; (viii) nitro cellulose; (ix) hazardous materials; (x) colour multifunctional machines, and colour photocopying and printing machines; (xi) non-hazardous and toxic waste; (xii) used capital goods; (xiii) iron and steel; (xiv) certain imports of electronics, ready-to-wear clothes, children's toys, footwear, and food and beverages; (xv) ceramics; (xvi) sheet glass; (xvii) tyres; (xviii) pearls; and (xix) horticultural products. WTO document WT/TPR/S/278/Rev.1, 16 July 2013; Sucofindo, *Commodities*. Viewed at: <http://www.scisi.co.id/scisi/en/comodities>; and INSW, *Natioal Trade and Customs Laws and Rules*. Viewed at: <https://intr.insw.go.id/regulations.php>.

<sup>22</sup> According to the authorities, Indonesia's notification to the WTO Committee on Trade Facilitation regarding its commitment to the TFA, specifically to Article 10.5 about Pre-shipment Inspection (PSI), states that it does not conduct PSI in relation to tariff classification and customs valuation. Accordingly, Indonesia does not consider VPTI as PSI because each scheme serves a different purpose and objective. PSI aims to secure revenue collection by ensuring the customs value of the total, whereas the VPTI serves to ensure regulatory compliance for all imported goods subject to restrictions and prohibitions (Iartas). The VPTI facilitates international trade by expediting imports and giving assurance to importers to avoid the cost risk of re-exportation or the destruction of goods due to non-compliance.

<sup>23</sup> WTO, *Indonesia and the WTO*. Viewed at: [https://www.wto.org/english/thewto\\_e/countries\\_e/indonesia\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/indonesia_e.htm).

<sup>24</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>25</sup> DGCE Regulation No. 42/BC/2008 as amended by DGCE Regulation No. 08/BC/2009; MoF Regulation No. 229/2015; and DGCE Regulation No. 16/BC/2016.

<sup>26</sup> INSW, *Non-Tariff Measures*. Viewed at: <https://intr.insw.go.id/ntm.php>.

must be conducted through a bonded logistics centre.<sup>27</sup> Since 2010, the DGCE has undertaken four time release studies (TRSs) (time required from arrival to release of containerized goods).<sup>28</sup> According to the most recent TRS, in 2018, the average time required from arrival to removal of goods was 4 days, 20 hours and 10 minutes for sea cargo, compared to 13 days, 6 hours and 53 minutes in 2014.

3.23. Since end-August 2016, in accordance with the mandate of Economic Policy Package XI, an Indonesia Single Risk Management (ISRM) policy was implemented, which integrates risk management in the DGCE, the Indonesia Food and Drug Authority (*Badan Pengawas Obat dan Makanan* (Badan POM)), and the Ministry of Marine Affairs and Fisheries (for both animal and plant quarantine services) using a single submission platform on the INSW portal.<sup>29</sup> According to the authorities, as at November 2019, the ISRM Pilot Project included five agencies of 15 ministries/institutions involved in import/export permits. There are several steps in the implementation of the ISRM project. At the initial stage, piloting agencies are required to determine their low-risk categories, and the score for each category. Simultaneously, piloting agencies also prepare their internal infrastructures in terms of building connectivity to the INSW system. In the next phase, all related agencies will agree on an Integrated Low-Risk Platform. In line with the development of the 2<sup>nd</sup> Generation INSW system that enables the single submission function, all related ministries/agencies can be integrated into the single window system. The ISRM policy is expected to improve service efficiency and effective supervision in the import/export process by the delivery of data and information solely through the INSW.<sup>30</sup> The ISRM's integration into the INSW is to accelerate the process of issuing paperless export and import licences, document checks, customs clearance, and goods release permits.<sup>31</sup> The ISRM is also intended to increase Indonesia's compliance with the WTO TFA, and improve its logistics performance by reducing waiting times at ports.

**Table 3.1 Risk management system: customs clearance channels**

Lane	Characteristics
<b>Priority lane</b> ( <i>Prime Service Office only</i> ) until May 2016	
- Prioritized MITA lane	Release of goods from Customs without documentary verification or physical inspection
- Non-prioritized MITA lane	Release of goods from Customs without physical inspection or document verification, except for: re-imports of exported goods; goods subject to random inspection; or temporarily imported goods
<b>Green lane</b>	Document verification and physical examination after issuance of the approval letter ( <i>Surat Persetujuan Pengeluaran Barang</i> (SPPB)) for release of goods
<b>Yellow lane</b>	Document verification before the issuance of the SPPB for release of goods; and no physical inspection
<b>Red lane</b>	Physical inspection and documentary verification before the issuance of the SPPB for release of goods. Reasons for use of the red lane include: importer is new or high-risk; goods are temporarily imported; goods are type II oil operational goods; or goods specified by the Government

Source: DGCE Regulation No. 16/BC/2016.

<sup>27</sup> MoT Regulation No. 120/2018, amending initial Regulation 20/2014 on the Importation of Alcoholic Beverages for the fifth time. Global Trade Alert, *Indonesia: Alcoholic beverages to be imported only through bonded logistics centres*. Viewed at: <https://www.globaltradealert.org/state-act/36746/indonesia-alcoholic-beverages-to-be-imported-only-through-bonded-logistics-centres>.

<sup>28</sup> The World Customs Organization (WCO) TRS is specifically referenced in Article 7.6 of the WTO TFA as a tool for Members to measure and publish the average release time of goods. WCO, *Time Release Study – Version 3*. Viewed at: <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/time-release-study.aspx>.

<sup>29</sup> LNSW. Viewed (in Bahasa Indonesia only) at: [https://www.insw.go.id/index.php/home/menu/berita\\_detail/174](https://www.insw.go.id/index.php/home/menu/berita_detail/174).

<sup>30</sup> DGCE, *Pangkas Dwelling Time, Bea Cukai Kembangkan Sistem Indonesia Single Risk Management*. Viewed (in Bahasa Indonesia) at: <http://www.beacukai.go.id/berita/pangkas-dwelling-time-bea-cukai-kembangkan-sistem-indonesia-single-risk-management.html>.

<sup>31</sup> Ekonomi, *Indonesia Pamer Kesuksesan ISRM dan INSW ke Presiden Erdogan*. Viewed (in Bahasa Indonesia) at: <https://ekonomi.bisnis.com/read/20181129/9/864489/indonesia-pamer-kesuksesan-isrm-dan-insw-ke-presiden-erdogan>.



### Post-border policy

3.24. In order to improve the investment climate, accelerate handling processes at ports across the country, and prevent containers piling up in the customs areas, a Post-Border Import Supervision Policy was introduced on 1 February 2018. At the same time, the MoT issued several amendments to import regulations, as well as new regulations in this area.<sup>32</sup> Following the issue of these regulations, the DGCE issued several communications to all customs offices, including Circular Letter No. S-145/BC/2018 on 7 February 2018 on Implementation of Post-Border Import Supervision on Certain Imported Goods that are Subject to Restriction. The amendments and changes are aimed at reducing the dwelling time at the port, and improving business processes and the competitiveness of domestic logistics providers, as part of Economic Policy Package Phase XV (Section 2.2.2). According to the authorities, this involved the revision of 72 regulations of seven ministries/agencies. The main thrust of these changes is to shift the import supervision of prohibited and/or restricted goods (subject to *Larangan dan Pembatasan Impor* or *Lartas 1*) away from Customs at the entry point, to have the control done by the relevant ministry or institution (e.g. MoT, or the Indonesia Food and Drug Authority (BPOM)) after these goods exit the customs territory or pass the border (post-border). Furthermore, importers must keep the *lartas* documents for five years, for the purpose of supervision and examination by the relevant ministry/institution, as not all relevant agencies had activated their self-declaration systems as at March 2018. Post-border supervision is conducted by the post-audit and risk management systems. Prior to the introduction of the Policy, out of 10,826 HS tariff lines, 48.3% (5,229 HS Codes) were subject to limited import restrictions (*Lartas 1*) or were closely monitored by Customs; under the new Policy, 3,204 HS lines (29.6% of total) shifted from border to post-border supervision, leaving 2,927 HS items (27% of total) regulated at the border, a ratio close to the original target of 20.8% (2,256 HS Codes) though still higher than the ASEAN average of 17.0%, covering goods restricted for safety, public health, security and environmental reasons (Section 3.1.5). The authorities indicated that the original target is still valid, and will be reduced gradually. At the time of the previous Review, port-of-entry supervision of items subject to restrictions applied to: (i) food and beverages, toys, electronics, footwear, and garments; (ii) horticultural products; (iii) pearls; (iv) ozone-depleting substances; (v) salt; (vi) alcoholic beverages; and (vii) hazardous materials.<sup>33</sup> These products were also subject to prior import verification (see above) and import licensing requirements (see below and Sections 3.1.5.2, 3.2.1 and 3.2.3.2). At present, rice, salt, and sugar continue to be inspected at the border. According to the authorities, since the implementation of the Policy, the average dwelling time was reduced by 13.26%.

### Transparency and appeals

3.25. Customs- and excise-related regulations and procedures are available online, mostly in Bahasa Indonesia (<http://www.beacukai.go.id/>; and <https://intr.insw.go.id/index.php>). The LNSW also provides information on regulations/measures on the ASEAN Trade Repository (ATR) at the ASEAN secretariat website and the INSW system, where all the measures are classified, summarized and uploaded in English; in total, 210 SPS measures and 201 TBT measures are already published on the ATR website. The DGCE official website does not utilize cloud computing services but has already adopted the Responsive Web Design, which allows it to be accessed through several devices by both internal and external stakeholders. Under the Customs Law, the DGCE may issue, upon request, written advance rulings on tariff classification, origin matters, and customs valuation; these

<sup>32</sup> The revised MoT regulations related to the importation (11 regulations) or exportation (5 regulations) of: pearl; tyres; cement and clinker cement; raw materials from plastics; sheet glass; multi-functional color printers; color photocopy machines and color printer machines; horticultural products; capital goods not in a new condition; cooling system-based goods; lubricants; animals and animal products; corn; and iron or steel, alloy steel and their derivative products. As a result, inspection of the fulfillment of the import requirements for a product is carried out after going through the customs zone; the importer in possession of an import permit must submit a self-declaration stating that s/he has fulfilled the import requirements before the imported goods are used, traded and or transferred. *Cekindo, Breaking News: New Governmental Policy Makes Export to Indonesia Easier*. Viewed at: <https://www.cekindo.com/blog/governmental-policy-import-to-indonesia/>; and *Conventus Law, Indonesia – Post-Border Policy – Self Declaration Scheme*. Viewed at: <http://www.conventuslaw.com/report/indonesia-post-border-policy-self-declaration/>.

<sup>33</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

rulings are binding.<sup>34</sup> The appeal procedure for customs decisions remains unchanged since 2006.<sup>35</sup> Traders who disagree with customs decisions may request administrative remedies or object (e.g. reviews by the DGCE, or appeals to the DGCE) by filing a written objection to the Director General within 60 days from the date of the determination/assessment and with prior settlement of the underpayment or the issue of a guarantee; the Director General makes a decision on the objection within a period of 60 days of its receipt. Traders not satisfied with the outcome of the administrative remedies or objections may refer their case to the Tax Court in writing within 60 days from the date of the assessment or decision, after the underpayment amount has been entirely settled. The hearing process is normally completed within 12 months, but it could be extended in some cases for a further three months.<sup>36</sup> Between 2014 and April 2020, there were 53,825 cases of review or objection cases and 20,397 cases of appeal; tariff classification and customs valuation cases accounted for 54.1% and 45.9% of these cases, respectively.

3.26. In January 2011, to promote transparency and predictability in the trade regime, the Government introduced the Indonesia National Trade Repository (INTR).<sup>37</sup> The INTR is a single reference point, providing information on tariff and non-tariff measures applied on goods entering, exiting and transiting the country. It aims to provide information on trade rules and regulations through the existing INSW portal. The INTR includes information on: HS codes; regulations issued by government agencies related to import or export permit licences; exchange rates; rules of origin; e-commerce regulations; and does trade simulations.

### **International cooperation, appraisal and other issues**

3.27. During the review period, Indonesia, a member of the World Customs Organization (WCO), became a signatory to the major customs-related international conventions, i.e. the WCO Revised Kyoto Convention (22 August 2014) and the Istanbul Convention on Temporary Admission (17 November 2014). It maintains bilateral agreements or memoranda of understanding (MOUs) for the exchange of customs information with 15 countries (13 in 2013), and provisions on customs cooperation are incorporated into its RTAs (Section 2.3.2).<sup>38</sup> During the review period, the DGCE signed MOUs relating to, *inter alia*, electronic certificates of origin mechanisms (China, and Republic of Korea, 2019), mutual administrative assistance in customs matters (Hong Kong, China (2017), Republic of Korea (2019), United Arab Emirates (2019)), capacity-building exchange of information and information exchange and enforcement (China, 2018), and trade facilitation for certain products originating from Palestine (2018).

3.28. Since its previous TPR and prior to the introduction of recent trade facilitation initiatives, Indonesia's position in some ease-of-trading indices dropped. According to World Bank Doing Business data, in 2019, Indonesia stood 116<sup>th</sup> out of 190 economies in the ease of trading across borders, lower than a number of economies in the East Asia and Pacific region (15<sup>th</sup> out of 25 economies), and its 54<sup>th</sup> position (out of 189 economies) in 2013.<sup>39</sup> Furthermore, it ranked

<sup>34</sup> Advance Ruling on Classification, known as Notification of Classification prior to Import (*Penetapan Klasifikasi Sebelum Impor* (PKSI)) is now regulated by MoF Regulation No. 194/2016 on Procedures for Submitting and Determining the Classification of Imported Goods Prior to Submitting Customs Notification. Service users can submit a PKSI to seek the right tariff classification (HS Code), and receive a written official decision from the DGCE. Advance Rulings on Valuations, also known as Valuation Advice, are regulated by MoF Regulation No. 134/2018 on Procedures for Submitting Requests and Giving Instructions on How to Calculate Customs Value in the Form of Cost and/or Value Treatment of Goods to be Imported before Submitting Customs Declaration. According to the authorities, Advance Rulings on Origin cannot be implemented yet due to a lack of relevant legal framework for the implementation, at both law and ministerial regulation levels. WTO document WT/TPR/S/278/Rev.1, 16 July 2013; and INSW, *Administrative Rulings*. Viewed at: <https://intr.insw.go.id/administrative.php>.

<sup>35</sup> Law No. 17/2006 Concerning Amendment of Customs Laws No. 10/1995. Viewed at: [http://www.flevin.com/id/lqso/translations/JICA%20Mirror/english/7201\\_UU\\_17\\_2006\\_EN.html](http://www.flevin.com/id/lqso/translations/JICA%20Mirror/english/7201_UU_17_2006_EN.html).

<sup>36</sup> Deloitte (2017), *Indonesia Customs Info – Special Edition: Customs Audit and Litigation*, March.

<sup>37</sup> INTR. Viewed at: <https://intr.insw.go.id/index.php>.

<sup>38</sup> The signatories are: Australia; Azerbaijan; Belgium; China; Hong Kong, China; India; Iran; Japan; the Netherlands; Palestine; Papua New Guinea; the Republic of Korea; the United States; the United Arab Emirates; and Uzbekistan. WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>39</sup> World Bank (2019), *Doing Business 2020 - Comparing Business Regulation in 190 Economies*, 24 October. Viewed at: <https://www.doingbusiness.org/en/reports/global-reports/doing-business-2020>; World Bank (2013), *Doing Business 2014 - Understanding Regulations for Small and Medium-Size Enterprises*, 29 October. Viewed at: <https://www.doingbusiness.org/en/reports/global-reports/doing-business-2014>; World

70<sup>th</sup> out of 136 economies in the World Economic Forum's (WEF) Enabling Trade Index 2016 rankings, compared to 58<sup>th</sup> out of 138 economies in 2014. Regarding domestic market access, it ranked 30<sup>th</sup> and 20<sup>th</sup>, respectively. In terms of efficiency and transparency of border administration, it ranked 79<sup>th</sup> and 69<sup>th</sup>, respectively.<sup>40</sup> According to World Bank Doing Business data, in 2019, importing a shipment of goods (auto parts) required an average of 106 hours for documentary compliance and 99 hours for border compliance, at a cost of USD 164 and USD 383, respectively, requiring nine documents.<sup>41</sup> In 2013, importing a shipment required eight documents, took 23 days, and cost USD 660.<sup>42</sup> According to the WEF 2015 assessment, import procedures remained burdensome, although Indonesia has seen some improvement in the predictability of these procedures, with upgrades of key functions of the INSW.<sup>43</sup> Infrastructure was also a barrier for trade given the country's geography; while it ranked well in terms of its airport connectivity, Internet connectivity rates remained relatively low for the region. At the same time, it indicated that, in 2015, the most problematic factors for importing were: corruption at the border; tariffs and non-tariff barriers; high cost or delays caused by domestic and/or international transportation; domestic technical requirements and standards; and burdensome import procedures.<sup>44</sup>

3.29. Preventing smuggling by sea into the Indonesian archipelago remains difficult. In 2018, Indonesia ranked 68<sup>th</sup> (69<sup>th</sup> regarding its customs environment) out of 84 economies (16<sup>th</sup> in Asia-Pacific out of 21 economies) in the Economist Intelligence Unit's Global Illicit Trade Environment Index.<sup>45</sup> Between 2014 and 2019, action was taken to build synergies to combat customs and excise violations by improving inter-agency cooperation among the DGCE, the Indonesian National Police, the Indonesian National Defence Forces, the Directorate General of Tax, the Directorate General of Immigration, the Directorate General of Population and Civil Registration, the Indonesian Financial Transaction Reports and Analysis Centre (PPATK), and the Nuclear Energy Supervisory Agency (Bappeten).<sup>46</sup> Action was to be taken in areas to, *inter alia*: eliminate or reduce the regulations which are considered to hinder the law enforcement agencies from taking any action; regulate the exclusive and private terminals at both formal and informal seaports (more than 1,200 informal seaports are considered as prone to smuggling); and evaluate, reduce, and close down seaports that have exclusive terminals, particularly for private activities (mainly prone to drug smuggling). Drugs, illegal diesel, wildlife, and counterfeit goods seem to be the main smuggled items; in addition to trading prohibited or illicit merchandise, tax avoidance could be another reason for smuggling. Between 2014 and 2019, the number and value of smuggling-related seizure cases declined by 20% to 32 and by 60.2% to IDR 89.3 billion. The biggest increase in seizures was of drugs (narcotics and psychotropics) whose value amounted to IDR 253.34 billion.

### 3.1.1.2 Customs valuation

3.30. During the review period, the basic customs valuation legislation (Article 15 of Customs Law No. 17 of 2006) remained unchanged but implementing regulations were amended in the following

---

Bank, *Ease of Doing Business rankings*. Viewed at: <https://www.doingbusiness.org/en/rankings?region=east-asia-and-pacific>.

<sup>40</sup> WEF and the Global Alliance for Trade Facilitation (2016), *Global Enabling Trade Report 2016*. Viewed at: <http://reports.weforum.org/global-enabling-trade-report-2016/>; WEF, *Indonesia*. Viewed at: <http://reports.weforum.org/global-enabling-trade-report-2016/economy-profiles/#economy=IDN>; WEF (2014), *The Global Enabling Trade Report 2014*, 24 March. Viewed at: <https://www.weforum.org/reports/global-enabling-trade-report-2014>.

<sup>41</sup> World Bank (2019), *Economy Profile of Indonesia - Doing Business 2020 Indicators*.

<sup>42</sup> World Bank (2013), *Doing Business 2014 - Understanding Regulations for Small and Medium-Size Enterprises*, 29 October. Viewed at: <https://www.doingbusiness.org/en/reports/global-reports/doing-business-2014>.

<sup>43</sup> WEF and the Global Alliance for Trade Facilitation (2016), *Global Enabling Trade Report 2016*. Viewed at: <http://reports.weforum.org/global-enabling-trade-report-2016/>.

<sup>44</sup> WEF, *Indonesia*. Viewed at: <http://reports.weforum.org/global-enabling-trade-report-2016/economy-profiles/#economy=IDN>.

<sup>45</sup> This Index is a measure of the extent to which economies enable (or inhibit) illicit trade through their policies and initiatives to combat illicit trade. It is built around four main categories (government policy, supply and demand, transparency and trade, and the customs environment), each of which comprises a number of indicators. Economist Intelligence Unit (2018), *The Global Illicit Trade Environment Index - A report by The Economist Intelligence Unit*. Viewed at: <http://illicittradeindex.eiu.com/documents/EIU%20Global%20Illicit%20Trade%20Environment%20Index%202018%20-%20Overall%20Results%20White%20Paper%20June%202018%20FINAL.pdf>.

<sup>46</sup> Cabinet Secretariat, *5 Government Measures to Prevent Smuggling*. Viewed at: <https://setkab.go.id/en/5-governments-measures-to-prevent-smuggling/>.

areas: customs value for calculation of import duties (in 2016 and 2018); and procedures for determination of tariffs, customs value, and administrative sanctions (in 2018).<sup>47</sup> Indonesia uses the transaction value as the basis for customs valuation; this method was used in 85% (2019) and 75% (2020) of all cases. When this is not feasible, the sequential methods set out in the Customs Valuation Agreement are used.

3.31. To combat under-invoicing and mis-invoicing (see below), Indonesia continues to maintain two databases of market prices for customs valuation purposes: the Customs Value Database I; and the Customs Value Database II.<sup>48</sup> The declared customs value is classified based on a fairness test as: reasonable, if the value is lower by no more than 5%, the same or higher than that the value of identical goods in the Customs Value Database I; or unfair, if the customs value is lower by more than 5% of the value of identical goods in Database I. The INSW webpage refers, without detailed information, to Administrative Measures Affecting Customs Value relating to Minimum Import Prices, Reference Prices and Other Administrative Measures Affecting the Customs Value, n.e.s.<sup>49</sup> Reportedly, the DGCE relies on a schedule of reference prices ("price checks") to assess duties on some imports (e.g. food products) rather than using transaction values; the DGCE Director General seemingly makes a valuation assessment based on the perceived risk status of the importer and the average price of a same or similar product imported during the previous 30 or 90 days.<sup>50</sup> In addition, it seems that the DGCE does not publicize the list or the methods used to arrive at those prices.<sup>51</sup> During the review period, under-invoicing ranged from 46,411 (2018) to 63,719 (2017) cases per year, and foregone tax revenue from IDR 756 trillion (2016) to IDR 1,163.6 trillion (2018); it affected parts and accessories of the motor vehicles, plastic goods, and handbags with an outer surface of sheeting of plastic or of textile material.

3.32. Mis-invoicing (e.g. under-invoicing by exporters/importers or overpricing by importers) remains an area of concern for Indonesia. By using a trade gap analysis, Global Financial Integrity

<sup>47</sup> PMK No. 160/PMK.04/2010 concerning Customs Value for Import Duty Calculation as amended by: PMK No. 34/PMK.04/2016 concerning Amendments to PMK No. 160/PMK.04/2010 concerning Customs Value for Calculation of Import Duties; and PMK No. 62/PMK. 04/2018 concerning the Second Amendment to PMK No. 160/PMK.04/2010 concerning Customs Value for Calculation of Import Duties. PMK No. 51/PMK.04/2008 concerning Procedures for Determination of Tariffs, Customs Values, and Administrative Sanctions, and Determination of the Director General of Customs and Excise or Customs and Excise Officials as amended by: PMK No. 147/PMK.04/2009 concerning Amendments to PMK No. 51/PMK.04/2008 concerning Procedures for Determining Tariffs, Customs Value, and Administrative Sanctions, and Determination of the Director General of Customs and Excise or Customs and Excise Officials; PMK No. 122/PMK.04/2011 concerning the Second Amendment to PMK No. 51/PMK.04/2008 concerning Procedures for Determination of Tariffs, Customs Value, and Administrative Sanctions, and Determination of Director General of Customs and Excise or Customs and Excise Officials; and PMK No. 61/PMK. 04/2018 concerning the Third Amendment to PMK No. 51/PMK.04/2008 concerning Procedures for Determination of Tariffs, Customs Value, and Administrative Sanctions, and Determination of the Director General of Customs and Excise or Customs and Excise Officials. Deloitte (2018), *New Tax Regulations*, KM No.9/July/2018, 2 July; and WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>48</sup> Data sources used for the Customs Value Database I are: Customs Value Database II data; customs declaration values based on the transaction value; data on the audit report on customs values based on the transaction value; data on objection decision letters for customs values based on the transaction value; and/or catalogues, brochures or other information from outside of the Customs Area. Data sources for the Customs Value Database II are the customs declaration values based on the transaction value with the date of the bill of lading or the airway bill being no later than 60 days prior to the preparation of value at the Database II. PMK No. 62/PMK.04/2018 concerning the Second Amendment to PMK No. 160/PMK.04/2010 concerning Customs Value for Calculation of Import Duties, 6 June 2018.

<sup>49</sup> The authorities indicated that the INTR menu on the INSW webpage displays government agencies' regulations that set prohibitions or restrictions on trade in goods based on the Minister of Finance Decree submitted by the DGCE to the LNSW. In addition, regulations that are classified into several categories, including non-tariff measures and administrative rulings, which also contain regulations related to customs valuation, are also available in the ATR menu on the INSW webpage. INSW, *Non-Tariff Measures*. Viewed at: <https://intr.insw.go.id/ntm.php>.

<sup>50</sup> US Department of Commerce International Trade Administration, *Export Solutions*. Viewed at: <https://www.export.gov/article?id=Indonesia-Trade-Barriers>; and United States Trade Representative (USTR) (2019), *National Trade Estimate Report on Foreign Trade Barriers*. Viewed at: [https://ustr.gov/sites/default/files/2019\\_National\\_Trade\\_Estimate\\_Report.pdf](https://ustr.gov/sites/default/files/2019_National_Trade_Estimate_Report.pdf).

<sup>51</sup> The price of imported goods that are already in the Customs Value Database (DbNP) functions as a risk assessment tool. The Database update procedure begins with the analysis process, and uses several data sources, including import customs notification and other information originating from within and outside the Customs Area that has been re-calculated. The DbNP is not publicly available (categorized as confidential, and limited to customs and excise officials who have the task of examining customs value or compiling a customs value database).



(GFI) estimated the value of potential revenue losses due to the trade gap for mis-invoiced goods at USD 38.5 billion, or 13.7% of the country's total trade in 2016.<sup>52</sup> Of the total estimated potential foregone tax revenue of USD 6.5 billion, approximately USD 3.9 billion was due to export mis-invoicing, and approximately USD 2.6 billion was due to import mis-invoicing, consisting of uncollected VAT (USD 1.2 billion), uncollected customs duties (USD 302 million), and uncollected corporate income tax (USD 1.1 billion); the USD 3.9 billion in export mis-invoicing consisted of uncollected corporate income tax (USD 1.8 billion) and royalties (USD 2.1 billion). In 2016, under-invoiced imports of beverages and essential oils from Singapore, plastics from China, and vehicles from Japan and China, represented potential high-level risks for revenue losses.

### 3.1.2 Rules of origin

3.33. Indonesia does not apply non-preferential rules of origin (ROOs).<sup>53</sup> Its preferential ROOs, based on the wholly obtained or wholly produced criterion and the substantial transformation criterion termed as not wholly obtained or produced, are set out in its RTAs (e.g. ATIGA, ASEAN-China FTA, ASEAN-Australia-New Zealand FTA, ASEAN-Korea FTA, ASEAN-India FTA, and ASEAN-Japan CEP) (Sections 2.3.2 and 3.1.3.5). Product-specific preferential ROOs remain as follows: the good must be wholly produced or obtained; the good must have a regional value content of not less than 40% or a change in tariff subheading (CTSH) (for ATIGA and all ASEAN Plus FTAs, except the ASEAN-India FTA), and 35% plus CTSH (for the ASEAN-India FTA); all non-originating materials used in the production of the good must have undergone a change in tariff classification for the majority of the product-specific rules, or at the 2-digit or 6-digit level for certain products; or all non-originating materials used in the production of the good must have undergone specific processing.<sup>54</sup>

### 3.1.3 Tariffs

#### 3.1.3.1 General features

3.34. Since 1 January 2017, Indonesia's Customs Import Tariff Schedule has been based on the 2017 version of the Harmonized Commodity Description and Coding System (HS).<sup>55</sup> The current Schedule, which is available online also in English (<https://intr.insw.go.id/tariff.php?id=1&pg=1>), consists of 10,813 eight-digit tariff lines (HS2017 nomenclature), and contains 801 more than the HS 2012 version (10,012 ten-digit tariff lines). It has a single set of rates, i.e. the MFN rates applied to goods from WTO Members, or to economies that accord reciprocal treatment to Indonesia. Preferential tariff rates under RTAs are contained in MoF regulations and are available online (<https://www.intr.insw.go.id>) (Sections 2.3.2 and 3.1.3.5). The share of customs tariffs as in total revenue dropped from 2.9% of total tax revenue in 2013 to 2.6% in 2018 (Section 3.3.1). During

<sup>52</sup> Trade mis-invoicing is a method for moving money illicitly across borders which involves the deliberate falsification of the value, volume, and/or type of commodity in an international commercial transaction of goods or services by at least one party to the transaction, and constitutes the largest component of illicit financial flows as measured by the GFI. GFI, *GFI: Indonesia lost estimated US\$6.5 billion to trade misinvoicing in 2016*. Viewed at: <https://gfintegrity.org/press-release/gfi-indonesia-lost-estimated-us6-5-billion-to-trade-misinvoicing-in-2016/>; and IndianEconomy.net, *What is trade misinvoicing?* Viewed at: <https://www.indianeconomy.net/splclassroom/what-is-trade-misinvoicing/>.

<sup>53</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>54</sup> Authorities comments; and INSW, *Preferential ROO*. Viewed at: <http://intr.insw.go.id/roo.php?id=3&pg=1>.

<sup>55</sup> Due to the importance of the HS as a global tool for collecting trade statistics and monitoring trade, there were amendments to the HS Codes in agricultural, chemicals, wood, textiles, base metals, machinery, transport, and other sectors. Following these amendments, the Minister of Finance issued Regulation No. 6/PMK.010/2017 (PMK-06) regarding classification of commodity and import duty rates on 27 January 2017, to adjust the classifications of imported goods and the applicable import duty rates. PMK No. 213/PMK.010/2017 concerning Amendments to PMK No. 6/PMK.010/2017 concerning the Establishment of the Classification System for Goods and the Imposition of Tariffs on Imported Goods; and PMK No. 17/PMK.010/2018 concerning the Second Amendment to PMK No. 6/PMK.010/2017 concerning the Determination of the Goods Classification System and the Imposition of Duties on Imported Goods. PWC, *Indonesia Updates: No more ten-digit commodity nomenclature on Indonesian Tariff Book*. Viewed at: <https://customs.pwc.com/en/recent-developments/id-no-more-ten-digit-commodity-nomenclature-201704.html>; Deloitte, *Update on tariff nomenclature and import duties*. Viewed at: <https://www.taxathand.com/article/7007/Indonesia/2017/Update-on-tariff-nomenclature-and-import-duties>; and INSW, *ASEAN Harmonized Tariff Nomenclature 2017*. Viewed at: <https://intr.insw.go.id/tariff.php?id=1&pg=1>.

the review period and until 2018, the Customs Tariff was regularly notified to the WTO; the latest notification consists of the 2018 Customs Tariff.<sup>56</sup>

3.35. Procedures for changes to the tariff schedule remained unchanged. The Minister of Finance has the authority to change applied tariff rates, and draws on the recommendations of the inter-ministerial advisory group, Team Tariff (Section 2.2.1.1); the affected stakeholders are consulted by other relevant ministries and agencies.<sup>57</sup> Changes are enacted and promulgated through an MoF regulation.

3.36. The MoF has the flexibility to reduce or increase customs duties temporarily on an MFN basis at the request of another government ministry or agency, and did so on various occasions over the review period, often in order to stabilize domestic commodity prices (particularly for rice, sugar, and soybeans).<sup>58</sup>

### 3.1.3.2 Applied MFN tariffs

3.37. During the review period, Indonesia's simple average applied MFN tariff rate rose from 7.8% in 2012 to 10.1% in 2020 (Table 3.2), mainly due to an increase in duty rates on a number of products and the splitting of tariff lines (e.g. transport equipment (HS Section 17)) resulting from the tariff nomenclature change. Indonesia amended its Customs Tariff to, *inter alia*, introduce HS2017 changes (Section 3.1.3.1). Products that benefited from tariff reductions include auxiliary plant for use with boilers (HS84.04). Products that were subject to tariff increases include coffee and tea (HS09), preparations of meat and fish (HS Chapter 16), sugar confectionary not containing cocoa (HS17.04), leather articles (HS Chapter 42), wood articles (HS Chapter 44), cotton (HS Chapter 52), textiles and clothing, carpets and other textile coverings (HS57.02), worn clothing (HS 63.09), footwear (HS Chapter 64), iron and steel (HS Chapter 72), and motor vehicles (HS87.02 and 87.03). Furthermore, the applied tariff rates for a range of goods that reportedly compete with locally manufactured products, including electronic products, electrical and non-electrical milling machines, chemicals, cosmetics, medicines, wine and spirits, iron wire and wire nails, and some agricultural products including milk products, animal and vegetable oils, fruit juices, coffee and tea, were also raised.<sup>59</sup> As indicated by the World Bank, while Southeast Asian countries have exhibited an overall trend toward tariff reduction, Indonesia has hiked import tariff rates further, increasing the cost and/or reducing the quality of productive inputs and consumer goods; empirical evidence has shown that increasing tariff rates tends to reduce the productivity and output of firms in protected sectors, as diminished import competition weakens incentives to invest and increase efficiency.<sup>60</sup>

**Table 3.2 Structure of the tariff schedule, 2012 and 2020**

	MFN applied		Bound rate <sup>a</sup>
	2012	2020	
Bound tariff lines (% of all tariff lines)	..	89.5	89.5
Simple average rate (%)	7.8	10.1	37.9
HS 01-24	9.5	10.2	47.8
HS 25-97	7.5	10.1	35.7
WTO agricultural products	10.5	11.2	49.8
WTO non-agricultural products	7.4	9.9	35.9
Duty-free tariff lines (% of all tariff lines)	12.5	12.0	2.9
Simple average of dutiable lines only	9.0	11.5	39.1
Tariff quotas (% of all tariff lines)	0.0	0.0	0.0
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.6	0.2	0.0
Domestic tariff "peaks" (% of all tariff lines) <sup>b</sup>	2.6	4.7	0.8

<sup>56</sup> WTO document G/MA/IDB/2/Rev.51, 27 May 2020.

<sup>57</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>58</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>59</sup> USTR (2019), *National Trade Estimate Report on Foreign Trade Barriers*. Viewed at: [https://ustr.gov/sites/default/files/2019\\_National\\_Trade\\_Estimate\\_Report.pdf](https://ustr.gov/sites/default/files/2019_National_Trade_Estimate_Report.pdf); US Department of Commerce International Trade Administration, *Export Solutions*. Viewed at: <https://www.export.gov/article?id=Indonesia-Import-Tariffs>.

<sup>60</sup> World Bank Group (2018), *Indonesia Economic Quarterly - Strengthening competitiveness*, December 2018; and World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

	MFN applied		Bound rate <sup>a</sup>
	2012	2020	
International tariff "peaks" (% of all tariff lines) <sup>c</sup>	3.4	13.5	84.7
Nuisance applied rates (% of all tariff lines) <sup>d</sup>	0.0	0.0	0.0
Standard deviation	11.4	13.2	14.8
Total number of tariff lines	10,012	10,813	10,813
<i>Ad valorem</i> rates (>0%)	8,696	9,487	9,368
Duty-free rates	1,251	1,299	310
Specific rates	65	27	0
Unbound tariff lines	n.a.	n.a.	1,135

.. Not available.

n.a. Not applicable.

a Based on the 2020 tariff schedule. The latest certified bound data is provided in the HS02 nomenclature. Concordance to HS17 is done to the best possible extent. Including partially bound rates.

b Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.

c International tariff peaks are defined as those exceeding 15%.

d Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: Calculations for averages are based on the national tariff line level (10-digit for 2012; 8-digit for 2020). The 2012 and 2020 tariffs are based on the HS12 and HS17 nomenclatures, respectively. Including AVEs for specific rates, as available. For 2012, AVEs for all specific rates were provided by the authorities; for 2020, 24 AVEs were calculated by the WTO Secretariat based on 2018 import data provided by the authorities.

Source: WTO Secretariat calculations, based on data provided by the authorities.

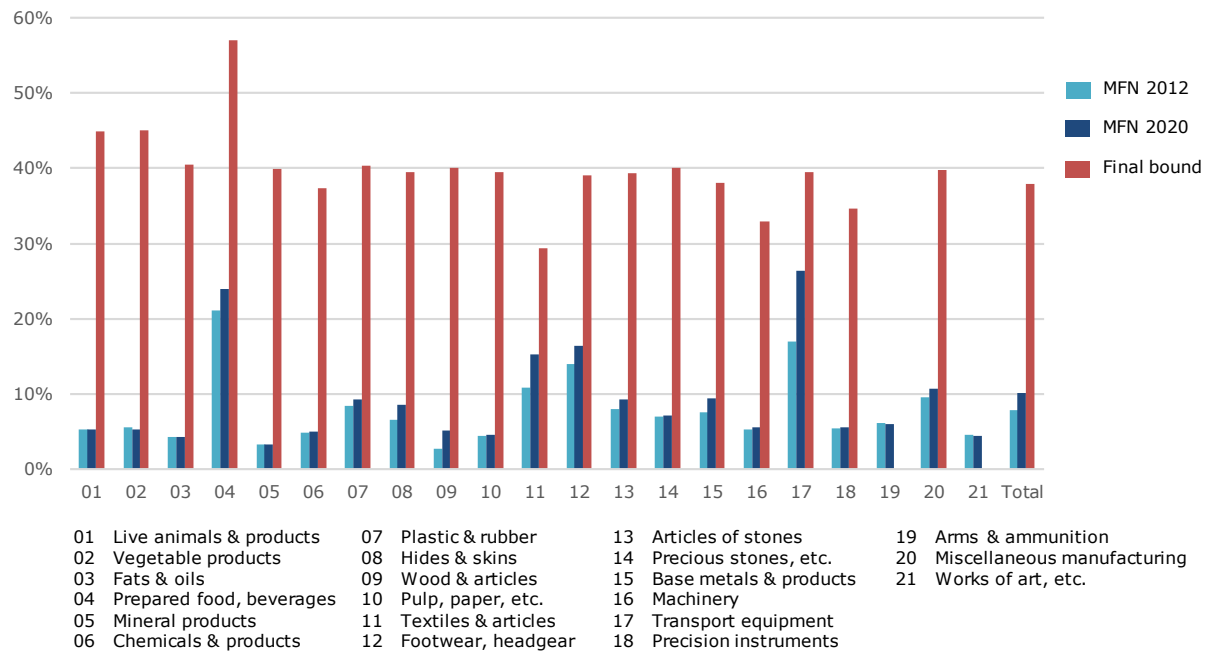
3.38. Tariff protection continues to vary across and within sectors, averaging 11.2% for agricultural products and 9.9% for non-agricultural goods in 2020 (WTO definitions) (Table 3.2). Average tariffs are highest for transport equipment (HS Section 17), at 26.3%, followed by prepared foodstuffs, beverages and tobacco (HS Section 4) (Chart 3.1 and Table A3.1). Manufacturing tariffs are highest for transport equipment (HS Section 17), followed by footwear and headgear (HS Section 12), at 16.4%, and textiles and articles thereof (HS Section 11), at 15.3%. By according varied and substantial levels of protection to selected sectors, especially agriculture, tariffs distort competition by favouring some activities. Reducing high tariffs would improve Indonesia's resource allocation and welfare.

3.39. The tariff structure has changed slightly since the last Review. 99.8% (99.4% in 2012) of tariffs continue to be levied at *ad valorem* rates (including zero rate), and are therefore transparent. There are some 22 different rates (17 *ad valorem* duties and 5 specific duties), compared to 18 (11 *ad valorem* and 7 specific) in 2012, of which 4 involve 0.5 decimal rates (none in 2012); specific duties apply to 0.2% of total tariff lines or 27 lines, down from 65 in 2012, as most specific rates on alcoholic beverages were converted to *ad valorem* duties (see below). Tariff rates continue to range from zero to 150% (Table A3.1).<sup>61</sup> Tariffs of 150% apply to 28 lines (8 to certain food preparations (HS 21.06), 18 to alcoholic beverages (all falling under undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol., spirits, liqueurs and other spirituous beverages, HS 22.08), and 2 to mixtures of odoriferous substances of a kind used in the food or drink industries (HS 33.02)).<sup>62</sup> The second highest tariff rate remains at 90%, and is applied on 30 tariff lines (alcoholic beverages). In 2020, 77.1% of rates (*ad valorem* only) are 10% or below, and rates of over 25% apply to 5.3% of tariff items, compared to 86.0% and 2.1% in 2012, respectively (Chart 3.2). The tariff could be rationalized, for example, by reducing the number of rates and removing the decimal rate.

<sup>61</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

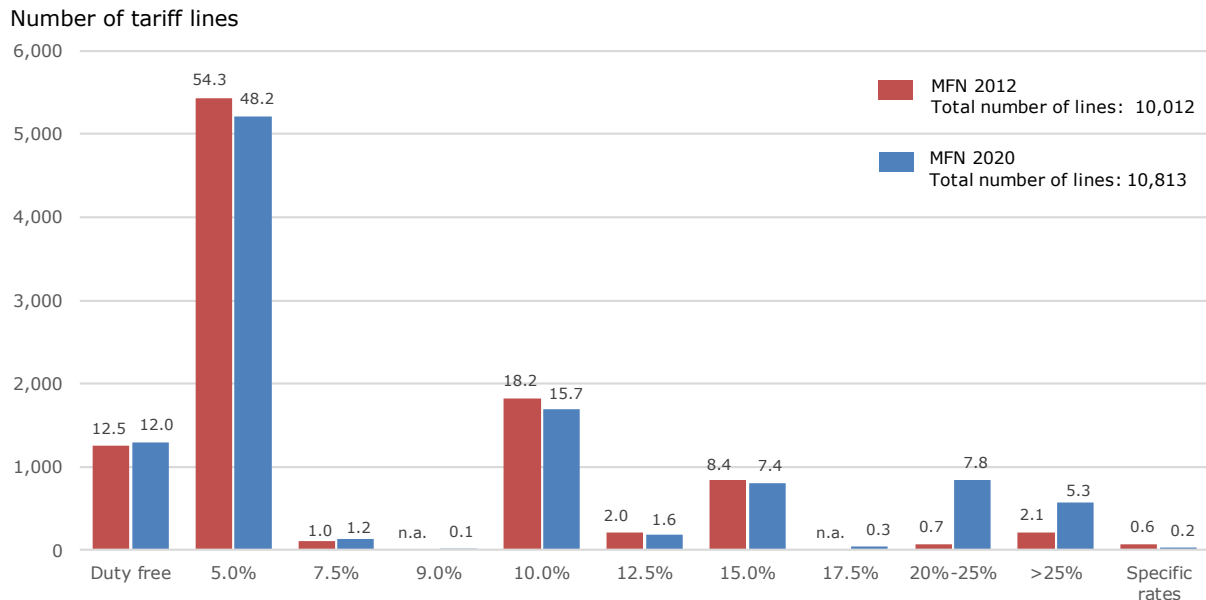
<sup>62</sup> At the time of the previous Review, the highest tariff, of 150%, applied to 43 lines (34 non-*ad valorem* lines relating to alcoholic beverages; 7 lines relating to food preparations (not elsewhere specified), and 2 lines relating to mixtures of odoriferous substances used in the food or drink industries). The second highest tariff rate, of 90%, affected five non-*ad valorem* lines, relating to wine and shandy. All other tariff rates are applied at 40% or below.



**Chart 3.1 Average applied MFN and bound tariff rates, by HS section, 2012 and 2020**

Note: The 2012 tariff is based on the HS12 nomenclature; the 2020 tariff and final bound rates are based on HS17. HS Sections 01, 02, 03, 04, 08, 09, 10, 11, and 13 are fully bound. HS Sections 19 and 21 are fully unbound.

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Chart 3.2 Distribution of MFN tariff rates, 2012 and 2020**

n.a. Not applicable.

Note: The 2012 tariff is based on the HS12 nomenclature; the 2020 tariff is based on HS17. Figures above the bars refer to the percentage of total lines.

Source: WTO Secretariat calculations, based on data provided by the authorities.

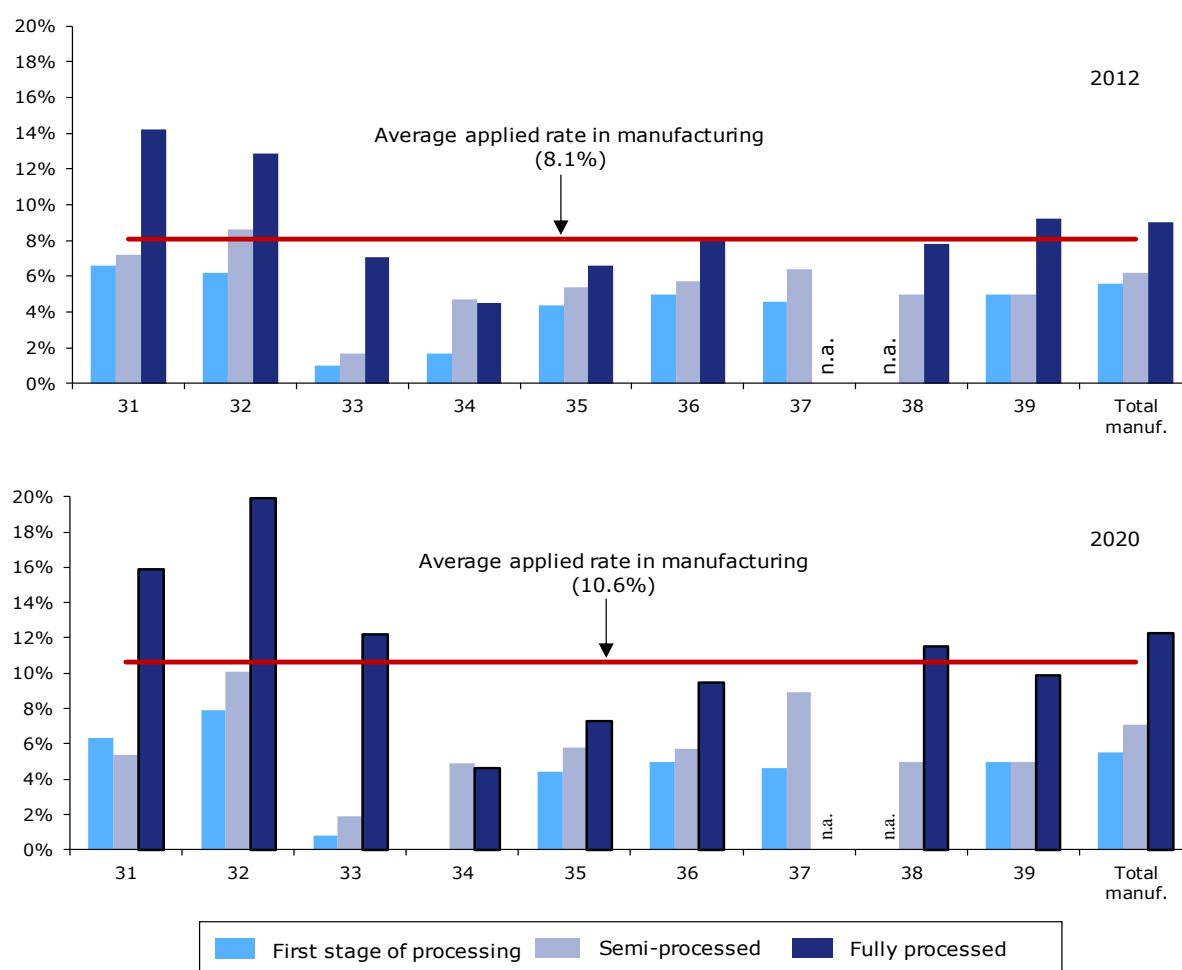
3.40. Non-*ad valorem* tariffs continue to consist of specific duties on rice, sugar, beer made from malt, and cinematographic films and related media (Table A3.2); as indicated above, the number of tariff lines subject to specific rates dropped considerably over the review period. According to

calculations of the WTO Secretariat based on 2018 import data for 24 items, in 2020, the *ad valorem* equivalents (AVEs) of the specific rates ranged from 0.2% (broken rice) to 107.5% (beer made from malt) (Table A3.2); these specific duties form part of Indonesia's WTO tariff binding commitments on an *ad valorem* basis (from 40% to 160%), and specific rates for cane sugar (HS17.01.13 and 17.01.14) and items under HS85.23 underwent nomenclature changes. The average AVE of non-*ad valorem* tariff rates is 96.6% (102.9% in 2012), compared to the overall 10.1% average MFN average applied rate (Table 3.2).<sup>63</sup>

### 3.1.3.3 MFN tariff dispersion and escalation

3.41. Since the previous Review, the standard deviation indicator of tariff dispersion increased, and positive tariff escalation became more pronounced for virtually all industries (Table 3.2 and Chart 3.3); mixed escalation (e.g. negative from the first to the second stage, and then positive) affects food, beverages and tobacco (previously positive), as well as paper, printing and publishing (mixed escalation (slightly)).

**Chart 3.3 Tariff escalation by 2-digit ISIC industry, 2012 and 2020**



31 Food, beverages and tobacco	34 Paper, printing and publishing	37 Basic metals
32 Textiles and leather	35 Chemicals	38 Fabricated metal products and machinery
33 Wood and furniture	36 Non-metallic mineral products	39 Other manufacturing

n.a. Not applicable.

Source: WTO Secretariat calculations, based on data provided by the authorities.

<sup>63</sup> In 2012, the AVEs for all 65 specific rates at that time were provided by the authorities.

### 3.1.3.4 MFN tariff bindings

3.42. Currently, rates in 89.5% in HS17 lines (95% lines in HS02) (last certified schedule of tariff concessions) (see below) in Indonesia's tariff schedule are bound (Table 3.2).<sup>64</sup> Seventy-five per cent (about 72% under HS02) of these are at bound at rates of 40% or above. The simple average bound rate is 49.8% for agricultural products (WTO definition), and 35.9% for non-agricultural products. In its 2020 customs tariff schedule, bound and MFN applied tariff rates virtually coincided (i.e. low difference) for about 2.3% of all tariff lines, whereas for most of the rest the difference was relatively significant (Chart 3.1), suggesting high unpredictability in the tariff. Since 2012, as a result of tariff increases (Section 3.1.3.2), the overall gap between the simple average MFN applied and bound rates has decreased from 29.6 to 27.8 percentage points; the difference between MFN applied and bound rates ranges from 4 to 205 percentage points (dairy products (milk and cream)), depending on the item. The gap is 38.6 percentage points for rates affecting agricultural items, and 26 percentage points for non-agricultural products. Furthermore, the applied MFN rates on 99 HS17 eight-digit tariff lines (e.g. chemical elements, worn clothing, machines for manufacture/parts/accessories for the manufacture of semiconductors, and several types of measuring instruments and apparatus) appear to exceed their corresponding bound rate by 5 percentage points (Table A3.3).

3.43. During the review period, pursuant to the revised HS2002 procedures affecting a list of tariff items, Indonesia's Schedule XXI, which remains in the HS02 nomenclature, was modified once, effective 27 July 2017.<sup>65</sup> As at June 2020, Indonesia had not been included in collective waivers that suspended the application of the provisions of Article II of GATT 1994, in order to allow it to reflect the changes resulting from the introduction of the HS2012 and HS2017 nomenclatures in its Schedule of Tariff Concessions.

### 3.1.3.5 Tariff preferences

3.44. Indonesia's efforts to expand its bilateral and regional FTAs during the review period led to its simple average preferential tariff rate on imports from RTAs/FTAs rising from 2.7% in 2012 to 3.7% in 2020, due to the entry into force of three new agreements (see below) and the rise of MFN applied rates. Nevertheless, it remained considerably below the 10.1% MFN average applied tariff rate.<sup>66</sup> Under its RTAs, Indonesia provides preferential access to imports originating from: ASEAN members (since 1993), Australia/New Zealand (since 2010), China (since 2005), Republic of Korea (since 2010), Japan (since 2008), India (since 2010), Pakistan (since 2013), and Chile (since 2019) (Table 3.3).<sup>67</sup> These agreements cover an average of 72.6% of the total tariff lines, on top of the 12.0% of lines that are already duty-free at the MFN level (Table 3.3 and Section 3.1.3.2).

<sup>64</sup> Unbound products include salt; some chemical products; certain plastic articles; platinum; articles of iron and steel; transport equipment; and arms and ammunitions. WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>65</sup> WT/Let/1273 WLI/100, 14 August 2017; and WTO, *Current Situation of Schedules of WTO Members*. Viewed at: [https://www.wto.org/english/tratop\\_e/schedules\\_e/goods\\_schedules\\_table\\_e.htm#fnt-a](https://www.wto.org/english/tratop_e/schedules_e/goods_schedules_table_e.htm#fnt-a).

<sup>66</sup> More specifically, the rise of the average preferential rate compared to 2012 is explained by the following: in the Indonesia-Pakistan Preferential Trade Agreement, only 2.3% of tariff lines have a preferential rate lower than the MFN applied rate (average 9.9%); in the Indonesia-Chile Comprehensive Economic Partnership Agreement, coverage is relatively high but not many duty-free rates are in place (average 6.5%); and, as MFN applied rates have increased for many tariff lines, those excluded from the preferential coverage drive the preferential average upwards. WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>67</sup> Legislation endorsing preferential tariff treatment undertakings is contained in: PMK No. 208/PMK.011/2012 concerning Stipulation of Import Duty Tariffs in the Framework of the ASEAN Trade in Goods Agreement (ATIGA); PMK No. 26/PMK.010/2017 concerning Stipulation of Import Duty Tariffs in the Framework of the ASEAN-China Free Trade Area; PMK No. 24/PMK.010/2017 concerning Stipulation of Import Duty Tariffs in the Framework of the ASEAN-Korea Free Trade Area; PMK No. 18/PMK.010/2018 concerning Stipulation of Import Duty Tariffs in the Framework of the ASEAN-Japan Comprehensive Economic Partnership; PMK No. 27/PMK.010/2017 concerning Stipulation of Import Duty Tariffs in the Framework of the ASEAN-India Free Trade Area; PMK No. 28/PMK.010/2017 concerning Stipulation of Import Duty Tariffs in the Framework of the ASEAN-Australia-New Zealand Free Trade Area as amended by PMK No. 129/PMK.010/2017 concerning Amendments to the Determination of Import Duty Tariffs within the Framework of the ASEAN-Australia-New Zealand Free Trade Area; PMK No. 63/PMK.010/2017 concerning the Amendment of the Minister of Finance Regulation No. 30/PMK.010/2017 concerning Stipulation of Import Duty Tariffs within the Framework of the Agreement between the Republic of Indonesia and Japan on an Economic Partnership; PMK No. 29/PMK.010/2017 concerning Stipulation of Import Duty Tariffs in the Framework of Preferential Trade Agreements between the Government of the Republic of Indonesia and the Government of the Islamic Republic

**Table 3.3 Summary analysis of preferential tariffs, 2020**

	Total				WTO agriculture		WTO non-agriculture	
	Average (%)	Range (%)	Coverage <sup>a</sup> (%)	Duty-free rates <sup>b</sup> (%)	Average (%)	Duty-free rates <sup>b</sup> (%)	Average (%)	Duty-free rates <sup>b</sup> (%)
MFN	10.1	0-150		12.0	11.2	8.4	9.9	12.5
ATIGA	0.7	0-150	86.9	98.8	5.1	94.4	0.1	99.5
ASEAN-Australia-New Zealand FTA	2.2	0-150	84.4	88.8	5.9	83.5	1.7	89.6
ASEAN-China FTA	3.5	0-150	77.3	83.6	5.2	93.1	3.3	82.2
ASEAN-India FTA	4.8	0-150	76.4	43.3	7.0	59.8	4.4	40.9
ASEAN-Japan Comprehensive Economic Partnership	2.8	0-150	78.8	88.4	5.7	84.4	2.4	88.9
ASEAN-Republic of Korea FTA	1.4	0-150	86.2	87.5	4.1	93.0	0.9	86.6
Indonesia-Japan Economic Partnership Agreement	1.5	0-150	81.6	89.7	5.5	84.2	0.9	90.4
Indonesia-Pakistan Preferential Trade Agreement	9.9	0-150	2.5	13.2	10.7	10.9	9.8	13.5
Indonesia-Chile Comprehensive Economic Partnership Agreement	6.5	0-150	79.5	55.1	8.1	56.5	6.3	54.9

a Per cent of total number of lines. Only rates that are lower than the corresponding MFN rate are taken into account.

b Duty-free lines as a percentage of total tariff lines.

Note: Preferential calculations are based on the 2020 MFN tariff schedule. The lower preferential rate is replaced with the applied MFN rate at the national 8-digit level. If the preferential rate is higher than the MFN applied rate, the latter is used for the calculations.

Source: WTO Secretariat calculations, based on data received by the authorities.

### 3.1.3.6 Duty concessions/exemptions

3.45. During the review period, the main regulatory framework in this area remained unchanged but specific implementing regulations were revised (see below). Rules on customs duty exemptions are set out in Articles 25 and 26 of the Customs Act.<sup>68</sup> Under Article 25, customs duty exemptions are, *inter alia*, extended to goods for research and scientific purposes. Under Article 26, duty exemptions may be granted, *inter alia*, for machinery for the establishment and development of an industry; goods and materials for the establishment and development of an industry for a specified period of time; seeds and stocks for the establishment and development of agriculture, animal husbandry or fisheries; marine products caught by licensed vessels; and goods purchased by the Government for public purposes. Provisions on exemptions to be granted must be set out in ministerial regulations.

### Import Duty Borne by Government scheme

3.46. To promote the competitiveness of certain industries in strategic sectors, Indonesia continued to temporarily waive import duties on imported inputs for the production of certain goods under the

of Pakistan as amended by PMK No. 14/PMK.010/2019 concerning Amendment to the Import Duty Tariff in the Context of Preferential Trade Agreement between the Government of the Republic of Indonesia and the Government of the Islamic Republic of Pakistan; PMK No. 18/PMK.010/2018 concerning the Minister of Finance Regulation concerning the Stipulation of Import Duty Tariffs in the Framework of the ASEAN-Japan Comprehensive Economic Partnership; PMK No. 126/PMK.010/2018 concerning Stipulation of Tariffs of Import Duty in the Framework of Trade Facilitation for Certain Products Originating in the Palestinian Territory; and PMK No. 105/PMK.010/2019 concerning Stipulation of Import Duty Tariffs in the Framework of Comprehensive Economic Partnership Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Chile. WTO, *RTA Database*. Viewed at: <http://rtais.wto.org/UI/PublicSearchByMemberResult.aspx?MemberCode=360&lang=1&redirect=1>.

<sup>68</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

Import Duty Borne by Government (IDBG or BM DTP) scheme, which has been in place since 2008. During the review period, the IDBG regulatory framework was revised on several occasions; a few MoF operational regulations are available online, and all are in the Bahasa Indonesia language.<sup>69</sup> The IDBG waivers (up to specified budget ceilings) are destined for industries using imported goods and materials to produce goods and services sold on the domestic market, in accordance with the following unchanged criteria: (i) they must be provided for the public interest, public consumption, or to protect the public; (ii) they improve the competitiveness of the industries; (iii) they increase employment; and (iv) they increase the State's revenue. Import items concerned: must not be produced domestically; can be domestically produced but not meet the specification needed; may be domestically produced but not in sufficient quantities to meet the industry's needs; and are not subject to zero import duty based on an international agreement.<sup>70</sup> It seems that these waivers are based on ceiling values (Table 3.4), and are valid for one calendar year; no data on the number of waivers issued since 2013 were available from the authorities.<sup>71</sup> In 2016, the following industrial sectors benefited from the IDBG facility: plastic packaging, carpets, resins, stationery, sandpaper, blowing agents, catalysts and the neutralizing wastewater chemicals manufacturer industry; modes of transport components, medical devices, agricultural equipment, electronics, smart cards, and the telecommunications manufacturer industry; and animal feed manufacturers, and pharmaceutical industries.<sup>72</sup>

3.47. In addition, since August 2019, imports of taxable goods in the framework of contracts of work or work agreements between the Government and coal mining entrepreneurs (PKP2B) benefit from exemption from, or relief on, import duties and/or exemption from VAT under certain conditions.<sup>73</sup> Under MoF Regulation No. 70/2013, goods imported for upstream oil-and-gas exploitation activities are exempt from import duties, VAT and the luxury-goods sales tax.<sup>74</sup>

<sup>69</sup> They include: MoF Regulation No. 273/PMK.010/2015 in Order to Promote Production of Goods and/or Services for the Public Interest and to Increase the Competitiveness of Certain Industry Sectors in Fiscal Year 2016; MoF Regulation No. 12/PMK.010/2018, regarding Import Duty Borne by Government for Certain Industrial Sectors in the 2018 Budget Year, 7 February 2018; and MoF Regulation No. 14/PMK.010/2018 regarding Import Duty Borne by Government (BM DTP) on Import of Goods and Material to Produce Goods and/or Services for the Public Interest and to Increase the Competitiveness of Certain Sectors, 8 February 2018, amending Regulation No. 248/PMK.011/2014.BM DTP. GNV Consulting, *Import duty borne by the government on import of goods and material to produce goods and/or services for the public interest and to increase the competitiveness of certain sectors*. Viewed at: <https://gnv.id/2018/03/09/import-duty-borne-by-the-government-on-import-of-goods-and-material-to-produce-goods-and-or-services-for-the-public-interest-and-to-increase-the-competitiveness-of-certain-sectors/>; Global Trade Alert, *Indonesia: Adjusted goods list and budgetary ceilings for government borne import duties in FY2016*. Viewed at: <https://www.globaltradealert.org/state-act/11198/indonesia-adjusted-goods-list-and-budgetary-ceilings-for-government-borne-import-duties-in-fy2016>; and Deloitte (2016), *Indonesian Tax Info February 2016*.

<sup>70</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013; MoF Regulation No. 273/PMK.010/2015 in Order to Promote Production of Goods and/or Services for the Public Interest and to Increase the Competitiveness of Certain Industry Sectors in Fiscal Year 2016.

<sup>71</sup> MoF Regulation No. 273/PMK.010/2015 in Order to Promote Production of Goods and/or Services for the Public Interest and to Increase the Competitiveness of Certain Industry Sectors in Fiscal Year 2016; MoF Regulation No. 12/PMK.010/2018, regarding Import Duty Borne by Government for Certain Industrial Sectors in the 2018 Budget Year, 7 February 2018; and Deloitte (2016), *Indonesian Tax Info February 2016*.

<sup>72</sup> MoF Regulation No. 273/PMK.010/2015 in Order to Promote Production of Goods and/or Services for the Public Interest and to Increase the Competitiveness of Certain Industry Sectors in Fiscal Year 2016. Deloitte (2016), *Indonesian Tax Info February 2016*.

<sup>73</sup> Under MoF Regulation No. 116/2019 of 13 August 2019 concerning Exemption or Relief of Import Duty and/or Exemption of VAT on Import Goods in the Framework on Contract of Work or Coal Mining Contract of Work, this incentive can be utilized until the expiration of the contract for: contractors whose Coal Contract of Work (CCoW/PKP2B) was signed before 1990; contractors whose CCoW/PKP2B contains provisions on granting exemption or relief from import duties in accordance with PKP2B; contractors whose CCoW/PKP2B does not contain provisions on granting exemption or relief from import duty; and contractors whose imports are owned by the State. ITR, *Indonesia: Indonesia issues a flurry of tax-related regulations*. Viewed at: <https://www.internationaltaxreview.com/article/b1hlmyxmjb4msb/indonesia-indonesia-issues-a-flurry-of-tax-related-regulations>.

<sup>74</sup> Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

**Table 3.4 Import duty waivers coverage/ceilings, FY2012 and 2020**

Product	Ceiling value
<b>2012</b>	
Production of certain parts of heavy equipment or the assembly of heavy equipment	IDR 58,000,000,000
Production of ballpoint pens	IDR 1,205,600,000
Production of carpets and/or rugs	IDR 24,000,000,000
Production of automotive components	IDR 147,350,000,000
Production and repair of box wagons of passenger trains, electric/diesel trains, bogies, and train components	IDR 10,000,000,000
Production and/or repair of ships	IDR 30,500,000,000
Production of electronics components and/or products	IDR 25,000,000,000
Production of optical fibre cable	IDR 3,382,000,000
Production of communication devices	IDR 14,880,000,000
Production of toner	IDR 824,900,000
Production of plastic packages, plastic sheets, biaxially orientated polypropylene film, plastic sacks, plastic threads, welding plastic sheets, geotextiles, and household goods and/or furnishings made of plastic	IDR 81,957,400,000
Production of resin in the form of alkyd resin, unsaturated polyester resin, amino resin, pigment phthalate, solution acrylic/synthetic latex, and plasticizer	IDR 9,518,000,000
Production of fertilizer	IDR 22,000,000,000
Repair and/or maintenance of planes	IDR 109,676,000,000
Production of packaging and/or drug-infusion products	IDR 9,372,600,000
<b>2020</b>	
Manufacture of motorized vehicle components and/or AMMDes components (rural multi-purpose mechanical equipment)	IDR 131,319,954,000
Manufacture of electric motor bikes	IDR 40,295,000
Manufacture of certain parts of large equipment and/or large equipment assembly	IDR 903,274,000
Manufacture of agricultural equipment and machinery	IDR 500,000,000
Manufacture of boilers and electricity component equipment	IDR 4,448,264,000
Manufacture of electronic components and/or products	IDR 11,000,000,000
Manufacture of telecommunications equipment	IDR 300,000,000
Manufacture of fiber optic cable	IDR 3,600,000,000
Manufacture of resins in the form of alkyd resins, unsaturated polyester resins, amino resins, emulsion resins, pigment phthalates, solution acrylic/synthetic latex, latex synthetic dispersion resins, plasticizers, formaldehyde, and formaldehyde resins	IDR 8,200,000,000
Manufacture of special chemicals, namely masterbatch; neutralizing wastewater in the form of the aquaclear series (flocculant), chemicals for paper, and catalysts in the form of mepoxe, cypoxe, cypoxe liquid, and benzoxe	IDR 4,310,000,000
Manufacture of plastic packaging (except customs collection bags), plastic sheets, biaxially oriented polypropylene film, plastic bags, plastic pallets, plastic bottles and jerrycans, plastic pipes, plastic sheeting, geotextiles, and plastic household items and/or furniture	IDR 114,000,000,000
Manufacture of cosmetics	IDR 6,950,000,000
Manufacture of paint	IDR 13,150,000,000
Manufacture of frit	IDR 410,805,000
Manufacture of gypsum	IDR 7,341,744,000
Manufacture of carpets, rugs, prayer mats, and/or PU, artificial PVC	IDR 78,500,000,000
Manufacture of artificial filaments/yarn/strips and/or staple fibres	IDR 3,600,000,000
Tannery	IDR 1,000,000,000
Almond processing	IDR 2,100,000,000
Manufacture of pharmaceutical preparations	IDR 13,900,000,000

Source: MoF; and information provided by the authorities.

3.48. To support industrial development areas (Section 3.3.1), an import duty exemption scheme for companies engaged in either the establishment or modernization of a factory, remains in place since 2009.<sup>75</sup> It includes an extended duty exemption period, conditional upon certain local content requirements being met (Section 3.1.7) in terms of use of machinery, installation, and appliances or utensils for industrial production, over a period of two years, with a possible extension of one additional year. Such extension is conditional upon the use by the importing company benefitting

<sup>75</sup> Letter of Request for Consultations by the European Union, 22 November 2019. Viewed at: [https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc\\_158451.11.19IDNDSRequestasagreed.pdf](https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc_158451.11.19IDNDSRequestasagreed.pdf).



from the duty exemption of at least 30% of locally produced "machinery, ...installation, appliances or ...utensils..."; the authorities indicated that there have been no such cases since 2013. On 22 November 2019, in the context of the WTO dispute settlement mechanism, the European Union requested consultations with Indonesia regarding various measures concerning certain raw materials necessary for the production of stainless steel, as well as a cross-sectoral import duty exemption scheme conditional upon the use of domestic over imported goods (Section 2.3.1.1).<sup>76</sup>

3.49. For 2016 and 2017, import duties and excise tax expenditure estimates included: IDR 2 trillion (2016) and about IDR 2.5 trillion (2017) for machines, goods, and materials for construction or industry development for capital investment; IDR 4 billion (2016) and IDR 3 billion (2017) for capital goods for construction/development of the power-plant industry in the public interest; IDR 4 billion (2016) and IDR 3 billion (2017) for seeds and seedlings for the construction/development of agriculture, animal husbandry, or fishery; and IDR 164 billion (2016) and IDR 194 billion (2017) for imported goods based on oil and gas profit-sharing contracts.<sup>77</sup>

### **Consignment/e-commerce goods de minimis exemption and imposition**

3.50. According to the Government, to prevent the market from being flooded with mass-made or counterfeit products from overseas markets, and also to level the playing field for local manufacturers who import materials or goods in bulk and thus have to pay duties and taxes regardless of the import value, Indonesia reduced drastically the *de minimis* value for the import duty exemption for consignment, including e-commerce traded goods, on a B2C basis, in place since November 2016.<sup>78</sup> This f.o.b. threshold value passed from USD 50 to USD 100 in November 2016, to USD 75 in October 2018, and to USD 3 in January 2020.

3.51. Similar to changes to the *de minimis* value, the duty and tax concessions for these types of goods, also in place since November 2016, were modified. Between September 2016 and January 2020, Indonesia levied a flat 7.5% charge on "consignment goods" shipped by business entities abroad and imported through a postal service in accordance with the postal laws and regulations, regardless of the relevant customs tariff rate, if their customs value was more than the *de minimis* but up to an f.o.b. value of USD 1,500; however, this exemption does not cover VAT (10%), luxury goods sales taxes, or corporate taxes that are also levied on all items, regardless of their value.<sup>79</sup> Since end-January 2020, the general taxation level for these goods was reduced from a range of 27.5% to 37.5% to a rate of 17.5%, consisting of the 7.5% import duty-equivalent charge, 10% VAT, and zero corporate income tax. Since the same date, certain commodities in high

<sup>76</sup> WTO, *Indonesia – Measures Relating to Raw Materials*. Viewed at: [https://www.wto.org/english/stratop\\_e/dispu\\_e/cases\\_e/ds592\\_e.htm](https://www.wto.org/english/stratop_e/dispu_e/cases_e/ds592_e.htm).

<sup>77</sup> MoF/Fiscal Policy Agency (2018), *Tax Expenditure Report 2016-17*, Table 7, August.

<sup>78</sup> Reportedly, Indonesia experienced a 814% increase in imported parcels classified under e-commerce activity, from 6.1 million packages in 2017 to 49.69 million in 2019, with most of the goods originating from China. Domestic craftsmen and manufacturers of bags, shoes and garment products have especially been affected in recent years by the import surge of these items, resulting in many being driven out of business. On 6 September 2018, the MoF issued Regulation No. 112/PMK.04/2018 (PMK-112), effective on 10 October 2018; this Regulation amended MoF Regulation No. 182/PMK.04/2016 (PMK-182) of 2016. PMK-112 reduced the threshold value, and revised some definitions and limits concerning the importation of tobacco and alcohol products. The latest amendment can be found in MoF Regulation No. 199/PMK.010/2019 on Provisions on Customs, Excise and Taxes of Consignment Goods, effective since 30 January 2020. USTR (2019), *National Trade Estimate Report on Foreign Trade Barriers*. Viewed at: [https://ustr.gov/sites/default/files/2019\\_National\\_Trade\\_Estimate\\_Report.pdf](https://ustr.gov/sites/default/files/2019_National_Trade_Estimate_Report.pdf); EY, *Tax Alerts*. Viewed at: <https://www.ey.com/gl/en/services/tax/international-tax/alert--indonesia-releases-new-regulations-on-import-taxes>; Janio, *Indonesia De Minimis 2020: What the Changes Mean for E-Commerce Importers*. Viewed at: <https://janio.asia/tw/articles/indonesia-de-minimis-2020-what-the-changes-mean-for-e-commerce-importers/>; Baker McKenzie, *To Create a Level Playing Field, the Indonesian Government Will Lower Import Duty Exemption on E-Commerce*. Viewed at: <https://www.bakermckenzie.com/en/insight/publications/2020/01/indonesian-government-lowers-import-duty-exemption>; The Jakarta Post, *Indonesia to lower threshold for import taxes on e-commerce goods*. Viewed at: <https://www.thejakartapost.com/news/2019/12/24/government-to-lower-threshold-for-import-taxes-on-e-commerce-goods.html>; and Baker McKenzie, *Lower Threshold for Import Duty Exemption on E-commerce as Part of Making Indonesia 4.0*. Viewed at: <https://www.bakermckenzie.com/en/insight/publications/2020/01/lower-threshold-for-import-duty-indonesia>.

<sup>79</sup> USTR (2019), *National Trade Estimate Report on Foreign Trade Barriers*. Viewed at: [https://ustr.gov/sites/default/files/2019\\_National\\_Trade\\_Estimate\\_Report.pdf](https://ustr.gov/sites/default/files/2019_National_Trade_Estimate_Report.pdf); and EY, *Tax Alerts*. Viewed at: <https://www.ey.com/gl/en/services/tax/international-tax/alert--indonesia-releases-new-regulations-on-import-taxes>.



demand have been subject to their normal applied MFN tariff rates (i.e. bags 15%-20%, shoes 25%-30%, and textile products 15%-25%), VAT of 10%, and the withholding corporate income tax of 7.5%-10%.<sup>80</sup>

### 3.1.4 Other charges affecting imports

3.52. Indonesia continues to charge a Customs Electronic Data Interchange fee, set at USD 30 (same for imports and exports); no customs clearance fee is levied.

3.53. Harbour dues remain based on the classification of the port (i.e. main port, or Class I, II, III, IV and V) rather than the tonnage or volume for the use of the approach channel to a port; according to the authorities, service charges must be linked to capital return, whereas the World Bank considers that they do not reflect cost recovery.<sup>81</sup> According to data from the authorities, the dues for loading and unloading in Makassar and Balikpapan Container Terminals are the same. However, harbour dues for overseas routes seem higher than for domestic routes (Section 4.4.5). According to World Bank data, in 2016, harbour dues at a main port were estimated to be 16 times higher for international routes than for domestic routes; furthermore, in 2015, Lift-on Lift-off charges were estimated at 195.6% (20 cubic foot, full container with quayside crane, Pontianak port, Pelindo II) higher for international routes than for domestic routes.<sup>82</sup> The authorities indicated that this difference is due to the fact that international route vessels have bigger capacity than domestic, therefore they need more equipment and services; in addition, it depends on exchange rate fluctuations between the rupiah and the US dollar.<sup>83</sup>

3.54. In addition to customs duties, imports remain subject to the withholding tax, VAT, the luxury-goods sales tax, and excise tax (Section 3.3.1). Following a product coverage expansion in 2015, to curb imports, reduce the current-account deficit, and stem rupiah depreciation, in September 2018, Indonesia raised the withholding tax rates for certain imported (and exported) goods, covering 1,147 products, including from: 2.5% to 7.5% for 719 consumer goods (e.g. audio-visual equipment, and textiles); 2.5% to 7.2% for 218 daily necessities (e.g. shampoos, and cosmetics); and 7.5% to 10% on 210 luxury goods.<sup>84</sup> The withholding tax policy allows the Government to collect more tax revenue in advance but can result in tax overpayment by importers.

### 3.1.5 Import prohibitions, restrictions, and licensing

3.55. During the review period, the regulatory framework governing foreign trade, including import prohibitions, restrictions, and licensing, was updated (see below), via, *inter alia*, Law No. 7/2014, and MoT Regulations 48/2015 and 70/2015 as amended by MoT Regulation 75/2018. Under Law 7/2014, the Government may set a prohibition or restriction on trade in goods and/or services in the national interest to protect: economic sovereignty; national security; public morals and culture;

<sup>80</sup> Baker McKenzie, *To Create a Level Playing Field, the Indonesian Government Will Lower Import Duty Exemption on E-Commerce*. Viewed at: <https://www.bakermckenzie.com/en/insight/publications/2020/01/indonesian-government-lowers-import-duty-exemption>.

<sup>81</sup> Ministry of Transportation Regulation No. 95/2015 on Guidelines for the Determination of Port Services Charge by the Port Business Entity. Viewed (in Bahasa Indonesia) at: [http://jdih.dephub.go.id/produk\\_hukum/view/VUUwZ09UVWdWRUJzVlU0Z01qQXhOUT09](http://jdih.dephub.go.id/produk_hukum/view/VUUwZ09UVWdWRUJzVlU0Z01qQXhOUT09); and World Bank Group/IFC/Foreign & Commonwealth Office (2019), *Review of Port Tariff Structure and Levels in Indonesia*, September.

<sup>82</sup> World Bank Group/IFC/Foreign & Commonwealth Office (2019), *Review of Port Tariff Structure and Levels in Indonesia*, September.

<sup>83</sup> Article 12 of Ministry of Transportation Regulation 72/2017 on Types, Structure, Class and Mechanisms of Determination of Ports Tariff Services. Viewed (in Bahasa Indonesia) at: [http://jdih.dephub.go.id/index.php/produk\\_hukum/view/VUUwZ056SWdWRUJzVlU0Z01qQXhOdZ09](http://jdih.dephub.go.id/index.php/produk_hukum/view/VUUwZ056SWdWRUJzVlU0Z01qQXhOdZ09).

<sup>84</sup> Indonesian income tax is collected mainly through a system of withholding taxes. The valuation basis for imports is the c.i.f. value plus payable customs duties. PMK-110 reclassified certain goods from Category 2 (7.5%) to Category 1 (10%); this reclassification affected more than 1,100 items of goods, such as consumer goods, care products, cosmetics, and luxury cars. MoF Regulation 107/2015; (MoF) Regulation No. 110/PMK.010/2018 (PMK-110); EY, *Tax Alerts*. Viewed at: <https://www.ey.com/gl/en/services/tax/international-tax/alert--indonesia-releases-new-regulations-on-import-taxes>; Indonesia (2019), *Tax Services Indonesian Pocket Tax Book 2019*; USTR (2019), *National Trade Estimate Report on Foreign Trade Barriers*. Viewed at: [https://ustr.gov/sites/default/files/2019\\_National\\_Trade\\_Estimate\\_Report.pdf](https://ustr.gov/sites/default/files/2019_National_Trade_Estimate_Report.pdf); US Department of Commerce International Trade Administration, *Export Solutions*. Viewed at: <https://www.export.gov/article?id=Indonesia-Import-Tariffs>; and Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

the health and safety of humans, animals, fish, plants, and the environment; natural resources from excessive use for production and consumption; and the balance of payments and/or trade balance. In addition it may also do so to: implement legislation in several areas; and/or in accordance with the duties of the Government.<sup>85</sup> The same Law promotes the use of locally produced goods to protect and develop domestic industries.<sup>86</sup> Most goods are freely importable, though restrictions (and prohibitions) do apply on some items, grouped together as limited import goods and import prohibited goods contained in the Restricted and Banned Goods list, also known as the *lartas* list (Section 3.1.5.1). Only new and unused goods may be imported, unless an exemption is granted by the Minister of Trade.<sup>87</sup> If imports are classified as restricted, approval from a relevant licensing body is required, in addition to obtaining an API and a surveyor report (below, and Section 3.1.1.1).

### 3.1.5.1 Import prohibitions and quantitative restrictions

3.56. Since the previous Review, Indonesia has changed the scope of its import bans from 143 ten-digit HS items (2013) to 124 eight-digit HS items (February 2020), involving three fisheries items (HS 03.06, crustaceans) and the rest industrial (HS 25-97) items, including narcotics and other illegal drugs, firearms and other guns, hunting rifles, ammunition, and explosives.<sup>88</sup> Furthermore, to prevent the spread of COVID-19 into its territory, since 11 February 2020, Indonesia has temporarily prohibited imports of live animals originating in and/or transiting through China; according to the authorities, this measure is no longer in force.<sup>89</sup> Similar to exports, direct imports from Israel continue to be hampered by the lack of bilateral diplomatic relations (Section 3.2.3.1).

3.57. During the review period, Indonesia continued to explicitly or implicitly restrict imports of some products (e.g. carcass meat, feed corn, horticultural products, rice, cloves (until 2015), sugar, milk, salt, alcoholic beverages, fertilizer, and ozone-depleting substances) through licensing and state trading requirements (Section 3.1.5.2, and Table A3.4). In 2018, new restrictions regarding the import of rice were introduced; importers of rice to be used as raw materials were not allowed to import some forms of rice (HS codes 1006.30.30, 1006.30.40, and 1006.30.99), as these products may only be imported by state-owned companies.<sup>90</sup> At the time of the previous Review, imports subject to quantitative restrictions on rice, sugar, animals and animal products, salt, alcoholic beverages and certain ozone-depleting substances were in place.<sup>91</sup> The authorities indicated that import volumes are determined annually, at ministerial-level coordination meetings, and take into consideration domestic production and consumption forecasts.

### 3.1.5.2 Import licensing

3.58. Under Law No. 7/2014, Indonesia's policy objective has been to structure licensing procedures for the smooth flow of goods.<sup>92</sup> According to the authorities, Indonesia simplified import (and export) licensing through online and digital signature, thus improving its efficiency and centralization.

3.59. Import licensing requirements remain in place for a number of reasons (see above), including to prevent smuggling and to implement policies aimed at protecting and/or promoting domestic production (Table A3.4). During the review period, the regulatory framework of import licensing was

<sup>85</sup> Reportedly, Law No. 7/2014 has attracted concern from the international business community, since it does not ensure these interventionist measures will be only temporary. Critics say more broadly that the Law reinforces a current protectionist trend in the country's trade policy. Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January. Article 35 of Law No. 7/2014, 11 March 2014.

<sup>86</sup> Article 22 of Law No. 7/2014, 11 March 2014.

<sup>87</sup> For example, MoT Regulation No. 127/M-DAG/PER/12/2015 governing the import of used capital goods, which are goods used as working capital to produce products that can be used or that can be reconditioned, remanufactured or refurnished, took effect on 1 February 2016, and expired on 31 December 2018. Global Business Guide, *Update on Import Regulations for Indonesia*. Viewed at: [http://www.qbgindonesia.com/en/main/legal\\_updates/update\\_on\\_import\\_regulations\\_for\\_indonesia.php](http://www.qbgindonesia.com/en/main/legal_updates/update_on_import_regulations_for_indonesia.php). Articles 2 and 4 of MoT Regulation No. 48/M-DAG/PER/7/2015, 3 July 2015. Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>88</sup> Online information (<https://intr.insw.go.id/regulations.php> and <https://www.paulhypepage.co.id/import-laws-and-regulations-in-indonesia/>).

<sup>89</sup> MoT Regulation Number 10 of 2020.

<sup>90</sup> MoT Regulation No. 1/2018 amending Regulation 103/M-DAG/PER/12/2015. Online information (<https://www.globaltradealert.org/state-act/31714/indonesia-2018-update-on-import-and-export-provisions-for-rice>).

<sup>91</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>92</sup> Article 5 of Law number 7/2014, 11 March 2014.

expanded and revised for several items, including: animals and animal products; cloves; sugar; horticultural products; alcoholic beverages; salt; pearls; lubricants; plastic; nitro cellulose; sodium triopoly-phosphate; ozone-depleting substances; non-hazardous and non-toxic waste; optical discs (empty and filled) and machines and materials used to produce them; textiles and textile products; cell phones, handheld computers, and tablets; and colour multi-functional machines, colour photocopying and printing machines.

3.60. According to the authorities, the product categories subject to import licensing increased from 30 to 40 over the review period (Table A3.4), with new requirements being introduced on, *inter alia*: dairy; fisheries and forestry products; feed corn; saccharin; cement (and clinker cement); textile and batik textile products and batik motifs; iron, steel or alloy, and derivative products; hand tools; refrigeration and cooling system-based goods; and tyres. As at 20 July 2020, 3,308 ten-digit HS lines (2,060 eight-digit tariff lines in 2012) were subject to import licensing requirements; this represents 30.6% (one fifth in 2012) of all tariff lines.

3.61. In certain cases, the issue of import authorizations for some products remains subject, *inter alia*, to use-related (e.g. of carcass meat, horticultural products, feed corn, cloves (until 2015), ozone-depleting substances, and textiles and textile products), domestic produce purchase (e.g. milk, feed corn, sugar, and salt), state trading (e.g. rice and feed corn), or distributorship arrangement (e.g. alcoholic beverages, cell phones, handheld computers, and tablets) requirements that explicitly or implicitly restrict quantitatively their importation (Table A3.4).

3.62. The Directorate-General of Foreign Trade (DGFT), within the MoT, remains responsible for granting import licences; these are generally approved, contingent upon recommendation by one or more other ministries or agencies with technical competence in the respective area.<sup>93</sup> In certain cases, import permits are also required on a per shipment basis. The licensing process (applications and approvals) is done through the INSW (Section 3.1.1.1). According to the authorities, no licensing fees or charges are levied. In most cases, importers of goods subject to licensing requirements must submit import implementation reports, and many of these goods are also subject to pre-shipment inspection VPTI requirements (Section 3.1.1.1).

3.63. During the review period, Indonesia submitted to the WTO Committee on Import Licensing several notifications under Articles 5.1 to 5.4 of the Agreement on Import Licensing Procedures, and several notifications on Replies to Questionnaire on Import Licensing Procedures, covering the years 2011, 2012, 2013, 2014, 2015 and 2019.<sup>94</sup> In the context of the Committee, concerns continued to be raised regularly by Members regarding the complexity, lack of transparency, and trade-impairing effects of Indonesia's import licensing requirements relating to: horticultural products; animals and animal products; carcasses and/or processed meat products; milk supply and circulation; tyres; and cell phones, handheld computers and tablets.<sup>95</sup> During the review period, Indonesia was a respondent in WTO dispute settlement cases, *inter alia*, relating to its import licensing measures on horticultural products, animals and animal products, and bovine meat (Section 2.3.1.1).<sup>96</sup>

### 3.1.6 Anti-dumping, countervailing, and safeguard measures

3.64. During the review period, the main legislative framework governing anti-dumping, countervailing, and safeguard measures, consisting of GR No. 34 of 2011, remained virtually unchanged, with one regulation amended in 2013.<sup>97</sup>

<sup>93</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>94</sup> WTO documents G/LIC/N/3/IDN/6, 26 September 2014; G/LIC/N/3/IDN/7, 26 September 2014; G/LIC/N/3/IDN/8, 2 November 2015; G/LIC/N/3/IDN/9, 2 November 2015; G/LIC/N/3/IDN/10, 12 February 2016; and G/LIC/N/3/IDN/11, 28 February 2020.

<sup>95</sup> WTO documents G/LIC/M/38, 28 February 2014; G/LIC/M/39, 22 August 2014; G/LIC/M/40, 10 February 2015; G/LIC/M/41, 9 July 2015; G/LIC/M/42, 21 January 2016; G/LIC/M/43, 23 September 2016; G/LIC/M/44, 27 April 2017; G/LIC/M/45, 21 September 2017; G/LIC/M/46, 1 February 2018; G/LIC/M/47, 25 September 2018; G/LIC/M/48, 14 March 2019; G/LIC/M/49, 21 August 2019; and G/LIC/M/5015, January 2020.

<sup>96</sup> WTO, *Indonesia and the WTO*. Viewed at: [https://www.wto.org/english/thewto\\_e/countries\\_e/indonesia\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/indonesia_e.htm).

<sup>97</sup> WTO documents G/ADP/N/1/IDN/3, and G/SCM/N/1/IDN/3, 27 April 2012; and MoT Regulation No. 53/M-DAG/PER/9/2013 on Changes to the MoT Regulation No. 76/M-DAG/ PER/12/2012 on Research Procedures in the Form of Implementation of Antidumping and Remuneration Measures.

3.65. The Indonesia Anti-Dumping Committee (KADI) remains responsible for investigations in relation to anti-dumping and countervailing measures, and the Indonesian Safeguards Committee (KPPI) for investigations in relation to safeguard measures; both committees are under the supervision of, and accountable to, the Minister of Trade. Their websites (<http://kadi.kemendag.go.id/> and <http://kppi.kemendag.go.id/>) provide information on investigations, reviews, and measures adopted. The Directorate of Trade Defence and the Bureau of Trade Advocacy within the MoT are charged with defending Indonesian exporters facing remedy actions by foreign governments.

### 3.1.6.1 Anti-dumping and countervailing

3.66. The KADI may undertake anti-dumping and countervailing investigations on its own initiative, or launch an investigation based on an application from domestic industry.<sup>98</sup> The petitioner or the domestic industry supporting the petition must constitute at least 25% of total domestic production of the like product(s) to be investigated. Investigations must be completed within 12 months (extendable to 18 months in special circumstances). Any provisional measures imposed must be applied no sooner than 60 days from the date of initiation of the investigation, and may be applied for a maximum of four months (in specific circumstances they may be applied for up to nine months). The maximum period for the duration of anti-dumping and countervailing duties is five years from the date of imposition.

3.67. During the period under review, recourse to anti-dumping action dropped slightly but measures in force rose.<sup>99</sup> Between 2013 and 2019 (end-June), Indonesia initiated 40 anti-dumping investigations (46 in 2006-12) involving hot-rolled (steel) coil (China, Belarus, India, Kazakhstan, Republic of Korea, Malaysia, Russian Federation, Thailand, and Chinese Taipei), cold-rolled (steel) coil/sheet (China, Japan, Chinese Taipei, Republic of Korea, and Viet Nam), hot-rolled (steel) plate (China, Singapore, and Ukraine), tinplate (steel) (China, Republic of Korea, and Chinese Taipei), I and H section (China), ammonium nitrate and polyethylene terephthalate (China, Republic of Korea, and Malaysia), wheat flour (India, Sri Lanka, and Turkey), cavendish bananas (the Philippines), spin drawn yarn (China), polyester staple fibre (China, India, and Chinese Taipei), and biaxially oriented polypropylene (Thailand, and Viet Nam).<sup>100</sup> As at end-June 2019, 27 anti-dumping measures were in force on nine products, mainly hot-rolled coil (7 cases), biaxially oriented polypropylene (5), hot-rolled plate (3), tinplate coil/sheet (3) and polyester staple fibre (3); 20 measures were in place in June 2013.<sup>101</sup> Action affected mostly products originating in Asia (23, China (8), Thailand (4), India (3), Chinese Taipei (3), and Malaysia (2)) and, to a lesser extent, Commonwealth of Independent States countries (Belarus, Kazakhstan, Russian Federation, and Ukraine). All final measures consisted of definitive duties. Eighteen measures were reviewed and, in most cases, extended at least once for periods of up to six years.

3.68. Indonesia has not initiated any countervailing investigation so far. Since its last Review, it has regularly submitted semi-annual reports on anti-dumping and countervailing actions to the relevant WTO Committees (Section 2.3.1.3 and Table A2.1).

### 3.1.6.2 Safeguards

3.69. GR No. 34 provides for "national interest consideration", whereby the MoT reviews KPPI recommendations to ensure that the envisaged action is in the national interest.<sup>102</sup> The industry may

<sup>98</sup> More information on the regulatory and procedural framework in this area, see WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>99</sup> With 136 cases initiated between 1996 and 2019 (June), Indonesia was the world's 13<sup>th</sup> largest user of anti-dumping measures. WTO, *Anti-dumping Initiations by Reporting Member*. Viewed at: [https://www.wto.org/english/tratop\\_e/adp\\_e/AD\\_InitiationsByRepMem.pdf](https://www.wto.org/english/tratop_e/adp_e/AD_InitiationsByRepMem.pdf).

<sup>100</sup> WTO document G/ADP/N/328/IDN, 28 October 2019.

<sup>101</sup> WTO document G/ADP/N/244/IDN, 25 April 2014.

<sup>102</sup> "Considerations of national interest" means considerations of the overall interests which are directly or indirectly related to the Safeguard Measure, *inter alia*: considerations of the existence of the petitioner's industry in the country as the party that is injured directly because of the existence of increased imports resulting in serious injury or threat of serious injury, either financially, in the form of declining market share, declining number of employees, or losses, etc; and considerations of the impact of the Safeguard Measure on the industries in the country, in accordance with the interest of developing national industry, national food security and food price stability, increasing employment, and fiscal interests. WTO document G/SG/N/1/IDN/3,

submit a structural adjustment plan to the KPPI as part of the investigation process; during the review period, the KPPI annually monitored and evaluated these plans but no further information on specific cases was available with the authorities.

3.70. During the period under review, recourse to safeguard action dropped but Indonesia remained one of the most frequent initiators of investigations and resulting actions.<sup>103</sup> Between 2013 and 2019, it initiated 11 safeguard investigations (20 in 2006-12), and imposed 9 measures (11 in 2006-12); virtually all measures were in the form of customs duty (one quota) (Table 3.5). As at February 2020, one provisional and four (of which one extended) definitive safeguard measures were in place, and two investigations were underway (Table 3.5). At its previous Review, Indonesia's relatively frequent recourse to safeguards was attributed to greater industry awareness of the availability of trade remedies to counter the negative effects of trade liberalization.<sup>104</sup>

**Table 3.5 Safeguard actions, 2013-20 (February)**

Products	Legal basis	Date/period	Stage/Type of action
Wheat flour	MoT Regulation No. 23/M-DAG/PER/4/2014	4 May 2014 – 4 December 2014	Definitive measures (quota)
Seamless pipe casing and tubing	MoF Regulation No. 108/PMK.011/2013	6 August 2013 – 5 August 2017	Definitive measures (import duty)
Flat-rolled products of iron or non-alloy steel under HS code 7210.61.11.00	MoF Regulation No. 137.1/PMK.011/2014	22 July 2014 – 21 July 2017	Definitive measures (import duty)
I and H sections of other alloy steel	MoF Regulation No. 12/PMK.010/2015 MoF Regulation No. 2/PMK.010/2018	21 January 2015 – 20 January 2018 21 January 2018 – 20 January 2021	Definitive measures (import duty) Extension of measures (import duty)
Bars and rods, hot-rolled, in irregularly rolled coils, of iron or non-alloy steel, or of non-alloy steel, or of other alloy steel	MoF Regulation No. 155/PMK.010/2015	11 August 2015 – 10 August 2018	Definitive measures (import duty)
Coated paper and paperboard, not including cast-coated paper and banknote paper	MoF Regulation No. 165/PMK.010/2015	8 September 2015 – 7 September 2018	Definitive measures (import duty)
Flat-rolled products of iron or non-alloy steel under HS code 7210.61.11.00	MoF Regulation No. 130/PMK.010/2017  MoF Regulation No. 6/PMK.010/2019 concerning amendment to MoF Regulation No. 130/PMK.010/2017	3 October 2017 – 2 October 2019  27 March 2019	Extension of measures (import duty)  End of measures
Ceramic flags and paving, hearth or wall tiles	MoF Regulation No. 119/PMK.010/2018	21 September 2018 – 20 September 2021	Definitive measures (import duty)
Evaporators	MoF Regulation No. 1/PMK.010/2020	11 January 2020 – 10 January 2023	Definitive measures (import duty)
Fabric products	MoF Regulation No. 162/PMK.010/2019	9 November 2019	Provisional measures
Curtains (including drapes), interior blinds, bed valances, and other furnishing articles	MoF Regulation No. 163/PMK.010/2019	18 September 2019 (initiation)	Process of investigation

22 December 2011. More information on the regulatory and procedural framework in this area is available in WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>103</sup> With 34 cases initiated between 1995 and 2019, Indonesia was the WTO's 2<sup>nd</sup> largest user of safeguard action. WTO, Viewed at: [https://www.wto.org/english/tratop\\_e/safeg\\_e/safeg\\_e.htm](https://www.wto.org/english/tratop_e/safeg_e/safeg_e.htm); and KPPI. Viewed at: <http://kppi.kemendag.go.id/>.

<sup>104</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.



Products	Legal basis	Date/period	Stage/Type of action
Fructose syrup		13 November 2019	Process of investigation
Yarn products (other than sewing thread) from synthetic and artificial staple fibres	MoF Regulation No. 161/PMK.010/2019	9 November 2019 - 25 May 2020	Provisional measures
Aluminium foil	MoF Regulation No. 153/PMK.010/2019	7 November 2019 – 6 November 2021	Definitive measures (import duty)
D-glucitol (sorbitol)	-	28 March 2013	Termination of investigation
Sheath contraceptives	-	20 November 2013	Termination of investigation
Kilowatt hour (Kwh) meters	-	25 November 2013	Termination of investigation
Mackerel	-	2 December 2013	Termination of investigation
Dextrose monohydrate	-	13 June 2016	Termination of investigation

Source: Information received from the authorities; and WTO notifications.

3.71. Since its last Review, Indonesia has regularly submitted safeguard action notifications to the WTO Committee on Safeguards (Section 2.3.1.3 and Table A2.1).

3.72. Indonesia maintains its right to impose special safeguards (SSGs) on nine (eight dairy, and one coffee, tea, spices) broad categories of agricultural products (0.9% of all HS1996 agricultural tariff lines) (Section 4.1).<sup>105</sup> Its notifications to the WTO Committee on Agriculture indicate that no SSG provisions were invoked in the period 2012-18 (Sections 2.3.1.3 and 4.1.3).

### 3.1.7 Other measures affecting imports

3.73. During the review period, Indonesia continued to use local content requirements (LCRs) to protect and develop domestic industries.<sup>106</sup> Domestic legislation in several areas enforces LCRs. Law No. 7/2014 sets a framework for promoting the use of locally produced goods (Section 3.1.5).<sup>107</sup> Law No. 3/2014 (Articles 85-86) mandates the use of LCRs in government procurement, and is further regulated by PR No. 16/2018 (Article 66) which requires the use of suppliers of goods or services with a local content plus a corporate contribution value exceeding 40% (Section 3.3.6).<sup>108</sup> Extension of the import duty exemption scheme for the establishment or modernization of a factory in an industrial development area is conditional upon the use of at least 30% LCRs (Section 3.1.3.6). Product- or activity-specific LCRs apply to, *inter alia*: oil and gas projects (from 61% in 2012 to 64% by 2024); power generation (varying levels on goods and services used in power plants, including steam, hydroelectric, geothermal (with a combined value of minimum local contents in goods and services varying from 28.95% to 42%, depending on the development capacity), gas, solar (60% in solar modules and 100% in services, since 2019), and in the transmission and distribution network); 4G Long-Term Evolution (LTE) enabled devices (30%) and base stations (40%) (base stations, cell phones, tablets, and palmtop computers) since January 2017; equipment used in certain wireless

<sup>105</sup> SSGs, permitted under Article 5 of the WTO Agreement on Agriculture, allow the imposition of additional duties when import quantities exceed SSG trigger volumes, or import prices fall below SSG trigger prices. WTO document TN/AG/S/29, 20 October 2016.

<sup>106</sup> Despite the long-standing and predominately negative evidence of the impact of LCRs on economic development and trade, they continue to play a significant role in policy today. While LCRs may help governments achieve certain short-term objectives, they undermine long-term competitiveness. The WTO Agreement on Trade-Related Investment Measures (TRIMS) recognizes that certain investment measures can restrict and distort trade. A list of prohibited TRIMS, such as LCRs, is part of the Agreement. OECD, *Local content requirements*. Viewed at: <https://www.oecd.org/trade/topics/local-content-requirements/>; and WTO, *Agreement on Trade Related Investment Measures*. Viewed at: [https://www.wto.org/english/tratop\\_e/invest\\_e/invest\\_info\\_e.htm](https://www.wto.org/english/tratop_e/invest_e/invest_info_e.htm).

<sup>107</sup> Article 22 of Law No. 7/2014, 11 March 2014; Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>108</sup> Corporate contribution value is defined as the appreciation that the companies investing in Indonesia provide in terms of empowering SMEs and cooperation through partnership, maintaining health, work security, environmental, community development, and providing aftersales services. WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

broadband services (30% for subscriber stations, 40% for base stations) and all wireless equipment (50%); telecommunication operators' capital expenditures on components or services for network development (minimum 50%); Indonesian film broadcasting/projection (60% of all hours for a consecutive period of six months); franchising (80% of equipment and inventory, unless waiver granted); and modern retail establishments (at least 80% of the total amount and types of goods sold).<sup>109</sup>

## 3.2 Measures Directly Affecting Exports

### 3.2.1 Customs procedures and requirements

3.74. Registration and documentation requirements and developments for exports, in general, remain similar to those for imports (Section 3.1.1.1). Exporters must be registered with the DGCE prior to engaging in any export business; they may also benefit from AEO status and the Customs MITA programme (Section 3.1.1.1); in value terms, MITA companies accounted for 0.07% (2013) to 2.08% (2019) of total exports, while the shares of AEO firms ranged from 8.3% (2013) to 50.2% (2018) and 19.3% (2019).<sup>110</sup> Various export permits and authorizations are required. For certain items, verification by a surveyor is also needed, specifically for goods whose export is prohibited or restricted (Sections 3.1.1.1 and 3.2.3.2, and Table 3.8).<sup>111</sup> For all commercial exports, exporters must submit a declaration to the DGCE, together with a commercial invoice, airway bill or bill of lading, packing list, letter of insurance, and export licence whenever required. The timeframe for submission of these documents is any time from seven days prior to departure to just before the departure of the export. Export documentation (excluding licences) may be provided electronically through the INSW (Section 3.1.1.1), as long as the goods are leaving through one of the customs points where the system is operational. Export duties (Section 3.2.2) must be settled at the time documentation is submitted.

3.75. During the review period, regulatory developments in this area related to rules and certificate of origin of Indonesian goods, letters of credit for payment of certain exports (13 types of minerals, 7 types of coal, and crude palm oil) and retaining export proceeds from exports of natural resources (e.g. coal, minerals, and oil and gas) onshore.<sup>112</sup> According to the Indonesian research institute

<sup>109</sup> Minister of Agriculture Regulations No. 26/PERMENTAN/PK.450/7/2017 on Supply and Distribution of Dairy Products; No. 30/PERMENTAN/PK.450/7/2018 on Amendment of Minister of Agriculture Regulation No. 6/PERMENTAN/PK.450/7/2017; and No. 33/PERMENTAN/PK.450/7/2018 on Second Amendment of Minister of Agriculture Regulation No. 26/PERMENTAN/PK.450/7/2017; 2018 draft Ministry of Industry (MOI) Regulation for Implementing Presidential Instruction 6/2016 on Acceleration of the Development of Pharmaceutical and Medical Device Industries and Ministry of Health Regulation 17/2017; MOI Regulations 54/2012, 4/2017, 5/2017 and 29/2017; Ministry of Communication and Information Technology Regulations 7/2009, 41/2009, 19/2011 and 27/2015; MoT Regulations 53/2012 and 70/2013; Law No. 33 on Film of 2009; and USTR (2019), *National Trade Estimate Report on Foreign Trade Barriers*. Viewed at: [https://ustr.gov/sites/default/files/2019\\_National\\_Trade\\_Estimate\\_Report.pdf](https://ustr.gov/sites/default/files/2019_National_Trade_Estimate_Report.pdf).

<sup>110</sup> Individual exporters need a taxpayer identification number and other documents required under specific legislation. Institutions or businesses exporting restricted or non-restricted goods must have: a trading business permit from the MoT or a business permit from a technical ministry/non-ministerial government institution/agency; company registration; taxpayer identification number; and other documents required under legislation. To export prohibited goods, business/institutional entities also need: recognition as a registered exporter, and export approval, from the MoT; a surveyor's report (Section 3.1.1.1); a certificate of origin; and/or other documents required under legislation. WTO document WT/TPR/S/278/Rev.1, 16 July 2013; and ASEAN Briefing, *Import and Export Procedures in Indonesia – Best Practices*. Viewed at: <https://www.aseanbriefing.com/news/import-export-procedures-indonesia-best-practices/>.

<sup>111</sup> MoT Regulations No. 01/M-DAG/PER/1/2017 concerning Provisions on Export of Processed and Purified Mining Products; and No. 84/M-DAG/PER/2016 Jo. 12/M-DAG/PER/2/2017 on Export Provisions for Forestry Industrial Products.

<sup>112</sup> MoT Regulations No. 77/M-DAG/PER/10/2014 on Provisions for the Origin of Indonesian Goods (Rules of Origin of Indonesia); No. 22/M-DAG/PER/3/2015 on Provisions and Procedures for the Issuance of Certificate of Origin for Goods from Indonesia; No. 25 of 2018 on Institutions Issuing Certificates of Origin; No. 37 of 2018 on Procedure for Payment of State Revenues from the Issuance of Certificates of Origin for Goods from Indonesia Electronically; and No. 94 of September 2018 and No. 111 of 2018 on Provisions and Procedures for Making the Origin Declaration for Indonesian Exported Goods; GR No. 1 of 2019 on Export Proceeds from Exploitation, Management and/or Processing Activities of Natural Resources, 10 January 2019; BI Regulation No. 21/3/PBI/2019 on Receipt of Export Proceeds from Exploitation, Management and/or Processing Activities of Natural Resources (PBI 21/2019); MoF Regulation No. 98/PMK.04/2019 on Administrative Sanctions in the Form of Fines for Breach of Requirements relating to Export Proceeds from the Exploitation, Management and/or Processing Activities of Natural Resources (PMK 98/2019); MoF Decree No. 1523/KM.4/2019 listing the Natural Resources Export Goods that are Subject to the Obligation to Deposit



Perkumpulan Prakarsa (Centre for Welfare Studies), between 1989 and 2017, USD 142.07 billion of illicit financial flows were facilitated by exports of six leading export commodities (coal, copper, palm oil, rubber, coffee, and crustaceans), resulting in USD 11.1 billion in lost revenue.<sup>113</sup> Under-invoicing of palm oil and rubber exports caused USD 4 billion of lost revenue.

3.76. According to World Bank Doing Business data, in 2019, exporting a shipment of goods (auto parts) required an average of 61 hours for documentary compliance and 56 hours for border compliance, at a cost of USD 139 and USD 211, respectively, as well as six documents.<sup>114</sup> In 2013, exporting a shipment required four documents, took 17 days, and cost USD 615.<sup>115</sup> According to the WEF, in 2015, the most problematic factors for exporting were: high cost or delays caused by domestic and/or international transportation; technical requirements and standards abroad; identifying potential markets and buyers; inappropriate production technology and skills; difficulties in meeting quality/quantity requirements of buyers; corruption at foreign borders; access to imported inputs at competitive prices; and access to trade finance.<sup>116</sup>

### 3.2.2 Taxes, charges, and levies

3.77. During the review period, Indonesia continued to use export taxes as a policy tool for, *inter alia*, tax revenue collection (1.5% of total tax revenue in 2013, 0.4% in 2018), fostering the development of downstream processing facilities, ensuring domestic supply of intermediate inputs at below world market prices, raising domestic value-added, and reducing the rate of depletion of non-renewable mining resources.<sup>117</sup> The regulatory framework was revised in 2014, and was last updated in 2018 to enforce changes involving the types and level of rates, including their implementation criteria (Table 3.6).<sup>118</sup> The product coverage encompassing palm oil, crude palm oil and its derivative products, leather and wood, raw cocoa, and mineral ore products remained relatively unchanged. Export tax revenue from palm oil is directed to a state-administered fund, the Crude Palm Oil (CPO) Fund, that is used to finance biofuel subsidies and rejuvenate plantations (Section 4.2.2.3).<sup>119</sup> Exports of certain coal, metal mineral and non-metal mineral commodities have been subject to a 1.5% withholding tax since 2015 (Sections 3.1.4 and 3.3.1.1.1.1).<sup>120</sup>

---

Export Proceeds in the Indonesian Financial System (KMK 1523/2019); and Members of Board of Governors Regulation No. 21/15/PADG/2019 on Receipt of Export Proceeds from Exploitation, Management and/or Processing Activities of Natural Resources (PADG 21/2019). Baker McKenzie, *Indonesia: Onshoring Export Proceeds: New Implementing Regulations*. Viewed at: <https://www.bakermckenzie.com/en/insight/publications/2019/08/onshoring-export-proceeds-new-implementing>; Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>113</sup> Trade Based Financial Crimes News, *Indonesia reveals US\$11.1 billion of revenue losses due to mis-invoicing*. Viewed at: <https://amlnewsflow.coastlinesolutions.com/2019/04/19/indonesia-reveals-us11-1-billion-of-revenue-losses-due-to-mis-invoicing/>.

<sup>114</sup> World Bank (2019), *Economy Profile of Indonesia - Doing Business 2020 Indicators*.

<sup>115</sup> World Bank (2013), *Doing Business 2014 - Understanding Regulations for Small and Medium-Size Enterprises*, 29 October. Viewed at: <https://www.doingbusiness.org/en/reports/global-reports/doing-business-2014>.

<sup>116</sup> WEF, *The Global Enabling Trade Report 2016*. Viewed at: <http://reports.weforum.org/global-enabling-trade-report-2016/economy-profiles/#economy=IDN>.

<sup>117</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>118</sup> PP No. 3 of 1996 concerning Taxation Treatment for Taxable Entrepreneurs with Status of Production Entrepôts for Export Purposes (EPTE) and Processing Companies in Bonded Zones (KB); MoF Regulation No. 13/PMK.010/2017 concerning Stipulation of Exported Goods Subjected to Export Levy and Export Duty Rates as amended by MoF Regulation No. 164/PMK.010/2018 concerning Amendments to PMK No. 13/PMK.010/2017 concerning Stipulation Export Goods Subject to Export Levy and Export Levy Tariffs; MoF Regulation 70/PMK.03/2010 concerning Limitation on Activities and Types of Taxable Services for Exports subject to Value Added Tax as amended by PMK 30/PMK.03/2011 concerning Amendments to MoF Regulation No. 70/PMK.03/2010 concerning the Limits of Activities and Types of Taxable Services for which Exports are Subject to Value Added Tax; and MoF Regulations 6/2014 and 1/2017. Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>119</sup> Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>120</sup> MoF Regulation 107/2015; EY, *Tax Alerts*. Viewed at: <https://www.ey.com/gl/en/services/tax/international-tax/alert--indonesia-releases-new-regulations-on-import-taxes>; and Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

**Table 3.6 Export taxes, 2020**

Product (date introduced)	Tax rate
Palm oil, crude palm oil and its derivative products (2011)	Multiple rates, ranging from zero (below a price threshold) to USD 262/tonne (previously, single <i>ad valorem</i> rate of 40%), selected in accordance with 12 reference price ranges for each item, based on the average weighed c.i.f. prices in Kuala Lumpur (20%), Rotterdam (20%), and Jakarta (60%).
Leather (2009)	15% and 25%, depending on the item.
Wood (2009)	2%, 5%, 10% and 15%.
Cocoa beans (2010)	Zero (up to USD 2,000/tonne), 5% (more than USD 2,000/tonne up to USD 2,750/tonne), 10% (more than USD 2,750/tonne up to USD 3,500/tonne), and 15% (more than USD 3,500/tonne) applied on the reference price level based on the New York Board of Trade average c.i.f. price.
Mineral ore products (2012)	Zero (Stage III), 2.5% (Stage II) and 5% (Stage I) (period 2017-22) (previously, single rate of 20% of export benchmark price, based on prevailing domestic factors and international prices) applied in accordance with 3 smelter facility development stage levels, as well as a rate of 10% (nickel ore of a grade below 1.7%, and washed bauxite) from 2017 onwards. Seven metals called Type 1 minerals (copper, ilmenite, iron ore, lead, manganese, titanium, and zinc) exempt from refining requirements. Metals face a 60% export duty since 2016, unless the relevant mining company can provide proof of progress in the construction of smelters or refining facilities (Section 3.2.3.2).

Source: MoF Regulation No. 13/PMK.010/2017 concerning Stipulation of Exported Goods Subjected to Export Levy and Export Duty Rates as amended by PMK No. 164/PMK.010/2018 concerning Amendments to PMK No. 13/PMK.010/2017 concerning Stipulation Export Goods Subject to Export Levy and Export Levy Tariffs; and WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

### 3.2.3 Export prohibitions, restrictions, and licensing

3.78. During the review period, policy objectives in this area remained unchanged but the legislation was updated (Sections 3.2.3.1 and 3.2.3.2). Under Law No. 7/2014, the Government may set a prohibition or restriction on trade (including exports) in goods and/or services in the national interest, to protect: economic sovereignty; national security; public morals and culture; the health and safety of humans, animals, fish, plants, and the environment; natural resources from excessive use for production and consumption; the balance of payments and/or trade balance; implementing legislation; and/or in accordance with the duties of the Government (Sections 2.2, 3.1.5.1 and 3.1.7). These measures may also promote the use of locally produced goods, ensure that local demand for the supply of raw materials for domestic industries is met, prevent domestic shortages, and shield the country against large price increases in global markets of essential goods (price stabilization).<sup>121</sup> The Minister of Trade retains the authority to impose export restrictions and prohibitions.<sup>122</sup> Exported goods are categorized into free exported goods, restricted exported goods (e.g. coal and minerals), and prohibited exported goods (e.g. minerals). Free exported goods may be exported by individuals, institutions and business entities.

#### 3.2.3.1 Export prohibitions

3.79. In addition to reasons under Law No. 7/2014 (see above, and Sections 2.2.3, 3.1.5.1 and 3.1.7), export prohibitions remain in place for: the protection of intellectual property rights; and the implementation of international treaties or agreements.<sup>123</sup> Similar to imports, direct exports to Israel continue to be hampered by the lack of bilateral diplomatic relations (Section 3.1.5.1).<sup>124</sup>

<sup>121</sup> Articles 22, 25 and 26 of Law No. 7/2014, 11 March 2014.

<sup>122</sup> MoT Regulation No. 13, in force since 2012, cited in WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>123</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013; Indonesia Company Law, *Prohibited Export Goods*. Viewed at: <http://www.indonesiacompanylaw.com/articles/prohibited-export-goods/>; and MoT Regulation No. 45 on the Export Prohibited Goods, of 21 July 2019.

<sup>124</sup> Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

No prohibition is in place for exports to Israel; however, the majority of exports to this market are carried out through a third country.<sup>125</sup>

3.80. Since the last Review, the main regulatory framework governing export prohibitions was updated.<sup>126</sup> The scope of export prohibitions increased slightly (Table 3.7); no comprehensive data on the number of tariff lines subject to export prohibition in 2013 and 2020 were available from the authorities. Its main addition was the export ban on nickel ore in 2014, that was partly and temporarily relaxed (2017-19) for nickel ore with a concentration below 1.7%; on 22 November 2019, in the context of the WTO dispute settlement mechanism, the European Union requested consultations with Indonesia regarding various measures concerning certain raw materials necessary for the production of stainless steel, including restrictions (an actual prohibition) (Sections 2.3.1.1, 3.1.3.6 and 3.2.3.2) on exports of nickel.<sup>127</sup>

**Table 3.7 Export prohibitions, 2012 and 2020**

Product	Rationale
Raw rubber (natural rubber in forms other than ribbed smoked sheets, such as air-dried sheets, crepe latex, and sole crepe) (10 eight-digit HS items (HS 40.01))	To add value-added domestically and increase high-quality export products
Certain wood products, including raw and semi-processed rattan and, since 2019, conifer and bearing tree wood for railroad or tramway crossties (15 eight-digit HS items)	To encourage the domestic processing industry and prevent smuggling
Certain iron and metal scrap	Implementation of commitments under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
Raw minerals (except coal) (since 2014) including nickel ore except for nickel ore with a concentration below 1.7% (temporary export permission between 2017 and 31 December 2019 and, since 2 January 2020, reinstatement of export prohibition)	To develop and accelerate certain downstream industry sectors, including stainless steel production
Certain mining products	Environmental protection; and commitments under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
Silica sand and quartz sand, mullite and topsoil (including topsoil and humus land) (15 eight-digit HS items)	Environmental protection
Subsidized urea fertilizer	Improve the effective control of fertilizer regarding abuse and diversion
Various animals, birds, reptiles, insects, fish, crustaceans, and plants	Commitments under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES Convention)

Source: MoT Regulations No. 44, 2012 Concerning Goods Subject to Export Prohibition; No. 48, 2012 Concerning Provisions on the Export of Non-Subsidized Urea Fertilizer; No. 2, of 2007, Concerning Prohibition of Export of Sand, Soil and Top Soil; and No. 45, of 21 July 2019, on the Export Prohibited Goods; online information Viewed at: [https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc\\_158451.11.19IDNDSRequestasagree d.pdf](https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc_158451.11.19IDNDSRequestasagree d.pdf); MoT Regulation No. 1/2014, as amended by MoT Regulation No. 1/2017, cited in Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January; and WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>125</sup> Minister of Industry and Trade Decrees No. 26/MPP/Kep/II/2000 and No. 23/MPP/01/2001.

<sup>126</sup> It mainly consists of: Law of Trade No. 7 on Trade, of 2014; MoT Regulation No. 14/M-DAG/PER/2/2017 on Adjustment of Classification of Goods Affected by Provisions on the Prohibition and Restriction of Exports and Imports Based on the Goods Classification System; and MoT Regulation No. 45 on Export Prohibited Goods, of 21 July 2019.

<sup>127</sup> Indonesia was the world's largest nickel producer in 2018, with 560,000 tonnes. According to the Ministry of Energy and Mineral Resources, it would need 81 million tonnes of nickel ore supply per year to meet domestic processing capacity; in 2020, it has 11 working smelters and would build 25 more. Average production is expected to grow by 8.1% overall in the period 2018-27, outperforming all other global nickel producers. Indonesia had proven reserves of about 698 million tonnes of nickel that could be mined over the next seven to eight years. The Jakarta Post, *Indonesia to ban nickel exports from January 2020*. Viewed at: <https://www.thejakartapost.com/news/2019/09/02/indonesia-to-ban-nickel-exports-from-january-2020.html>; and WTO, *Indonesia – Measures Relating to Raw Materials*. Viewed at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds592\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds592_e.htm).

### 3.2.3.2 Export restrictions and licensing

3.81. According to the authorities, during the review period, export policy instruments were relaxed by revising five MoT regulations related to exports; furthermore, export (and import) licensing procedures were simplified through online and digital signature, thus raising the efficiency (time) and centralization of the licensing process. Export licensing continues to be undertaken for the reasons contained in Law No. 7/2014 that were similar to those in place at the time of the previous Review (see above, and Sections 2.2.3, 3.1.5.1 and 3.1.7).<sup>128</sup> Export licences may be obtained through the INSW (Sections 3.1.1.1 and 3.2.1). Similar to imports, export authorizations are issued by the DGFT within the MoT (Section 3.1.5.2); generally, this remains contingent upon obtaining a recommendation from another ministry.

3.82. During the review period, the regulatory framework governing export licensing was updated/amended in several areas, including: coffee; rice; palm oil; crude palm oil; bananas and pineapples to Japan in the context of the Indonesia-Japan Economic Partnership Agreement (Section 2.3.2); animals and animal products; forestry industry products; natural plants and wildlife; non-subsidized urea fertilizers; mining products; rough diamonds; metal waste and scrap; and tin.<sup>129</sup> Product coverage was expanded, and some new requirements were added (Table 3.8); no comprehensive data on the number of tariff lines regarding restrictive export licensing in 2020 were available from the authorities. The main additions include coffee; rice; palm oil; crude palm oil; coal and coal-based products; domestic marketing requirements for crude oil; and mineral ore domestic processing requirements.<sup>130</sup> In 2017, Indonesia partially relaxed the export ban on mineral ores by temporarily allowing exports of certain minerals, including nickel ore with a concentration below 1.7%, subject to certain additional requirements (see below); the full export prohibition is to be reinstated on 11 January 2022 (Section 3.2.3.1). In August 2018, the nickel ore export permits of three companies and the bauxite export permit of one firm were temporarily revoked for making virtually no progress in smelter development; in 2019, there were 11 smelters (3 in 2013).<sup>131</sup> In

<sup>128</sup> MoT Regulation No. 13 of 2012 (Article 4); and WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>129</sup> MoT Regulations No. 72/M-DAG/PER/12/2013, amending MoT Regulation No. 47/M-DAG/PER/7/2012 on Export of Non-Pharmaceutical Precursors; No. 44/M-DAG/PER/7/2014 on Tin Export Provisions; No. 49/M-DAG/PER/8/2014 on Amendment to Regulation of the Minister of Regional Regulation No. 39/M-DAG/PER/7/2014 concerning Provisions on the Export of Coal and Coal Products; No. 97/M-DAG/PER/12/2014 on Provisions on the Export of Forestry Industry Products; No. 02/M-DAG/PER/1/2015 on Third Amendment to MoT Regulation No. 29/M-DAG/PER/6/2013 concerning Verification or Technical Tracing of Exports of Palm Oil, Crude Palm Oil (CPO) and its Derivative Products; No. 33/M-DAG/PER/5/2015 on Amendment to the Regulation of MoT Regulation No. 44/M-DAG/PER/7/2014 on the Export of Tin; No. 36/M-DAG/PER/5/2015 on Amendment to MoT Regulation No. 24/M-DAG/PER/6/2008 concerning Provisions on the Export of Bananas and Pineapples to Japan in the Context of IJ-EPA (Indonesia-Japan Economic Parties Agreement); No. 66/M-DAG/PER/8/2015 on Amendment to MoT Regulation No. 97/M-DAG/PER/12/2014 concerning Provisions on the Export of Forestry Industry Products; No. 25/M-DAG/PER/4/2016 on Amendment to MoT Regulation No. 89/M-DAG/PER/10/2015 concerning Provisions for the Export of Forestry Industry Products; No. 84/M-DAG/PER/12/2016 on Provisions on Export of Forestry Industry Products; No. 01/M-DAG/PER/1/2017 on Provisions on the Export of Processing and Refining Mining Products; No. 12/M-DAG/PER/2/2017 on Amendment to Regulation of the Minister of Regional Regulation No. 84/M-DAG/PER/12/2016 concerning Provisions on the Export of Forestry Industry Products; No. 13/M-DAG/PER/2/2017 on Amendment to MoT Regulation No. 59/M-DAG/PER/8/2016 concerning Provisions on the Export and Import of Animals and Animal Products; No. 38/M-DAG/PER/6/2017 on Second Amendment to MoT Regulation No. 84/M-DAG/PER/12/2016 concerning Provisions on the Export of Forestry Industry Products; No. 01 of 2018 on Provisions on Rice Export and Import; No. 04 of 2018 on Provisions on the Export of Metal Waste and Scrap; No. 11 of 2018 on Second Amendment to MoT Regulation No. 10/M-DAG/PER/6/2005 concerning Provisions on the Export and Import of Rough Diamonds; No. 52 of 2018 on Changes to MoT Regulation No. 39/M-DAG/PER/7/2014 concerning the Export of Coal and Coal Products; No. 53 of 2018 on Second Amendment to MoT Regulation No. 44/M-DAG/PER/7/2014 concerning Provisions on Tin Export; No. 95 of 2018 on Third Amendment to MoT Regulation No. 39/M-DAG/PER/7/2014 concerning Provisions on the Export of Coal and Coal Products; No. 109 of 2018 on Coffee Export Provisions; No. 114 of 2018 on Provisions on the Export of Non-Subsidized Urea Fertilizers; No. 122 of 2018 on Provisions on the Export of Natural Plants and Wildlife that are Not Protected by Law and Included in the List of CITES; No. 29 of 2019 on Provisions on the Export and Export of Animals and Animal Products; No. 36 of 2019 on Amendment to MoT Regulation No. 4 of 2018 concerning Provisions on the Export of Metal Scrap and Scrap; No. 72 of 2019 Amendment to MoT Regulation No. 29 of 2019 concerning Provisions on the Export and Import of Animal and Animal Products.

<sup>130</sup> Since 2018, new reporting requirements for coal exporters (MoT Regulation No. 95 of September 2018) seemingly place a burden on SMEs operating in the sector; most of Indonesia's estimated 4,000 coal miners and exporters fall into this category. Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>131</sup> Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

August 2019, the Ministry of Energy and Mineral Resources established that the validity of certain documents necessary to export low-concentration nickel ore were to expire on 31 December 2019, thereby effectively reinstating the total export prohibition of nickel ore from 2 January 2020.<sup>132</sup> On 22 November 2019, in the context of the WTO dispute settlement mechanism, the European Union requested consultations with Indonesia regarding various measures concerning certain raw materials necessary for the production of stainless steel, including: domestic processing requirements for nickel, iron ore, chromium and coal; domestic marketing obligations for coal products; and export licensing requirements for nickel.<sup>133</sup>

**Table 3.8 Export restrictions and licensing, 2012 and 2020**

Product	Rationale and requirements
Coffee (since 2019)	Rationale: simplification of export documents.  Requirements: MoT Regulation No. 80/2019 revised the use of NIB documents to be registered as a coffee exporter ( <i>Eksportir Terdaftar Kopi</i> ), and eliminated police investigation report ( <i>Berita Acara Pemeriksaan</i> (BAP) as a requirement for export.
Bananas and pineapples	Rationale: exports to Japan in the context of the IJ-EPA.  Requirements: maximum export quota 1,000 tonnes/year for bananas and 300 tonnes/year for pineapples
Rice (since 2015)	Rationale: fulfil domestic demand. It may be exported if rice production exceeds domestic demand.  Requirements: an export approval valid for six months; rice exports may only be conducted by state-owned companies (BULOG), regionally-owned enterprises, and private companies under certain conditions: (i) BULOG: with a maximum Prime Quality/Level of Broken Rice of 25%, and a recommendation from the Coordinating Ministry for Economic Affairs and the Ministry of Agriculture; and (ii) private companies: with a maximum Prime Quality/Level of Broken Rice of 5%, organic rice with certificate, and a recommendation from the Ministry of Agriculture.
Processed-timber products and their derivatives, finished rattan (non-prohibited)	Rationale: increase Indonesia's standard and effectiveness for exports of timber products.  Requirements: only companies with a registered exporter of forestry industry products (ETPIK) licence, and those with an ETPIK non-producer licence, from the MoT may export processed timber; in 2020, MoT Regulation No. 45/2020 revoked the use of the ETPIK licence; based on MoT Regulation No. 84/2016, the exporter only needs to obtain V-Legal (verification of wood legality) and surveyor reports for certain HS codes.
Tin bar	Rationale: (i) prevent excessive exploitation and environmental damage; (ii) support sustainable use; (iii) fulfil domestic demand; and (iv) boost competitiveness and improved quality of tin exports.  Requirements: tin may only be exported by entities recognized as "ET-Tin" by the DGFT. Recognition is valid for three years (extendable). A VPTI by an authorized surveyor is required.
Mineral ore products	Rationale: (i) prevent excessive exploitation and environmental damage; (ii) fulfil domestic demand; (iii) develop the competitiveness of the downstream industry; (iv) increase investment in smelter construction, and provide job opportunities; and (v) improve surveillance of the mining process and collection of royalty payments.  Requirements: 131 metal and non-metal mineral and 12 rock products may only be exported by mining business permit holders, and the implementation of exports is verified by an authorized surveyor (VPTI); and 13 minerals, including concentrates and certain criteria product of minerals (washed bauxite), may only be exported by mining business permit holders after obtaining export approval from the DGFT. These approvals also require a recommendation from the DG of Mineral and Coal, specifying the product, exported amount, duration, port of loading, and export destinations of product. Pre-shipment inspection by an authorized surveyor is required, at the cost of the exporter. Registered exporters must submit monthly written reports to the DGFT. Mining companies must submit a work plan for processing and purification development. Since 11 January 2014, mining companies have been required to domestically process mineral ore before shipping it abroad; since 2017, refining requirements are limited to metals,

<sup>132</sup> Request for Consultations by the European Union Letter of Request for Consultations by the European Union of 22 November 2019. Viewed at: [https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc\\_158451.11.19IDNDSRequestasagreed.pdf](https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc_158451.11.19IDNDSRequestasagreed.pdf).

<sup>133</sup> WTO, *Indonesia – Measures Relating to Raw Materials*. Viewed at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds592\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds592_e.htm).



Product	Rationale and requirements
	<p>their associated minerals, by-products and residuals, and refining requirements for seven metals called Type 1 minerals (copper, ilmenite, iron ore, lead, manganese, titanium, and zinc) as well as low-grade nickel and washed bauxite were eased until 11 January 2022. These exempt metals face a 60% export duty since 2016, unless the mining company can provide proof of progress in the construction of smelters or refining facilities. Other products are subject to export duties of 20% (Section 3.2.2). Applications to be recognized as a registered exporter must be made to the DGFT and, <i>inter alia</i>, must include a recommendation from the DG of Mineral and Coal (Ministry of Energy and Mineral Resources).</p>
Non-subsidized urea fertilizer	<p>Rationale: ensure availability of fertilizer for the domestic market, and put in place effective controls to prevent abuse and diversion of subsidized urea fertilizer.</p> <p>Requirements: export of non-subsidized urea fertilizer may only be undertaken by certain state-owned companies approved by the DGFT.</p>
Non-pharmaceutical precursors	<p>Rationale: combat illicit international narcotic and psychotropic distribution, given that precursors may be misused as raw or auxiliary materials in the illegal manufacture of narcotic and psychotropic drugs.</p> <p>Requirements: listed types of non-pharmaceutical precursors may only be exported by a company recognized as a registered exporter by the Minister of Trade. Companies must submit written applications to the DGFT, <i>inter alia</i>, attaching a recommendation from the DG of Manufacturing Industry Base (Ministry of Industry). Registration is valid for 3 years (extendable). For each export, registered exporters must obtain an approval from the DGFT, which is based on recommendations from the National Narcotics Agency and the Indonesian police. Approval to export is valid for 180 days (non-extendable). Registered exporters must notify a national shipment plan, and each shipment must be verified by an appointed surveyor. Registered exporters must also submit export reports to the MoT every 3 months.</p>
Silver and gold	<p>Rationale: minimize environmental damage from uncontrolled mining.</p> <p>Requirements: based on MoT Regulation No. 01/2017, the export requirement for silver and gold only requires a surveyor report for traceability.</p>
Metal rest and scrap <sup>a</sup> (non-prohibited)	<p>Rationale: availability and adequacy of raw materials for the establishment and development of national industries, especially metal and machinery industries.</p> <p>Requirements: exporters of certain metal rest and scrap (affecting 18 tariff lines) require a letter of approval. To obtain the letter, exporters must apply to the Director of Industry and Mining Export Products (MoT), <i>inter alia</i>, attaching a recommendation from the Director of Metal Base Material Industry (Ministry of Industry). The approval letter is valid for six months (extendable). Exporters must report on export implementation regardless of whether exports have been made. Certain metal rest and scrap items may only be exported from Batam Island (6 tariff lines).</p>
Class C minerals other than sand, soil and topsoil	<p>Rationale: to minimize environmental damage caused by uncontrolled mining, and to prevent illegal exports.</p> <p>Requirements: pre-shipment inspection prior to export, and Class C minerals must be verified by a surveyor approved by the DGFT.</p>
Raw diamonds	<p>Rationale: implementation of commitments under UN Resolution No. 55/56 (2000) on the prevention of violations of trade of diamonds related to armed conflicts and the resulting Kimberly Process Certification Scheme (KPCS).</p> <p>Requirements: raw diamonds may only be exported by exporters approved by the DGFT, which, <i>inter alia</i>, is contingent upon obtaining a letter of recommendation from the DG of Minerals and Coal (Ministry of Energy and Mineral Resources). Such recognition is valid for 3 years (extendable). Raw diamonds may only be exported to KPCS participants. Each consignment is subject to pre-shipment inspection, and requires the approval of the DGFT.</p>
Coal and coal-based products (since 2014)	<p>Rationale: not indicated.</p> <p>Requirements: coal exporters must obtain export permits from the MoT. Before obtaining the permit, a coal exporter must secure a recommendation from the Ministry of Energy and Mineral Resources. All exports must be inspected by a government-appointed surveyor prior to shipment abroad. In 2018, new reporting requirements for coal exporters were issued.</p>



Product	Rationale and requirements
Oil and gas	<p>Rationale: (i) sovereignty (Constitution, Article 33(3)); (ii) sustainable and efficient management of oil and gas as non-renewable natural resources; (iii) prevention of excessive exploitation and environmental damage; (iv) ensure the exploitation of these resources contributes to the prosperity and welfare of the Indonesian people; and (v) supply domestic demand.</p> <p>Requirements: exporters must be approved by the DGFT, which, <i>inter alia</i>, is contingent upon obtaining a letter of recommendation from the DG of Oil and Gas (Ministry of Energy and Mineral Resources). Since 2018, oil producers have been required to give priority to providing a portion of their crude oil to the domestic market before allocating it for export. Producers holding production-sharing contracts are required to offer their portion of crude oil to the state-owned oil-and-gas company Pertamina or other oil-refining companies in Indonesia, at least 3 months before exporting it.</p>

- a Rest is defined as products that have not been used up in production, or goods that still have the same characteristics, but their function has changed.

Source: MoT Regulations No. 10 (2005), as amended by No. 25 (2008); No. 3 (2007); No. 29 (2012) as amended by No. 52 (2012); No. 45 (2012); No. 46 (2012); No. 47 (2012); No. 48 (2012); No. 64 (2012); No. 78 (2012); No. 39/2014 as amended by No. 95/2018; No. 1/2018 amending regulation 103/M-DAG/PER/12/2015; and No. 1/2014, as amended by No. 1/2017; Ministry of Energy and Mineral Resources Regulation No. 42 of September 2018; Global Trade Alert, *Indonesia: 2018 update on import and export provisions for rice*. Viewed at: <https://www.globaltradealert.org/state-act/31714/indonesia-2018-update-on-import-and-export-provisions-for-rice>; and Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

### 3.2.4 Export support and promotion

#### 3.2.4.1 Duty and tax concessions

3.83. Exports of goods and imports of materials, intermediate products and machinery used in their manufacture remain exempt from customs duty and VAT (Sections 3.1.3.6 and 3.3.1). During the review period, the regulatory framework in this area, including that related to SME export activities, was updated.<sup>134</sup> Eligible manufacturers located outside of bonded zones and SEZs (Sections 3.2.4.2.2 and 3.2.4.2.3) are required to export 100% of their output.<sup>135</sup> To receive import-duty exemptions on materials purchased domestically and used in the production of export items, a company must submit the prescribed application form to the BKPM (Sections 2.2.1.1 and 2.4). The DGCE allows exporters operating at ports of entry to be reimbursed the relevant amount of import duties, within seven days of the exportation date; coffee, garments, gas, oil, plywood, rubber, tin, and products covered by export or quota agreements are excluded.<sup>136</sup> No information on the refund calculation formula in place and no data on the amounts disbursed to exporters by main product categories and their f.o.b. export value were available from the authorities.

#### 3.2.4.2 Export zones

3.84. During the review period, Indonesia continued to support exports through incentives available via its FTZ, bonded zone, export-orientated production entrepôt (EPTE) (until 2015) and SEZ schemes. In addition to other incentives (see below), under MoF Regulations No. 176/2009 and No. 188/2015, companies operating within FTZs, SEZs and bonded zones may import capital goods, not available in Indonesia in sufficient quantities or specifications, duty-free for two years during the

<sup>134</sup> MoF Regulations: PMK No. 160/PMK.04/2018 concerning Exemption of Import Duties and the No Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods on the Import of Goods and Materials to be Processed, Assembled, or Installed on Other Goods for the Purpose of Exporting; PMK No. 161/PMK.04/2018 concerning Returns of Import Duty that has been Paid for the Import of Goods and Materials to Be Processed, Assembled, or Installed on Other Goods for the Purpose of Exporting; and PMK No. 177/PMK.04/2016 concerning Exemption of Import Duties and No Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods on Imported Goods and/or Materials, and/or Machines Conducted by Small and Medium Industries with Export Purposes as amended by PMK No. 110/PMK.04/2019 concerning Amendments to PMK No. 177/PMK.04/2016 concerning Exemption of Import Duties and the No Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods over Import Goods and/or Materials, and/or Machines Conducted by Small and Medium Enterprises with Export Purposes.

<sup>135</sup> Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>136</sup> Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

investment project's construction (Section 3.1.3.6); this may be further extended, depending on the construction period.<sup>137</sup>

### 3.2.4.2.1 Free trade zones (FTZs)

3.85. The FTZ scheme under Law No. 1 (2000) on Free Trade Zones and Free Ports (last amended in 2007) aiming to promote regional economic development, remained virtually unchanged.<sup>138</sup> FTZs are geographically distinct areas located near seaports and airports, where imported goods may be stored, repacked or processed, free from the imposition of import and export duties, VAT, luxury tax, and excise tax. Import and export documentation is simpler than for regular imports. Indonesia maintains one FTZ, set up in 2007 and situated on the Riau Islands of Batam, Bintan and Karimun (BBK), off the coast of Singapore, to attract investment from Singapore via comparatively cheap labour and low rents. However, it appears that the BBK FTZ has not lived up to hopes, employing just 2,000 workers at end-2015, with its operation bogged down by institutional bureaucracy issues (e.g. the lack of demarcation between the central government-appointed FTZ authority (BP Batam) and the local governments), creating legal uncertainties for investors.<sup>139</sup> In December 2015, the authorities planned to dissolve this FTZ, and convert it into a regular SEZ; no update on this matter was available from the authorities.<sup>140</sup> In May 2019, upon the recommendation of the Corruption Eradication Commission (Section 2.2.4), the cigarette and alcohol excise tax exemption for the FTZ BBK and the free port of Sabang at the northern tip of Sumatra was lifted because it had been abused to smuggle these items to other regions.<sup>141</sup> At the time of the previous Review, the main business sectors operating within the FTZ were technology, medical equipment and electronics, telecommunications, agri-business, textiles, industrial assembly and fabrication, shipbuilding, tourism, and oil and energy services.

### 3.2.4.2.2 Bonded zones

3.86. The bonded zones scheme under MoF Regulation No. 147/2011 (last amended on 26 September 2018) governs bonded zones, and is implemented by various DGCE regulations. It was updated in certain areas, including, in 2015, the introduction of Bonded Logistics Centres for storing commodities without processing them.<sup>142</sup> The EPT scheme under MoF Decree No. 855/1993 was merged with the Bonded Zone regime under GR No. 33/1996 (last amended by GR No. 85/2015).<sup>143</sup> Bonded zones are buildings or confined areas used to process goods and materials for export, including design, engineering, sorting and packaging activities.<sup>144</sup> 100% foreign ownership of manufacturing plants in the zones continues to be allowed for five years, and 95% ownership is permitted thereafter, provided 100% of production is exported.<sup>145</sup> Goods may be imported into a bonded zone and then re-exported without the payment of import duties. Exemptions from VAT, excise and luxury taxes apply, including to raw materials purchased from local companies. In addition, operators are exempt from the payment of corporate income tax and local taxes (Section 3.3.1).<sup>146</sup> Since 2013, the sale of products from a bonded zone to domestic customers may

<sup>137</sup> Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>138</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>139</sup> Wiryawan, B., A. (2016), *Addressing Innovation Competitiveness of Batam Free Trade Zone: What Went Wrong?*, International Conference on Social and Political Issues (ICSPI 2016). Viewed at: <https://knepublishing.com/index.php/KnE-Social/article/view/2907/6222>; Vujanovic, P. (2017), *Decentralisation to promote regional development in Indonesia*, OECD Economics Department Working Papers No. 1380, ECO/WKP(2017)12, 4 April.

<sup>140</sup> A 2009 law on SEZs foresees that the existing FTZs will either expire within a pre-determined period or will become SEZs with broader activities. Once FTZs have changed status or expired, Law No. 1 (2000) will become nul and void.

<sup>141</sup> The Jakarta Post, *Tackling smuggling in FTZs*. Viewed at: <https://www.thejakartapost.com/academia/2019/05/28/tackling-smuggling-in-ftzs.html>.

<sup>142</sup> MoF Regulations: PMK No. 272/PMK.04/2015 concerning Bonded Logistics Centers as amended by PMK No. 28/PMK.04/2018 concerning Amendments to PMK No. 272/PMK.04/2015 concerning Bonded Logistics Centers; PMK No. 131/PMK.04/2018 concerning Bonded Zones; PMK No. 204/PMK.04/2017 concerning Duty-Free Stores; and PMK No. 143/PMK.04/2011 concerning Bonded Warehouses.

<sup>143</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>144</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>145</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>146</sup> Article 3.1(a) of the WTO Agreement on Subsidies and Countervailing Measures prohibits subsidies contingent upon export performance, including those illustrated in Annex I whose paragraph (e), *inter alia*, refers to the full or partial exemption remission, or deferral specifically related to exports, of direct taxes paid or payable by industrial or commercial enterprises.

not exceed 50% of the total value of exports (previously, at least two thirds of production had to be exported), plus sales to other bonded zones, FTZs and other economic areas in the previous year.<sup>147</sup> If a bonded-zone company exceeds this limit, its domestic market sales quota for the next year is reduced. The 50% limit may be increased, upon the approval of the DGCE, based on a recommendation by the Ministry of Industry. Importers selling to the domestic market may defer payment of taxes until imported goods are released from the bonded zone. A Bonded Zone Plus facility allows for simpler business licensing provisions and import procedures.

3.87. As at 30 March 2020, there were 1,366 (1,557 at end-2012) bonded zones and 176 bonded logistics centres; the main business sectors operating within the bonded zones were textiles and textile products, electronics, plastic goods, food and beverages, and footwear. According to the latest survey in 2017, bonded zone users contributed IDR 634.1 trillion to export value, employed 1.95 million workers, and realized IDR 178.17 trillion in investment in Indonesia.

### 3.2.4.2.3 Special economic zones (SEZs)

3.88. The SEZ scheme, under the 2007 Investment Law and the Special Economic Zones Law 39/2009, aims to enhance the competitiveness of Indonesian business and encourage value-added processing activities and exports. It was updated with regulations improving incentives (see below).<sup>148</sup> Regulatory changes included: GR No. 1 of 2020 concerning Implementation of Special Economic Zones; and GR No. 12 of 2020 concerning Facilities and Ease in Special Economic Zones (related to taxation, customs and excise facilities). SEZ proposals must be approved by the National Council for Special Economic Zones, consisting of government ministers and heads of certain other government institutions, which have overall responsibility for administering SEZs, as well as by the President. Any business entity (e.g. SOES (BUMN, BUMD), cooperatives, private companies, joint ventures, or consortia), district/city government or provincial government may put forward proposals for developing SEZs, funding their development and maintenance, and running business activities within them. Tax and non-tax incentives remain available to participating firms. The former consist of rebates or exemptions on: corporate income tax, property tax, import duty, VAT, excise tax, luxury taxes, and local taxes.<sup>149</sup> Non-tax incentives include assistance relating to fast-track land acquisitions, expedited business licences, streamlined port procedures, and simplified working-permit procedures for foreigners; the 2009 legislation specifies that priority regarding employment in SEZs is given to Indonesian citizens. In November 2015, further incentives for firms to set up within SEZs were strengthened by offering corporate tax discounts ranging from 20% and 100% for up to 25 years, depending on the level of investment.<sup>150</sup>

<sup>147</sup> MoF Regulations No. 120/2013 and No. 131 of November 2018, cited in Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>148</sup> These zones must have distinct geographical boundaries, be situated in strategic positions (i.e. close to trade and or maritime routes), and/or be supported by a business cluster or key sector, as well as being linked to well-developed external infrastructure. The concept is that there should be various zones located within the SEZ, including: export-processing zones (assembly and logistics for exports); bonded zones (processing, warehousing, and logistics for goods destined for the domestic market and for export); industrial zones (processing and manufacturing for the domestic market); technology parks; and supporting activities (such as ports, hotels, and housing). WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>149</sup> Article 3.1(a) of the WTO Agreement on Subsidies and Countervailing Measures prohibits subsidies contingent upon export performance, including those illustrated in Annex I whose paragraph (e), *inter alia*, refers to the full or partial exemption remission, or deferral specifically related to exports, of direct taxes paid or payable by industrial or commercial enterprises.

<sup>150</sup> More specifically, some of the available tax facilities include the following: tax holiday for primary industry-corporate income tax reduction (of up to 100% for 10 to 25 years for investment more than IDR 1 trillion (USD 68.32 million), of up to 100% for 5 to 15 years for investment between IDR 500 billion (USD 4.16 million) and IDR 1 trillion (USD 68.32 million), at a rate decided by the MoF for 5 to 15 years for investment below IDR 500 billion (USD 34.16 million); tax allowance for other industries (reduction in net taxable income of up to 30% of the amount invested in the form of fixed assets, pro-rated at 5% for six years of commercial production, accelerated depreciation and/or amortization, extension of tax loss carry forward from five years to up to 10 years, and a reduction in withholding tax on dividends paid to non-residents to 10%, or applicable treaty rate); Value added tax (VAT) and sales tax exemption on luxury goods (imported, delivered among companies in SEZ, and those delivered among companies in other SEZs); customs clearance exemption (on all goods entering the SEZs and Goods exiting from the SEZs to foreign countries (except leather, woods, cocoa beans, crude palm oil and its derivatives, and minerals), goods exiting from the SEZs to the domestic market, however, subject to customs duty, except those that fulfil the minimum local content requirement of 40%); and import duties and excise (deferred import duties for imported goods and exempted excise for imported goods, import duty on goods delivered to domestic market subject to free trade agreement

3.89. As at 17 February 2020, there were 15 SEZs, 11 of which were in operation and another 4 were in development; 8 SEZs with a special focus, such as palm oil processing or tourism, were also in development.<sup>151</sup> As at June 2020, 29 companies were installed in SEZs; they represented IDR 87,509 trillion of investment, and employed 8,862 persons. Reportedly, as at 2015, most SEZs suffered from inadequate infrastructure, especially in light of their often isolated locations; moreover, their potential impact on broader economic development remained uncertain.<sup>152</sup>

### 3.2.5 Export finance, insurance, and guarantees

3.90. The entirely state-owned Indonesia Eximbank (*Lembaga Pembiayaan Ekspor Indonesia*), supervised by the MoF, remains the sole institution to support national export performance, increasing the added value and competitiveness of export commodities by providing financing, guarantees and local and overseas insurance and consultation services for exporters, as well as contributing to the development of export-orientated SMEs (Table 3.9).<sup>153</sup> It provides finance for transactions or projects that cannot be financed by banks, but have the prospects to increase exports; and assists in overcoming barriers encountered by the banks or financial institutions in providing financing for exporters that have commercial potential and/or are important for the country's economic development. Indonesia Eximbank provides both conventional and sharia financing for exporters. The financing can be given for either short or long term, in cash or non-cash facilities, in rupiah or US dollars. According to the authorities, Indonesia Eximbank operates under normal commercial terms, applying the prevailing market interest rate which is above the BI's borrowing rate. It charges a premium for guarantees based on risk (Table 3.9).<sup>154</sup> In principle, Indonesia Eximbank's short-term export insurance product is similar to that of the Asuransi Ekspor Indonesia (see below), i.e. to mitigate financial risk via insurance protection for the default of payment of commercial receivables due to unexpected losses resulting from insolvency, protracted default or political risk. In September 2015, a Government Special Assignment, the National Interest Account (NIA), was introduced to provide export financing for transactions or projects that are commercially difficult to implement, but are considered necessary to support export policies or programmes.<sup>155</sup> During the review period, it undertook efforts to, *inter alia*, increase the focus on financing a number of government-designated leading export commodities (e.g. leather and jewellery), penetrate non-traditional export markets (e.g. Africa, South Asia, the Middle East, and Eastern Europe), encourage growth of export-oriented MSMEs, and implement special-assignment export projects in synergy with a number of other SOEs. Examples of the latter include aircraft produced by the SOE Indonesian Aircraft Company (Thailand, Nepal, United Arab Emirates, and African countries not under UN embargo) and train cars produced by the SOE Indonesian Railway

(FTA) tariff rates). Non-tax incentives involve easy licensing and labour-related incentives to investors that include low wages that keep production costs low, immigration facilities, and labour market flexibility. Immigration facilities include visa on arrival for 30 days, extendable five times; option to transfer visit visa into temporary stay permit; and option to transfer temporary stay permit into permanent stay permit for individuals working in SEZs and their families. Furthermore, foreign investors investing in the SEZs are allowed to have the building right on land (Hak Guna Bangunan), which is extendable up to 80 years; own property in the SEZs; and those who own property have the option to apply for the permanent stay permit in Indonesia. Online information (<https://www.aseanbriefing.com/news/indonesias-growing-special-economic-zones-opportunities-and-challenges/>); MoF Regulation 96/2015 cited at Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January; Petar Vujanovic (2017), *Decentralisation to promote regional development in Indonesia*, OECD Economics Department Working Papers No. 1380, ECO/WKP(2017)12, 4 April.

<sup>151</sup> These include the Riau Islands SEZ, which encompasses the FTZ BBK and nearby islands; the Sabang SEZ in Aceh province; the SEZ Tanjung Lesung in Banten province; and the SEZ Sei Mangkei in North Sumatra. Those under development are in Palu (in Central Sulawesi), Bitung (North Sulawesi), Mandalika (West Nusa Tenggara), Morotai (North Maluku), Tanjung Api-Api (South Sumatra), Tanjung Kelayang (Bangka Belitung), Sorong (Papua Barat) and Maloi Batuta Trans Kalimantan (East Kalimantan). WTO document WT/TPR/S/278/Rev.1, 16 July 2013; Economist Intelligence Unit (2019), *Country Commerce – Indonesia*, January.

<sup>152</sup> Petar Vujanovic (2017), *Decentralisation to promote regional development in Indonesia*, OECD Economics Department Working Papers No. 1380, ECO/WKP(2017)12, 4 April.

<sup>153</sup> Indonesia Eximbank (2019), *Annual Report 2018: Unlocking Developmental Potential, Expanding Export Boundaries*, April. Viewed at: <http://www.indonesiaeximbank.go.id/annual-report#>; WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>154</sup> The percentage of the coverage depends on the underwriting of the buyer, and on the country risk. The repayment term is normally set for a short-term tenor ( $\leq 1$  year); medium-term tenor (1-5 years); or long-term tenor ( $> 5$  years). A grace period is acceptable under certain conditions, for a limited time, depending on various aspects, including the risk management consideration.

<sup>155</sup> MoF, *Government Strengthening Export Financing through National Interest Account*. Viewed at: <https://www.kemenkeu.go.id/en/publications/news/government-strengthening-export-financing-through-national-interest-account-1/>.

Company (Bangladesh and Sri Lanka) via two NIAs in 2018. Under MoF Decree No. 787/KMK.08/2017 of 6 November 2017 on Indonesia Eximbank's National Interest Account to Promote Exports to Nations within the African Region, all goods and services meeting "domestic contribution" criteria benefit from financing, guarantees and/or insurance products. Foreign companies with a majority of foreign legal entity or foreign national shareholders are not eligible for this facility.<sup>156</sup> Since 2019, foreign firms operating in the country are now fully eligible to access Indonesia Eximbank's NIA programme.<sup>157</sup> In 2017, Indonesia Eximbank launched the Export-Oriented Small Business Loan facility in support of the Economic Policy Package Phase XI (Section 2.2.2 and 3.3.1.2).

**Table 3.9 Indonesia Eximbank services, 2019**

Service	Product	Form
<b>A. Financing</b>		
<u>Domestic</u>	<ul style="list-style-type: none"> <li>Working capital export financing</li> <li>Investment export financing</li> <li>Warehouse receipt financing</li> <li>Export bills purchasing</li> <li>Project financing</li> <li>Trust receipts</li> <li>Supplier bills purchasing</li> <li>Export-oriented business credit</li> </ul>	<ul style="list-style-type: none"> <li>Financing disbursements</li> </ul>
<u>Overseas</u>	<ul style="list-style-type: none"> <li>Investment financing</li> <li>Project financing</li> <li>Buyer's credit</li> </ul>	
<u>Sharia</u>	<ul style="list-style-type: none"> <li>Export working capital,</li> <li>Export investment financing</li> <li>Sharia trade</li> <li>Financing facility.</li> </ul>	
<b>B. Guarantees</b>	<ul style="list-style-type: none"> <li>Project guarantees</li> <li>Custom bonds</li> <li>Credit guarantees for banks and financial institutions</li> <li>Reguarantees</li> </ul>	<ul style="list-style-type: none"> <li>Guarantees for Indonesian exporters regarding payments received from the overseas buyer of goods and/or services;</li> <li>Guarantees for Indonesian importers of goods and services abroad regarding payment provided to Indonesian exporters to finance export contracts on the sale of goods and/or services or fulfilment of work or services carried out by Indonesian companies;</li> <li>Guarantees for Eximbanks' partners providing finance for export transactions to Indonesian exporters; and/or</li> <li>Guarantees in the framework of tenders related to the implementation of projects that partly or entirely support export activities</li> </ul>
	<ul style="list-style-type: none"> <li>Trade credit insurance</li> <li>Marine cargo (since 2015)</li> <li>Reinsurance</li> </ul>	<ul style="list-style-type: none"> <li>Insurance to cover the risk of failure of exports (marine cargo insurance for the product (export) at 100% of invoice and 10% of expected profit);</li> <li>Insurance to cover the risk of payment failure (commercial risks at a maximum of 90%, political risks at a maximum of 95%);</li> </ul>

<sup>156</sup> As at 31 December 2019, total disbursements of the NIA funds for the African region stood at IDR 185 billion. Indonesia Eximbank (2019), *Annual Report 2018: Unlocking Developmental Potential, Expanding Export Boundaries*, April. Viewed at: <http://www.indonesiaeximbank.go.id/annual-report#>.

<sup>157</sup> Under MoF Regulation No. 787/KMK.08/2017 of 6 November 2017, all exporters to the African region were eligible for NIA financing, except for those with majority foreign investment or whose ownership was controlled by foreign legal entities or foreign citizens. However, under MoF Regulation No. 01/KMK.08/2019 of 2 January 2019, the reference to exporters was broadened to "business entities, both in the form of legal entities and not in the form of legal entities, including individuals who conduct export activities". It also removed the clause "except business entities with foreign investment status whose ownership is majority owned, or controlled, by foreign legal entities or foreign citizens", under KMK No. 787/2017.



Service	Product	Form
		<ul style="list-style-type: none"> <li>Insurance to cover investment by Indonesian companies abroad (only for political risk, to a maximum of 95%); and/or</li> <li>Insurance to cover political risk in export destinations (up to 95% of non-payment due to political risk, trade credit insurance at a maximum of 90%).</li> </ul>
<b>D. Consultation services</b>	<ul style="list-style-type: none"> <li>Coaching Program for New Exporters (since 2014)</li> <li>Capacity building</li> <li>Corporate Social Responsibility</li> </ul>	

Source: Indonesia Eximbank (2019), *Annual Report 2018: Unlocking Developmental Potential, Expanding Export Boundaries*, April. Viewed at: <http://www.indonesiaeximbank.go.id/annual-report#>.

3.91. By 2018, Indonesia Eximbank's values for financing, guarantees and insurance had significantly risen to IDR 108,859 billion (IDR 55,203 billion in 2014), IDR 11,307 billion (IDR 3,629 billion in 2014) and IDR 11,322 billion (IDR 702 billion in 2014), respectively; at the same time, although its total assets rose to IDR 120,071 billion (IDR 60,503 billion in 2014), its net profit dropped to IDR 172 billion (IDR 1,182 billion in 2014), due, *inter alia*, to an increase in non-performing loans (13.73% (gross) in 2018), resulting from numerous customers' cash-flow readjustment to deal with unfavourable global economic conditions.<sup>158</sup> Financing remained relatively balanced between the rupiah (54.9% of total in 2018) and the US dollar. Rupiah financing increased by 14.83% from IDR 1.77 trillion in 2017 to IDR 59.84 trillion in 2018. US dollar financing decreased slightly to IDR 49.01 trillion in 2018 from the previous year's position of IDR 49.24 trillion. Export Working Capital Financing and Export Investment Financing continued to hold dominant positions, at 51.64% and 48.26%, respectively, of total disbursements in 2018. Export financing for SMEs and large corporations increased by 24.30% and 5.34%, respectively, in 2018; the value for export financing to SMEs and large corporations stood at IDR 16.03 trillion (14.7% of total amount disbursed) and IDR 92.7 trillion, respectively, in 2018. Conventional financing grew 10.47% to IDR 93.24 trillion in 2018 compared to 2017, while sharia financing decreased by 5.96% to IDR 15.62 trillion; in 2018, conventional financing represented 85.65% of total disbursements, whereas sharia was 14.35%. In 2018, the main beneficiaries of sharia financing were the crude palm oil (CPO) sector (59.27% of total amount of disbursements), the mining sector (8.44%), and maritime transport (4.94%). In 2018, the number of guarantee certificates increased 2% to 1,192 certificates compared to 1,171 in 2017; in 2019, it decreased by 2% to 1,060. As at December 2019, 217 guarantee debtors were insured by Indonesia Eximbank. In 2019, Indonesia Eximbank's portfolio covered: various industrial business sectors (48.35%); agriculture, hunting and its equipment (17.9%); mining (9.37%); construction (6%); freight, warehousing and communication (5.3%); electricity, gas, and water (4.4%); and others (3.94%). In 2019, the insurance business activity gave insurance protection to 46 insured companies (81 in 2018) and 574 buyers/contracts (678 in 2018). Indonesia Eximbank is currently repositioning its insurance products, and increasing failed-payment insurance. The insurance business continued to predominantly benefit the industrial sector (87.27% of the total in 2019), including CPO and derivatives, paper, plastic, chocolate, seaweed flour, furniture, frozen fish, textiles, pharmaceutical products, skin tanning, tyres, and transportation and construction (12.73%). As at 2018, Indonesia Eximbank's financing developmental impact was estimated to have increased: investment by 2.9 times, meaning that every IDR 1 billion of financing increased investment by IDR 2.9 billion; and GDP by 2.7 times, meaning that every IDR 1 billion of financing increased the GDP by IDR 2.7 billion.

3.92. The state-owned Asuransi Ekspor Indonesia (ASEI), supervised by the Ministry of State-owned Enterprises, continues to, *inter alia*, offer export credit insurance to exporters for all products other than oil and gas, in the event that they do not receive payment from the buyer, and export bill insurance to banks, in the event that exporters fail to repay their loans due to commercial

<sup>158</sup> On 31 December 2011, the value of export financing to 224 debtors was IDR 20,541.08 billion; nearly half of this went to the industrial sector (in particular, CPO, textiles, and oil, gas and mining). Export guarantee values were IDR 347.85 billion, with 317 certificates issued. There were 22 buyers of export insurance for a value of IDR 38.58 billion). WTO document WT/TPR/S/278/Rev.1, 16 July 2013. Indonesia Eximbank (2019), *Annual Report 2018: Unlocking Developmental Potential, Expanding Export Boundaries*, April. Viewed at: <http://www.indonesiaeximbank.go.id/annual-report#>.



and/or political risks.<sup>159</sup> The ASEI may reimburse up to 85% of losses, and the remaining 15% is borne by the exporter. Sharia-compliant insurance products are also available. The premium is calculated based on country repayment risks; terms of payment associated with the transaction; and the credit term. The authorities noted that there is no regulation forbidding domestic insurance companies (including the ASEI) from providing services to foreign clients. The ASEI's premium receivables from export credit insurance rose from IDR 3,076.1 million in 2017 (of total receivable premiums) to IDR 5,170.2 million in 2018, representing 0.9% and 1.5% of total receivable premiums of the company, respectively; reinsurance receivables by export credit insurance remained virtually stable, at IDR 4,835.7 million in 2017 and IDR 4,860.6 million in 2018, accounting for 1.1% and 1% of total of reinsurance receivables, respectively. In 2018, the ASEI's net profit after tax amounted to IDR 4 billion compared to losses of IDR 173 billion in 2017; in 2019, it targeted an IDR 6 billion profit after tax. Losses that occurred in 2017 were compensated by either allowance for bad debt expenses amounting to IDR 52 billion, or employee benefit (based on actuary calculation) of IDR 37 billion. The ASEI's profit in 2018 was due to an increment of underwriting results in ASEI export credit insurance (IDR 1.8 billion), credit guarantees (IDR 25.0 billion), general insurance (IDR 39.0 billion), and inward business (IDR 54.0 billion).

### 3.3 Measures Affecting Production and Trade

#### 3.3.1 Incentives

##### 3.3.1.1 Taxation

###### 3.3.1.1.1 Central government taxes and related tax incentives

3.93. Central government taxes include corporate and personal income tax; VAT; the Luxury Goods Sales Tax, excise taxes, the Land and Building Tax, import duties, and export duties.

3.94. The central Government's main source of tax revenue is domestic taxes, which accounted for between 95.6% and 97.4% of the total value of tax receipts over the review period. The largest category of domestic taxes is income tax (which comprises both personal income tax and corporate income tax), followed by VAT. Taxes on international trade comprise import duties and export taxes; together, they accounted for between 2.6% and 4.4% of total tax receipts over the review period (Table 3.10). Over the review period, reliance on international trade tax revenue dropped, despite rising tax rates, largely due to faster income tax revenue growth.

3.95. At end-January 2020, the Government submitted an "omnibus" tax bill to Parliament, containing corporation tax rate cuts (to 22% in 2021 and 20% in 2023) and the imposition of a VAT of 10% on Internet companies, regardless of where they are based. It also proposes aggregating various tax incentives under one piece of legislation; as indicated by the authorities, as at mid-July 2020, this bill was still under discussion between the Government and the Parliament.<sup>160</sup> In response to the COVID-19 outbreak, this corporate tax reduction was fast-tracked in Spring 2020 (Section 3.3.1.1.1.1) and other new tax measures were introduced to mitigate its impact, namely, companies were able to defer tax payments for six months, and personal income tax was waived for six months to boost consumption.<sup>161</sup>

<sup>159</sup> Commercial risks include importer insolvency, importer default, and importer refusal to accept the goods. Political risks include the prohibition of foreign exchange transfers, import quota restrictions, the revocation of import licences, and acts of war or other hostile situations in the importing country. WTO document WT/TPR/S/278/Rev.1, 16 July 2013. ASEI (2019), *Annual Report 2018: Providing Excellent Service Through Continuous Technology Development*. Viewed at: <http://www.asei.co.id/en/annual-report/>; ASEI, *Export Bill Insurance*. Viewed at: <http://www.asei.co.id/en/ebi/>; and ASEI, *Export Credit Insurance*. Viewed at: <http://www.asei.co.id/en/export-credit-insurance-eci/>.

<sup>160</sup> Reuters, *Indonesia government seeks parliament approval for corporate tax cut, other tax changes*. Viewed at: <https://www.reuters.com/article/us-indonesia-economy-tax/indonesia-government-seeks-parliament-approval-for-corporate-tax-cut-other-tax-changes-idUSKBN1ZZ0VA>. PWC. Viewed at: <https://www.pwc.com/id/en/taxflash/assets/english/2019/taxflash-2019-18.pdf>. The Insider Stories. Viewed at: <https://theinsiderstories.com/indonesias-house-receives-tax-omnibus-law-draft/>.

<sup>161</sup> MoF Regulation No. 23/PMK.03/2020. Viewed at: <https://jdih.kemenkeu.go.id/fullText/2020/23~PMK.03~2020Per.pdf>.

**Table 3.10 Central government tax revenues, 2013-19**

	2013	2014	2015	2016	2017	2018	2019
Tax revenues (IDR trillion)	1,077.3	1,146.9	1,240.4	1,285.0	1,343.5	1,518.8	1,545.3
% of GDP	11.9	10.7	10.8	10.4	9.9	10.2	9.8
	( % of total)						
Direct tax	49.4	49.7	50.8	52.7	50.6	49.5	51.1
Income tax	47.0	47.6	48.4	51.1	49.3	48.2	49.8
Non-oil and gas	38.8	39.5	43.9	48.3	43.7	44.5	46.0
Oil and gas	8.2	7.6	4.0	2.8	3.7	4.3	3.8
Land and Building Tax	2.3	2.0	2.4	1.5	1.2	1.3	1.2
Indirect tax	48.7	48.8	48.3	45.8	49.8	49.0	55.5
VAT	35.7	35.7	34.2	32.1	35.8	49.0	42.4
Excise duties	10.1	10.3	11.7	11.2	11.4	11.1	10.7
Import duties	2.9	2.8	2.5	2.5	2.6	2.6	2.4
Export duties	1.5	1.0	0.3	0.2	0.3	0.4	0.2
Other domestic taxes	0.5	0.5	0.4	0.6	0.8	0.4	0.5

Source: MoF, *Central government financial report 2019*. Viewed at: <https://www.kemenkeu.go.id/publikasi/laporan/laporan-keuangan-pemerintah-pusat>; and MoF, *State Budget* (January 2020). Viewed at: <https://www.kemenkeu.go.id/apbnkita>.

3.96. According to the latest Indonesia Tax Expenditure Report, which covers the years 2016 and 2017, tax expenditures (or revenue foregone from tax incentives) amounted to IDR 154.7 trillion in 2017 or around 1.14% of GDP (IDR 143.6 trillion in 2016 or 1.16% of GDP).<sup>162</sup> In 2017, it was estimated that, of total tax expenditures of IDR 154,660 billion, 81% was related to VAT and the Luxury Goods Sales Tax, 13% was related to income tax, and 6% was related to import duties and excise taxes. In the same year, the main beneficiaries were multi-sector (IDR 70,300 billion); financial services (IDR 17,631 billion); agriculture and fisheries (IDR 14,246 billion); transport (IDR 12,854 billion); electricity, water and gas (IDR 12,392 billion) and manufacturing (IDR 12,383 billion). However, the report cautions that these figures may not reflect reality due to difficulty in collecting data on income and excise tax incentives granted.<sup>163</sup>

### 3.3.1.1.1.1 Corporate and personal income tax

3.97. The legislative basis for income tax remains the Income Tax Law No. 7 of 1983 as amended by Law No. 36 of 2008.<sup>164</sup> Taxation policies are also regulated by Government Regulation in Lieu of Law No. 1 of 2020, which was issued to help manage the impact of the COVID-19 pandemic. The standard corporate tax rate is 22% (reduced from 25% as from the tax year 2020). It will be reduced further to 20% from 2022. Certain reductions apply to MSMEs (Section 2.4.4) and public companies achieving a minimum listing requirement of 40% on the Indonesia Stock Exchange. Depreciation and amortization deductions are provided. A withholding tax is raised on many import items and some exports (Sections 3.1.4 and 3.2.2). Personal income tax rates range from 5% to 30%, depending on the amount of annual taxable income.<sup>165</sup>

3.98. To attract investment, create employment and increase economic equality in various regions which are orientated towards natural resource processing, the Government continues to have in place two main long-standing tax incentive policies, namely tax holidays and tax allowances. Additionally, a "super deduction" tax incentive scheme for labour-intensive, vocational and research and development activities was introduced.

<sup>162</sup> MoF, *Tax Expenditure Report for 2016 and 2017*. Viewed at: <https://fiskal.kemenkeu.go.id/publikasi/tax-expenditure-report>.

<sup>163</sup> As indicated in the report, data on tax expenditures for VAT and the LGST can be estimated using macro data, while obtaining figures on income tax duties and excise relies on micro data which is harder to reliably obtain.

<sup>164</sup> Law No. 36 of 2008. Viewed (in Bahasa Indonesia) at: <https://jdih.kemenkeu.go.id/fullText/2008/36TAHUN2008UU.HTM>.

<sup>165</sup> Deloitte, *International Tax – Indonesian Highlights 2019*. Viewed at: <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-indonesiahighlights-2019.pdf>.

### Corporate tax holiday

3.99. The corporate tax holiday is an exemption/reduction which is provided for a certain period, for companies undertaking new investments over a value of IDR 100 billion in pioneer industries. These industries include certain activities in the following sectors: natural resources; chemicals; machinery/manufacturing; transportation components; agriculture, plantations, or forestry producing pulp-based processing, with or without its derivatives; economic infrastructure; and digital economy (including data processing, hosting and associated activities). Its legal and regulatory basis is: Law No. 25 of 2007 Concerning Investments (Chapter X)<sup>166</sup>, PMK No. 150 of 2018<sup>167</sup>, and BKPM Regulation No. 1 of 2019 (as amended by BKPM Regulation No. 8 of 2019).<sup>168</sup> Changes to the tax allowance scheme over the review period provide legal certainty for assets that are eligible for tax allowance facilities, simplified procedures, and expanded sectors that may benefit from tax holiday facilities. Companies must be Indonesian legal entities. Corporate income tax holidays/reductions are provided over two time periods, as set out in Table 3.11, and are applicable to 18 pioneer industry groups. According to the authorities, over the period April 2018 to June 2020, 79 companies received tax holidays, mainly in the power plant and metal industries.

**Table 3.11 Corporate tax holiday thresholds and amounts**

New investment plan value (IDR)	First period	Second period
100 billion - less than 500 billion	50% of total corporate income tax liability for 5 fiscal years	25% of total corporate income tax liability for 2 fiscal years
500 billion – less than 1 trillion	100% of total corporate income tax liability for 5 fiscal years	50% of total corporate income tax liability for 2 fiscal years
1 trillion – less than 5 trillion	100% of total corporate income tax liability for 7 fiscal years	50% of total corporate income tax liability for 2 fiscal years
5 trillion – less than 15 trillion	100% of total corporate income tax liability for 10 fiscal years	50% of total corporate income tax liability for 2 fiscal years
15 trillion – less than 30 trillion	100% of total corporate income tax liability for 15 fiscal years	50% of total corporate income tax liability for 2 fiscal years
30 trillion or above	100% of total corporate income tax liability for 20 fiscal years	50% of total corporate income tax liability for 2 fiscal years

Source: Information provided by the authorities.

### Corporate tax allowance

3.100. The corporate tax allowance is a tax reduction which is calculated based upon the value of the investment made. Its legal and regulatory basis is Article 31A of the Income Tax Law<sup>169</sup> and GR No. 78 of 2019.<sup>170</sup> In addition, Ministry of Industry Decree No. 47/2019 and MoF Decree No. 11 of 2020 were issued in order to regulate changes in investment provisions.<sup>171</sup> Changes to the tax allowance scheme since 2014 relate to certainty of capital asset facilitation, simplified procedures, and expansion in sector coverage. The allowance covers 130 eligible types of investment (119 designated sectors, and 11 categories of investment in designated sectors and regions), including SEZs and bonded zones. The tax allowance facility comprises a reduction in net income by 30% of the total investment, prorated at 5% per year for six years.<sup>172</sup> In addition, it also comprises accelerated depreciation and amortization; a reduction of the withholding tax rate on dividends paid

<sup>166</sup> Law No. 25 of 2007 (unofficial English translation). Viewed at: <https://www.indonesia-investments.com/business/foreign-investment/investment-law-indonesia/item8322>.

<sup>167</sup> PMK No. 150 of 2018. Viewed at: <https://foresight-id.com/wp-content/uploads/2018/12/MOF-150-PMK-010-Year-2018.pdf>.

<sup>168</sup> BKPM Regulation No. 1 of 2019 concerning Details of Business Fields and Types of Production of Pioneer Industry Eligible for the Corporate Income Tax Reductions. Viewed (in Bahasa Indonesia) at: [https://peraturan.bkpm.go.id/jdih/userfiles/batang/2019\\_1\\_PERBKPM\\_TH\\_KUMHAM.pdf](https://peraturan.bkpm.go.id/jdih/userfiles/batang/2019_1_PERBKPM_TH_KUMHAM.pdf). Brigitta I. Rahayoe & Partners, *Legal Update – Tax Holiday*. Viewed at: <http://www.brigitta.co.id/wp-content/uploads/2019/04/2019-04-24-Legal-Update-Tax-Holiday-Clean1.pdf>.

<sup>169</sup> Income Tax Law. Viewed (in Bahasa Indonesia) at: <https://www.pajak.go.id/sites/default/files/2019-07/UU%2036%202008.pdf>.

<sup>170</sup> Details in English of the changes made to the tax allowance in 2019. PWC, *Tax Flash*. Viewed at: <https://www.pwc.com/id/en/taxflash/assets/english/2019/taxflash-2019-18.pdf>.

<sup>171</sup> These regulations were viewed at: <https://peraturan.go.id/common/dokumen/bn/2020/bn114-2020.pdf> and <https://peraturan.go.id/common/dokumen/bn/2019/bn1773-2019.pdf>.

<sup>172</sup> By way of example, if a company made an IDR 100 billion investment, the amount of tax allowance for the company would be 30% of IDR 100 billion, or equal to IDR 30 billion, charged at IDR 5 billion per year for six years.

to non-residents to 10% (or lower if treaty relief is available); and extension of tax loss carry-forward for up to ten years. To be eligible to apply for the tax allowance facility, the applicant must meet criteria including high investment value, export orientation and high labour absorption. According to the authorities, 11 companies with a total investment of IDR 13.14 trillion were eligible for the tax allowance in 2019, and 16 companies with a total investment of IDR 15.24 trillion in 2020.

### **Super-deduction tax incentives for labour-intensive, vocational and research and development activities**

3.101. In 2019, the Government introduced new "super-deduction" tax incentives for industries with certain features, through GR No. 45/2019<sup>173</sup>, and MoF implementing regulations (MoF Regulations No. 128 of 2019 and No. 16 of 2020) (Table 3.12). As indicated by the authorities, ten companies were granted tax relief under these schemes; no data was available on the revenue foregone from incentives provided.

**Table 3.12 Super-deduction tax incentives**

Incentive scheme	Tax facility provided	Eligibility
Facility for labour-intensive industries	Tax facility based on type of entity. Reduction in net income of 60% of amount invested in the form of tangible fixed assets (including land used for main business), spread over a certain period.	Companies that carry out a new investment or expand certain businesses: which are (i) a labour-intensive industry; and (ii) have not been granted corporate tax allowances or holidays.
Facility for human resources development in certain competencies	Tax deduction based on type of eligible expense. Reduction in gross income of up to 200% of the amount spent on this activity.	Companies that conduct an internship or vocational training programme in certain competencies, to upskill human resources as part of the investment and fulfilment of workforce demand.
Facility for certain research and development activities	Tax deduction based on type of eligible expense. Reduction in gross income of up to 300% of the amount spent for this activity, spread over a certain period.	Companies that conduct certain research and development activities which produce invention and innovation, master a new technology, or transfer technology to ultimately increase the competitiveness of national industries.

Source: PWC, *Tax Flash*. Viewed at: <https://www.pwc.com/id/en/taxflash/assets/english/2019/taxflash-2019-11.pdf>.

#### **3.3.1.1.1.2 Value Added Tax (VAT)**

3.102. Legislation governing VAT remains the Value-Added Tax and Luxury Tax Law No. 42 of 2009. VAT continues to be levied at a flat rate of 10%. It is applied equally to imports and domestically produced goods<sup>174</sup> and services. With respect to imports, VAT is applied on the customs value plus the sum of import duties levied. Certain goods/services are VAT zero-rated, non-taxable for VAT, or VAT exempt. On certain items, VAT is not collected (Table 3.13). Additionally, VAT incentives are available to companies operating in FTZs, SEZs, and bonded zones (Section 3.2.4.2). As indicated by the authorities, changes to the VAT regime over the review period relate to product coverage and VAT facilities. In 2019, VAT non-collection was extended to transport rental services (ships, aircraft and trains) to improve the economy's competitiveness.<sup>175</sup> In the same year, a 0% VAT was extended to the export of a wider range of domestically produced services.<sup>176</sup>

<sup>173</sup> GR No. 45 of 2019. Viewed (in Bahasa Indonesia) at: [https://pajak.go.id/sites/default/files/2019-07/PP\\_Nomor\\_45\\_Tahun\\_2019.pdf](https://pajak.go.id/sites/default/files/2019-07/PP_Nomor_45_Tahun_2019.pdf).

<sup>174</sup> VAT also applies to intangible goods (including royalties). Deloitte, *International Tax – Indonesia Highlights 2019*. Viewed at: <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-indonesia-highlights-2019.pdf>.

<sup>175</sup> World Bank, *Indonesia Economic Quarterly – Investing in People*, December 2019. Viewed at: <http://documents.worldbank.org/curated/en/622281575920970133/pdf/Indonesia-Economic-Quarterly-Investing-in-People.pdf>.

<sup>176</sup> As reported by SSEK Indonesian Legal Consultants, MoF Regulation No. 32/PMK.010/2019 regarding the Limitation of Activities and Types of Taxable Services for Export Subject to Value Added Taxes was enacted in March 2019, replacing MoF Regulation No. 70/PMK.03/2010 (as amended in 2011). SSEK, *Legal Updates*. Viewed at: <https://www.ssek.com/id/blog-id/indonesia-imposes-0-value-added-tax-for-the-export-of-certain-services>.

**Table 3.13 VAT rates, 2020**

	<b>VAT rate</b>
General rate	10%
Reduced VAT rates	Factoring (5% on the fees received); and package deliveries and travel agent services (1%)
VAT zero-rated items	All exports of goods Exports of the following services: (i) services connected to movable goods utilized outside the Customs Area (toll manufacturing; repair and maintenance services; and freight forwarding services on export orientated goods); (ii) services connected to immovable goods located outside the Customs Area in the form of consultation services for construction; (iii) other services where output is used outside of the Customs Area, based on a request from an overseas recipient through either: direct or indirect transmission or the provision of access outside the Customs Area (including: information and technology services, research and development services; rental of aircraft, and/or ships for international flights or shipping activities; various consultation services; trading services in the form of services that assist in finding domestic sellers of goods for export purposes; and interconnection, satellite operations and/or communication/data connectivity services).
Non-taxable goods	Basic necessities (rice, grain, maize, sago, soy bean, salt, meat, eggs, milk, fruit and vegetables); mining or drilling products taken from their sources; food served in hotels and restaurants, including food and drinks provided by catering services; and money, gold, and securities.
Non-taxable services	Medical, social and religious services; postal services; certain financial and insurance services; educational services; entertainment services performed by artists and entertainers; radio and television broadcasting services (other than advertisements); public transportation services; manpower and recruitment services; hotel and boarding house services; government services; parking services; public telephone (coin) services; remittance services by money orders; and food and catering services.
VAT exemption facilities for goods deemed "strategic" (GR No. 81/2015 and MoF Regulation No. 68/PMK.03/2015)	Import of the following "strategic" taxable goods: (i) machinery and factory equipment which are one unit, whether installed or detached, directly used in the process of producing taxable goods by a taxable entrepreneur (does not include spare parts); (ii) goods resulting from business activities in fisheries (both catch and aquaculture); (iii) raw hides and skins, not tanned; (iv) livestock; (v) seeds and/or seeds from agriculture, plantations, forestry, livestock or fisheries; (vi) animal feed, not including pet food; (vii) fish food; (viii) feed ingredients for producing animal and fish feed, not including feed additives and supplements; and (ix) raw materials for silver craft in the form of silver granules and/or silver bar.
Other VAT exemption schemes to support the achievement of certain national objectives (MoF Decree No. KMK-370/KMK.03/2003 as amended by GR No. 50/2019)	Import and delivery of the following taxable goods/services: (i) weapons, ammunition, armoured vehicles, patrol vehicles and other special vehicles, including their spare parts; (ii) components or materials that have not been made domestically, and are used in the manufacture of weapons and ammunition for the purposes of the armed forces and state police; (iii) polio vaccines for use in the National Immunization Program; (iv) general education and religious books; and (v) simple housing, very-simple housing, simple flats, temporary housing, student dormitories, and certain other housing.
VAT non-collected on the import and delivery of certain transportation vehicles and the delivery and utilization of taxable services related to certain transportation vehicles (GR 50/2019)	Import and delivery of the following taxable goods/services: (i) transportation vehicles and spare parts thereof, used by the armed forces and the state police; (ii) ships and spare parts thereof, as well as navigational or personal safety equipment used by national commercial shipping companies, national fishing companies, national seaport operators or national river, lake and ferry operators; (iii) aircraft and spare parts thereof, as well as aviation and personal safety equipment, and repair and maintenance equipment used by national commercial airlines; (iv) trains and spare parts thereof, as well as equipment for repair, maintenance and infrastructure used by national train enterprises; (v) services received by national commercial shipping companies, national fishing companies, national seaport operators or national river, lake crossing and ferry operators, covering vessel leasing services, port services and vessel maintenance or docking services; (vi) services received by national commercial airlines, covering aircraft leasing services, and aircraft maintenance or repair services; and (vii) train maintenance or repair services received by national train enterprises.
GR No. 85/2015; GR No. 15/2015; and GR No. 106/2015	VAT is not collected on the following events: the traffic of goods/services under the concessions on special projects and special zones; deliveries of certain fuels for petrol-fueled ships that transport goods to or from overseas ports; and deliveries of anode slime to be further processed in producing gold bars.

Source: VAT Law No. 42 (2009); MoF Decree No. 231 (2001) as amended by MoF Regulation No. 616 (2004) and MoF Regulation No. 27 (2012); PWC, *Indonesian Pocket Tax Book 2019*. Viewed at: <https://www.pwc.com/id/en/pocket-tax-book/english/pocket-tax-book-2019.pdf>; SSEK, Legal Updates. Viewed at: <https://www.ssek.com/id/blog-id/indonesia-imposes-0-value-added-tax-for-the-export-of-certain-services>; and information provided by the authorities.



### 3.3.1.1.1.3 Luxury Goods Sales Tax (LGST)

3.103. The LGST continues to be applied to domestic production and imports of a variety of products deemed non-essential. It is collected at the manufacturer level for domestic production; and on the customs value plus the sum of import duties levied, for imports. The minimum applied rate is 10%, and the maximum is 75%. Under the Value-Added Tax and Luxury Tax Law, maximum rates may be raised to 200%. Since 2013, there have been various changes to goods subject to luxury taxes as well as to LGST rates (Table 3.14). LGST rates on property were eased in 2019; the 20% threshold used to apply to landed property of IDR 20 billion and apartments of IDR 10 billion; it now applies to landed property and apartments worth at least IDR 30 billion.<sup>177</sup>

**Table 3.14 LGST rates, 2013 and 2020**

Luxury items subject to sales tax	Tax rate 2013 (%)	Tax rate 2020 (%)
Perfumery	20	-
Specified luxury devices using electrical power, batteries or gas for household use	10	-
Photographic and cinematographic devices, video cameras, digital cameras	10	-
Electric and non-electric musical instruments	20	-
Transmitters and receivers	10, 20	-
Luxurious houses, apartments, condominiums, town houses	20	20
Luxury devices using electrical power, batteries or gas for household use and recreation not included in the 10% category	20	-
Specified sporting goods and games	10, 30, 50	-
Specified clothes and goods made of leather	40	-
Suitcases, executive bags and boxes, and purses with an import value exceeding IDR 500,000	40	-
Watches, clocks	40	-
Carpets made of special material	40, 50	-
Ships, vessels and yachts	30, 40, 75	75
Aircraft (hot air balloons and gliders)	40	40
Firearms, bullets and other firearms, except for national use	40, 50	40
Helicopters	-	50
Aircraft, except helicopters	-	50
Goods made of crystal, marble or granite	40	-
Motor vehicles with a capacity of 10 to 15 passengers	10	10, 25, 40
Motor vehicles of 1,500 cc to 2,500 cc, with a capacity of fewer than 10 passengers	20	20
Sedans or station wagons with a cylinder capacity up to 1,500 cc	30	30
Motor vehicles other than sedans and station wagons with a cylinder capacity up to 1,500 cc	60	30
Special-purpose vehicles for golf	50	50
Motorcycles with a cylinder capacity of 250 to 500 cc	60	60
Special-purpose vehicles to be used on snow, the beach, mountains, and the like	60	60
Sedans and station wagons with a cylinder capacity of more than 3,000 cc	75	75
Diesel sedans and station wagons with a cylinder capacity of more than 2,500 cc	75	75
Motorcycles with a cylinder capacity of more than 500 cc	75	75
Caravan trailers and semi-trailers for housing and camping	75	75

Note: "-" indicates that the LGST is not applied.

Source: Information provided by the authorities based on GR No. 41 of 2013 on Taxable Goods Classified as Luxury Goods in the form of Motor Vehicles that are the Object of Sales Tax on Luxury Goods, and MoF Regulation No. 35/PMK.010/2017 on Types of Taxable Goods Classified as Luxury Goods other than Motor Vehicles that are the Object of Sales Tax on Luxury Goods.

3.104. Since May 2013, LGST incentives have been provided for vehicles which use advance technology, with a view to encouraging the use of energy-saving and environmentally friendly vehicles; they reduce the LGST base by 75% to 50% from its sales price, depending on certain criteria. Under low-cost and green-car programmes, the LGST basis is 0% from its sales price (Table 3.15).<sup>178</sup>

<sup>177</sup> Reuters, *Indonesia eases luxury sales tax for property to boost sales*. Viewed at: <https://www.reuters.com/article/indonesia-property/indonesia-eases-luxury-sales-tax-for-property-to-boost-sales-idUSL4N23Q1SE>.

<sup>178</sup> The LGST base is a percentage of the sales price that is used as the basis to calculate the LGST. The LGST incentive formula is calculated by multiplying the LGST base by the vehicle sale price: this is then multiplied by the LGST tariff (LGST = (LGST base x sale price) x LGST tariff). The regulation currently governing this incentive is GR No. 41 of 2013, as amended by GR No. 22 of 2014. The new GR No. 73 of 2019



**Table 3.15 LGST incentives**

LGST base	Items subject to incentives
75%	Motor vehicles using advanced diesel-/petrol-engine technology, dual petrol-gas engines (CNG/LGV converter kits), biofuel engines, hybrid engines, and CNG/LGV-dedicated engines with oil fuel consumption (and other similar fuel) of 20 to 28 km/litre.
50%	Motor vehicles using advanced diesel-/petrol-engine technology, biofuel engines, hybrid engines, CNG/LGV-dedicated engines with oil fuel consumption (and other similar fuel) of more than 28 km/litre.
Zero	Motor vehicles under Low-Cost Green Car and Low Carbon Emission programmes, other than sedans or station wagons, with the following requirements: (i) spark ignition up to 1,200 cc; or (ii) compression ignition (diesel/semi-diesel) up to 1,500 cc with oil fuel consumption (or other similar fuel) of at least 20 km/litre.

Source: PWC, *Indonesian Pocket Tax Book 2019*. Viewed at: <https://www.pwc.com/id/en/pocket-tax-book/english/pocket-tax-book-2019.pdf>.

### 3.3.1.1.1.4 Excise taxes

3.105. Excise taxes remain levied on ethanol, beverages, and concentrates containing ethyl alcohol; and tobacco products. Legislation governing excise taxes remains the Excise Tax Law (1995) as amended by Law No. 39 of 2007.

3.106. Excise tax rates on tobacco products are set out in MoF Regulation No. 146/PMK.010/2017 concerning Excise Tariffs on Tobacco Products, as amended in 2018 and 2019.<sup>179</sup> The cigarette tax on domestically produced cigarettes is divided into tiers, based on the type of cigarette, the volume of cigarette production by the domestic factory, and retail sale price limits. The tariff for imported tobacco products does not consider cigarette factory production capacity, and is equivalent to the highest excise tax rate applied to domestic production (Table 3.16). As noted by the World Bank, these tiers aim to accommodate small-scale cigarette firms, especially hand-rolled clove cigarette firms, which account for over half of the total factories in the tobacco industry and employ a significant share of workers in tobacco manufacturing, most of whom are women.<sup>180</sup>

**Table 3.16 Excise taxes on imports and domestic production of tobacco, 2020**

Cigarette type	Excise tax rates on imports (IDR per cigarette/gram)	Group (based on cigarette production in factory)	Excise tax rates on domestic production (IDR per cigarette/gram) <sup>a</sup>
Machine-made clove cigarettes	740	I (More than three billion sticks) II (Maximum 3 billion sticks)	470-740 455
Machine-made white cigarettes	790	I (More than three billion sticks) II (Maximum 3 billion sticks)	485-790 425-470
Hand-rolled clove cigarettes	425	I (More than 2 billion sticks) II (Between 500 million and 2 billion sticks) III (Maximum 500 million sticks)	330 200 110
Filter-tipped hand-rolled clove cigarettes	740	No group/total production limit	740
Sliced tobacco	30	No group/total production limit	10-30
Corn-leaf cigarettes	30	No group/total production limit	30
Rhubarb and incense cigarettes	25	No group/total production limit	25
Cigars	110,000	No group/total production limit	275-110,000

a Excise tax rates vary according to retail sale price limits.

Source: MoF Regulation No. 146/PMK.010/2017. Viewed (in English) at: [https://www.globaltobaccocontrol.org/sites/default/files/Translation\\_of\\_Ministerial\\_Regulation\\_on\\_tobacco\\_excise\\_rates\\_with\\_highlights\\_on\\_e-cigs\\_IND.pdf](https://www.globaltobaccocontrol.org/sites/default/files/Translation_of_Ministerial_Regulation_on_tobacco_excise_rates_with_highlights_on_e-cigs_IND.pdf); and MoF Regulation No. 152/PMK.010/2019. Viewed (in Bahasa Indonesia) at: <https://jdih.kemenkeu.go.id/fullText/2019/152~PMK.010~2019Per.pdf>.

governing LGST rates on motor vehicles and a revised formula for calculating the LGST will be implemented from October 2021. PWC, *Tax Flash*. Viewed at:

<https://www.pwc.com/id/en/taxflash/assets/english/2019/taxflash-2019-17.pdf>.

<sup>179</sup> MoF Regulations No. 156/PMK.010/2018 and No. 152/PMK.010/2019.

<sup>180</sup> World Bank, *The Economics of Tobacco Taxation and Employment in Indonesia*. Viewed at: <http://documents.worldbank.org/curated/en/919961507699751298/pdf/120352-REVISED-WBGIndoEmploymentweb.pdf>.

3.107. Excise tax rates on alcohol were last set out in MoF Regulation PMK No. 158/PMK.010/2018. They are applied at the same rates on imported and domestically produced goods. In 2019, excise tax rates on alcohol of up to 5% were increased from IDR 11,000/litre to IDR 15,000/litre (Table 3.17).

**Table 3.17 Excise Tax rates, 2020**

Group	Rate
Ethyl alcohol	IDR 20,000/litre
Alcoholic drinks	IDR 15,000/litre – IDR 139,000/litre
Ethyl alcohol concentrate	IDR 1,000/gram
Tobacco products	IDR 10 to IDR 110,000/stick or gram, or 57% for certain tobacco products

Source: PWC, *Indonesian Pocket Tax Book 2019*. Viewed at: <https://www.pwc.com/id/en/pocket-tax-book/english/pocket-tax-book-2019.pdf>.

### 3.3.1.1.1.5 Other fiscal incentives

3.108. Other fiscal incentives include: import duty concessions and facilities offered through SEZs, industrial zones, and FTZs (Sections 2.4.4, 3.1.3.6 and 3.2.4.2). Foreign companies undertaking business through a permanent establishment in Indonesia may be exempt from branch profit tax if they reinvest their after-tax profits in Indonesia no later than the following year.<sup>181</sup> Support programmes to specifically assist the mining, energy, manufacturing, agriculture, fisheries and services sectors are described in Section 4.

### 3.3.1.1.2 Regional taxes and tax incentives

3.109. Regional taxes are separated into provincial taxes and district/municipal taxes:

- provincial taxes consist of: (i) motor vehicle tax (tax rate: 1% to 2% of motor vehicle sale price for first ownership; progressive tariff from 2% to 10% of motor vehicle sale price for second ownership, and so on); (ii) motor vehicle ownership transfer fee (tax rate: 20% of motor vehicle sale price for first handover; 1% of motor vehicle sale price for second handover and on); (iii) motor vehicle fuel tax (tax rate: max 10% of sale price of motor vehicle fuels before being subject to VAT; can be set at 50% lower for public vehicles); (iv) surface water tax (tax rate: max 10% of surface water acquisition price); and (v) cigarette tax (tax rate: 10% of cigarette excise); and
- district/municipal taxes consist of (i) hotel tax (tax rate: maximum 10% of payment for use of hotel facilities); (ii) restaurant tax (tax rate: maximum 10% of restaurant service payment); (iii) entertainment tax (tax rate: maximum 35% of the amount of money received by the entertainment organizer for common entertainment; maximum 75% for fashion shows, beauty contests, discos, karaoke, night clubs, dexterity games, massage parlours, and steam baths/spas; maximum 10% for folk/traditional entertainment); (iv) advertisement tax (tax rate: maximum 25% of advertisement rental price); (v) road illumination tax (tax rate: maximum 10% of electricity sale price; maximum 3% for use of electricity from other sources by industry, petroleum mining and natural gas; maximum 1.5% for use of self-generated electricity); (vi) non-metal and rock minerals tax (tax rate: maximum 25% of sale price of non-metal and rock mineral extraction); (vii) parking tax (tax rate: maximum 30% of the parking lot organizer payment); (viii) ground water tax (tax rate: maximum 20% of ground water acquisition price); (ix) swallow-nest tax (tax rate: 10% of swallow-nest sale price); (x) land and building tax for rural and urban areas (tax rate: maximum 0.3% of tax object sale price); (xi) acquisition duty of right on land and building (tax rate: maximum 5% of tax object obtaining price).

3.110. Most local tax rates are set out in Law on Regional Taxes and Regional Retribution No. 28/2009, and only determine the maximum rate of regional taxes. Local governments are given discretion to set tariffs in accordance with the conditions in each region. In this regard, the authorities indicated that tax rate reductions/holidays have been implemented in several regions to support economic activity.

<sup>181</sup> The reinvestment must take one of a number of stipulated forms. For more details see PWC, *Indonesian Pocket Tax Book 2018*.

### 3.3.1.2 Non-fiscal incentives

3.111. Various interest rate subsidies and loan schemes provided by the central Government are in place to assist MSMEs. They include:

- under the People's Business Credit (Kredit Usaha Rakyat (KUR)) programme<sup>182</sup>, the Government gives interest subsidies to banks who facilitate lending to MSMEs and low-income household farmers at capped interest rates. Annual lending targets are set by the Government, and the banks participating in the scheme (government-owned banks, private banks, and financial leasing companies) are allocated a share of the subsidies in order to give loans at the government-subsidized interest rate.<sup>183</sup> Interest rates have been progressively reduced from 12% in 2015 to 6% in 2020 and the value of annual loan disbursements/target disbursements has increased nearly nine-fold over the same period (from just over IDR 22 trillion in 2015 to a target of IDR 190 trillion in 2020).<sup>184</sup> As indicated by the authorities, the costs of the KUR programme were: IDR 10.61 trillion in 2019 (unaudited), IDR 11.58 trillion (2018); IDR 3.17 trillion (2017); and IDR 3.78 trillion (2016);
- under the MoF, the Government provides ultra-micro financing for persons who cannot access KUR loans; maximum loans are for IDR 10 million;
- the Indonesian Eximbank implements an export-orientated small business loan programme (the KUR Bororientasi Export (KURBE) programme). It is an integrated export financing facility for export-orientated MSMEs, with a view to improving the quality and competitiveness of their export products. Under the scheme, interest rates are set at 9%, with maximum loans of IDR 5 million for micro businesses, IDR 25 million for small businesses, and IDR 50 million for medium-sized businesses.<sup>185</sup> The tenor period is five years for export working capital loans and for investment-export loans;
- the Ministry of Maritime Affairs and Fisheries, through the Public Service Body for Marine and Fisheries Fund Management, provides financing facilities to MSMEs in the fishery sector through micro-financing agencies or non-banking financial institutions, at a maximum interest rate of 4%;
- the Ministry of Forestry and Environment, through the Public Service Body for Forest Management Financing, provides financing for the business sector in forestry, both on-farm (such as financing development for forest plantations, agro-forestry, and maintenance of forest plantations) and off-farm (such as financing for the utilization of forest products and production equipment); and
- under the SOE corporate social responsibility programme (*Program Kemitraan dan Bina Lingkungan* (PKBL)), low-interest loans are available for MSMEs; the maximum term is three years, and the interest rates are set by the company itself (but apparently may be as low as 3% per annum).<sup>186</sup>

3.112. Sector-specific loan and grant schemes are described in Section 4.1. These include the various grant schemes notified by Indonesia to the Committee on Subsidies and Countervailing Measures, namely the national fish logistic system; the empowerment of community salt companies

<sup>182</sup> The KUR programme was established in 2007 as a guarantee scheme. Following an evaluation in 2015, and to better target KUR beneficiaries, it was changed into an interest subsidy programme.

<sup>183</sup> ILO (2019), *Financing Small Businesses in Indonesia, Challenges and Opportunities*. Viewed at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms\\_695134.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_695134.pdf).

<sup>184</sup> KUR online information. Viewed at: <https://kur.ekon.go.id/evolusi-kur> and Jakarta Post. Viewed at: <https://www.thejakartapost.com/news/2019/11/13/government-to-reduce-kur-annual-interest-rate-to-6-percent-in-2020.html>.

<sup>185</sup> Indonesia Eximbank. Viewed at: <http://www.indonesiaeximbank.go.id/products-services/detail/kurbe>.

<sup>186</sup> As noted by the ILO (2019), under the PKBL, SOEs can provide credit of up to IDR 200 million to MSMEs with less than IDR 200 million in assets, with no collateral on loans up to IDR 30 million.

programme; the development of community salt companies programme; the fishing vessel construction programme; the rural business development programme; and fisher insurance.<sup>187</sup>

### 3.3.2 Standards and other technical requirements

#### 3.3.2.1 Legal, institutional and policy framework

3.113. The National Standardization Agency of Indonesia (*Badan Standardisasi Nasional* (BSN)), a non-ministerial government institution, continues to be responsible for coordinating and facilitating all activities related to standardization and conformity assessment in Indonesia.<sup>188</sup> The Committee for Standard Development Policy (KKPS (formerly MTPS)) is responsible for providing standard development policy recommendations to the BSN Chairman for approval, including recommendations on the National Program for Standard Development. The KKPS consists of experts and representatives from government/regulators, and consumer and producer associations. The BSN is also the contact point for cooperation with international standard-setting bodies, and is the enquiry point and notification body responsible for the implementation of the WTO TBT Committee.

3.114. The Indonesian Standardization Society (*Masyarakat Standardisasi Indonesia* (MASTAN)) represents stakeholders concerned with standardization, including from business, consumer groups, academia, and government, and undertakes training activities. It is an independent, not-for-profit non-governmental organization.<sup>189</sup>

3.115. The law governing standard-setting and other related activities is Law No. 20 of 2014 on Standardization and Conformity Assessment.<sup>190</sup> It has a higher legal status than its predecessor (GR No. 102 of 2000<sup>191</sup>), and its scope was expanded to cover metrology. Its implementing regulation is GR No. 34 of 2018<sup>192</sup>, which amended/expanded the rules of GR No. 102 of 2000 in the areas of: standardization and conformity assessment activities; related institutions; traceability of conformity assessment results; research and development; cooperation; information systems; guidance and supervision; and public participation. Other regulations concerning standardization are: PBSN No. 3 of 2018 on Guidelines on the Development of Indonesian National Standard (SNI) and PBSN No. 2 of 2018 on International Standard Adoption and Publication Guidelines to be Indonesian National Standard (SNI).<sup>193</sup>

3.116. The policy being implemented for national standards' development is the "National Policy on Standardization Strategy 2015-2025".<sup>194</sup> This incorporates the following steps: developing technical regulations; strengthening voluntary standards with a view to enhancing public confidence in national products and accessing global markets; strengthening synergies with the national innovation system; and strengthening the efficiency of national production.

#### 3.3.2.2 Standards

3.117. Technical committees (TCs) within specific ministries are responsible for drafting standards within their respective spheres of competence; the technical committee chairs and secretariats are appointed by the BSN. TCs comprise representatives from government, consumer associations, experts and industry.

<sup>187</sup> WTO document G/SCM/N/343/IDN, 2 August 2019.

<sup>188</sup> Standardization activities include: planning, developing, stipulating, implementing, enacting, maintaining and monitoring the SNI.

<sup>189</sup> Mastan. Viewed at: <https://mastan.or.id/profil/>.

<sup>190</sup> The law covers: standard-setting and implementation, accreditation, certification, inspection, metrology, research and development, cooperation, information systems, mentoring, monitoring, and public participation. Law 20/2014 was viewed (in Bahasa Indonesia) at:

<http://peraturan.go.id/peraturan/view.html?id=11e4b02f0fd4417e95e5313434313330>.

<sup>191</sup> GR No. 102 of 2000. Viewed (in Bahasa Indonesia) at: <http://peraturan.go.id/peraturan/view.html?id=11e44c4f716c74408f98313232313231>.

<sup>192</sup> GR No. No. 34 of 2018. Viewed (in Bahasa Indonesia) at: <http://peraturan.go.id/peraturan/view.html?id=11e8a044784edb0cac9c313133343137>.

<sup>193</sup> PBS No. 3 of 2018. Viewed (in Bahasa Indonesia) at: <http://peraturan.go.id/peraturan/view.html?id=11e862430fde1af488bd313334383030>; and No.2 of 2018. Viewed (in Bahasa Indonesia) at:

<http://peraturan.go.id/peraturan/view.html?id=11e837e2bcb296d2bd21313533323430>.

<sup>194</sup> BSN Regulation No. 2 of 2014. Viewed (in Bahasa Indonesia) at: <http://peraturan.go.id/peraturan/view.html?id=11e530d8ede666849b36303831393536>.

3.118. As indicated in the previous Review, the process of developing SNIs generally comprises five phases: programming; drafting; national consensus and finalization; SNI establishment; and SNI maintenance. The 152 TCs are responsible for drafting standards within their spheres of competence. They submit proposals for new or revised standards to the BSN based on stakeholders' needs. The BSN reviews the proposal and, if necessary, coordinates with the TC to ensure it is aligned with the TC's scope, before submitting it to the KKPS for approval. Approved proposals are put on the National Program for Standard Development. A draft SNI is then prepared by the TC, which may invite other stakeholders to provide inputs, and is sent to the BSN to be posted on its website for electronic balloting/physical voting by TC members (draft standards that are identical to international standards are directly subject to ballot approval (see below)). Technical experts and other interested parties are invited to examine draft standards, and their opinions are considered in the redrafting stage. The final draft, which is published on the BSN website, is subject to electronic ballot approval by the BSN; interested parties who are persons or companies that have a legal entity in Indonesia are eligible to participate in this ballot. All standards in force are published on the BSN website (<http://sispk.bsn.go.id/SNI/DaftarList>).

3.119. As at early May 2020, Indonesia had a total of 10,858 SNIs<sup>195</sup>, nearly 18% of which were harmonized with international standards.<sup>196</sup> The sectors where standards are most present are technology of materials, and agriculture and food technology (Table 3.18). As indicated by the authorities, almost all standards in the electronic, information and communication technology sectors are adopted from international standards (i.e. ISO, IEC and/or ITU standards), while many standards on agriculture and food technology are non-harmonized standards, due to environmental, geographical and cultural specificities. As at mid-2020, 6,182 enterprises were implementing SNIs, with 6,151 products being certified.<sup>197</sup>

**Table 3.18 SNIs by sector, May 2020**

Sector	Number of SNIs
Agriculture and food technology	2,250
Construction	871
Electronic, information and communication technology	488
Engineering technology	1,674
General infrastructure and science	759
Health, safety and environment	942
Technology of materials	2,945
Special technology	381
Transportation and food distribution	532
<b>Total</b>	<b>10,858</b>

Source: Information provided by the authorities.

3.120. Over the period 2013-19, Indonesia adopted a total of 2,744 SNIs, 45% of which were harmonized with international standards (Table 3.19).

**Table 3.19 Standards development activity, 2013-19**

Year	SNIs harmonized with international standards	SNIs not harmonized with international standards	Total
2013	153	257	410
2014	201	217	418
2015	262	253	515
2016	277	245	522
2017	206	220	426
2018	93	199	292
2019	29	132	161
<b>Total</b>	<b>1,221</b>	<b>1,523</b>	<b>2,744</b>

Source: Information provided by the authorities.

<sup>195</sup> BSN, *SNI Statistics 2020*. Viewed at: [https://www.bsn.go.id/main/bsn/isi\\_bsn/20325/statistik-sni-2020](https://www.bsn.go.id/main/bsn/isi_bsn/20325/statistik-sni-2020).

<sup>196</sup> As indicated by the authorities, 1,927 SNIs were harmonized with international standards, consisting of 1,348 harmonized with ISO, 578 with IEC, and 1 with CAC.

<sup>197</sup> A list of these certified products was viewed at: <https://bangbeni.bsn.go.id/barang-ber-sni>.

### 3.3.2.3 Technical regulations

3.121. As set out in law, the Government, through its relevant technical agencies, may issue a policy to make SNIs compulsory in cases where they relate to interests of national security, safety, security, public health, environmental conservation, or economic reasons.<sup>198</sup> Over the review period, WTO Members expressed concerns about the lack of notifications to the WTO of draft technical regulations (see below).<sup>199</sup> As indicated by the authorities, activities to improve the timeliness of notifications include: establishing a National Committee on TBT, comprising representatives from related stakeholders (both regulators and the private sector) for easy coordination; activities on various issues relating to the implementation of the WTO TBT Agreement; and the development of a website (<https://tbt.bsn.go.id>) as an integrated media of information and communication for stakeholders, to improve the notification and enquiry tasks.

3.122. As at February 2020, 205 technical regulations were in force, most of which were issued by the Ministry of Industry (Table 3.20). Of these, 134 were notified to the WTO. Most technical regulations in force are available online.<sup>200</sup>

3.123. Between January 2013 and early April 2020, Indonesia submitted 58 regular notifications to the WTO Committee on Technical Barriers to Trade; the 60-day period for comments was observed for 57 regular notifications. The type of measures notified to the WTO included 58 technical regulations (Article 2.9) and 48 conformity assessment procedures (Article 5.6). Indonesia did not notify any urgent technical regulations (Article 2.10) or any urgent conformity assessment procedures (Article 5.7). The notified measures mainly related to human health protection or safety; consumer information and labelling; and prevention of deceptive practices and consumer protection.<sup>201</sup>

**Table 3.20 Mandatory SNIs, February 2020**

Technical agency	Number of technical regulations	Technical regulations notified to the WTO
Ministry of Industry	114	107
Ministry of Energy and Mineral Resources	26	22
Ministry of Agriculture	3	3
Ministry of Maritime and Fisheries	2	2
Ministry of Transportation	14	0
Ministry of Public Works	46	0
<b>Total</b>	<b>205</b>	<b>134</b>

Source: BSN. Viewed (in Bahasa Indonesia) at: [https://bsn.go.id/uploads/download/2\\_sni\\_wajib\(share\)\\_feb\\_2020\\_utm\\_tayang.pdf](https://bsn.go.id/uploads/download/2_sni_wajib(share)_feb_2020_utm_tayang.pdf).

3.124. According to the World Integrated Trade Solution Database (WITS) (last updated in September 2018), registration and authorization requirements for TBT reasons are among the top ten non-tariff measures applied by Indonesia. Registration requirements for TBT reasons covered 49.94% of the value of imports, and are especially prevalent for fuels, textiles, and clothing and footwear. Authorization requirements for TBT reasons covered 38.64% of the value of imports, and are especially prevalent for fuels, animals, food products, and chemicals.<sup>202</sup>

3.125. Since January 2013, specific trade concerns (STCs) were raised by several Members regarding Indonesia's measures on: various processed and unprocessed foods, particularly with respect to halal requirements; toys; ceramics; cell phones and computers; broadband equipment;

<sup>198</sup> Law No. 20 of 2014 (Article 24) and Regulation No. 34 of 2018 (Article 35). BSN, *Technical Regulations*. Viewed (in Bahasa Indonesia) at: [https://www.bsn.go.id/main/bsn/isi\\_bsn/20054/regulasi-teknis-sni-yang-diwajibkan](https://www.bsn.go.id/main/bsn/isi_bsn/20054/regulasi-teknis-sni-yang-diwajibkan).

<sup>199</sup> This was, for example, in the case of the STC raised about MoH Regulation 30/2013 on the inclusion of sugar, salt and fat content information, as well as health messages, on the labels of processed foods. WTO document G/TBT/M/60, 23 September 2013.

<sup>200</sup> As indicated by the authorities, technical regulations in force may be found on the following websites: INSW web portal (<https://www.insw.go.id>); BSN web portal ([https://bsn.go.id/main/bsn/isi\\_bsn/20054/regulasi-teknis-sni-yang-diwajibkan](https://bsn.go.id/main/bsn/isi_bsn/20054/regulasi-teknis-sni-yang-diwajibkan)). Some are also available on individual ministry websites.

<sup>201</sup> WTO, *TBT IMS*. Viewed at: <http://tbtims.wto.org>.

<sup>202</sup> WITS. Viewed at: <https://wits.worldbank.org/tariff/non-tariff-measures/en/type-count/country/IDN/ntmcode/B>.



and alcoholic beverages (Table 3.21). All of these STCs were raised for the first time during the review period, with the exception of the one related to toy safety requirements, which was first raised in 2011 and continues to be of concern to several WTO Members.

**Table 3.21 TBT-related STCs raised against Indonesia, January 2013-March 2020**

Title	Objective of measure and issues raised by Member(s)	First raised- Last raised (number of times raised <sup>a</sup> )	Member(s) raising STC
Halal Product Assurance Law No. 33 of 2014	<b>Objectives:</b> consumer information and protection; labelling; and prevention of deceptive practices. <b>Issues raised:</b> discrimination; further information/clarification; and transparency.	09/03/2016- 26/02/2020 (13)	Australia, Brazil, New Zealand, United States, European Union, and Canada
Technical guidelines for the implementation of the adoption and supervision of Indonesian national standards for obligatory toy safety	<b>Objectives:</b> consumer safety; increased product quality; and establishment of fair trade. competition. <b>Issues raised:</b> discrimination; further information/clarification; international standards; time to adapt; transparency; unnecessary barriers to trade; accreditation of foreign laboratories; acceptance of the results of conformity assessment; burdensome conformity assessment procedures; exemption of companies holding certified certificates; unclear restrictions for certain substances; administrative procedures related to certification; and negative impact on business activities.	10/11/2011- 13/11/2019 (24)	Canada, Japan, Mexico, United States, and European Union
Regulation of the Chairman of NADFC RI No. 14 of 2016 on the safety and quality standard of alcoholic beverages	<b>Objectives:</b> support public morals. <b>Issues raised:</b> further information/clarification; unnecessary barriers to trade; concern about terminology/wording/definition; lack of clarity/regulatory uncertainty; and restrictions on advertising, promotions and sales.	20/06/2018 (1)	Mexico
SNI 2973:2011, and the certification requirements for the import of biscuits, as notified under the WTO TBT Agreement on 20 April 2016	<b>Objectives:</b> protection of human health or safety. <b>Issues raised:</b> further information/clarification; and conformity assessment	20/06/2018 (1)	Switzerland
Ministry of Health Regulation 30/2013 on the inclusion of sugar, salt and fat content information, as well as health messages on the labels of processed foods	<b>Objective:</b> consumer protection; reduction of certain diseases; and consumer education through health messages. <b>Issues raised:</b> further information/clarification; international standards; time to adapt; transparency; unnecessary trade barriers; adverse impact of mandatory health warnings; methods used for tests verifying nutrition declarations; acceptance of tests performed by foreign laboratories or in-house laboratories of companies; and acceptance of stickers applied to labels after importation.	17/06/2013- 10/11/2016 (11)	Australia, Brazil, Canada, Guatemala, Mexico, Switzerland, United States and European Union
Ministry of Industry (MOI) 69/2014 Article 3: LCR Requirements for LTE Devices – Requirement that Domestic Component Level (TKDN) of LTE, TDD and FDD broadband services equipment	<b>Objective:</b> develop domestic industries. <b>Issues raised:</b> further information/clarification; international standards; time to adapt; transparency; unnecessary barriers to trade; static reference to prescribed compliance with specific standards; and local content requirements.	17/06/2015- 10/11/2016 (5)	Australia, Canada, Chinese Taipei, Japan, United States and European Union
Regulation of the Minister of Agriculture No. 139/Permentan/PD.4, 10 December 2014, concerning Importation of Carcasses, Meat and/or Processed Meat Products into the Territory of the Republic of Indonesia, and Regulation of the Minister of Agriculture No. 02/Permentan/PD.4, 10 January 2015, concerning the Amendment of the Regulation of the Minister for Agriculture No. 139/Permentan/PD.4	<b>Objective:</b> protection of human health/safety; protection of animal life/health; protection of the environment; provision of fluidity and certainty for the importation of carcasses, meat, and/or processed meat products; and separation of halal products from non-halal products. <b>Issues raised:</b> discrimination; further information/clarification; transparency; unnecessary barriers to trade; regulations only allow SOEs to import secondary beef cuts; import decisions based on governmental direction instead of commercial considerations; additional labelling and packaging requirements imposed for imports only; and food safety should be treated as an SPS issue.	18/03/2015- 15/06/2016 (5)	Australia, Brazil, Canada, and European Union

Title	Objective of measure and issues raised by Member(s)	First raised- Last raised (number of times raised <sup>a</sup> )	Member(s) raising STC
MoT Regulation No. 10/M-DAG/PER/1/2014 concerning Amendment of MoT Regulation No. 67/M-DAG/PER/11/2013 concerning Affixed Mandatory Labels in Indonesian Language for Goods	<b>Objectives:</b> consumer information; and labelling. <b>Issues raised:</b> time to adapt; transparency; and unnecessary barriers to trade.	18/06/2014- 18/03/2015 (3)	Japan, Republic of Korea, United States, and European Union
MoT Regulation No. 82/M-DAG/PER/12/2012 on Imported Cell Phones, Handheld and Tablet Computers	<b>Objectives:</b> prevention of deceptive practices and consumer protection; protection of human health/safety; protection of the environment; import licensing, labelling and certification; rights of consumers to get clear information; ensure interconnectivity, interoperability, and security for networking and information; facilitate Conformity Assessment Body (CAB) to determine appropriate technical regulations; and facilitate applicants to complete application forms with appropriate HS code. <b>Issues raised:</b> further information/clarification; rationale/legitimacy; time to adapt; transparency; unnecessary barriers to trade; excessive labelling requirements; and burdensome pre-shipment inspections.	17/06/2013- 19/03/2014 (3)	Canada, United States, and European Union
MoA Regulation No. 84/Permentan/PD.140 /2013 on Halal Food	<b>Objectives:</b> quality requirements; and compliance with Islamic requirements. <b>Issues raised:</b> further information/clarification; international standards; rationale/legitimacy; transparency; and unnecessary barriers to trade.	30/10/2013 (1)	Brazil
Mandatory Indonesia National Standard for glazed ceramic	<b>Objectives:</b> quality requirements; protection of consumers; and establishment of fair trade competition. <b>Issues raised:</b> further information/clarification; international standards; unnecessary barriers to trade; mandatory third-party certification for products which comply with international standards; and burdensome and costly certification requirements.	30/10/2013 (1)	European Union

a Indicates the number of times raised in total (including the first time raised).

Source: WTO, *TBT IMS*. Viewed at: <https://tbtims.wto.org>.

### 3.3.2.4 Conformity assessment and market surveillance

3.126. The National Accreditation Body (*Komite Akreditasi Nasional* (KAN)) remains responsible for accrediting conformity assessment bodies (CBs), including laboratories, inspection bodies and certification bodies. Where SNIs are mandatory, conformity assessment is undertaken by KAN-accredited CBs, designated by the respective regulators.<sup>203</sup> As at April 2020, there were 1,402 accredited laboratories (314 calibration laboratories, 71 medical laboratories, and 24 proficiency testing providers); 162 accredited inspection bodies; 74 accredited product certification bodies; 50 accredited quality management certification bodies; 22 accredited environmental management certification bodies; 10 accredited anti-bribery certification bodies; 10 accredited information security management certification bodies; 3 accredited energy management certification bodies; and 8 food safety management certification bodies.<sup>204</sup> According to the authorities, the recognition of foreign CBs occurs through bilateral or multilateral recognition agreements following the reciprocal principle. The KAN is a signatory of the International Laboratory Accreditation Cooperation (ILAC) and Asia-Pacific Laboratory Accreditation Cooperation (APLAC) mutual recognition agreements (MRAs), and the International Accreditation Forum (IAF) and Pacific Accreditation Cooperation (PAC) multilateral recognition agreements (MLAs). Over the review period, conformity assessment issues were raised regularly by WTO Members in their STCs regarding Indonesia's technical regulations.

3.127. Market surveillance/supervision of goods and services in the domestic market is carried out by the Directorate of Supervision of Circulated Goods and Services, within the MoT. However, for

<sup>203</sup> WTO document G/TBT/GEN/190, 17 March 2016.

<sup>204</sup> List of laboratories accredited by the KAN. Viewed at: <http://kan.or.id/index.php/documents/terakreditasi/doc17020/sni-iso-iec-17025/laboratorium-penguji>. The list of other accredited bodies is available on the KAN website (<http://kan.or.id>) under the tab "Direktori LPK/Terakreditasi".

technical regulations, market surveillance is the responsibility of the institution which is designated in the technical regulation itself. These individually designated institutions must coordinate their activities with the MoT, and must also comply with the rules on MoT market surveillance procedures.

### 3.3.2.5 Labelling

3.128. Over the review period, there were the following labelling-related developments:

- in 2019, MoH Regulation 30/2013 (as amended by MoH Regulation 63/2015) entered into force; this requires inclusion of sugar, salt and fat content information, as well as health messages, on the labels of processed and fast foods; the content information must be based on testing reports conducted by an accredited laboratory.<sup>205</sup> Indonesia has not yet determined the categories of processed food for which labelling is mandatory. In the context of this Review, the authorities indicated that the regulation is being revised, and public consultation will be opened. Various STCs were raised in the WTO TBT Committee regarding these requirements (Table 3.21);
- in 2018, a new regulation on food labelling (BPOM Regulation No. 31) was issued, replacing and merging labelling rules on food contained in several previous regulations.<sup>206</sup> It regulates the criteria for non-halal information on the labels of processed foods that contain pork and alcohol;
- new mandatory labelling (and certification) requirements are being progressively introduced for halal products under the Halal Product Assurance Law No. 33 of 2014 and its implementing regulation, GR No. 31 of 2019.<sup>207</sup> Halal products include: food and beverages; traditional medicines and health supplements; medicinal products; cosmetics; chemical products; genetically engineered products; clothing, headgear and accessories; household appliances; Muslim worship equipment; stationary and office equipment; and goods for medical devices in risk classes A, B, and C. Under the Regulation, non-halal information is also required for these products. Various STCs were raised in the WTO TBT Committee regarding these requirements (Table 3.21). As indicated by the authorities in the context of this Review, the requirements of halal labelling and non-halal information are not intended to create cost, be burdensome for companies or create confusion for consumers, but aim to provide adequate protection to Muslim consumers by providing clear information on these products;
- in 2017, tobacco labelling requirements were amended in order to revise the definition of health warning, and provide new guidance on the procedures for, and inclusion of, health and information warnings on tobacco product packaging<sup>208</sup>;
- in October 2015, less onerous labelling requirements were introduced for certain imported and domestically produced goods; the labels in Bahasa Indonesia may now be stamped on, included in, or inserted in the good and/or package, rather than having to be embossed printed or glued onto the product, as previously. Importers also no longer need to get a separate licence for the labelling; labels must just fulfil the SNI requirements.<sup>209</sup> The

<sup>205</sup> WTO document G/TBT/N/IDN/84, 13 January 2014.

<sup>206</sup> BPOM Regulation No. 31 replaces the following BPOM Regulations: No. 27 of 2017 on Processed Food Registration; No. 23 of 2016 on Labelling and Advertising of Information for Non-Additive Food; and HK.03.1.23.06.10.5166 of 2016 on Origins of Certain Material, Alcohol Content, and Expiration of Drug Labels, Traditional Drugs, Food Supplements and Food Information. Conventus Law, *Indonesia – Food and Drugs Supervisory Agency Unifies Processed Food Label Provisions*. Viewed at: <http://www.conventuslaw.com/report/indonesia-food-and-drugs-supervisory-agency/>.

<sup>207</sup> An English translation of GR No. 31 of 2019 was viewed at: <https://www.amcham.or.id/assets/kcfinder/upload/files/Gov%20Reg%2031-2019%20Law%2033%20Year%202014%20Implementation%20Provisions%20-%20Unofficial%20Translation.pdf>.

<sup>208</sup> MoH Regulation No. 56 of 2017 amended MoH Regulation No. 2013 Concerning Health Warnings and Health Information on Tobacco Product Packaging. Tobacco Control Laws, *Legislation by Country - Indonesia*. Viewed at: <https://www.tobaccocontrolaws.org/legislation/country/indonesia/pl-health-warnings>.

<sup>209</sup> Global Trade Alert, *Indonesia: Relaxed labelling requirements for certain imported goods*. Viewed at: <https://www.globaltradealert.org/intervention/12763/import-related-non-tariff-measure-nes/indonesia->

updated list of goods facing the labelling requirement is contained in MoT Regulation No. 79/2019, which entered into force on 18 April 2020. It includes, *inter alia*, asbestos, various textiles and clothing products, leather articles, footwear, paper, fertilizers and pesticides, paints, hydraulic brake fluids, rubber tyres, tableware and kitchenware; certain products made out of glass, ceramic and clay; cement; furniture; musical instruments; games and toys; iron, steel and metal products; pumps; air-conditioning machines; air filters; domestic appliances; office and computer machinery; electrical apparatus and equipment; wires and cables; telephones, cameras, microphones and loudspeakers; glasses frames; watches and clocks; and motor vehicle and motorcycle parts; and

- additionally, over the review period, various regulations entered into force requiring certain products (electric motor devices, air conditioners, refrigerators, and compact fluorescent lamps) to be affixed with energy saving labels.

### 3.3.3 Sanitary and phytosanitary requirements

#### 3.3.3.1 Institutional and legislative framework

3.129. The competent authorities for regulating and executing sanitary and phytosanitary (SPS) requirements in Indonesia are: the Fish Quarantine and Inspection Agency (FQIA) which falls under the Ministry of Marine Affairs and Fisheries, the BPOM which falls under the President's authority, and various entities under the Ministry of Agriculture (MoA) (the Indonesian Agricultural Quarantine Agency (IAQA), the Directorate General of Livestock and Animal Health, the Directorate General of Horticulture, the Directorate General of Estate Crops; the Directorate General of Food Crops, and the Indonesian Agency for Food Security). The IAQA is Indonesia's national notification authority under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, and national enquiry points are: the IAQA, the FQIA, and the Director of Standardization for Processed Food.

3.130. Over the review period, various new SPS-related laws entered into force: Law No. 21 of 2019 on Animal, Fish and Plant Quarantine; Law No. 41 of 2014 concerning Livestock Services and Animal Health<sup>210</sup>; the Halal Product Assurance Law (Law No. 33 of 2014)<sup>211</sup>; and Law No. 19 of 2013 concerning Protection and Empowerment of Farmers (Farmers Law).<sup>212</sup> Additionally, Law No. 18/2009 concerning State Crops was amended under Law No. 39/2014. Other SPS-relevant laws are Law No. 18/2012 concerning Food<sup>213</sup>; Law No. 31/2004 on Fisheries (as amended by Law No. 45/2009)<sup>214</sup>; and Law No. 13 of 2010 on Horticulture (Table 3.22). Numerous SPS-related regulations were issued over the review period.

3.131. Indonesia is a member of the Codex Alimentarius Commission and the World Organization for Animal Health (OIE), and is a contracting party to the International Plant Protection Convention (IPPC).

3.132. SPS-related agreements reached between Indonesia and third countries over the review period include: a partnership arrangement on the implementation of electronic certification (with Australia in 2016); an MRA on the application of plant quarantine and phytosanitary measures (Pakistan, 2013 (for five years)); a partnership agreement on the launch of the project on electronic certification (Netherlands, 2015); an MOU on Biosecurity Quarantine Activities (Papua New Guinea, 2018 (for five years)); an arrangement for exporting palm kernel expeller (New Zealand, 2013); the

---

[relaxed-labelling-requirements-for-certain-imported-goods](#). The relevant regulation introducing new measures is MoT Regulation 73/M-DAG/PER/9/2015 which revokes the previous MoT Regulation 67/M-DAG/PER/11/2014.

<sup>210</sup> Law No. 18 of 2009 on Husbandry and Animal Health. Viewed at:

<http://extwprleg1.fao.org/docs/pdf/ins98701.pdf>; and Law No. 41 of 2014 (in Bahasa Indonesia). Viewed at: <https://www.qpmt.or.id/view/VGhIExhdyBvbiBBbmItYWwqSHVzYmFuZjHJ5IGFuZCBBbmItYWwqSGVhbHRoIE5vLiA0MSBvZiAyMDE0f85e687a2371ab9c08d04730cc83b586.pdf>.

<sup>211</sup> Halal Product Assurance Law. Viewed at: <http://extwprleg1.fao.org/docs/pdf/ins139990.pdf>.

<sup>212</sup> Farmers Law (in Bahasa Indonesia). Viewed at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/95245/112068/F336716490/IDN95245%20Idn.pdf>.

<sup>213</sup> Ecolex, Law No. 18/2012 on Food. Viewed at: <https://www.ecolex.org/details/legislation/food-act-no-18-of-2012-lex-faoc139381/>.

<sup>214</sup> Law on Fishery No. 31/2004. Viewed at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89345/102625/F765882697/IDN89345%20Eng.pdf>; and Amendment to Law on Fishery No. 45/2009. Viewed at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89346/102626/F1953216388/IDN89346.pdf>.

Protocol of Phytosanitary Requirement for the Export of Mangosteen Fruits from Indonesia to China (China, 2019); and the Protocol of Phytosanitary Requirement for the Export of Dragon Fruits from Indonesia to China (China, 2019). Additionally, a letter of intent was signed between Indonesia and the FAO (2014).

**Table 3.22 SPS-related laws, 2020**

Law (date of entry into force)	Coverage and key SPS-related implementing regulations
Law on Food (17.11.2012)	Regulates national food production, planning, management, availability, affordability, distribution, consumption, and trade. Contains provisions on: control of food additives; control of genetically engineered food products; food packaging standards; food quality and safety guarantees; and halal product guarantees.
Law on Livestock Services and Animal Health (17.10.2014)	Provides the legal framework for the organization of husbandry and animal health. Regulates animals and animal products. Includes halal requirements.
Law on Animal, Fish and Plant Quarantine (18.10.2019)	Provides the legal framework for animal, fish and plant quarantine.
Law on Fisheries (as amended) (29 October 2009)	Sets the general rules for fisheries, including fisheries management, fish cultivation, fishery business, monitoring and surveillance, information and statistics, research and development, training, and penalties. Establishes the court jurisdiction for fisheries-related cases. Includes general provisions relating to protection of human health and the environment.
Law on Horticulture (24 November 2010)	Sets general rules on horticulture, including planning, development research, finance, investment, marketing, and imports. Includes provisions on food safety, quality, packaging and labelling requirements, import licensing requirements, import permit requirements, and designated import entry points.
Halal Law (17 October 2014)	Sets out mandatory certification and other requirements for halal products.
Farmers Law (6 August 2013)	Applies to agricultural commodities, and aims to help farms deal with production and marketing challenges. Includes various import measures, including designation of entry points and import licensing requirements.

Source: WTO documents WT/DS477/R; and WT/DS478/R, 22 December 2016.

3.133. According to the authorities, the review period saw infrastructural improvements to laboratories operated by the Research and Development Agency and quarantine facilities. Since early 2018, the Indonesian Quarantine Full Automation System (IQFAST) has been operational, it integrates various kinds of information system platforms for quarantine service users, other agencies, and competent authorities/governments of trading partners. This has reportedly increased transparency, optimized risk mitigation, assisted in the export acceleration of Indonesian agricultural products, and led to improvements in the quarantine inspection application (PPK online) for quarantine service users. IQFAST data was integrated into the INSW (Section 3.1.1.1) and into the iMace application, which maps exports.

### 3.3.3.2 SPS measures

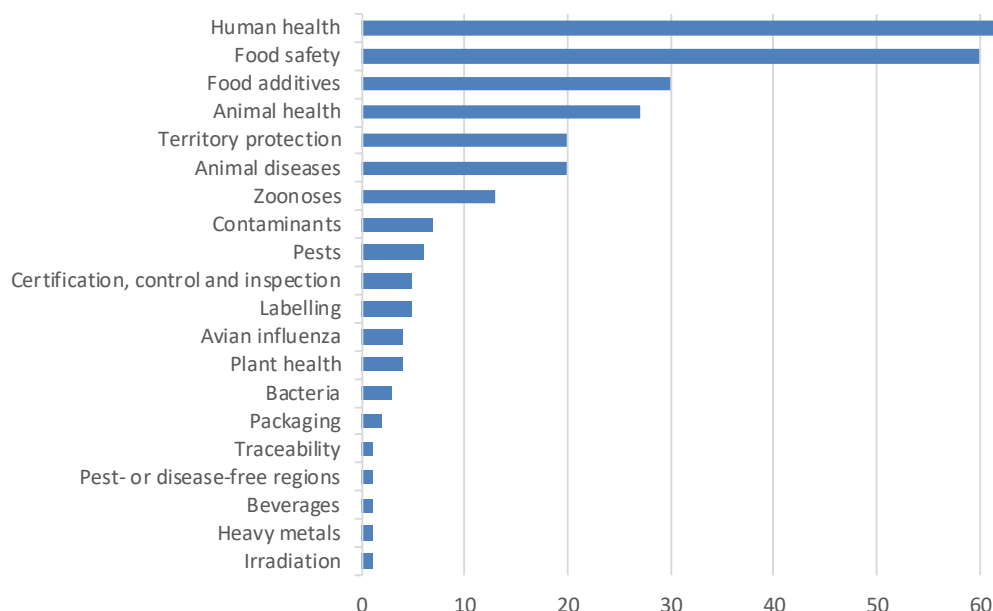
3.134. All SPS-related regulations are issued at central government level, following coordination with subnational governments. Over the period January 2013 to 16 April 2020, Indonesia submitted 134 regular notifications to the WTO Committee on Sanitary and Phytosanitary Measures. Five of these were emergency notifications, which related to measures to prevent the spread of COVID-19 and Avian Influenza. The 60-day period for comments applied to 18 regular notifications. Most notifications relate to human health and food-safety objectives (Chart 3.4). The authorities estimate that 97% of Indonesian standards conform to the relevant international standards.

3.135. According to the WITS database, SPS measures cover nearly 20% of the value of Indonesia's imports.<sup>215</sup> It has also been estimated that SPS measures have a significant impact on import prices. The World Bank Group estimates that non-tariff measures, such as quality requirements, other SPS

<sup>215</sup> WITS. Viewed at: [https://wits.worldbank.org/tariff/non-tariff-measures/en/type-count/country/IDN/product/All\\_Products](https://wits.worldbank.org/tariff/non-tariff-measures/en/type-count/country/IDN/product/All_Products).

measures, hygiene measures, and SPS conformity, add between 15% and 40% to the price of imports in *ad valorem* terms.<sup>216</sup>

**Chart 3.4 Main elements contained in SPS measures notified by Indonesia, January 2013 to mid-April 2020**



Note: This chart indicates the "keywords" contained in notifications as picked out in the SPS Information Management System. Most notifications contain more than one "keyword".

Source: WTO, *SPS Information Management System*. Viewed at: <http://spsims.wto.org>.

3.136. Over the review period, three STCs about Indonesia's SPS measures were raised in the WTO SPS Committee. In 2019, Brazil raised a concern related to undue delays in authorization procedures for beef; in 2018, the European Union raised one about approval procedures for animal and plant products; and, in 2016, the Philippines raised one about food safety measures affecting horticultural products and animal products.<sup>217</sup>

3.137. Over the review period, two new WTO dispute settlement cases, which relate, *inter alia*, to rules under the WTO SPS Agreement, were brought by Brazil regarding Indonesia's measures concerning the importation of bovine meat (DS 506) and measures concerning the importation of chicken meat and chicken products (DS 484) (Section 2.3.1.1 and Table 2.4).

### 3.3.3.2.1 Food safety

3.138. The main regulation governing food safety is GR No. 86 of 2019. This includes, *inter alia*, provisions on food sanitation, including maximum residue limits, food additive rules, genetically engineered foods (see below), food irradiation, and food packaging standards.<sup>218</sup>

3.139. The Indonesia Food and Drug Authority (BPOM) is responsible for determining which food additives are permitted and prohibited, and for setting maximum limits for their use; according to the authorities, it follows Codex standards. It maintains a list of 27 groups of food additives, with

<sup>216</sup> World Bank Group (2019), *Unlocking the Dynamism of the Indonesian Private Sector*. Viewed at: <https://www.ifc.org/wps/wcm/connect/8f1d3b14-66c2-4452-a70c-dbe79e7544f5/201910-CPSD-Indonesia-v2.pdf?MOD=AJPERES&CVID=m.8RZD6>, which cites data from Calli and Puzzello (2018), *The Welfare Impact of Non-Tariff Measures on Indonesia*.

<sup>217</sup> WTO, *SPS Information Management System*. Viewed at: <http://spsims.wto.org>.

<sup>218</sup> GR No. 86 of 2019 replaces GR No. 28 of 2004 on Safety, Quality and Nutrition. Viewed (in Bahasa Indonesia) at: <http://bkp.pertanian.go.id/storage/app/media/Bahan%202020/PP%20Nomor%2086%20Tahun%202019%20plus%20lampiran.pdf>.



each group having several types of additive.<sup>219</sup> Maximum limits for food additive use are set out in various regulations. Over the review period, Indonesia notified to the WTO various food additive regulations relating to: maximum levels of food additives for specific food categories; flavourings; preservatives; sweeteners; antioxidants; colouring agents; bulking agents; stabilizers; flavor enhancers; foaming agents; colour retention agents; emulsifiers; gelling agents; packing gas; emulsifying salts; thickeners; propellants; anti-foaming agents; glazing agents; raising agents; anti-caking agents; firming agents; acidity regulators; flour treatment agents; carriers; humectants; and carbonating agents. Indonesia notified that all these regulations conform with the relevant Codex standards. Food additives from animal sources must have a halal conformity certificate, issued by the Halal Products Certification Agency (BPJPH) or one of the Halal Certifier Bodies that officially cooperates with the BPJPH (see below).<sup>220</sup> The authorities indicated that if food additives are not regulated, stakeholders may nevertheless request permission to import/circulate them; they must submit a request to the BPOM who will assess and decide.

3.140. Maximum residue limits (MRLs) are set out in Ministerial Decree No. 55 of 2016 concerning Food Safety Control on Importation and Exportation of Fresh Food of Plant Origin and Ministerial Decree No. 53 of 2018 concerning the Quality and Safety of Fresh Food of Plant Origin. The authorities indicated that Indonesia always follows Codex standards for the setting of MRLs.

3.141. Over the review period, Indonesia also notified to the WTO new regulations on processing aids; heavy metal contaminants in processed food; prohibited raw materials in processed food; and irradiated food.

### 3.3.3.2.2 Processed food

3.142. Packaged processed food products (imports and domestic production) for trade in retail must be registered with the BPOM to ensure that they comply with regulations relating to labelling (Section 3.3.2.5), safety, quality, and nutrition; a distribution license issued by the BPOM is also required. Registration involves submission to the BPOM of product information and samples for testing by either government laboratories or laboratories accredited by (or institutions acknowledged by) the National Accreditation Committee. BPOM Regulation 27/2017 sets out types of food which are not required to be registered; it appears to exempt processed foods packaged in bulk and sold in business-to-business trading.<sup>221</sup> Reportedly, registration requirements are one of the most difficult issues facing importers.<sup>222</sup> Approval from the head of the BPOM is required for each imported shipment of processed food, raw food materials, food additives, processing aids, and food ingredients.

### 3.3.3.2.3 Horticulture

3.143. MoA Regulation No. 55/2016 concerning Food Safety Control on Importation and Exportation of Fresh Food of Plant Origin governs food safety control system recognition, and laboratory registration requirements to import fresh foods of plant origin to Indonesia. It was notified to the WTO. It stipulates that fresh food of plant origin may only be imported to Indonesia from countries whose food safety control systems are recognized by Indonesia or countries with registered food safety testing laboratories.<sup>223</sup> According to the authorities, changes introduced by the Regulation

<sup>219</sup> Regulations governing permitted and prohibited food additives are: BPOM Regulation No. 11 of 2019. Viewed (in Bahasa Indonesia) at:

[https://standarpangan.pom.go.id/dokumen/peraturan/2019/PerBPOM\\_No\\_11\\_Tahun\\_2019\\_tentang\\_BTP.pdf](https://standarpangan.pom.go.id/dokumen/peraturan/2019/PerBPOM_No_11_Tahun_2019_tentang_BTP.pdf)

and BPOM Regulation No. 22 of 2016. Viewed (in Bahasa Indonesia) at:

[https://standarpangan.pom.go.id/dokumen/peraturan/2019/PerKa\\_BPOM\\_Nomor\\_22\\_Tahun\\_2016\\_Tentang\\_Perisa.pdf](https://standarpangan.pom.go.id/dokumen/peraturan/2019/PerKa_BPOM_Nomor_22_Tahun_2016_Tentang_Perisa.pdf).

<sup>220</sup> US Department of Agriculture (USDA), *GAIN Report No. 1841* (2019). Viewed at: [https://agriexchange.apeda.gov.in/IR\\_Standards/Import\\_Regulation/FoodandAgriculturalImportRegulationsandStandardsReportJakartaIndonesia3182019.pdf](https://agriexchange.apeda.gov.in/IR_Standards/Import_Regulation/FoodandAgriculturalImportRegulationsandStandardsReportJakartaIndonesia3182019.pdf).

<sup>221</sup> The types of food not required to be registered under Regulation No. 27/2017 are (i) fast food; and (ii) food which only has minimal processing (after harvesting), which consists of cleaning, stripping, drying, grinding, cutting, salting, cracking, mixing and/or pickling, as well as not having food additives, with the exception of food waxing additives.

<sup>222</sup> USDA, *GAIN Report No. 1841* (2019). Viewed at: [https://agriexchange.apeda.gov.in/IR\\_Standards/Import\\_Regulation/FoodandAgriculturalImportRegulationsandStandardsReportJakartaIndonesia3182019.pdf](https://agriexchange.apeda.gov.in/IR_Standards/Import_Regulation/FoodandAgriculturalImportRegulationsandStandardsReportJakartaIndonesia3182019.pdf).

<sup>223</sup> This regulation was notified to the WTO in WTO document G/SPS/N/IDN/114, 10 January 2017. It replaces MoA Regulation No.04/2015 which, in turn, replaced MoA Regulation No. 88 of 2011.

were to simplify import procedures. As at end-April 2020, 36 trading partners had been granted access to the Indonesian market.<sup>224</sup> The Centre for Plant Quarantine and Biological Safety undertakes risk analysis of plant pests and plant products to be imported into Indonesia for the first time. A list of these risk assessments is publicly available.<sup>225</sup> As indicated by the authorities, the time to complete a risk assessment generally ranges from between six months and two years, depending on the completeness of the required documentation submitted by the exporting country. No fees are charged.

3.144. As indicated by the authorities, changes to rules on import recommendations for horticultural products over the review period were to facilitate importation.<sup>226</sup> Import procedures, including import licensing requirements, are contained in Table A3.4. Port of entry requirements for the import of horticultural products are set out in Ministry of Agriculture (MoA) Decree No. 42 of 2012, and those for fresh fruit, fresh vegetables and fresh bulbs in MoA Decree No. 43 of 2017. Quarantine regulations for plants did not change over the review period, and are set out in GR No. 14 of 2002 concerning Plant Quarantine.<sup>227</sup> Fees for quarantine, testing and inspection are contained in GR No. 35 of 2016 on Non-Tax Revenue to be Paid by Importers.

#### 3.3.3.2.4 Live animals, meat and dairy products

3.145. Risk assessment procedures for the import of live animals are based on Ministerial Decree No. 41 of 2019; they are implemented by the Directorate General of Livestock and Animal Health within the MoA. Only approved meat and poultry establishments, and those exporting animal-derived products (i.e. dairy and eggs), may import products into Indonesia. Since 2017, fees have been levied for the inspection of animal products under GR No. 35/2016 (previously, the costs were borne by the Indonesian Government); fees charged depend on the number of establishments to be inspected, the number of auditors, and the number of audit days. According to the authorities, they are usually more-or-less USD 10,000, depending on the distance the auditors must travel, and air-fare and accommodation costs.

3.146. MoA Regulation No. 42 of 2019 regarding the Importation of Carcass, Meat, Offal and/or their Processed Products into the Territory of the Republic of Indonesia and MoT Regulation No. 29/2019 regarding the Provisions of Export and Import of Animal and Products of Animal Origin (as amended by MoT Regulation No. 72/2019), detail the meat products eligible for import.<sup>228</sup> Importers must apply for an import recommendation from the MoA in order to receive an import permit from the MoT. Import permits are valid for six months. Requirements to have a distribution plan, contained in earlier regulations (MoA Regulation No. 58 of 2015 as amended by MoA Regulation No. 34 of 2016) are no longer in place. Halal certificates, from a halal certifier recognized by the Indonesian halal authority, must be provided. In 2020, new regulations were issued requiring confirmation (though laboratory tests) that imports of live animals are free from COVID-19<sup>229</sup>; according to the authorities, these requirements are being revised and are no longer valid. MoA Regulation No. 33/2018 on the Supply and Distribution of Milk removes the pre-existing requirements for dairy processors and importers to establish partnerships with local dairy farmers as one of the requirements to obtain an import permit.<sup>230</sup>

<sup>224</sup> These trading partners are: New Zealand, Canada, Australia, Argentina, South Africa, Japan, the United States, France, Chile, the Netherlands, China, India, Egypt, Ukraine, Peru, Pakistan, the Republic of Korea, Thailand, Viet Nam, Turkey, Greece, Myanmar, Austria, Malaysia, Spain, Chinese Taipei, Brazil, Germany, the Russian Federation, the Philippines, Iran, Romania, Bulgaria, Lithuania, and Italy.

<sup>225</sup> Agricultural Quarantine Agency. Viewed at: <https://karantina.pertanian.go.id/page-94-hasil-analisis-risiko-karantina-tumbuhan.html>.

<sup>226</sup> In this regard, the relevant MoA Regulations are: No. 47 of 2013, No. 86 of 2013, No. 16 of 2017, No. 38 of 2018, No. 39 of 2019, and No. 2 of 2020. Viewed at: <http://jdih.pertanian.go.id/>.

<sup>227</sup> GR No. 14 of 2002 concerning Plant Quarantine. Viewed at: <http://extwprleg1.fao.org/docs/pdf/ins89738.pdf>.

<sup>228</sup> USDA, *GAIN Food and Agricultural Import Regulations and Standards Country Report - Indonesia* (February 2020). Viewed at: [https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20Country%20Report\\_Jakarta\\_Indonesia\\_12-31-2019](https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20Country%20Report_Jakarta_Indonesia_12-31-2019).

<sup>229</sup> WTO documents G/SPS/N/IDN/133, 22 April 2020; and G/SPS/N/IDN/132, 20 March 2020.

<sup>230</sup> USDA, *GAIN Report No. 1841* (2019). Viewed at: [https://agriexchange.apeda.gov.in/IR\\_Standards/Import\\_Regulation/FoodandAgriculturalImportRegulationsandStandardsReportJakartaIndonesia3182019.pdf](https://agriexchange.apeda.gov.in/IR_Standards/Import_Regulation/FoodandAgriculturalImportRegulationsandStandardsReportJakartaIndonesia3182019.pdf).

3.147. Imports of live animals, meat, and dairy products may enter through any port of entry that has the necessary quarantine facilities in place. Quarantine and certification regulations for animals are set out in GR No. 82 of 2000 concerning Animal Quarantine and MoA Regulation No. 17/Permentan/KR.120/5/2017.

### 3.3.3.2.5 Fisheries

3.148. Ministry of Marine Affairs and Fisheries (MOMAF) Regulation No. 41/2014 lists the live aquatic species banned from import, and replaces the previous regulation in force. It extends the list of live species banned from import from 30 to 152 (exceptions allowed for scientific research). The rationale for the measure is to preserve fish resources and their environment, and to protect human health.<sup>231</sup> As indicated by the authorities, the species on the list are determined by a risk assessment on invasive alien species by experts, by the Indonesian Institute of Sciences, and as contained in literature studies, and by recommendations from appropriate experts and discussions with relevant stakeholders. Import permits are required for all live aquatic species and fisheries products.<sup>232</sup>

3.149. Director General of Fishery Product Processing and Marketing Decree No. 125/2014 specifies the fishery products permitted for import into Indonesia. They include fish species not available in Indonesian waters, except in the event of shortages and seasonal production limitations.<sup>233</sup> MOMAF Regulation No. 74/2016 covers quality control and safety for those imported fish products which are allowed and intended for human consumption. The regulation, *inter alia*, sets out importer registration requirements<sup>234</sup>; import permit requirements; labelling requirements; documentary requirements<sup>235</sup>; quarantine, testing and sampling (the costs of which are borne by the importer); and specifies the entry points for seafood shipments (eight sea ports; all international airports; and two border posts).<sup>236</sup> Under MoT Regulation No. 66/2018, import agreements are required for imports of 325 fish types; these are valid for one year.<sup>237</sup> MOMAF Regulation No. 11/2019 covers entry requirements for disease-/pest-carrier media and/or fisheries products.<sup>238</sup>

3.150. Inspection of imports of fish and fish products is undertaken by the Fish Quarantine and Inspection Agency within the MOMAF. MOMAF Decree No. 91/2018 lists the kinds of fish diseases, with the categories and carriers, and stipulates that imports (as well as exports and domestic movement) of the carriers are to be free from these diseases.<sup>239</sup>

### 3.3.3.2.6 Halal requirements

3.151. Under the 2014 Halal Product Assurance Law and its implementing regulation, GR No. 31 of 2019, all halal products sold on the Indonesian market must obtain certificates from the newly established Halal Products Certification Agency (BPJPH), under the Ministry of Religious Affairs. Previously, certification was voluntary, and was undertaken by the Indonesian Ulema Council. Since 2019, halal certification requirements have applied to food and beverages, and will be introduced

<sup>231</sup> MOMAF Regulation No. 41/2014 replaces MOMAF Regulation No. PER.17/MEN/2009 concerning Import Prohibition of Several Hazardous Fishes from Overseas into the Territory of the Republic of Indonesia. USDA GAIN Report No. ID1501 of 13 January 2015. Viewed at:

<https://apps.fas.usda.gov/newgainapi/api/report/downloadreportbyfilename?filename=Indonesia%20Revises%20Seafood%20Import%20Rules%20Jakarta%20Indonesia%201-13-2015.pdf>; and MOMAF Regulation No. 41/PERMEN-KP/2014. Viewed at: <http://usdaindonesia.org/wp-content/uploads/2014/12/Permen-41-app-Translation.pdf>.

<sup>232</sup> The regulatory basis for import permit requirements is MOMAF Regulation No. 56/PERMEN-KP/2018 concerning Recommendation for Importation of Parent Candidate, Parent and Seed of Fish, and/or Pearls Core.

<sup>233</sup> USDA, GAIN Report No. ID1501, 13 January 2015. Viewed at: <https://apps.fas.usda.gov/newgainapi/api/report/downloadreportbyfilename?filename=Indonesia%20Revises%20Seafood%20Import%20Rules%20Jakarta%20Indonesia%201-13-2015.pdf>.

<sup>234</sup> Importation of fishery products is done by importers that have an API-P, importers that have an API-U, or representatives of friendly countries. Exporters must be registered with the MOMAF, and with the competent authority in the country of origin.

<sup>235</sup> Documentary requirements include: a Fish Health Certificate; a Health Certificate of Fish Processing Products; a Catch Certificate; and a Certificate of Origin from the competent authority in the country of origin.

<sup>236</sup> MOMAF Regulation No. 74/2016. Viewed at: <http://fsvps.ru/fsvps-docs/ru/importExport/indonezia/files/74-2016req.pdf>.

<sup>237</sup> Global Trade Alert, *Indonesia: Import licensing restrictions on fish*. Viewed at: <https://www.globaltradealert.org/state-act/36739/indonesia-import-licensing-restrictions-on-fish>.

<sup>238</sup> MOMAF Regulation No. 11/2019. Viewed at: <http://jdih.kkp.go.id/peraturan/b542c-11-permen-kp-2019-ttg-pemasukan-media-pembawa-dana.pdf>.

<sup>239</sup> WTO document G/SPS/N/IDN/130, 12 December 2019.

for other products over the period 2021-26 (Section 3.3.2.5). As indicated by the authorities, all halal certificates issued by foreign halal certifier bodies (LHLNs) that cooperate with the BPJPH can be accepted; as at mid-2020, there were 45 LHLNs in 26 countries.<sup>240</sup> Importers must register halal certificates with the BPJPH, and place the registration number on the package before the product may be distributed in Indonesia. As noted in Section 3.3.2.5, various concerns about the implementation of this law were raised in the WTO TBT Committee, including with respect to labeling requirements and certification requirements.

### 3.3.3.2.7 Genetically modified organisms (GMOs)

3.152. The legal and regulatory framework for GMOs comprises: Law No. 18 of 2012 on Food; GR No. 21/2005 concerning Security of Biological Genetically Engineered Products<sup>241</sup>; and GR No. 86/2019 concerning Food Safety (see above). Under GR 21/2005, applications for imports of genetically engineered items (plant, animal, fish and microorganisms and their products) must be presented to the competent minister or head of agency. In assessing these applications, ministers/heads of agency rely on recommendations made by the Indonesian Commission for Biological Safety, which conducts technical evaluations and analysis through its technical team. The time-frames for undertaking assessments are set out in GR 21/2005, which also provides a window for stakeholder inputs. The FDA or the Ministry of Environment undertakes laboratory testing of GMOs; the costs are covered by the proponent. The competent minister/head of agency gives successful applicants a licence for the release and/or circulation of these products. According to the authorities, Indonesia allows the import of 34 types of genetically engineered products considered to be food-safe. There is no commercial production of genetically engineered products in Indonesia.

### 3.3.4 Competition policy and price controls

#### 3.3.4.1 Competition policy

3.153. The legal framework for competition policy remains Law No. 5/1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Competition Law)<sup>242</sup>; there were no amendments to this Law over the review period. An amendment to it has been on the national legislative agenda since 2015; according to the authorities, discussion in Parliament on the bill had advanced considerably in 2019 but was not concluded due to the general election, and has now been withdrawn from the national legislation list. Concerns regarding limitations of the existing competition law relate largely to the ability of the competition agency to detect anti-competitive behaviour and sanction it. As indicated in a recent World Bank Group report, the Indonesia Competition Commission (KPPU) (see below): cannot perform unannounced inspections to gather evidence at the premises of firms investigated for anti-trust infringement; cannot act against firms located abroad, even if their behaviour directly affects competition and/or consumers in domestic markets, resulting in limited detection of cartels by the KPPU; and has limited deterrence powers, with maximum penalties being a lot lower than comparable agencies in other jurisdictions. The report also notes that, in the absence of a formal feedback mechanism from the Government, the impact of the KPPU's opinions on policy-making are unclear.<sup>243</sup>

3.154. As indicated in Indonesia's previous Reviews, the Competition Law covers a wide spectrum of anti-competitive behaviour. It, *inter alia*, prohibits abuse of dominance as well as vertical restrictions on competition and any deals or contracts allowing for monopolies, oligopolies, price fixing, cartels, trusts, and geographical designations of markets between suppliers. The Law also prohibits business actors from conspiring with other parties (including government bodies, SOEs, and private companies) to bid-rig in tender awards. Activities excluded from the Competition Law are set out in Articles 50 and 51; these include, *inter alia*, agreements related to intellectual property

<sup>240</sup> LPPOM, *List of Halal Certification Bodies*. Viewed at: <http://www.halalmui.org/mui14/main/page/list-of-halal-certification-bodies>.

<sup>241</sup> GR No. 21/2005 on Biological Safety of Genetic Engineering Products. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/ins60788.pdf>. There are three areas of GMO regulation, for food safety, feed safety, and environmental safety.

<sup>242</sup> Law No. 5/1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Viewed at: [http://eng.kppu.go.id/wp-content/uploads/2016/11/law\\_5\\_year\\_1999\\_.pdf](http://eng.kppu.go.id/wp-content/uploads/2016/11/law_5_year_1999_.pdf).

<sup>243</sup> World Bank Group, *Creating Markets in Indonesia: Unlocking the Dynamism of the Indonesian Private Sector*, October 2019. Viewed at: <https://www.ifc.org/wps/wcm/connect/8f1d3b14-66c2-4452-a70c-dbe79e7544f5/201910-CPSP-Indonesia-v2.pdf?MOD=AJPERES&CVID=m.8RZD6>.

rights, and the production and marketing of goods and services "affecting the livelihood of society at large" as stipulated in the Law and as implemented by SOEs.

3.155. Enforcement of the Law is the responsibility of the KPPU, established in 2000. In 2018, the KPPU had a budget of IDR 135 billion and a total of 347 officers in headquarters and representative offices.<sup>244</sup> According to the authorities, its current areas of priority are enforcement and prevention, and the undertaking of studies and monitoring. Over the review period, the KPPU promoted use of its competition policy assessment checklist in the Government's regulatory process (see below).<sup>245</sup>

3.156. Over the review period, various new regulations were introduced.<sup>246</sup> Key new regulations include:

- Commission Regulation No. 4/2019 concerning the Case Handling Procedure for Partnership Infringement. This was issued to improve the implementation of elements in the 2008 MSMEs Law and its implementing regulation.<sup>247</sup> It sets out a case handling procedure for partnership infringement cases between MSMEs and large enterprises, and among MSMEs. It covers: (i) shorter procedural time-frames for complaints clarification in partnership cases (7 days) compared with competition cases (30 days); (ii) the introduction of a behavioural changes provision, so that if, after the preliminary hearing, the defendant admits its wrongdoing, the KPPU stops the case and issues a written warning to the defendant to stop the infringement. If the defendant does not comply with the warning within seven days of receiving the letter, then the KPPU issues a maximum of three more warnings. In the event of non-compliance, the KPPU continues the case, with shorter time-frames applied<sup>248</sup>; and (iii) the hearing session with the Panel of Commissioners is only started at the stage of Further Examination (rather than at the stage of the Preliminary Examination) so as to simplify the case handling procedure for partnership cases and reduce the burden on the reported party to be present at so many hearing sessions. In its decision, the KPPU may apply penalties (which are quite low, at a maximum of IDR 10 billion) or order the withdrawal of the defendant's business licence.<sup>249</sup> In the context of this Review, the authorities indicated that, as at end-2019, warning letters had been sent in four cases; these letters are confidential. As at mid-2020, no business licences had been withdrawn under this procedure, and no other sanctions had been applied;
- Commission Regulation No. 1/2019 on the Procedure for Cases of Monopolistic Practice and Unfair Competition. This was issued to provide more details on how the KPPU's handling of cases should be regulated.<sup>250</sup> It aims to address concerns from business actors regarding the lengthy pre-investigation period and uncertainty on the status of a case during this period, by obliging the KPPU to notify all related parties should the investigation be halted. The Regulation also defines and specifies criteria on indirect evidence, and

<sup>244</sup> OECD, *Annual Report on Competition Policy Developments in Indonesia 2018*, DAF/COMP/AR(2019)46, 3 May 2019. Viewed at: [https://one.oecd.org/document/DAF/COMP/AR\(2019\)46/en/pdf](https://one.oecd.org/document/DAF/COMP/AR(2019)46/en/pdf).

<sup>245</sup> The toolkit was viewed at KPPU, *Guideline on Competition Policy Assessment Checklist*. Viewed at: <http://eng.kppu.go.id/wp-content/uploads/Guideline-on-Competition-Policy-Assessment-Checklist.pdf>.

<sup>246</sup> All KPPU regulations may be viewed at: <https://www.kppu.go.id/id/produk-hukum/peraturan-kppu/>.

<sup>247</sup> Law No. 20/2008 concerning MSMEs and GR No. 17/2013. The issuance of Commission Regulation No. 4/2019 revoked Commission Regulation No. 1/2017 concerning the Case Handling Procedure for Partnership Infringement, and Commission Regulation No. 3/2016 concerning the Supervision of Partnership Implementation, as the new Regulation covers both the procedures for supervision, and the handling of partnership cases.

<sup>248</sup> KPPU, *2017 Annual Report on Competition Law and Policy*. Viewed at: <http://eng.kppu.go.id/wp-content/uploads/KPPUs-Annual-Report-2017.pdf>. The shorter time-frames are designed to provide more certainty for, and avoid further damages to, the MSMEs affected by the violation, as well as to help the KPPU to better manage its resources.

<sup>249</sup> OECD, *Annual Report on Competition Policy Developments in Indonesia 2017*, DAF/COMP/AR(2018)28, 31 October 2018.

<sup>250</sup> KPPU Regulation No. 1/2019. Viewed at: [https://www.kppu.go.id/docs/Perkom/2019/Perkom\\_No.1\\_Tahun\\_2019.pdf](https://www.kppu.go.id/docs/Perkom/2019/Perkom_No.1_Tahun_2019.pdf); Baker McKenzie, *Indonesian Competition Commission Issues New Case Handling Procedure*. Viewed at: <https://www.bakermckenzie.com/en/insight/publications/2019/05/indonesian-competition-commission>.



provides opportunities for reported parties to commit to changing their behavior to comply with the Competition Law<sup>251</sup>;

- Commission Regulation No. 3/2019. This provides for clearer and faster procedures for post-merger notification and review, by requiring companies to do a merger self-assessment prior to notification. The Regulation also expands the scope of what should be notified, to include asset transfers (previously, only merger consolidation needed to be notified).<sup>252</sup> Pre-merger notification in Indonesia remains voluntary, and post-merger notification is mandatory. In the context of this Review, the authorities indicated that, even though they have the legal right to cancel mergers, this is not done in practice; and
- Commission Regulation No. 4/2016 on Competition Policy Assessment Checklist. This Checklist is expected to be used by both central and regional governments to identify the conformity of the draft bill/policy/regulation with the Competition Law. The Checklist was formulated based on the OECD Competition Assessment Toolkit, with certain adjustments.

3.157. The KPPU investigates anti-competitive practices based on reports from the community, or on its own initiative. The maximum period from preliminary investigation until the execution of a decision is 180 days. In 2018, the KPPU received 132 complaints from the public (71% of which related to bid-rigging) and undertook 38 own-initiative investigations (63% related to bid-rigging). According to the authorities, most other complaints/investigations relate to cartels and monopolies.

3.158. The KPPU is authorized to impose administrative actions against any business actors who violates the law. These may take the form of: (i) an order to stop the anti-competitive agreement or activity; (ii) the cancellation of a merger, consolidation, or share acquisition; (iii) the imposition of compensation for damages; or (iv) the imposition of administrative fines, which may range from IDR 1 billion to IDR 25 billion. Over the period 2000-18, fines for administrative violations contributed IDR 526 billion to state revenues. The Competition Law also provides for criminal sanctions for certain actions, which may include fines ranging from IDR 1 billion to IDR 100 billion; imprisonment for a certain time-period; revocation of business licences; prohibitions on individuals violating the Law from taking Director/Commissioner positions for a time-period; and orders to cease certain activities/actions. As at mid-2020, the KPPU had only imposed administrative sanctions.

3.159. Objections to KPPU decisions may be taken first to the District Court and, thereafter, appealed to the Supreme Court. Over the period 2014-18: 58 decisions were taken to the District Court (of which, 34 were affirmed and 24 rescinded); 45 appeals were made to the Supreme Court (27 affirmed and 18 rescinded); and 22 went to judicial review (22 affirmed and none rescinded).

3.160. In addition to Competition Law enforcement responsibilities, the KPPU has a competition advocacy role. At the invitation of a ministry, or on its own initiative, it may undertake competition impact assessments of proposed or existing laws and regulations, and issue policy recommendations.<sup>253</sup> Over the period 2013-19, the KPPU undertook 103 impact assessments in a broad range of areas (Table A3.5). Over the same period, it issued 107 policy recommendations, 42% of which were adopted by the Government (Table 3.23). Policy recommendations are not publicly available, they are not binding, and ministries/agencies are not obliged to inform the KPPU of the reasons for not adopting its recommendations.<sup>254</sup>

<sup>251</sup> This commitment would be outlined in an "integration pact", and the examination would be suspended as the KPPU monitors compliance with the commitment for a period of up to 60 days. If the monitoring result is positive, the KPPU issues a "commitment decision". If the monitoring result is negative, further examination is initiated.

<sup>252</sup> A more detailed analysis of this measure was viewed at Baker McKenzie, *Merger Control Update: Calculation of Assets Threshold Refers to the Worldwide Figures of the Acquirer Group*. Viewed at: <https://www.bakermckenzie.com/en/insight/publications/2019/12/merger-control-update-calculation-of-assets>.

<sup>253</sup> Article 35(e) of the Competition Law allows the KPPU to provide advice and opinions on government policies identified as potentially harming competition.

<sup>254</sup> Recommendations were not adopted in the areas of procurement, construction, property, trading, electronics, automotive, electricity, drinking water, farmers, livestock, forests and fish, telecommunications, broadcasting, information technology, health, pharmaceuticals, finance and banking, manufacturing, textiles, chemicals, public education, population, employment, energy and mineral resources, mining, and tourism.



**Table 3.23 KPPU policy recommendations to the Government, 2013-19**

Year	Total	Adopted	Not adopted
2013	13	2	11
2014	13	5	8
2015	15	7	8
2016	17	4	13
2017	20	11	9
2018	12	8	4
2019	17	8	9

Source: OECD, *Annual Report on Competition Policy Developments in Indonesia - 2018*. Viewed at: [https://one.oecd.org/document/DAF/COMP/AR\(2019\)46/en/pdf](https://one.oecd.org/document/DAF/COMP/AR(2019)46/en/pdf); and information provided by the authorities.

3.161. The KPPU also undertakes market monitoring activities.<sup>255</sup> The selection of sectors or issues to be monitored is based on several sources, such as assessment results, findings in examination processes, the results of public hearings conducted by the Commission, incomplete reports, news in the media, and data or other information. This monitoring activity is conducted to look for potential violations in the market. Should an alleged violation be found, the result of monitoring could be used to initiate a case investigation. If the alleged violation comes from a policy or regulation which is not aligned with the Competition Law, the KPPU can also issue policy recommendations (see above). The KPPU does not publish the report of its market monitoring activities. Over the period 2013-19, the KPPU undertook 36 monitoring activities (Table 3.24).

**Table 3.24 Market monitoring activities, 2013-19**

	Market monitoring activities
2013	None
2014	Ground handling services
2015	Solar fuel industry; chicken industry; optical industry; and poultry industry
2016	PT BKI Indonesia; Indonesia Palm Oil Pledge; and vaccine industry
2017	Credit distribution; drug distribution in the e-catalogue; alleged monopolistic practices in granting of migrant worker (TKI) visas in Malaysia; garlic industry; Kharisma Archipelago Collective Marketing (KPNB) business actors; appraisal service industry; determination of broker service reward standards by Indonesian Securities Companies Association; and provision of electric power for buildings in limited areas, apartments
2018	Painted aluminium-zinc alloy-coated steel industry; requirements of SOEs' public accountant offices; cement industry; trade association; nickel mining industry; distribution of liquefied petroleum gas in Belitung; PET industry; pedigree chicken egg industry; pedigree chicken industry; various pharmaceutical inputs (amitriptyline, methotrexate, valsartan, atorvastatin, and telmisartan); and rice industry
2019	Financial technology; price formulation of live chickens; baggage tariff determination on low-cost carrier airlines; flight fares; and garlic industry

Source: OECD, *Annual Report on Competition Policy Developments in Indonesia 2018*. Viewed at: [https://one.oecd.org/document/DAF/COMP/AR\(2019\)46/en/pdf](https://one.oecd.org/document/DAF/COMP/AR(2019)46/en/pdf); and information provided by the authorities.

3.162. Indonesia does not have extensive bilateral agreements on competition. As mentioned in the previous Review, there are competition chapters in the ASEAN-Australia-New Zealand FTA (focusing mainly on supporting the creation of a fairer business environment in the signatory countries) and the Indonesia-Japan Comprehensive Economic Partnership Agreement (relating mainly to exchanges of public information, notification on enforcement activity, and capacity building) (Section 2.3.2). There is a competition chapter in the recently signed EFTA-Indonesia Comprehensive Economic Partnership Agreement (which is not yet in force), whereby signatories agree to apply domestic competition laws and regulations to proscribe anti-competitive practices according to principles of transparency, non-discrimination and procedural fairness, as well as to ensure that their state enterprises, designated monopolies and enterprises with special rights do not maintain anti-competitive practices affecting trade between them. It also has provisions on cooperation and consultations.<sup>256</sup> There is also a competition chapter in the Indonesia-Australia

<sup>255</sup> The legal bases for this activity are Law No. 5/1999; Commission Regulation No. 1/2019 on Procedures for Case Handling; and Commission Regulation No. 2/2019 on KPPU's Organizational Structure and Working Arrangements.

<sup>256</sup> EFTA-Indonesia Comprehensive Economic Partnership Agreement, Chapter 7.  
<https://www.efta.int/sites/default/files/documents/legal-texts/free-trade-relations/indonesia/efta-indonesia-main-agreement.pdf>.

Comprehensive Economic Partnership Agreement, which has also been signed but has not yet entered into force. It contains, *inter alia*, provisions on: the application of competition laws and regulations, including with respect to procedural transparency and fairness in the implementation of administrative and judicial procedures; cooperation; notification of competition enforcement activities that may affect the other party's interests; transparency of competition law enforcement policies; competition law exclusions and exemptions; and consumer protection.<sup>257</sup>

### 3.3.4.2 Price controls

3.163. As at the time of the previous Review, the Government remained involved in stabilizing the price of rice through the state-owned Perum BULOG's guaranteed purchase of rice from domestic producers at a set procurement price, and through its import activities (Sections 3.3.5.1 and 4.1.5).

3.164. Additionally, the MoT monitors prices and, if necessary, undertakes some mark-up operations to guarantee the availability and stability of prices of necessities. The most recent regulation in this regard was MoT Regulation No. 7 of 2020, which set reference prices for the purchase of certain necessities (corn, soybeans, sugar, cooking oil, shallots, beef, purebred chicken, and purebred eggs) at the farmer level, and reference prices for sales of these items at the consumer level. These reference prices are determined by the Minister of Trade considering reasonable cost structures of farmers and retailers. If prices at the farm level are below the reference prices, or if prices at the consumer level are above the reference price, the Minister may instruct Perum BULOG to undertake purchases and sales, respectively.

3.165. The Government sets the price of medicines used in the National Health Insurance programme through the e-catalogue (Section 3.3.6).<sup>258</sup>

3.166. The coal sales price for the supply of electricity for public purposes has been regulated since 2018.<sup>259</sup> The fixed price is USD 70 per tonne for 2020. This price regulation is only applicable to coal being used by the State Electricity Company to generate electricity. The purpose of this measure is to fulfil the Government's public service obligation to provide electricity for every region in Indonesia, as well as to ensure energy security and equal access to electricity, particularly for the poor.

## 3.3.5 State trading, SOEs, and privatization

### 3.3.5.1 State trading

3.167. Indonesia's latest WTO notification on state trading was in 2018 (new and full notification).<sup>260</sup> It covers the trading operations of Perum BULOG, which was established in 2003. Its objectives are to provide a staple food logistics business to meet society's needs. Additionally, it may be called upon by the Government to stabilize staple food prices, manage government rice reserves/buffer stocks, and distribute rice to low-income persons (Section 4.1.5). When there are rice buffer stock shortages, the Government instructs Perum BULOG to import rice, and these imports are subject to customs duties (Section 4.1.5).

3.168. Perum BULOG does not have a monopoly on the importation of rice or any other staple food items. However, some forms of rice to be used as raw materials may only be imported by Perum BULOG (Section 3.1.5.1). Perum BULOG is also one of the entities authorized to export rice (Table 3.8), but has not been instructed to do so by the Government over the review period. The Government may require Perum BULOG to import other staple goods; over the review period these have included: buffalo meat, beef, sugar, garlic, and onions.

<sup>257</sup> Indonesia-Australia Comprehensive Economic Partnership Agreement, Chapter 16. Viewed at: <https://www.dfat.gov.au/trade/agreements/not-yet-in-force/iacepa/iacepa-text/Pages/iacepa-chapter-16-competition>.

<sup>258</sup> E-catalogue. Viewed at: <https://e-katalog.lkpp.go.id>.

<sup>259</sup> The current regulation in force is Ministry of Energy and Mineral Resource Regulation No. 261/30/MEM/2019. This replaces Ministry of Energy and Mineral Resource Decision No. 1395K/30/MEM/2018.

<sup>260</sup> WTO document G/STR/N/17/IDN, 19 September 2018.

### 3.3.5.2 SOEs and privatization

3.169. At end-2018 (latest available data), the total assets of SOEs exceeded IDR 8,800 trillion, profits were IDR 212 trillion, and the SOE contribution to the state budget was IDR 454 trillion.<sup>261</sup>

3.170. The legislation governing SOEs is Law No. 19/2003. The existence of SOEs in Indonesia is derived from the constitutional requirement (Article 33 of the Constitution) that branches of production that are essential to the State and that affect the livelihood of the masses must be state-controlled (Section 2.1). As indicated by the authorities, as at mid-2020, Parliament was proposing changes to the SOE law.

3.171. To boost private players' participation in the economy, SOEs have been encouraged to procure a certain amount of their supply from SMEs. SOE procurement of goods and services has been regulated by the Minister of SOEs' general guidelines since 2008; SOEs are not subject to general government procurement rules (Section 3.3.6).<sup>262</sup> In 2019, changes were made to these guidelines, with a view to improving procurement objectives, making procurement more competitive, transparent and accountable, and simplifying contractual arrangements, so as to allow parties the freedom to regulate contractual rights and obligations while observing legal and regulatory requirements and good corporate governance.

3.172. As at 2019, 112 SOEs were under the Ministry of SOEs (141 in 2012) and 4 SOEs were directly controlled by the MoF; they operate in the infrastructure, energy and financial sectors. The World Bank Group recently estimated that there are also 782 regional SOEs operating in Indonesia.<sup>263</sup>

3.173. As at December 2018, there were 341 SOE subsidiaries and 317 SOE-affiliated companies, under the SOEs controlled by the Ministry of SOEs.<sup>264</sup> Data was not available on SOE subsidiaries or affiliated companies under the MoF. In 2019, the definition of what constitutes SOE subsidiaries and affiliated companies was redefined to include companies with SOE share ownership of more than 50%, rather than 90% as previously; this was done in order to adopt the general definition accepted in company management.<sup>265</sup> As at end-2018, 4% of SOEs, 7% of subsidiaries, and 12% of affiliated companies were operating at a "stable loss".<sup>266</sup>

3.174. As at May 2020, 17 SOEs were listed on the Indonesia Stock Exchange, with a market capitalization contribution of around 20% (Section 4.4.3.4). In numerical terms, SOEs are most active in manufacturing, financial services, and transport/warehousing (Chart 3.5 and Table 3.25). According to OECD/World Bank estimates, Indonesia has SOEs active in a wider range of sectors than most comparable countries (except China), with 30 economic subsectors having at least one SOE.<sup>267</sup>

<sup>261</sup> Ministry of State-Owned Enterprises Annual Report (2019). Viewed at: [http://bumn.go.id/upload/download\\_img/file\\_download/5e2c0e00de527\\_20200125044432/5/#zoom=z](http://bumn.go.id/upload/download_img/file_download/5e2c0e00de527_20200125044432/5/#zoom=z) (no longer available online).

<sup>262</sup> The rules on procurement price preferences are contained in Minister of SOEs' Regulations No. 5 of 2008, No. 15 of 2012, and No. 8 of 2019.

<sup>263</sup> World Bank Group, *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector*. Viewed at: <https://www.ifc.org/wps/wcm/connect/8f1d3b14-66c2-4452-a70c-dbe79e7544f5/201910-CPSD-Indonesia-v2.pdf?MOD=AJPERES&CVID=m.8RZD6>.

<sup>264</sup> Ministry of State-Owned Enterprises Annual Report (2019). Viewed at: [http://bumn.go.id/upload/download\\_img/file\\_download/5e2c0e00de527\\_20200125044432/5/#zoom=z](http://bumn.go.id/upload/download_img/file_download/5e2c0e00de527_20200125044432/5/#zoom=z) (no longer available online).

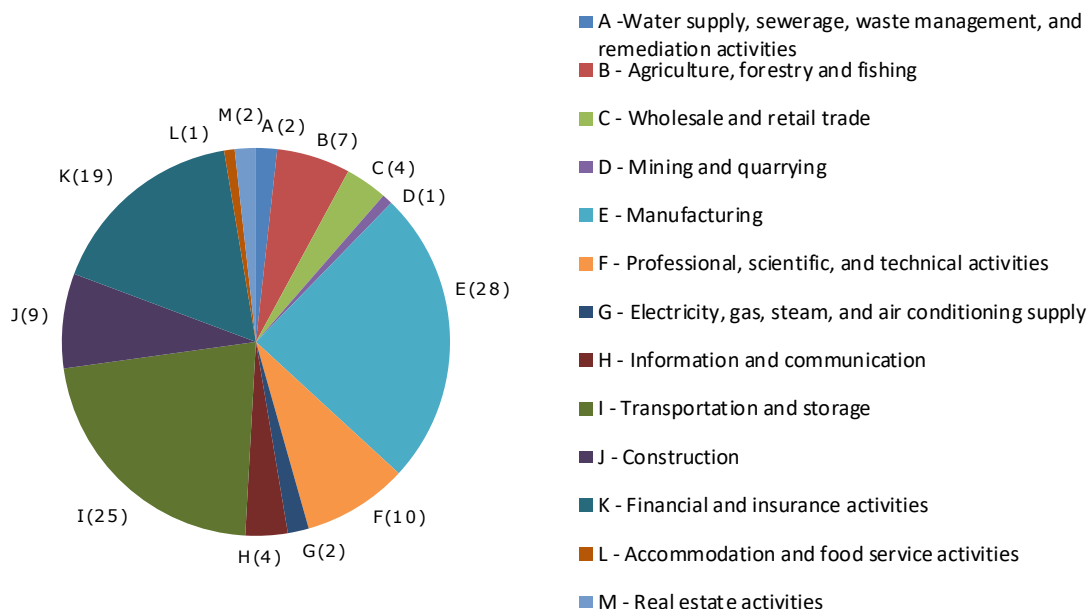
<sup>265</sup> MSOE Regulation No. PER-08/MBU/12/2019 contains the definition of company subsidiaries and affiliated companies.

<sup>266</sup> Ministry of State-Owned Enterprises Annual Report (2019). Viewed at: [http://bumn.go.id/upload/download\\_img/file\\_download/5e2c0e00de527\\_20200125044432/5/#zoom=z](http://bumn.go.id/upload/download_img/file_download/5e2c0e00de527_20200125044432/5/#zoom=z) (no longer available online).

<sup>267</sup> World Bank Group, *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector*. Viewed at: <https://www.ifc.org/wps/wcm/connect/8f1d3b14-66c2-4452-a70c-dbe79e7544f5/201910-CPSD-Indonesia-v2.pdf?MOD=AJPERES&CVID=m.8RZD6>.

3.175. Various concerns have been expressed about the operation of SOEs in Indonesia; these relate, *inter alia*, to public subsidies provided to them; their negative impact on competition and the crowding-out effect on the private sector; and operational inefficiencies.

**Chart 3.5 SOEs based on sectors, 2019**



Note: Figures in brackets refer to the number of SOEs under the Ministry of SOEs. Classification based on Indonesian Standard Industrial Classification which refers to ISIC.

Source: Ministry of State-Owned Enterprises Annual Report (2019). Viewed at: [http://bumn.go.id/upload/download\\_img/file\\_download/5e2c0e00de527\\_20200125044432/5/#zoom=z](http://bumn.go.id/upload/download_img/file_download/5e2c0e00de527_20200125044432/5/#zoom=z) (no longer available online).

3.176. As indicated by the World Bank Group, while there is limited data on SOE finances, it was estimated that, in 2015, 38 of the largest SOEs received fiscal transfers, totalling around USD 6.3 billion net of the corporate taxes paid by them; these subsidies accounted for at least 4.6% of total government spending. The negative impact of the strong presence of SOEs on competition has been pointed out, with SOEs holding monopoly or quasi-monopoly positions in sectors where competition would be feasible, such as energy generation and distribution, sea ports, toll roads, and imports of agricultural inputs and cereal grains. Likewise, it has been noted that SOE dominance crowds out the private sector, with a regularly-cited case being infrastructure development which is largely being undertaken through SOEs. Private-sector access to finance may also be being negatively impacted by bank loans largely being geared to SOEs. In certain activities, for example transport, it has been reported that underinvestment, the dominance of inefficient SOEs, and the weak enforcement capacity of sectoral regulators has contributed to high transportation costs (including road, air and sea), poor operational performance, and insufficient infrastructure development. Finally, recent analysis suggests that SOE import monopolies significantly increase the cost of imports without generating clear economic benefits.<sup>268</sup> In this regard, the authorities commented that SOEs are value creators that contribute to the national economy and state revenue; are development agencies that realize government programmes to create a multiplier effect on the national economy; provide goods and services for the livelihood needs of the community; pioneer business activities that have not been able to be carried out by the private sector or cooperatives; and are involved in helping entrepreneurs economically. They noted that fiscal transfers received by

<sup>268</sup> World Bank (December 2019), *Indonesia Economic Quarterly*. Viewed at: <https://openknowledge.worldbank.org/bitstream/handle/10986/33033/Investing-in-People.pdf?sequence=1&isAllowed=y>; World Bank Group, *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector*. Viewed at: <https://www.ifc.org/wps/wcm/connect/8f1d3b14-66c2-4452-a70c-dbe79e7544f5/201910-CPSD-Indonesia-v2.pdf?MOD=AJPERES&CVID=m.8RZD6>; US Department of State, *2019 Investment Climate Statement: Indonesia*. Viewed at: <https://www.state.gov/reports/2019-investment-climate-statements/indonesia/>; and Reuters, *Private sector left in dust in Indonesia's infrastructure push*. Viewed at: <https://www.reuters.com/article/us-indonesia-economy-infrastructure/private-sector-left-in-dust-in-indonesias-infrastructure-push-idUSKBN1CP12B>.

SOEs are generally in the form of reimbursement and capital injection<sup>269</sup>, and that, in most cases, if SOE have monopolistic power this is the result of past government policy, with current policy being to liberalize industries and allow participation of private players. Furthermore, it was indicated that efforts, through SOEs, are being made to stimulate private-sector activities, through the Ministry of SOEs' initiatives to develop ecosystems involving SOEs, the national private sector and MSMEs to support domestic economic growth, as well as through procurement practices (see above).

**Table 3.25 Major SOEs, 2012 and 2020**

Firm	Activity	State ownership 2012 (%)	State ownership 2020 (%)
PT Perusahaan Listrik Negara	Electricity	100.00	100.00
PT Bank Mandiri Tbk	Banking	60.00	60.00
PT Bank Rakyat Indonesia Tbk	Banking	56.75	57.20
PT Pertamina	Oil and gas	100.00	100.00
PT Bank Negara Indonesia Tbk	Banking	60.00	60.00
PT Jamsostek <sup>a</sup>	Insurance	100.00	0.00 (not divided into shares)
PT Taspen	Insurance	100.00	100.00
PT Telekomunikasi Indonesia (Persero) Tbk	Telecommunications	53.24	52.09
PT Bank Tabungan Negara Tbk	Banking	71.85	60.00
PT Pupuk Indonesia	Fertilizer	100.00	100.00
PT PGN Tbk <sup>b</sup>	Oil and gas	56.97	0.00 (1 golden share)
Perum Pegadaian	Financial services	100.00	100.00
Perum Bulog	Logistics	100.00	100.00
PT Krakatau Steel Tbk	Steel	80.00	80.00
PT Semen Gresik Tbk Cement <sup>c</sup>	Cement	51.01	51.01
PT Jasa Marga Tbk	Highway	70.00	70.00
PT Garuda Indonesia Tbk	Airlines	69.14	60.54
PT Antam Tbk <sup>d</sup>	Mining	65.00	0.00 (1 golden share)
PT Askes <sup>e</sup>	Insurance	100.00	0.00 (not divided into shares)
PT Bukit Asam Tbk <sup>f</sup>	Mining	65.02	0.00 (1 golden share)
PT Pelabuhan Indonesia II	Sea port management	100.00	100.00
PT Angkasa Pura I	Airport management	100.00	100.00
PT Angkasa Pura II	Airport management	100.00	100.00
PT Wijaya Karya Tbk	Construction	66.37	65.05

a Transformed into PBJS Ketenagakerjaan.

b Government shares in PT PGN Tbk were transferred to Pertamina (Persero) in 2018.

c Transformed into strategic holding company PT Semen Indonesia (Persero) Tbk in 2012.

d Government shares in PT Antam Tbk were transferred to Indonesia Asahan Aluminium (Persero) in 2017.

e PT Askes was transformed into BPJS Kesehatan.

f PT Bukit Asam Tbk was transferred to PT Indonesia Asahan Aluminium (Persero) in 2017.

Source: Information provided by the authorities.

3.177. As at mid-2020, the Government did not have plans to privatize SOEs. Over the review period, there was privatization activity in the sectors of: mining; construction/engineering; development, maintenance and management of toll roads; steel; airlines; and cement.

### 3.3.6 Government procurement

#### 3.3.6.1 Features

3.178. Indonesia became an observer to the WTO Government Procurement Agreement (GPA) in 2012. In the context of this Review, the authorities indicated that Indonesia needs to consider

<sup>269</sup> In the case of reimbursement, payment is made to SOEs to reimburse expenses that were previously spent in delivering a government assignment which provided public service/goods obligations. Capital injections are provided as government support because SOEs conduct government assignments, such as developing toll roads, granting loans for SMEs, and strengthening the capital structure of badly performing SOEs.

various aspects before joining the GPA, including the development of the government procurement field at the international level, and global trends.

3.179. According to the authorities, overall government spending on procurement in FY2019 was IDR 2,173 trillion (both by central and sub-central governments). Government procurement is centralized in terms of regulations and systems but decentralized for procurement execution. The authorities indicated that there are no plans to move to a centralized system for procurement execution in the foreseeable future. Public procurement is undertaken by numerous entities, including 87 national ministries and agencies; 34 provincial authorities; and 508 regency/city municipalities.<sup>270</sup>

3.180. Each procuring entity is required to organize its procurement arm into four separate units, so as to ensure solid management controls: (i) a "budget authority" to plan and carry out procurements; (ii) a "procurement service unit" or "procurement officer" to implement individual procurements (evaluate bids and award contracts); (iii) a "project result receiver committee" to evaluate administrative aspects resulting from procurements; and (iv) a "contract-making officer".<sup>271</sup> Ministries, institutions and local governments are also required to create a Procurement Service Unit, to manage procurement and electronic procurement services, develop procurement-related human resources and institutions, and implement assistance, consultancy and/or technical guidance.

3.181. All procuring entities must operate their own electronic procurement system (LPSE), on which they must post information on individual tenders up until the signing of the contract; the LPSEs can be accessed through the portal <http://inaproc.id/lpse>. Providers of goods and services that want to take part in bidding processes must register with these LPSEs (this is free of charge). Almost all central government ministries and agencies as well as local governments have established their LPSEs, except some in the eastern part of Indonesia. A distributed procurement database is installed with the LPSEs, and aggregates all their procurement announcements and accompanying tender documentation. In turn, tender announcements are publicly available through the single national e-portal INAPROC (<http://inaproc.id/tender>).

3.182. An e-catalogue system was introduced in 2012, in order to enhance transparency regarding, and curb corruption in, government procurement; it is a publicly available electronic information system (viewed at: <https://e-katalog.lkpp.go.id>) which contains detailed product, pricing, specification, and supplier information, as well as current openings. The website contains commodities and products for the national catalogue (managed by the National Public Procurement Agency (NPPA)), sectoral catalogues (managed by ministries) and local catalogues (managed by local governments). For some commodities, such as medicine, the availability (stock) of goods is also included in the e-catalogue. Since 2018, it has become a formal feature of the procurement process (see below). Foreign suppliers seeking to have their products listed in the e-catalogue must use an Indonesian company agent or distributor company to commence the sales, and adhere to all national laws and regulations.

3.183. Reportedly, some of the main public procurement system challenges relate to: the NPPA's (Section 3.3.6.2) reliance on technical institutions to provide it with accurate and complete information, so it can carry out its monitoring function effectively; procurement exemptions (notably SOE purchases which do not use the state budget, and defence spending); and a lack of accountability of some aspects of the electronic system, including a non-transparent mechanism for determining which companies can enter the e-catalogue system.<sup>272</sup> It has also been noted that although there is increased transparency of public procurement information at the tendering phase through information posted at the various electronic portals, this is not the case for the post-tendering phase.<sup>273</sup> With respect to key positive developments over the review period, the authorities indicated that PR No. 16/2018 (see below) contains provisions which refer to best

<sup>270</sup> A list of these entities was viewed at:

<https://monev.lkpp.go.id/monitor/monitorAdjustment?rekap=semua&pilihProv=semua&pilihBulan=Rekap&tahun=2020&page=>.

<sup>271</sup> The regulatory basis for this requirement is PR No. 16/2018 which replaced PR No. 54/2010.

<sup>272</sup> TPP Rating, *Assessing Public Procurement Practice in Indonesia - 2017*. Viewed at: [https://www.tpp-rating.org/public/uploads/data/29/AOIL/5d1f4ba97f728Implementation\\_Assessment\\_Indonesia.pdf](https://www.tpp-rating.org/public/uploads/data/29/AOIL/5d1f4ba97f728Implementation_Assessment_Indonesia.pdf).

<sup>273</sup> Hivos and Institute for Development of Freedom of Information, (2018), *Recommendations for the Public Procurement System of the Republic of Indonesia*. Viewed at: <https://openupcontracting.org/assets/2019/04/Indonesia-Brief-on-Public-Procurement.pdf>.



practices and international standards, encourage procurement processes to be conducted via electronic means to create more transparent and efficient processes, and promote the development of professional human resources. They also noted that the Government committed to integrate the treasury budget with the procurement system. Additionally, the NPPA (see below) developed various knowledge, skill-training and certification schemes, and it provides technical assistance and expert advice for procurement implementations, particularly for strategic and complex projects.

### 3.3.6.2 Institutional and regulatory framework

3.184. The NPPA (also known as the LKPP) remains the public procurement policy-making agency. It continues to be responsible for: developing strategy; policies and regulations; conducting monitoring and evaluation; developing and implementing e-procurement; developing and improving the capacity of procurement practitioners; and providing advice, recommendations, and complaint resolution. The NPPA is coordinated by the State Minister of the National Development Planning Agency (BAPPENAS), and is answerable directly to the President.<sup>274</sup> The Chairman of the NPPA is elected and dismissed by the President. Every year, all procuring entities must submit their procurement plans to the centralized procurement plan portal, developed by the NPPA. Information on public procurement annual plans is publicly available on the NPPA's SiRUP portal.<sup>275</sup>

3.185. The legislative framework for government procurement, including procurement methods, was revised by PR No. 16 of 2018 on Public Procurement of Goods/Services, that entered into force on 22 March 2018.<sup>276</sup> As set out in the preamble to the Regulation, the overall objectives of the new regulatory framework are to achieve value for money and contribute to: the increased use of domestic products; the increasing role of MSMEs; and sustainable development. The structure of the Regulation has been simplified as compared with its predecessor; it now only regulates normative aspects, leaving standard matters/procedures to be regulated under NPPA regulations and related technical ministry regulations.<sup>277</sup>

3.186. PR No. 16/2018 covers the procurement of goods and services at the central and local government levels that are financed (wholly or partially) through the state or regional budgets, as well as procurement financed by domestic or foreign loans or grants. It does not apply to: procurement for public service agencies; procurement carried out based on a publicly published tariff; procurement carried out in accordance with an established business practice; or procurement stipulated under other prevailing laws and regulations.<sup>278</sup> Procurements by SOEs and their subsidiaries and affiliated companies are not covered by this Regulation.

3.187. Key changes introduced by PR No. 16/2018 are: (i) regulation and recognition of e-marketplaces as new media for electronic procurement; (ii) simplification of tender procedures through reducing the variety of tender methods and type of contracts, simplifying requirements for providers to join a bidding, and simplifying procedures for procurement in a state of emergency; (iii) the introduction of a "quick tender" method of selection and the elimination of "contests" as a method of selection (see below); (iv) harmonization with other prevailing regulations related to procurement; (v) adoption of international best practices; (vi) reflection of government policy in relation to participation of MSMEs, use of local products, research practices, handling of emergency situations, offshore procurement, international tender/selection, and sustainable procurement<sup>279</sup>;

<sup>274</sup> TPP Rating, *Assessing Public Procurement Practice in Indonesia - 2017*. Viewed at: [https://www.tpp-rating.org/public/uploads/data/29/AOIL/5d1f4ba97f728Implementation\\_Assessment\\_Indonesia.pdf](https://www.tpp-rating.org/public/uploads/data/29/AOIL/5d1f4ba97f728Implementation_Assessment_Indonesia.pdf).

<sup>275</sup> SiRUP portal. Viewed at: <https://sirup.lkpp.go.id/sirup/ro>. Data on procurement planning by central and local governments for the fiscal year was also viewed at: <http://monev.lkpp.go.id>.

<sup>276</sup> PR No. 16/2018 replaces PR No. 54 of 2010 as amended in 2015 by PR No. 4/2015. Viewed at: <https://jdih.lkpp.go.id/regulation/peraturan-presiden/peraturan-presiden-nomor-16-tahun-2018>.

<sup>277</sup> NPPA. Viewed at: <https://jdih.lkpp.go.id/news/14/siaran-pers-peraturan-presiden-nomor-16-tahun-2018-tentang-pengadaan-barangjasa-pemerintah>.

<sup>278</sup> Further explanations on the types of procurement that are excluded from PR No. 16/2018 are contained in NPPA Regulation No. 12 of 2018. Viewed at: <https://jdih.lkpp.go.id/regulation/peraturan-lkpp/peraturan-lkpp-nomor-12-tahun-2018>.

<sup>279</sup> In the context of this Review, the authorities indicated that some of the purposes of procurement are to increase the MSME role in the national economy/development, promote the use of local products (as reflected in Law No. 3/2014 on Industry), and use sustainable procurement as a tool to fight climate change and adhere to international best practices. They noted that research practices have special characteristics and, hence, need special procurement arrangements. An exclusive procurement mechanism for emergency situations is needed, due to Indonesia's geographical position, and it being prone to natural disasters. Offshore

(vii) strengthened institutional and human resources procurement; (viii) an increase in the maximum threshold for direct procurement for consultancy services from IDR 50 million to IDR 100 million; (ix) inclusion of the concept of the e-reverse auction as a price offering method that is conducted repeatedly; (x) amendments to, and extension of, the scope of types of special procurement; (xi) stipulation of minimum bid bond values required for construction products; and (xii) introduction of contract dispute resettlement services (see below).<sup>280</sup>

3.188. Government policy remains focused on promoting domestic suppliers and producers via several procurement requirements. As under previous rules, foreign companies may only bid in tenders that exceed certain thresholds (Section 3.3.6.3). Similar to previous practice, PR No. 16/2018 mandates the use of domestic products (including design and engineering services) in government procurement if there are providers offering goods or services with a local content plus corporate contribution value exceeding 40%. Procurement of imported goods can be carried out if the goods are not yet produced in Indonesia or the volume of domestic production is insufficient.

3.189. Procurement price preferences were significantly expanded under PR No. 16/2018. Article 67 of this Regulation contains a procurement preference of 25% on goods and services incorporating at least 25% local content for all bids over IDR 1 billion. Previously, under PR No. 54/2010 (Article 98), the procurement preference was 15% on goods and services incorporating at least 25% local content for all bids over IDR 5 billion. Price preferences for construction work remain unchanged, at 7.5% above the lowest bid price of the foreign contractor. Through a 2019 Regulation issued by the Ministry of SOEs, SOE subsidiaries and affiliates may opt to follow these rules.<sup>281</sup>

3.190. PR No. 16/2018 continues to reserve procurement packages for goods, construction services and other services up to a value of IDR 2.5 billion for small businesses (unless they cannot be undertaken by such entities because they are too technically demanding).<sup>282</sup> Small businesses are the micro and small enterprises as regulated by Law No. 20/2008. They are also permitted to bid for contracts above this value.

3.191. PR No. 16/2018 indicates that procurement packages cannot be split up into smaller packages with the intention of evading the tender/selection process. It also contains a new "blacklist" mechanism for the listing of providers that violate Articles 78 or 80 of the Regulation (breach of contract, underperformance, false testimony or fake documents, corruption, collusion, nepotism, etc.). Blacklisted entities cannot submit a tender for a period of between one and two years.

3.192. In July 2018, the NPPA issued 13 procedures for goods and services procurement, to implement provisions in PR No. 16/2018. These are: NPPA Regulations No. 7/2018 regarding Government Procurement Planning; No. 8/2018 regarding In-house Procurement; No. 9/2019 regarding Tender/Selection Implementation; No. 11/2018 regarding E-catalogue; No. 12/2018 regarding Procurement Excluded from Government Procurement; No. 13/2018 regarding Procurement in Emergency Situations; No. 14/2018 regarding Procurement Service Unit; No. 15/2018 regarding Procurement Parties; No. 16/2018 regarding Procurement Agents; No. 17/2018 regarding Blacklist; No. 18/2018 regarding Contract Dispute Settlement Service; and No. 19/2018 regarding Development of Procurement Systems and Policies.

3.193. Other laws and regulations affecting government procurement are Law No. 3/2014 on Industry; Law No. 7/2014 on Trade; Law No. 2/2017 on Construction Services; Presidential

procurement provisions relate to Indonesia's need to procure goods and services in country locations where there are Indonesian diplomatic representatives.

<sup>280</sup> Soemadipradja and Taher, *Client Update: Projects and Infrastructure, April 2018*. Viewed at: [https://www.soemath.com/public/images/page/download1\\_373\\_Client%20Update%20-%20President%20Regulation%20No%2016%20of%202018%20\(New%20Regulation%20on%20Public%20Procurement\)%20\(final\).pdf](https://www.soemath.com/public/images/page/download1_373_Client%20Update%20-%20President%20Regulation%20No%2016%20of%202018%20(New%20Regulation%20on%20Public%20Procurement)%20(final).pdf).

<sup>281</sup> Ministry of SOEs Regulation No. PER-08/MBU/12/2019 on General Guidelines on the Implementation by State Owned Enterprises of the Procurement of Goods and Services. In-house Community, *Indonesia: New regulation on the procurement of goods and services in the state-owned enterprises sector*. Viewed at: <https://www.inhousecommunity.com/article/indonesia-new-regulation-procurement-goods-services-state-owned-enterprises-sector/>.

<sup>282</sup> PR No. 16/2018, Article 65.

Instruction No. 7/2015 on the Prevention and Combatting of Corruption Act; and PR No. 95 of 2018 concerning Electronic-Based Government Systems.

### 3.3.6.3 Procurement methods

3.194. Procurement methods are set out in Table 3.26. PR No. 16/2018 provides a more simplified set of tender procedures than under the previous regulatory framework (PR No. 54/2010). The procuring entity is strongly encouraged to use e-purchasing for goods and services listed and available in the e-catalogue. For goods/services not available in the e-catalogue, procuring entities must use the other methods stipulated in PR No. 16/2018, and select a method based on professional judgement. Evaluation of offers to select providers of goods/construction work/other services is based on value system, economic life-cycle cost evaluation, or lowest price. Under PR No. 16/2018, foreign companies may bid for international tenders/selection over certain thresholds (IDR 1 trillion for construction services; IDR 50 billion for goods and other services; and IDR 25 billion for consultancy services, increased from IDR 100 billion for construction; IDR 20 billion for other goods/services; and IDR 10 billion for consulting, under PR No. 54/2010. As indicated by the authorities, threshold changes are due to inflation, exchange rates, and the capacity of domestic suppliers. International tenders may be implemented for tenders below the threshold if no other national company has the ability to provide the goods or services requested; in such a case, companies must form partnerships, subcontracts or other forms of cooperation with domestic firms. Information was not available on the share of public procurement conducted through non-competitive procedures.

3.195. The tendering process for selection/tenders involves the following steps: implementation of qualifications; announcement and/or invitation; registration and collection of election documents; briefing; submission of bid documents; evaluation of bid documents; determination and announcement of winners; and objections. For the selection of providers for construction works, there is an additional appeal stage.<sup>283</sup>

3.196. For "quick tenders", tender participants which are already qualified under the Provider Performance Information System may submit an offer price; the determination of winners is based on the lowest price proposal.

**Table 3.26 Procurement methods**

Type of procurement	Procurement methods permitted	Criteria and thresholds
Procurement of consultancy services	Selection (open for public)	Procurements above IDR 100 million.
	Direct procurement	Procurements with a maximum value of IDR 100 million.
	Direct appointment	<ul style="list-style-type: none"> <li>- Where there is one capable business actor;</li> <li>- Where there is one registered copyright holder from whom parties have received permission;</li> <li>- Legal consultancy/advocacy services or procurement of arbitrators which was unplanned, in the face of lawsuits from a certain party, and the nature of the work implementation and/or their defence must be immediate and cannot be postponed; or</li> <li>- Repeat requests for providers (maximum two) of the same consulting services.</li> </ul>
Procurement of goods/construction work/other services	E-purchasing	Goods/construction works and other services listed in the e-catalogue.
	Direct procurement	Goods/services with a maximum value of IDR 200 million, that are undertaken directly with contractors.

<sup>283</sup> Objections are pleas from selection participants to the procurement working unit if they consider they have been unfairly treated by the results of the tender. The appeal stage is conducted when the provider feels the result of the objections is insufficient.

Type of procurement	Procurement methods permitted	Criteria and thresholds
	Direct appointment	<ul style="list-style-type: none"> <li>- Sudden preparation of activities to follow up on international commitments taken by the President/Vice President;</li> <li>- Goods/services that are for the confidential use of the State (including relating to intelligence, witness protection, and security of current and former Presidents and Vice Presidents;</li> <li>- Building construction work which constitutes one construction system, and where the overall rise of building failure cannot be calculated beforehand;</li> <li>- Other construction services that only one business actor is capable of providing;</li> <li>- Procurement and distribution of superior seeds, including rice, corn, and soybeans, and fertilizer to domestic farmers to ensure the availability of seeds and fertilizers quickly to increase food security;</li> <li>- Infrastructure, facilities and utilities in residential environments for low-income communities;</li> <li>- Other goods/construction work/services that are specific and can only be carried out by a patent holder or a party who has permission from the patent holder of the party who wins the tender to get permission from the Government; or</li> <li>- Other construction services/services following repeated tendering failure.</li> </ul>
	Quick tender	When the specifications and volume of work have been specified in detail, and business actors are already qualified in the Provider Performance Information System.
	Tender (open for public)	Used if other methods cannot be used.

Source: PR No. 16/2018.

3.197. E-purchasing must be made for the goods/services related to the fulfilment of national and/or strategic needs determined by the minister, head of institution, or head of region.

3.198. Direct procurement is conducted using the following methods: (i) direct purchase/payment to the provider for the procurement of goods/services using proof of purchase or receipts; or (ii) request for a proposal, along with a clarification and technical and price negotiation, from the economic operator for direct procurement using a work order.

3.199. Direct appointment involves the appointment of one selected business actor, and involves technical and price negotiations.

#### 3.3.6.4 Contract-related dispute settlement and bid-rigging cases

3.200. As mandated by PR No. 16/2018, a new service for contract dispute resolution (LPSKP) was established under the NPPA, as one of the methods to settle contract-related disputes through mediation, conciliation or arbitration outside the court. The purpose of the system is to remove the immediate necessity for the government agency and provider to go to court to settle the dispute, since this can be costly, lengthy, and result in contract delays.<sup>284</sup> Contract disputes commence upon request of the provider or procuring entity. The steps to follow are: preliminary evaluation; appointment of mediator, conciliator or arbiter; trial; and result.<sup>285</sup>

3.201. The Indonesia Competition Commission (KPPU) remains responsible for addressing tender conspiracies (bid-rigging) which are prohibited under Article 22 of the Competition Law. As noted in Section 3.3.4.1, these continue to account for around 80% of the KPPU's case load. In carrying out its mandate, the KPPU regularly cooperates, and exchanges information, with the Anti-Corruption Commission (KPK) on cases that arise. The KPPU handles the collusion aspects of the case, leaving the corruption aspects to the KPK.

<sup>284</sup> TPP Rating, *Assessing Public Procurement Practice in Indonesia - 2017*. Viewed at: [https://www.tpp-rating.org/public/uploads/data/29/AOIL/5d1f4ba97f728Implementation\\_Assessment\\_Indonesia.pdf](https://www.tpp-rating.org/public/uploads/data/29/AOIL/5d1f4ba97f728Implementation_Assessment_Indonesia.pdf).

<sup>285</sup> Time-frames for each procedure (mediation, conciliation and arbitration) as well as further information on the LPSKP were viewed at <https://jdih.lkpp.go.id/regulation/peraturan-lkpp/peraturan-lkpp-nomor-18-tahun-2018>.

### 3.3.6.5 RTA procurement provisions

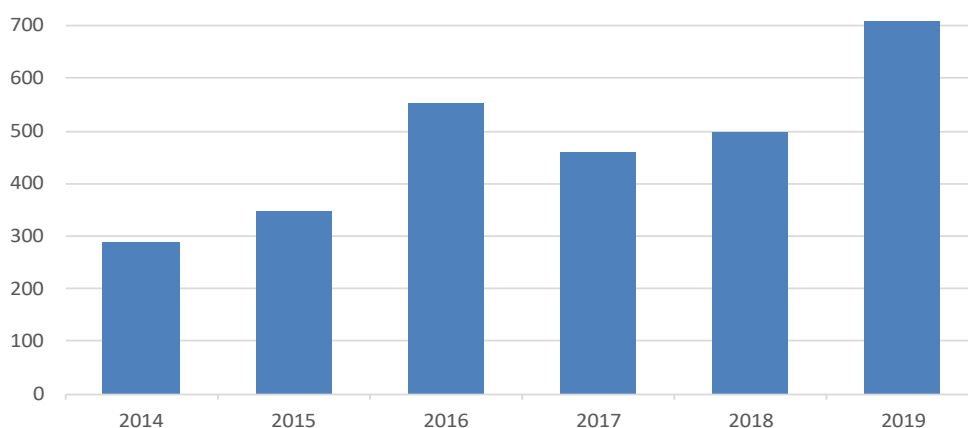
3.202. Government procurement chapters are contained only in the Chile-Indonesia Comprehensive Economic Partnership Agreement and the Indonesia-Japan Economic Partnership Agreement, which provide for cooperation on procurement-related matters of mutual interest and benefit, as well as for transparency with respect to elements such as laws, regulations, policies, practices and reforms (Section 2.3.2). The Japan-Indonesia RTA provides for the establishment of a Sub-Committee on Government Procurement to review and monitor the implementation and operation of the procurement chapter, exchange views, and discuss ways to facilitate cooperation.<sup>286</sup>

### 3.3.7 Intellectual property rights

3.203. Indonesia remains a net importer of intellectual property right (IPR)-intensive goods. In 2018, imports of these goods were estimated at USD 19.9 billion, representing 10.6% of total imports (compared with USD 16.4 billion and 9.2% in 2011). The respective value of exports for the same year was estimated at USD 6.6 billion and 3.7% of total exports (compared with USD 5.8 billion and 2.5% in 2011).<sup>287</sup> Over the review period, IP revenue has been generally on an increasing trend (Chart 3.6).

**Chart 3.6 IP revenue, 2014-19**

(IDR billion)



Note: IP revenue figures are based on the revenue from IP applications received by the Directorate-General of Intellectual Property. This does not include revenue received by the IPR holder.

Source: Information provided by the authorities.

3.204. Indonesia ranked 85<sup>th</sup> out of 129 economies in the 2019 Global Innovation Index, which ranks economies based on their innovation capabilities. It ranked 11<sup>th</sup> among the group of 26 lower-middle income economies, and 14<sup>th</sup> out of the 15 economies in South East Asia, East Asia and Oceania. The report considers that, relative to GDP, Indonesia is performing at its expected level of development, and the level of its innovation outputs is commensurate with its innovation investments. Its best rankings are for market sophistication, infrastructure and creative outputs, while its poorest rankings are for institutions, business sophistication, and human capital and research.<sup>288</sup>

<sup>286</sup> WTO document WT/REG241/1, 6 July 2009.

<sup>287</sup> For these purposes, IPR-intensive goods include: (i) Information Technology Agreement goods listed in WTO document WT/LET/157. Viewed at: [https://www.wto.org/english/tratop\\_e/inftec\\_e/itscheds\\_e.htm](https://www.wto.org/english/tratop_e/inftec_e/itscheds_e.htm). In this regard, no adjustment was made for partial subheadings (ex-lines) and, as such, there is a risk that the overall figures for both imports and exports are slightly over-estimated. HS codes in document WT/LET/157 are in the HS1996 nomenclature. Concordance to HS2017 is done to the best possible extent; (ii) HS Chapter 30 goods (pharmaceutical products); (iii) HS Chapter 22 goods (beverages and spirits, excluding HS subheading 2209 (vinegar)); (iv) HS Chapter 49 goods (books and other printed media); (v) HS subheading 3706 goods (cinematographic films); and (vi) HS subheading 3705 goods (other developed films).

<sup>288</sup> *Global Innovation Index 2019*. Viewed at: [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_gii\\_2019/id.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_gii_2019/id.pdf). This Index is co-published by Cornell University, INSEAD and WIPO.

3.205. Over the review period, there were several legislative and regulatory developments, including in the areas of copyright; trademarks; patents; and enforcement (see below). The authorities indicated that they are preparing to notify these to the WTO. According to the authorities, the Directorate-General of Intellectual Property (DGIP) is preparing the amendment of several regulations. Indonesia accepted the amendment to the TRIPS Agreement in October 2011.

3.206. The Ministry of Law and Human Rights (MLHR) continues to have overall responsibility for IP policy formulation; while IP administration is carried out by its DGIP, which is Indonesia's contact point under the TRIPs Agreement. The Director-General of Customs and Excise, within the MoF, is responsible for border enforcement of IPRs. The DGIP has 33 regional offices responsible for receiving IP applications. In response to the COVID-19 pandemic, the DGIP has taken steps to provide more services online or remotely, including the operationalization of a website (<https://loketvirtual.dgip.go.id>) to enable post-filing applications for industrial designs and patents.

3.207. As indicated by the authorities, the DGIP's objective is to "build an intellectual property ecosystem offering expediency value of social and economy for Indonesia". A strategic aim is to increase Indonesia's competitiveness in IP protection. To achieve this, it set out four target programmes: (i) increasing IP protection and utilization, as measured by the percentage of registered IP; (ii) establishing knowledge management and IP empowerment, as measured by the level of IP awareness and understanding of stakeholders, and the percentage of use of registered IP; (iii) increasing the effectiveness of IP dispute settlement, as measured by the percentage of resolved IP disputes; and (iv) realizing advanced administration of the DGIP. A draft National IP Strategy was prepared, and is under review. Indonesia is a member of the ASEAN, which put in place the Intellectual Property Rights Action Plan 2016-25 and the IPR Enforcement Action Plan; these have the overall objective of transforming ASEAN into a highly innovative and competitive region, with the collaboration of its members. According to the authorities, a notable trend over the review period was a big increase in IP applications through the DGIP online IP application system. This system was upgraded several times over the review period in order to improve the service for users, including by introducing copyright online recordation with cryptography technology. The DGIP IP Database continues to allow IP examiners, IP applicants, and the general public to search for information on IP applications and protection granted.

3.208. Over the review period, Indonesia acceded to the following WIPO-administered treaties: the Beijing Treaty on Audiovisual Performances (April 2020); the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (April 2020); and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (January 2018). With respect to IP-related multilateral treaties, over the review period, it acceded to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (in 2014). Indonesia is signatory to the WIPO Performances and Phonograms Treaty (acceded in 2005); the WIPO Copyright Treaty (2002); the Berne Convention for the Protection of Literary and Artistic Works (1997); the Patent Cooperation Treaty (PCT) (1997); the Trademark Law Treaty (1997); and the Paris Convention for the Protection of Industrial Property (1950).<sup>289</sup> Over the review period, significantly fewer applications were made under the PCT system than during the previous review period, while applications under the Madrid System have increased dramatically since 2018.<sup>290</sup> Indonesia is in the process of acceding to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms.

### 3.3.7.1 Industrial property

#### 3.3.7.1.1 Patents

3.209. In 2016, new patent legislation was enacted through Law No. 13 of 2016 on Patent.<sup>291</sup> This replaces Law No. 14 of 2001. As reported by the authorities, the overall objectives of the new Law are to: optimize the role of the State by providing the best IP services possible; align IP protection with Indonesia's interests without violating international principles; drive domestic strategic

<sup>289</sup> WIPO, *IP Portal*. Viewed at: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=77C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=77C).

<sup>290</sup> WIPO, *Statistical Country Profiles - Indonesia*. Viewed at: [https://www.wipo.int/ipstats/en/statistics/country\\_profile/profile.jsp?code=ID](https://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=ID).

<sup>291</sup> WIPO, *Law No. 13 of 2016 on Patents*. Viewed at: <https://wipolex.wipo.int/en/legislation/details/16392>.



economic sectors by encouraging national invention in technology; and establish a national patent platform through the Pragmatic Legal Realis approach. The Patent Law administers provisions on: the scope of patent protection; inventions, rights and obligations of the patent holder; procedures and requirements of patent applications; publication and substantive examination; granting or refusal of applications; the Patent Appeal Commission; appeals; transfer of rights; licensing; patents as collateral objects of fiducia; government use of patents; simple patents; settlement and investigation of disputes; and criminal provisions. Under the Law, the period of patent protection is 20 years from the filing date. For simple patents, it is 10 years from the filing date. Article 20 of the Patent Law maintains the controversial provision that the patent holder is obliged to make products or use processes in Indonesia; this must support the transfer of technology, the absorption of investment, and/or the creation of employment.

3.210. Key changes introduced by the Patent Law are: (i) adjustment to the automation system of IP administration, to enable electronic applications for patent registration; (ii) revised provisions on government use of patents; (iii) revisions to the granting of patent compulsory licences (see below); (iv) exceptions to criminal and civil lawsuits for parallel imports and the Bolar provision, as well as the extension of the Bolar provision from two to five years<sup>292</sup>; (v) invention of second-use and second-medical-use of patents in the public domain is not allowed; (vi) remuneration for government inventors for their commercialized patents<sup>293</sup>; (vii) revision of publication provisions related to novelty and inventive steps; (viii) patents may be used as collateral objects of fiducia; (ix) expansion of the term "simple patents" to include all types of invention (under the previous Law, the simple patent was limited to tangible inventions)<sup>294</sup>; (x) modifications to exclusions from inventions<sup>295</sup>; (xi) new provisions requiring that inventions related to genetic resources and/or derived from traditional knowledge clearly specify the origin of the genetic resource and/or traditional knowledge in the patent; and (xii) amendments to the substantive examination process, involving shortening the examination time for patent applications to 30 months (from 36 months) and for simple patents to 12 months (from 24 months), as well as the ability of the Minister of Law and Human Rights to engage independent experts as patent examiners to conduct substantive examination. Concerns were expressed about Indonesia's patent legislation, particularly in relation to patentability criteria and compulsory licensing.<sup>296</sup>

3.211. Four implementing regulations were issued under the new Law:

- MLHR Regulation No. 15 of 2018 administers provisions on the obligations of the patent holder, and suspension of the patent working requirement;<sup>297</sup>
- MLHR Regulation No. 38 of 2018 administers provisions on: procedures and requirements to file an application; applications using priority rights; PCT applications; procedures relating to amendments and divisional application; procedures to withdraw applications; procedures and requirements regarding substantive examination; and certification, and procedures and requirements for recording data changes. This Regulation reportedly serves to provide clarity on a number of procedures and requirements, and should improve patent practice and prosecution. For example, it introduces detailed steps for patent applications

<sup>292</sup> With respect to the extended Bolar provision, patented pharmaceutical products can be produced by third parties up to five years before the expiry of the patent protection, provided that the manufacturing is undertaken for the purpose of licensing and marketing after the patent protection expires. Leks & Co, *New Features in Patent Law 2016*. Viewed at: <https://www.lekslawyer.com/indonesia-law-new-features-in-patent-law-2016/>.

<sup>293</sup> An inventor working as a civil servant is entitled to receive compensation from non-state tax revenue, after the patent has been commercially exploited. S/he may also exploit the patent through a third party and obtain royalties, provided that s/he obtains prior approval from the Government. Leks & Co, *New Features in Patent Law 2016*. Viewed at: <https://www.lekslawyer.com/indonesia-law-new-features-in-patent-law-2016/>.

<sup>294</sup> Patent Law No. 13 of 2016, Article 2.

<sup>295</sup> Under the 2016 Law, inventions do not cover a discovery in the form of new use of existing inventions, new forms of existing compounds, and methods only containing computer programs.

<sup>296</sup> Office of the USTR, *2020 Special 301 Report*. Viewed at: [https://ustr.gov/sites/default/files/2020\\_Special\\_301\\_Report.pdf](https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf). Indonesia remains on the USTR Priority Watch List, due to concerns about a reported lack of adequate and effective IP protection and enforcement.

<sup>297</sup> MLHR Regulation No. 15 of 2018. Viewed (in Bahasa Indonesia) at: <https://www.dgip.go.id/images/ki-images/pdf-files/uu-pp/permenkumham-paten-15-2018.pdf>.

filed under the PCT, and it stipulates steps for the deposit of microorganisms and the submission of information on microorganisms<sup>298</sup>;

- MLHR Regulation No. 30 of 2019 administers provisions on: procedures for granting patent compulsory licences; terms and conditions to grant a compulsory licence; and forms to apply for a compulsory licence.<sup>299</sup> This replaces Regulation No. 39 of 2018 and the controversial MLHR Regulation No. 15 of 2018 on the Penalties for Non-working or Implementing Patents in Indonesia; under the latter, a patent holder was required to manufacture products or implement the process in Indonesia, and failure to do so would result in the deletion of the patent.<sup>300</sup> As noted by the authorities, Article 40 of Regulation No. 30 of 2019 addresses this concern, by stating that, in the event that the patent holder has not been able to implement his patent in Indonesia, he may suspend the manufacture of the patented products or the use of the patented processes in Indonesia. According to an external source, this Regulation marks a positive development in establishing procedures for compulsory licences, and addressing a number of concerns included in the previous Regulation,<sup>301</sup> and
- MLHR Regulation No. 3 of 2019 administers provisions on: the structure, duties, functions and authority of the Patent Appeal Commission; procedures to file appeal petitions; financial entitlement for members of the Commission; and funding.<sup>302</sup>

3.212. Provisions on compulsory licensing are set out in Part Three of the Patent Law and in MLHR Regulation No. 30 of 2019. As set out in Article 33 of the Regulation, the Minister of Law and Human Rights may grant a compulsory licence to produce, import or export pharmaceutical products having patents in Indonesia, for the purpose of curing human disease. Compulsory licences to implement a patent may be granted by ministerial decree if: (i) the patent holder does not manufacture the patented product or use the patented process within 36 months of being granted a patent; (ii) the patent is implemented in a form or manner that is detrimental to the interests of society; or (iii) the patent is the result of the improvement of a prior patent that cannot be implemented without using another patented invention.<sup>303</sup> Compulsory licence applicants must show they can and will use the patents, and they have previously tried to obtain a licence. To be granted, a compulsory licence must be economically feasible, and must benefit the general public. Limits may be placed on the compulsory licence, to avoid harming the public interest. There are special provisions for semiconductors, apparently reflecting concerns from the smartphone supplier industry.<sup>304</sup> After granting the compulsory licence, royalties must be paid to the patent owner. The main changes introduced by the Patent Law and Regulation No. 30/2019 compared to the previous Regulation are that: (i) there is more detail about how and why a decision to grant a compulsory licence is made; and (ii) there is a requirement of public benefit in Indonesia.<sup>305</sup> Indonesia did not initiate new compulsory licensing measures over the review period. As noted in the previous Review, Indonesia

<sup>298</sup> Zico, *New Provisions on Patent Regulations in Indonesia*. Viewed at: <https://zico.group/blog/new-provisions-on-patent-regulations-in-indonesia/>; and MLHR Regulation No. 38 of 2018. Viewed at: [https://www.dgip.go.id/images/ki-images/pdf-files/paten/uu\\_pp/PERMEN%20PERMOHONAN%20PATEN.pdf](https://www.dgip.go.id/images/ki-images/pdf-files/paten/uu_pp/PERMEN%20PERMOHONAN%20PATEN.pdf).

<sup>299</sup> MLHR Regulation No. 30 of 2019. Viewed (in Bahasa Indonesia) at: [https://www.dgip.go.id/images/ki-images/pdf-files/paten/uu\\_pp/BN%201570-2019.pdf](https://www.dgip.go.id/images/ki-images/pdf-files/paten/uu_pp/BN%201570-2019.pdf).

<sup>300</sup> Rouse Consultancy, *Compulsory licensing procedures in Indonesia revised (again)*. Viewed at: <https://www.rouse.com/magazine/news/compulsory-licensing-procedures-in-indonesia-revised-again/>; IP Komodo, *Indonesia's controversial patent implementation rules are enacted*. Viewed at: <https://ipkomododragon.blogspot.com/2018/07/indonesias-controversial-patent.html>; and Zico, *New Provisions on Patent Regulations in Indonesia*. Viewed at: <https://zico.group/blog/new-provisions-on-patent-regulations-in-indonesia/>.

<sup>301</sup> USTR, *2020 Special 301 Report*. Viewed at: [https://ustr.gov/sites/default/files/2020\\_Special\\_301\\_Report.pdf](https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf).

<sup>302</sup> MLHR Regulation No. 3 of 2019. Viewed (in Bahasa Indonesia) at: [https://www.dgip.go.id/images/ki-images/pdf-files/paten/uu\\_pp/PERMEN%20KOMISI%20BANDING%20PATEN.new.pdf](https://www.dgip.go.id/images/ki-images/pdf-files/paten/uu_pp/PERMEN%20KOMISI%20BANDING%20PATEN.new.pdf).

<sup>303</sup> Leks & Co, *New Features in Patent Law 2016*. Viewed at: <https://www.lekslawyer.com/indonesia-law-new-features-in-patent-law-2016/>. As indicated by the authorities, compared with Patent Law No. 14 of 2001, Law No. 13 of 2016 (Article 20) has more detailed provisions on patent implementation in Indonesia. There is also an additional provision regarding patents resulting from the development of a granted patent that cannot be implemented without using the other party's protected patent.

<sup>304</sup> Provisions on compulsory licences related to semiconductor technology are contained in Article 100 of Patent Law No. 13 of 2016 and MLHR Regulation No. 30 of 2019, Article 5, Paragraph 2.

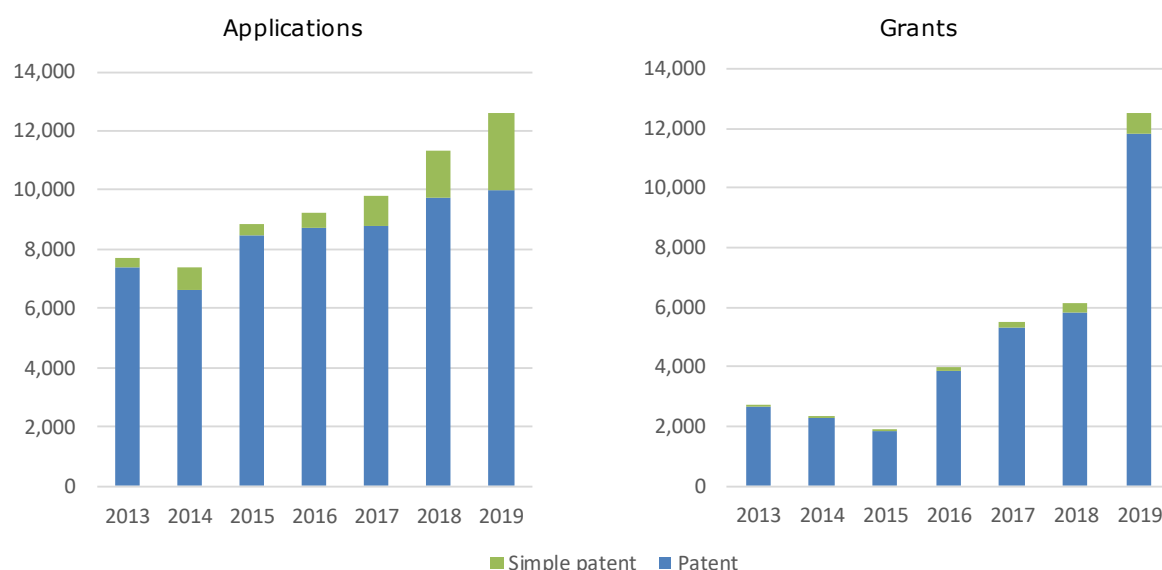
<sup>305</sup> Rouse Consultancy, *Compulsory licensing procedures in Indonesia revised (again)*. Viewed at: <https://www.rouse.com/magazine/news/compulsory-licensing-procedures-in-indonesia-revised-again/>.

had used compulsory licensing in 2007 and in 2012 to permit government use of pharmaceutical patents in order to produce certain antiviral and antiretroviral drugs. Since 2014, the Government has charged PT. Kimia Farma with producing antiretroviral medicines, such as Efavirenz and Tenofovir.

3.213. Under the 2016 Law, parties are required first to settle patent infringement disputes through mediation with the Patent Appeal Commission, prior to filing an appeal with the Commercial Court. The Law extends the Commission's authority to include the rejection of a patent application; the correction of a description, claim and/or drawing after the granting of patent; and decisions on the granting of a patent. Previously, appeals were limited to the rejection of a patent application.

3.214. The number of patents applied for and granted increased over the review period (Chart 3.7). As noted by WIPO, they are overwhelmingly filed by, and granted to, non-residents.<sup>306</sup>

**Chart 3.7 Patent applications and grants, 2013-19**



Source: Information provided by the DGIP; and the MLHR.

### 3.3.7.1.2 Industrial designs and layout designs of integrated circuits

3.215. There were no changes to the laws in this area: Law No. 30 of 2000 on Layout Designs of Integrated Circuits, and Law No. 31 of 2000 on Industrial Design. A description of the features of these Laws is contained in the previous Review.<sup>307</sup> A new industrial design law is being drafted. The regulations which implement these laws are: GR No. 36 of 2018 on Recording Licensing Agreements of Intellectual Property<sup>308</sup>; GR No. 9 of 2006 regarding the Procedure of Application for Registration of Layout Designs of Integrated Circuits (State Gazette No. 26 of 2006), and GR No. 1 of 2005 regarding the Implementation of Law No. 31 of 2000 regarding Industrial Design.<sup>309</sup>

3.216. Under Law No. 30 of 2000, protection for layout designs of integrated circuits is granted for ten years from the date of filing or first commercial exploitation; protection is granted for ten years for new industrial designs.

<sup>306</sup> WIPO, *Statistical Country Profiles - Indonesia*. Viewed at: [https://www.wipo.int/ipstats/en/statistics/country\\_profile/profile.jsp?code=ID](https://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=ID).

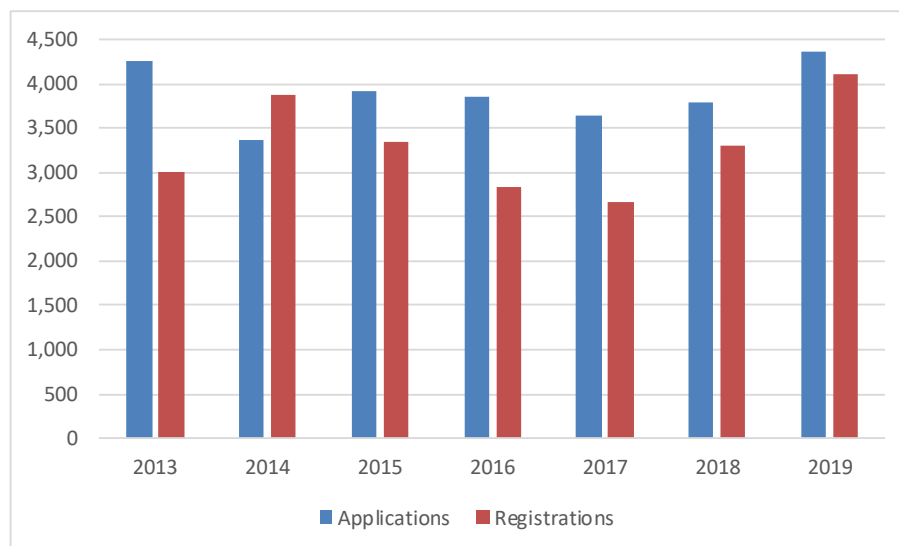
<sup>307</sup> WTO document WT/TPR/S/117, 28 May 2003.

<sup>308</sup> This Regulation includes provisions on IP licensing and the transfer of rights, including for layout designs of integrated circuits.

<sup>309</sup> These laws and regulations are available on the WIPO website. Viewed at: <https://wipolex.wipo.int/en/legislation/profile/ID>.

3.217. Industrial design applications and registrations fluctuated over the review period, showing no clear trends (Chart 3.8). As indicated by WIPO, Indonesian residents are the main sources of industrial design applications and registrations.<sup>310</sup>

**Chart 3.8 Industrial design applications and registrations, 2013-19**



Source: Information provided by the DGIP; and the MLHR.

### 3.3.7.1.3 Trademarks and geographical indications

3.218. A new law on marks and geographical indications (GIs) entered into force in 2016 (Law No. 20 of 2016), replacing Law No. 15 of 2001 on Trademarks.<sup>311</sup> It contains provisions on: procedures and requirements for trademark applications; trademark registration; marks ineligible for registration and refused marks; transferring rights and licensing; collective marks; international registration of marks; GI registration; revocation and invalidation of marks; and settlement and investigation of disputes on marks and GIs.

3.219. The main changes introduced by the new Law are: (i) regulation of the mechanism for international trademark registration, based on the Madrid Protocol, as one of the systems beneficial for protecting trademarks globally; (ii) protection of non-traditional trademarks, namely sounds, three-dimensional trademarks, and holograms; (iii) revision/streamlining of the application procedures for trademark registration; when minimum requirements are fulfilled, applications are given a filing date; (iv) revision to the workflow of trademark registration, to expedite procedures for trademark registration (publication is conducted before substantive examination, to enable examination without doing re-examination); (v) changes to the application for trademark renewal, whereby the trademark owner may be given trademark renewal up to six months after the expiry terms of the protection of the trademark registration (this provision is intended to prevent a registered trademark owner from losing his/her rights because s/he is late in filing trademark registration renewal); (vi) more severe criminal sanctions, to provide protection for registered trademark owners from trademark infringement, particularly infringement endangering human health or the environment, or causing death; and (vii) regulation of GIs.

3.220. No changes to provisions on GIs were introduced by the new Law. Concerns were expressed that GI provisions raise "questions about the effect of new GI registrations on pre-existing trademark rights and the ability to use common food names".<sup>312</sup> As explained by the authorities, under new

<sup>310</sup> WIPO, *Statistical Country Profiles - Indonesia*. Viewed at: [https://www.wipo.int/ipstats/en/statistics/country\\_profile/profile.jsp?code=ID](https://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=ID).

<sup>311</sup> Law No. 20 of 2016 (in Bahasa Indonesia). Viewed at: <http://en.dgip.go.id/peraturan-perundang-undangan-terkait-merek>. Previously, rules on GIs were contained in GR No. 51/2007, which implemented Article 56(9) of the Trade Mark Act.

<sup>312</sup> USTR, *2020 Special 301 Report*. Viewed at: [https://ustr.gov/sites/default/files/2020\\_Special\\_301\\_Report.pdf](https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf).

provisions introduced in MLHR Regulation No. 12 of 2019 (see below), Indonesia allows coexistence between pre-existing trademarks and GIs.<sup>313</sup> They also confirmed that GIs cannot be registered using a generic name.

3.221. Three implementing regulations were issued under the new Law:

- GR No. 22 of 2018 on International Registration of Trademark Based on Protocol Relating to Madrid Agreement on International Registration of Marks was issued to implement Article 52(4) of Law No. 20/2016. It has provisions on: procedures, requirements and examination of international applications; notifications; international registration; legal protection for trademarks based on international registrations; and transformation and modifications<sup>314</sup>;
- MLHR Regulation No. 67 of 2016 was issued to implement various articles of Law No. 20/2016 relating to the procedures for trademark application.<sup>315</sup> It, *inter alia*, contains provisions on: class of goods and services; refusals; correction of registered trademark certificates; procedures and requirements for trademark renewal; procedures and requirements for recording changes in name and/or address; requirements and procedures for recording the transfer of trademark rights; and applications for the registration of collective marks; and
- MLHR Regulation No. 12 of 2019 was issued to implement Articles 55(2), 60 and 71(5) of Law 20/2016. It regulates: application requirements and procedures; substantive examination; registration of foreign GIs; the expert team of GIs; and GI supervision.<sup>316</sup>

3.222. The review period saw a drop in trademark applications between 2013 and 2014, and then a steady rise thereafter. Trademark registrations over the same period show a different trend, with registrations rising over the period 2013-15, dominated by resident filings, followed by a drop-off in 2017, and then an increase in 2018. Notable in 2018 was the parity in filings by residents and non-residents (Chart 3.9).

3.223. As at May 2020, Indonesia had 93 registered GIs, of which 84 were domestic. The new GIs that were registered since January 2013 include various coffees, fruits, vegetables, oil, smoked fish, tobacco, nuts, palm sugar, rice, tea, spices, alcoholic beverages, cheese, textiles, and handicrafts.<sup>317</sup>

#### 3.3.7.1.4 Plant varieties

3.224. There were no changes to legislation governing the protection of plant varieties (Law No. 29/2000 on Plant Variety Protection). Similarly, there were no changes to the regulations implementing this Law: GR No. 14 of 2004 regarding the Requirements and Procedure of the Transfer of Protection of Plant Variety and the Use of Variety Protected by the Government; and GR No. 13 of 2004 regarding the Naming, Registration and Use of Original Varieties for the Making of Essential Derivative Varieties.<sup>318</sup> This Law is administered by the MoA. Indonesia has not ratified the UPOV Convention.

<sup>313</sup> The authorities noted that, while Law No. 20 of 2016 states that if a sign has been registered as a trademark, the minister can cancel and cross off the registration of the mark for all or part of the same type of goods after a period of two years from the date the mark is registered as a GI, an additional clause in Regulation No. 12 of 2019 explains that the cancellation and deletion of trademark registration as referred to in the Law may only be made for trademarks registered for less than five years, unless approval is obtained from the owner of the GI.

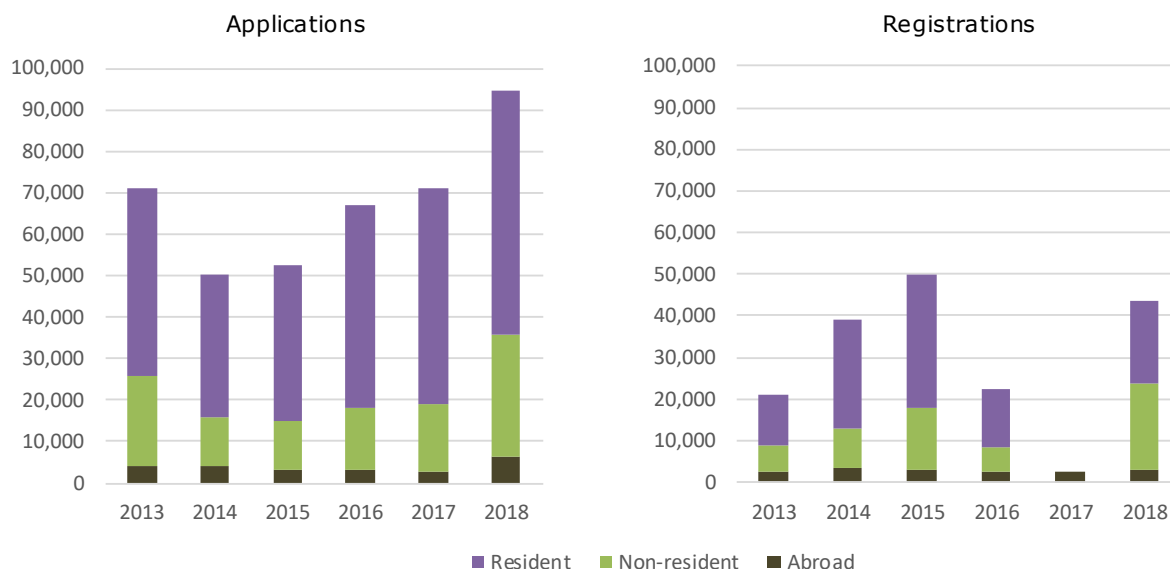
<sup>314</sup> GR No. 22 of 2018. Viewed at: <https://dgiip.go.id/peraturan-perundang-undangan-terkait-merek>.

<sup>315</sup> MLHR Regulation No. 67/2016 implements provisions under Articles 6(3), 8, 21(4), 27(3), 39(3), 40(4), 41(9), and 51 of Law 20/2016. Viewed at: <https://dgiip.go.id/peraturan-perundang-undangan-terkait-merek>.

<sup>316</sup> MLHR Regulation 12 of 2019. Viewed at: [https://dgiip.go.id/images/ki-images/pdf-files/indikasi\\_geografis/PERMEN%20INDIKASI%20GEOGRAFI.pdf](https://dgiip.go.id/images/ki-images/pdf-files/indikasi_geografis/PERMEN%20INDIKASI%20GEOGRAFI.pdf).

<sup>317</sup> More information on registered GIs may be viewed at: <http://iq.dgiip.go.id/>.

<sup>318</sup> Law No. 29/2000 and its implementing regulations. Viewed (in Bahasa Indonesia) at: <http://pvtpp.setjen.pertanian.go.id/cms2017/download/uu-29-00>; <http://pvtpp.setjen.pertanian.go.id/cms2017/download/pp-14-04>; and <http://pvtpp.setjen.pertanian.go.id/cms2017/download/pp-13-04>.

**Chart 3.9 Number of classes specified in trademark applications and registrations, 2013-18**

Note: Given that, in the international trademark system and at certain national and regional offices, an applicant can file a trademark application that specifies one or more of the 45 goods and services classes of the Nice Classification, this table presents application class counts.

Source: WIPO, *Statistical Country Profiles - Indonesia*. Viewed at: [https://www.wipo.int/ipstats/en/statistics/country\\_profile/profile.jsp?code=ID](https://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=ID).

### 3.3.7.1.5 Trade secrets

3.225. The law governing trade secrets remains Law No. 30 of 2000. Trade secrets cover methods of production, processing, sale or other information in the area of technology and/or business. No time limitation is set, and protection remains in force as long as the trade secret is maintained and not disclosed to the public. Protection is afforded to information that is secret in nature and of economic value. GR No. 36 of 2018 on Recording IP Licensing Agreements implements provisions on IP licensing and transfer of rights, including trade secrets.

### 3.3.7.2 Copyright

3.226. The new Law No. 28 of 2014 on Copyright entered into force in October 2014.<sup>319</sup> It administers provisions on copyright and related rights, and incorporates the following subject matter: moral rights and economic rights entailing copyright, consisting of the economic right of the author or copyright holder to obtain economic benefit from his/her works; moral and economic and related rights, consisting of economic rights of performers, phonogram producers, and broadcasting organizations; and traditional cultural expression and protected works, unprotected works and copyright exceptions and limitations. Under the Law, collective management organizations (CMOs) collect reasonable compensation from users for using copyrighted works and related rights commercially. Indonesia has nine CMOs; eight for music and song and one for books, all of which were established over the review period. Disputes between authors of music and songs and CMOs regarding the amount of royalties to be received must be resolved in mediation by the National Collective Management Organization.

3.227. The substantive changes to the Copyright Law include: (i) definitional changes, to prevent and/or avoid multiple perceptions or legal interpretations<sup>320</sup>; (ii) clarification of provisions related to exclusive rights of authors, copyright holders and related rights owners; exceptions and limitations to these exclusive rights are also administered; (iii) revisions to the object of protected works,

<sup>319</sup> Law No. 28 of 2014 on Copyright. Viewed at: <https://wipolex.wipo.int/en/legislation/details/15600>.

<sup>320</sup> These definitional changes relate to the following terminology: copyright, works, author, copyright holder, publication, publishing, reproduction, communication to public, distribution to public, computer program, rights related to copyright, performer, phonogram, and fixation.



exceptions, and terms of protection for applied art; (iv) revisions to provisions on licensing; (v) provisions on moral rights of performers, economic rights of performers, terms of protection for related rights, and technology protection measures in accordance with the Beijing Treaty; (vi) provisions on court injunctions to ensure the "applicable" principle is satisfied; (vii) provisions on the establishment of CMOs, ensuring management or exploitation of copyright and related rights by users in accordance with prevailing legal norms/principles; (viii) electronic documents to be allowed to be used as admissible evidence in copyright disputes; (ix) provisions on corporations as perpetrators; and (x) provisions on copyright in information and communication technology. Additionally, the term for copyright protection was extended from 50 to 70 years after the author's death, criminal sanctions were increased, and the Law allows for the e-filing of copyright recordings.

3.228. Three new copyright-related regulations were issued over the review period:

- GR No. 27/2019 on Facilitating Access to Works for Persons with Print Disabilities and Using Braille, Audio Books and Other Media covers persons with disabilities who benefit from access facilitation. This is an entirely new Regulation. The institution intending to facilitate access must obtain permission from the Government; the purpose of this measure is to ensure a balance is achieved between enforcing the rights of the author and the interests of blind persons;
- MLHR Regulation No. 36/2018 on Procedures on Application and Issuance of Operational Permit and Evaluation of Collective Management Organization (CMOs) implements provisions under Article 93 of Law No. 28/2018 (replacing MLHR Regulation No. 29/2014). It contains provisions on: procedures on the application for, and issuance of, operational permits of CMOs; duties and functions of CMOs; the composition of the National CMO commission; royalty collection and distribution; evaluation, financial reports and audits; and revocation of operational permits. As indicated by the authorities, the regulatory material is the same, but there are new elements, such as the inclusion of government representatives as National Collective Management Organization (NCMO) commissioners. Additionally, to enhance transparency, accountability and good governance, the NCMO is audited annually, and the results are announced in the mass media; and
- Joint Regulations of Minister of Law and Human Rights and Minister of Communication and Information Technology No. 14/2015 and No. 26/2015 on Taking Down Content and/or User's Access Right Infringing Copyright and Related Rights in Electronic System implement provisions under Article 56(2) of Law No. 28/2018. They contain provisions on: procedures of filing reports on copyright infringement; procedures for report verification; taking down content and/or access rights; re-opening content and/or user's access rights; and legal remedies.

3.229. Despite efforts made at the time of Indonesia's previous Review, optical disc piracy reportedly continues in Indonesia. Concerns were also expressed about the absence of effective policies and procedures to ensure that government agencies do not use unlicensed software.<sup>321</sup> Unlicensed software installation appears to be prevalent, with the Business Software Alliance estimating an 83% rate of unlicensed software installation, with a commercial value of over USD 1 billion.<sup>322</sup>

### 3.3.7.3 Enforcement

3.230. IP enforcement is the responsibility of the Attorney-General, the DGIP Directorate of Investigation and Dispute Settlement (established in 2012<sup>323</sup>), the DGIP Patent and Trademark Appeals Board, Police, Customs, and the courts. According to the authorities, Presidential Decree No. 4 of 2006 establishing a National Task Force on Tackling IPR Infringement remains valid; however, it is being reviewed with the aim of revitalizing the task force. Since 2019, IP infringements

<sup>321</sup> USTR, *2020 Special 301 Report*. Viewed at: [https://ustr.gov/sites/default/files/2020\\_Special\\_301\\_Report.pdf](https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf).

<sup>322</sup> Business Software Alliance, *Global Software Survey 2018*. Viewed at: [https://gss.bsa.org/wp-content/uploads/2018/05/2018\\_BSA\\_GSS\\_Report\\_en.pdf](https://gss.bsa.org/wp-content/uploads/2018/05/2018_BSA_GSS_Report_en.pdf).

<sup>323</sup> The DGIP's Directorate of Investigation and Dispute Settlement replaced the Directorate of Investigation. Its new responsibilities are to formulate and implement policies, provide technical guidance in the field of investigation, prevention, settlement of disputes, and evaluation of IP infringement.

can be reported through the DGIP online. Concerns were expressed that counterfeiting and piracy continues to be pervasive, and IP enforcement remains weak.<sup>324</sup>

3.231. Provisions to combat IPR infringements did not change over the review period. They are as follows:

- a request may be filed with the Commercial Court to issue a provisional decision in order to (i) prevent the entry of products allegedly infringing IPR or related rights; (ii) secure evidence of infringement and its elimination by the infringer; (iii) recall from distribution, confiscate, and store for permissible evidence in relation to IPR infringement or related rights; and/or (iv) stop the infringement to prevent greater loss<sup>325</sup>;
- a lawsuit may be filed with the Commercial Court against an IPR infringement. A request may be made to (i) confiscate the infringing goods or the result of reproduction of the IP object; (ii) issue an order for the delivery of all or part of the income generated from the infringement; and (iii) issue an order to stop any activities or publishing and/or reproduction of works or goods that resulted from the IPR infringement; and
- the infringement may be reported to the police and/or a DGIP civil servant investigator.

3.232. MLHR Decision No. M.HH-01.H1.07.02 of 2015 provides guidelines to civil servant investigators on the management of investigations related to IP criminal offenses. It has provisions on: taking and registering reports; admissible evidence in IP criminal offences; investigation procedures; and mediation processes.<sup>326</sup>

3.233. Maximum penalties for IP infringements are set out in Table 3.27.

**Table 3.27 IP Penalties, 2020**

Legislation	Penalties
Copyright Law (Article 113(4))	Maximum IDR 4 billion fine. Maximum ten-year prison sentence
Patent Law (Article 163(2))	Maximum IDR 3.5 billion fine. Maximum ten-year prison sentence.
Industrial Designs Law (Article 54(1))	Maximum IDR 300 million fine. Maximum four-year prison sentence
Trademarks and Geographical Indications Law (Article 100(3))	Maximum IDR 5 billion fine. Maximum ten-year prison sentence.
Layout Designs of Integrated Circuits Law	Maximum IDR 300 million fine. Maximum three-year prison sentence.
Trade Secrets Law	Maximum IDR 300 million fine. Maximum two-year prison sentence.
Plant Varieties Law	Maximum IDR 2.5 billion fine. Maximum seven-year prison sentence.

Source: DGIP Viewed at: <https://dgip.go.id/produk-hukum-kj>.

3.234. In the context of this Review, the authorities indicated that, over the period January 2015 to mid-April 2020, 227 original suits of IP cases were appealed to the Supreme Court; of these, 80 were subject to judicial review. The authorities indicated that recent IPR enforcement-related activity included: campaigns and prevention measures; counterfeit production raids, seizures and fines; border enforcement (see below); and cases resolved through mediation. The authorities reported that, over the period 2014-19, a total of 41 raids were undertaken, 32 of which involved seizures. Of these raids, 25 related to trademarks, 8 to industrial designs, 5 to copyright, and 3 to patents. Over the period 2016-19, the DGIP mediated in 17 cases, 5 of which were resolved. Additionally, in 2018, the DGIP's Directorate of Investigation and Dispute Settlement commenced the pre-emptive programme of IP, by issuing recommendations to the Ministry of Communication

<sup>324</sup> USTR, 2020 *Special 301 Report*. Viewed at: [https://ustr.gov/sites/default/files/2020\\_Special\\_301\\_Report.pdf](https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf).

<sup>325</sup> Article 106 of the Copyright Law (No. 28 of 2014); Article 155 of the Patent Law (No. 13 of 2016); and Article 94 of the Trademark and Geographical Indication Law (No. 20 of 2016).

<sup>326</sup> MLHR Decision No. M.HH-01.H1.07.02 of 2015. Viewed (in Bahasa Indonesia) at: <https://dgip.go.id/images/ki-images/pdf-files/kepmen/kepmenkumham-ttg-juklak-manajemen-penuidikan-tindak-pidana-di-bidang-ki.pdf>.

and Informatics to block access to websites infringing IP.<sup>327</sup> From January 2018 to end-February 2020, it recommended closing 604 websites.

3.235. Chapter X of the Customs Law provides for border measures to be taken with respect to trademark and copyright violations, on imports (as required by TRIPS) and exports. At the request of the trademark or copyright holder, the Chairman of the Commercial Court may issue a warrant to Customs to temporarily suspend the release of imported goods into, or exported goods from, Indonesia, based on sufficient evidence of IPR violations. There were no amendments to these provisions over the review period. The DGCE also has the authority to seize suspected infringing goods at the border, under the Customs Law, GR No. 20 of 2017, and MoF Regulation No. 40 of 2018.

3.236. Over the review period, to implement provisions under the Customs Law, GR No. 20 of 2017 on Controlling Import or Export of Goods Suspected of Infringing or Derived from Intellectual Property Infringement was issued. It contains provisions on: procedures to control the import or export of goods suspected of infringing IPRs or derived from IPR infringement; IPR recordation; affirmative action; notice of suspension; exception of suspension; and termination of suspension.<sup>328</sup> In June 2018, MoF Regulation No. 40/2018 entered into force, to implement certain provisions of GR 20/2017, including recording IPR; affirmative action; notice of suspension; exception of suspension; and termination of suspension.<sup>329</sup> This allows Customs to suspend goods suspected of infringing IPRs through an *ex officio* scheme based on IPR data recorded by rights holders.<sup>330</sup>

3.237. The DGCE inaugurated a system (called CEISA HKI DJBC) to provide facilities for right holders recording their IPRs. It is interlinked between the DGCE, the DGIP, the Supreme Court, and the Commercial Court, and its features include automatic push notifications in terms of suspension of goods which infringe IPRs.

3.238. The authorities reported that, since 2013, the DGCE has suspended the release of two suspected IPR infringing goods with a value of IDR 1 billion: abrasive paper (in 2019) and ballpoint pens (2020).

<sup>327</sup> The regulatory basis for this action is Joint Regulations of the Minister of Law and Human Rights and Minister of Communication and Information Technology No. 14 of 2015 and No. 26 of 2015 on Closing Down Content and/or Access Rights of Users to Copyright and/or Related Rights Infringement in Electronic System.

<sup>328</sup> GR 20/2017. Viewed at: <https://peraturan.go.id/peraturan/view.html?id=11e75555ecff76f4a3aa303831353139>.

<sup>329</sup> MoF Regulation. No 40/OMK.04/2018 on Recordation, Affirmative Action, Warranty, Temporary Suspension, Monitoring and Evaluation to Control Import and Export of Goods Suspected of Infringing or Resulting from Intellectual Property Infringement. Viewed at: <http://peraturan.go.id/common/dokumen/bn/2018/bn521-2018.pdf>.

<sup>330</sup> Tilleke and Gibbins (2018), *Indonesia Issues New Implementing Regulation for Customs Recordal*. Viewed at: <https://www.tilleke.com/resources/indonesia-issues-new-implementing-regulation-customs-recordal>.

## 4 TRADE POLICIES BY SECTOR

4.1. During the review period, various trade-related policy developments affected several activities, with government intervention in both border measures and domestic support. Agriculture continues to be centred on rice, palm oil, oil palm fruit, and palm kernels, and policy objectives include self-sufficiency in staple foods. Tariff protection for agricultural products rose, and restrictive import licensing requirements for several products remain in place. Export taxes, prohibitions, and licensing requirements continue to affect certain unprocessed products. State involvement in agricultural activities persists, and tax and non-tax policy instruments continue to be used for raising agricultural output, productivity and competitiveness. Fisheries' GDP contribution increased, and non-tax incentives are mostly focused on small fishers, with virtually all involving grants; subsidized diesel is limited to boats of less than 30 gross tonnes (GT). Action was taken, *inter alia*, to address deforestation; the export of roundwood and rough sawn timber for all species remains banned, to protect domestic wood-processing industries, and timber legality certification was improved.

4.2. Mining and energy continued to make relatively significant contributions to the economy. Export taxes and restrictions on minerals continued; a 2014 ban on exports of unprocessed minerals was relaxed, subject to certain conditions. Mineral and coal sales benchmark prices remain in place; coal was subject to special pricing, and transport/insurance (implementation pending) requirements. A new form of production-sharing contract, based on gross production split, replaced the 2008 cost-recovery scheme. Significant changes to the fuel subsidy policy allowed for considerable reduction in the entire energy subsidy bill. The scope of the electricity subsidy was also reduced, thus lowering the subsidy amount disbursed; electricity tariffs continue to differ, depending on the end-user, thus retaining a cross-subsidization element. Action was taken to address new and renewable energy source challenges, including electricity tariffs and pricing, and the mandatory biodiesel policy.

4.3. Manufacturing remains an important primary production-dependent activity; the Making Indonesia 4.0 policy seeks global competitiveness in five target industries. Tariff protection for manufacturing increased considerably. Several non-tariff measures continue to protect domestic producers, ensure supplies for domestic processing, and promote their exports. Tax and non-tax incentives, including tax allowances, tax holidays and subsidized credit, remain in place. The garment, textiles and footwear industry benefited from increased tariff protection, and an additional export performance-linked tax incentive. Similarly, tariff protection to the automotive sector was raised considerably, and incentives were introduced to facilitate consumers' shift to alternative-fuel vehicles and the establishment of an electric vehicle (EV) industry.

4.4. The contribution of services to GDP rose gradually over the review period, from 42.6% in 2013 to 46.1% in 2019. While Indonesia saw positive services export growth in all but two years during this period, it maintained a small trade deficit in services. The main services activities are wholesale and retail trade; transport and storage; finance and insurance; and information and communication. In 2016, FDI restrictions in various services sectors were eased.

4.5. Indonesia maintained financial sector stability throughout the review period, including in the wake of the COVID-19 pandemic. Notable developments in the banking sector included the launch of an integrated electronic payment system network, a financial information services system, and increased bank transparency provisions. Various regulations were also issued, to support the development of the Fintech segment. A new insurance law entered into force in 2014 which, together with its implementing regulations, *inter alia*, tightened restrictions on foreign ownership and introduced a single-presence policy. In the telecommunications sector, the Government recently completed construction of a nationwide, high-speed, fibre-optic Internet network, the Palapa Ring. To support the transport sector, the Government introduced new VAT facilities and import tax reductions. It also extended assistance to the airline sector, to mitigate the impact of the COVID-19 pandemic. New developments in the tourism sector included efforts to develop the international medical tourism segment; a major expansion in the number of countries eligible for visa-free travel to Indonesia; measures to encourage cruise-liner visits; efforts to increase the sustainability and quality of tourism businesses; and the announcement of support measures specifically to mitigate the impact of COVID-19 on the tourism industry. The retail e-commerce segment grew rapidly over the review period, and a new regulation was issued in 2019 to govern the e-commerce marketplace and e-retail practices. In line with the Government's E-Commerce Roadmap for the period 2017-19, government measures to support SME e-commerce activities were initiated.

## 4.1 Agriculture, Forestry, and Fisheries

### 4.1.1 Features

4.6. Agriculture continues to play an important role in the economy. However, its contribution to GDP (including forestry and fishing) declined slightly, from 13.7% in 2013 to 13.3% in 2019 (Table 1.2). Its share in total employment is estimated to have dropped from 34.8% in 2013 to 27.3% in 2019 (Table 1.2), suggesting some improvement in labour productivity due to agricultural mechanization but, according to the Asian Development Bank (ADB), this may not entirely be the case.<sup>1</sup> According to the ADB, growth in agricultural labour productivity appears to have been relatively slow because of limited value addition in agriculture, slow diversification in the agricultural export base, and inadequate employment creation in non-agricultural sectors.<sup>2</sup> In addition, according to the authorities, poor infrastructure (damage of the irrigation network) and financing (lack of access to capital) also affected farmers' access to markets and inputs. Efforts are being undertaken to address these challenges, with increased investment to modernize and make more efficient the agriculture sector (Section 4.1.4).

4.7. The agricultural sector consists of large plantations (both state-owned and private) and smallholder production. Large plantations tend to focus on export commodities (palm oil and rubber), while smallholders produce rice, soybeans, corn, fruit and vegetables.<sup>3</sup> Between 2013 and 2019, the number of large plantations increased from 1,601 to 2,165 for oil palm and from 315 to 329 for natural rubber, whereas those of sugar decreased from 97 to 86. Large plantations cultivated export crops on about 15% of the total agricultural area, but the majority of farmers (68%) were smallholders operating on less than 1 ha. Given the prevalence of several climatic zones, agriculture remains highly diversified.<sup>4</sup> During the review period, achievements included the installation of new irrigation infrastructure and other farm techniques, as well as the expansion and rehabilitation of agricultural land. Increasing rates of fertilizer use boosted production, leading to high values of food production per hectare and productivity per working day, highlighting a shift to more intensive crop farming. Exports of commercial crops considered to have market value and demand benefit from government support (Section 4.1.4) and attract private domestic and foreign investments. However, the value of annual crop production remains low, and only 10% of smallholders practice a high level of mechanization.<sup>5</sup> As at 2015, the smallholders' main development constraints included a high share of income spent on food and agricultural inputs which, in turn, limited their potential to sustainably re-invest; credit limitations; weak infrastructure; declining farm sizes due to demographic pressures; and missing linkages between input and output markets.<sup>6</sup>

4.8. In terms of value of production (Table 4.1), rice (Section 4.1.5) is the most important product, at USD 54.4 million in 2016, representing over one third of the total value of agricultural production. Palm oil, oil palm fruit and palm kernels, together, were valued at USD 36 million, meaning that, along with rice, they accounted for nearly two thirds of the total value of production. Other major crops include maize, chilies and peppers (green), cassava, and bananas. The main animal products are hen eggs and chicken meat. In global terms, Indonesia is an important producer of several agricultural products. In 2018, it was the world's biggest producer of palm oil, oil palm fruit, and palm kernels, and first or second for several spices, including cloves, cinnamon, nutmeg and vanilla.<sup>7</sup>

<sup>1</sup> According to the ADB, excess agricultural labour remains in the agriculture and rural sectors, often disguising unemployment. ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020-45*. Viewed at:

<https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>2</sup> ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020-45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>3</sup> Indonesia Investments, *Agricultural Sector of Indonesia*. Viewed at: <https://www.indonesia-investments.com/culture/economy/general-economic-outline/agriculture/item378>.

<sup>4</sup> The humid, tropical climate, with regular rainfall during the monsoon season, offers potential to produce rice, while the more temperate highland areas provide conditions for the growing of cash crops, such as coffee, tea, spices, palm oil, fruit and vegetables. Lowland and upland cropping are the two farming systems that are most commonly practiced by smallholders, while a third system, the perennial crop farming system, is mainly used by larger estates, growing export crops. FAO, *Small Family Farms Country Factsheet*. Viewed at: <http://www.fao.org/3/i8881en/I8881EN.pdf>.

<sup>5</sup> FAO, *Small Family Farms Country Factsheet*. Viewed at: <http://www.fao.org/3/i8881en/I8881en.pdf>.

<sup>6</sup> FAO, *Small Family Farms Country Factsheet*. Viewed at: <http://www.fao.org/3/i8881en/I8881EN.pdf>.

<sup>7</sup> FAO, *Food and agriculture data*. Viewed at: <http://www.fao.org/faostat/en/#home>.



**Table 4.1 Agricultural production by main item, 2013-18**

		2013	2014	2015	2016	2017	2018
Total value of production		139,349	135,108	130,036	137,479	..	..
Rice, paddy	'000 ha	13,835	13,797	14,117	15,156	15,712	15,995
	'000 tonnes	71,280	70,846	75,398	79,355	81,149	83,037
	USD '000	52,690	49,576	51,924	54,359	..	..
Palm	'000 ha	7,080	8,150	8,630	6,781	6,720	6,777
Oil palm fruit	'000 tonnes	120,000	138,702	148,709	115,963	114,617	115,267
	USD '000	14,750	17,273	15,100	17,775	..	..
Oil, palm	'000 tonnes	27,782	29,278	31,070	31,488	34,940	40,567
	USD '000	16,529	18,068	14,829	16,249	..	..
Palm kernels	'000 tonnes	7,530	8,110	7,770	8,850	9,890	10,330
	USD '000	2,491	2,505	2,238	2,305	..	..
Maize	'000 ha	3,822	3,837	3,787	4,444	5,533	5,680
	'000 tonnes	18,512	19,008	19,612	23,578	28,924	30,254
	USD million	6,168	5,880	5,534	6,267	..	..
Chilies and peppers, green	'000 ha	250	264	256	260	310	309
	'000 tonnes	1,733	1,882	1,915	1,962	2,359	2,542
	USD million	4,049	4,229	4,142	4,279	..	..
Eggs, hen, in shell	'000 tonnes	1,224	1,244	1,373	1,486	1,527	1,644
	USD million	6,962	6,699	6,602	7,076	..	..
Chicken meat	'000 tonnes	1,878	1,989	2,031	2,301	2,258	2,544
	USD million	6,937	6,536	6,101	6,919	..	..

.. Not available.

Source: FAO, *Food and agriculture data*. Viewed at: <http://www.fao.org/faostat/en/#home>.

4.9. During the review period, the share of agriculture (including food and agricultural raw materials under SITC Rev.3 definition) in total merchandise exports rose slightly, from 23.7% in 2012 to 25.7% in 2019 (Table A1.3). Palm oil is the main agricultural export, representing over 40% of total agricultural exports. However, its share declined from 2012 to 2019, mainly due to increased exports of tobacco products and cocoa. Imports of agricultural products also increased, from 10.9% of total imports in 2012 to 13.4% in 2019 (Table A1.4); imports are much more diverse than exports, although the top five (wheat, oilcake, sugar, cotton, and soybeans) represent 35% of total imports.

4.10. Since 2008, when the price of food commodities peaked, Indonesia has emphasized food security, self-sufficiency and food sovereignty; the authorities indicated that they maintain a commitment for 90% of the supply of staple food and protein sources to be produced domestically. Under the Food Law of 2012, priority was given to domestic production of staple foods, with self-sufficiency targets for rice, maize, soybeans, sugar, and beef. The programmes to achieve this target have not changed since 2014 (Section 4.1.2). In 2015, it was reported that the dates by which self-sufficiency was to be achieved had been revised, to 2017 for rice, maize and soybeans and to 2019 for beef and sugar. According to the authorities, as at June 2020, rice production had fulfilled the domestic consumption, whereas corn, soybean, sugar and beef self-sufficiencies had not been reached. The effectiveness of the rice programme, in particular, has been questioned, as promoting production through price support also results in high prices and exacerbates undernourishment, while other elements of the programme do not compensate for these effects.<sup>8</sup> Furthermore, despite rising trends in food production and availability, and in household incomes, access to food remains unequal, and food insecurity remains a problem for some households.<sup>9</sup> During the review period, the authorities developed policies to address this issue (Section 4.1.2).

#### 4.1.2 Policy, regulatory and institutional developments

##### *Policy and institutional framework*

4.11. During the review period, the wider agricultural policy framework was largely based on the 2015–19 National Medium-Term Development Plan (RPJMN). Its policy objectives included food

<sup>8</sup> OECD, *Indonesia*. Viewed at: [www.oecd.org/indonesia](http://www.oecd.org/indonesia); and OECD (2015), *Indonesia Policy Brief – Agriculture*, March <https://www.oecd.org/policy-briefs/indonesia-agriculture-improving-food-security.pdf>.

<sup>9</sup> In 2018, Indonesia ranked 65<sup>th</sup> among 113 countries in the Global Food Security Index, below its ASEAN peers, such as Singapore (1<sup>st</sup>), Malaysia (40<sup>th</sup>), Thailand (54<sup>th</sup>), and Viet Nam (62<sup>nd</sup>). In addition, in 2018, the poverty level was still high by ASEAN standards, with nearly 26 million people (9.8%) below the poverty line. ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020-45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.



sovereignty; self-sufficiency in the staple foods of rice and maize; and increased production of other staple food products (soybeans, sugar and beef).<sup>10</sup> The 2015–19 RPJMN promoted: the rehabilitation of 3 million ha of irrigated land; development of 1 million ha of new irrigation systems; adoption of sustainable approaches to farming on displaced and marginal land; development of farm roads; increased adoption of environmentally friendly technologies for food crops; improved farmer welfare; farmer protection through agricultural insurance; increased productivity; increased quality of agricultural products for exports; development of the processing industry, especially in rural areas; and increased exports of agricultural products. Water security was also a central pillar of the Plan, focusing on: improving land-use planning and management; rehabilitating degraded land; increasing water storage, including the construction of 49 new dams; reducing flood areas by 200,000 ha; and improving water quality. The Medium-Term Development Plan is the third phase of the Long-Term Development Plan (RPJPN) 2005–25 (Section 2.2.2); it indicated that outlays of approximately IDR 3,596.2 trillion would be required from the State Budget to finance the RPJMN 2015–19.<sup>11</sup> The RPJMN 2020–24 setting the latest policy objectives has been in place since January 2020; as at July 2020, its full version was available in the Bahasa Indonesia language only (Section 2.2.2).

4.12. On a strictly sectoral basis, Indonesia's first long-term agricultural development plan, the Grand Strategy of Agricultural Development 2013–45, is aimed at promoting a sustainable agriculture industry.<sup>12</sup> In the medium-term, and in line with the RPJMN, the Strategic Plan of the Ministry of Agriculture (MoA) 2015–19 had the overall objective of achieving food sovereignty and enhancing the welfare of farmers. Accordingly, the MoA (see below) focused on extensive investment in infrastructure, extension services, and adaptation to environmental risks. Under the 2020–24 development agenda, the authorities aim to shift from supply-driven to more demand-driven agriculture development. Agricultural production would be determined by consumption needs, to fulfil a Desirable Dietary Pattern (DDP score 95.2 in 2024), build a resilient food system, and encompass the sustainable development goal (SDG) target in the national target. It is to focus on five major programmes, consisting of: increased food security by considering eco-friendly agriculture and food safety; increased production focus on rice, corn, soybeans, meat, chilis, and shallots; increased productivity, improved welfare of agricultural human resources; increased sustainability of the productivity of agricultural resources; and development of farming enterprise corporations, complete with digital-based supply chains.

4.13. Under the Upsus Pajale 2015–17 special effort programme for food self-sufficiency on three commodities (rice, maize and soybeans), the authorities aimed to raise production and productivity by increasing the amount of fertilizer and seed subsidies; providing pre- and post-harvest machinery; and improving irrigation infrastructure by building new dams, and maintaining existing dams and irrigation canals.<sup>13</sup> The MoA has been implementing the programme with the help of provincial and local governments, and monitors additional planted areas of rice and maize weekly and monthly. The Government assigned the SOE Perum BULOG to improve rice procurement systems in this area. In 2015, IDR 41.2 trillion was allocated to this item, of which IDR 16.9 trillion came from funds saved from cutting fuel subsidies (Section 4.2.2.1.2 and 4.2.2.3). In 2016, budgetary outlays stood at around IDR 38.9 trillion; in 2017, around IDR 42.2 trillion; and, in 2018, around IDR 47.1 trillion. Since 2016, the MoA has been also implementing the Upsus Siwab Program (Special Effort of Mandatory Breeding Cattle), with free services to cattle breeders, including artificial insemination, and monitoring schemes with the objective of achieving livestock self-sufficiency.<sup>14</sup> Budgetary outlays for this Program stood at IDR 522.0 million in 2017, IDR 429.8 million in 2018, and IDR 328.4 million in 2019. In 2020, the Directorate General of

<sup>10</sup> ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020–45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>11</sup> Presidential Decree No. 2/2015 on National Medium-Term Development Planning 2015–19. Viewed at: <https://www.bappenas.go.id/id/data-dan-informasi-utama/dokumen-perencanaan-dan-pelaksanaan/dokumen-rencana-pembangunan-nasional/rpip-2005-2025/rpjm-2015-2019/>; Ministry of Industry, *Facts and Figures*, 2017. Viewed at: <https://kemenperin.go.id/majalah/11/facts-and-figures-industri-indonesia>.

<sup>12</sup> ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020–45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>13</sup> Investor Daily. Viewed (in Bahasa Indonesia) at: <https://investor.id/agribusiness/upsus-pajale-program-swasembada-pangan-tiga-komoditas>; ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020–45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>14</sup> MoA. Viewed (in Bahasa Indonesia) at: <https://www.pertanian.go.id/home/?show=news&act=view&id=1775>.

Livestock and Animal Health launched the Mainstay Commodity Buffalo Cow Sikomandan policy, to intensify breeding programme for cattle and buffalo; the target of cattle births due to artificial insemination and natural breeding processes is 4.1 million calves in 2020.

4.14. Since 2016, a government assistance programme, Registration for Growing Young Agricultural Entrepreneurs (*Penumbuhan Wirausahawan Muda Petani* (PWMP)), monitored by the MoA, aimed at increasing production, productivity, and quality of food crops to advance agriculture and food self-sufficiency, has been in place.<sup>15</sup> The assistance provided under the programme is in the form of agriculture "awards" (money); other financial aid; grants for agriculture extension; agricultural machinery; and infrastructure/materials to establish farming areas. The PWMP is run by the Indonesian Agency for Agricultural Extension and Human Resources Development (*Badan PPSDM Pertanian*).

4.15. During the review period, policy focus also included food and nutrition concerns. The third National Plan of Action on Food and Nutrition (2011–15) recognized stunting as a significant nutritional problem. Its three main objectives were as follows: reduce the number of undernourished children under five years of age to 15.5%; decrease the number of short children under five years of age to 32%; and achieve food consumption of 2,000 Kcal/person/day. Indonesia joined the Scaling-Up Nutrition (SUN) Movement, and developed the SUN Framework to strengthen food sovereignty and self-reliance. The fourth National Plan of Action on Food and Nutrition (2017–19) included the attainment of SDGs (see below) and the outcomes of the second International Conference on Nutrition.<sup>16</sup> Its main objective was to achieve an educated, healthy, productive, and competitive community, through five main pillars of action: improvement of community nutrition; increased food accessibility; improvement of food quality and safety; increased hygiene and healthy life behaviour; and coordination of food and nutrition development.

4.16. Indonesia is an FAO priority country for support. It benefits from policy support, specifically in the development of an integrated approach to agriculture and food security to reach the SDGs.<sup>17</sup> The focus is to develop an agricultural policy, based on a coordinated approach, to avoid overlap and conflict among the policies of different ministries and institutions that can result from the use of different definitions, measurements and methodologies. The MoA, with the assistance of the FAO, has committed to integrating agricultural data in provinces and districts, in collaboration with Statistic Indonesia. The objective is to increase the availability of accurate data, based on the facts on the ground, so as to develop appropriate agricultural development programmes and policies to achieve national targets as set out in the RPJMN.

4.17. In line with its commitment under the United Nations Convention of Biological Diversity, the Indonesia Biodiversity Strategy and Action Plan for 2015-20 addresses biodiversity management, with a focus on strengthening productivity, national competitiveness and economic self-sufficiency.<sup>18</sup> To make agriculture, forestry and fisheries more productive and sustainable, the Plan proposes: expansion and sustainable management of lands for agriculture, plantations and animal husbandry; improvement of production and productivity of environmentally friendly agricultural products; increased production and productivity of sustainable plantation crops; development of an environmentally friendly horticultural plant protection system; improvement of the quarantine system and its quality for agricultural, animal, and fisheries products; security of biodiversity; development of a forestry plan and improvement of forestry areas; and sustainable management of protected forests. In order to enable more inclusive and efficient agricultural and food systems, actions are directed towards supporting the biodiverse trading system, by developing a standard on the sustainable trading of biodiverse products; setting up a cooperative model among stakeholders, taking into consideration the existential security and identity of Indonesian biodiversity and the utilization of all resources; and improving human resources and science and technology that support the utilization of biodiversity as a source of people's welfare.

<sup>15</sup> The PWMP is regulated by the MoA Act. No. 46 of 2017.

<sup>16</sup> FAO, *Country Fact Sheet on Food and Agriculture Policy Trends*. Viewed at: <http://www.fao.org/3/a-i7696e.pdf>.

<sup>17</sup> FAO, *Indonesia is moving forward for integrated agricultural and food security statistics to end hunger*. Viewed at: <http://www.fao.org/indonesia/news/detail-events/en/c/1259895/>.

<sup>18</sup> FAO, *Indonesia Biodiversity Strategy and Action Plan*. Viewed at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC176625>.

4.18. The MoA and its departments remain responsible for policy formulation and implementation, in coordination with other institutions and relevant stakeholders, and the development and improvement of production so as to ensure food security. Its mandate includes taking primary responsibility for coordinating and facilitating agricultural production by smallholder producers, and working with agribusiness associations.<sup>19</sup> The MoA's National Food Security Agency, set up in 2005, *inter alia*, deals with the development of food availability and the handling of food insecurity; food-price, distribution and stability systems; diversity in consumption, and food safety; and management of, and technical support to, the food security agency.<sup>20</sup> The Cooperative Farmers, a profit-oriented organization developed by the MoA in 2018, aims to encourage small-scale farmer productivity and make them self-sufficient; they are assisted in the formation of farmer groups, with members having different capabilities, technologies, and levels.<sup>21</sup> The initiative to set up Cooperative Farmers was enacted by MoA Regulation No. 18/2018, with some areas designated as the pilot project (Demak - rice, Indramayu - rice, Bandung - coffee and vegetables, and Subang - rice); according to the RPJMN 2020-24, 350 Corporate Farmers will be established by 2024.

### **Regulatory framework**

4.19. During the review period, the regulatory framework governing agriculture was updated in several areas (see below). In line with the provisions of Presidential Regulation (PR) No. 91 of 2017 concerning the Acceleration of Business Enforcement Deregulation undertaken by the MoA, 15 regulations were streamlined into one, and 140 MoA regulations were revoked. In addition, regulatory initiatives to speed up agricultural business permit services were also carried out.<sup>22</sup> PR No. 91 of 2017 also mandates the MoA to formulate and implement broader agricultural development strategies; produce agricultural products that have higher economic value; and protect farmers and provide options (crops) to increase their income. MoA Regulation No. 45 of 2019, which elaborates PR No. 91 of 2017, streamlined (50 regulations revoked) and integrated agricultural business permit services, with the online single submission system (Section 2.4).

4.20. Under Law No. 19 of 2013 on the Protection and Empowerment of Farmers, requirements for agricultural activities to benefit from financial assistance were set out.<sup>23</sup> The Law, *inter alia*, covers agricultural infrastructure and facilities needed to develop a farm enterprise; protects farmers from price fluctuations, high-cost economic practices, and crop failures; improves the capacity of farmers and farmers' institutions in running a productive, advanced, modern and sustainable farming enterprise; and develops an agricultural financing institution that serves the interests of farming enterprises.<sup>24</sup> In addition, it provides for marketing guarantees for agricultural products to farmers operating farming enterprises under government programmes; land and tax relief for productive agricultural lands cultivated on an ongoing basis; and realization of agricultural market support facilities. The authorities indicated that, to comply with WTO-relevant provisions, they were drafting a revision of the Law; as at June 2020, it was in the consultation process in Parliament.

4.21. PR No. 86 of 2018 on Agrarian Reform was issued to reduce inequality in land tenure and ownership, in order to create equitable justice; deal with agrarian disputes and conflicts; create a source of agricultural prosperity through land tenure, ownership, use and utilization arrangements; create income-generating activities to reduce poverty; improve community access to economic resources; increase food security and sovereignty; and improve and maintain the quality of the environment.<sup>25</sup> Regulations governing national food security were also issued, including PR No. 83 of 2017 concerning the Strategic Policy for Food and Nutrition; Government Regulation (GR) No. 17

<sup>19</sup> Center for International Forestry Research (CIFOR), *Forest and land-use governance in a decentralized Indonesia*. Viewed at: [http://www.cifor.org/publications/pdf\\_files/OccPapers/OP-132.pdf](http://www.cifor.org/publications/pdf_files/OccPapers/OP-132.pdf).

<sup>20</sup> Food and Fertilizer Technology Centre for the Asian and Pacific Region (FFTC-AP), *Analysis of Indonesian Government Strategies to Food Security: Harnessing the Potential of Natural and Human Resources*. Viewed at: [http://ap.ffmpeg.org/ap\\_db.php?id=1027](http://ap.ffmpeg.org/ap_db.php?id=1027).

<sup>21</sup> FFTC-AP, *FFTC Agricultural Policy Platform*. Viewed at: [http://ap.ffmpeg.org/ap\\_db.php?id=949](http://ap.ffmpeg.org/ap_db.php?id=949).

<sup>22</sup> ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020-45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>23</sup> FAO, *Country Fact Sheet on Food and Agriculture Policy Trends*. Viewed at: <http://www.fao.org/3/a-i7696e.pdf>.

<sup>24</sup> FAO, *Law No. 19 of 2013 on the Protection and Empowerment of Farmers*. Viewed at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC169497>.

<sup>25</sup> FAO, *PR No. 86 on Agrarian Reform*. Viewed at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC188694>.

of 2015 concerning Food and Nutrition Resilience; and MoA Decree No. 11 of 2016 concerning Technical Guidelines for Strengthening Community Food Distribution Institutions.<sup>26</sup>

#### 4.1.3 Border measures

4.22. During the review period, tariff protection for agricultural products rose; it remains slightly higher than the overall applied MFN average (10.1%, 2020) and the average for manufacturing. In 2020, the simple average stood at 10.2% (9.5% in 2012) and 11.2% (10.5% in 2012) at HS and WTO-definition levels, respectively (Tables 3.2 and A3.1). In 2020, there was an average gap of 37.6 (HS) or 38.6 (WTO-definition) percentage points between bound rates in agriculture and the average MFN applied. Peak tariff rates up to 150% on some alcoholic beverages and odoriferous substances used in the food or drink industries continue to be applied (Table A3.1). During the review period, Indonesia did not open tariff quotas for full-fat milk and cream and their products, or for rice, as applied MFN tariffs remained below the bound in-quota tariff rates.<sup>27</sup> Duty and tax concessions for imports of goods, seeds and seedlings for the construction/development of agriculture and animal husbandry remain in place (Section 3.1.3.6).

4.23. VPTI inspection requirements continued to affect some agricultural products, including rice, sugar, horticultural products, food and beverages, and tobacco (Section 3.1.1.1). Restrictive import licensing requirements for animals and animal products, fishery products, feed corn, rice, sugar, horticultural products, cloves (until 2015), alcoholic beverages, and forestry products, *inter alia*, aimed at promoting self-sufficiency remain in place; and WTO Members raised concerns thereon (Sections 2.3.1.1 and 3.1.5, and Tables 2.4 and A3.4). It seems that an import quota of 100,000 tonnes of water buffalo meat was issued for 2019, and BULOG has used 80% of it; no data on this measure was available from the authorities. A "5:1 feeder to breeder" requirement, which obliges importers to import one breeder for every five feeder cattle, came into effect in October 2016. Wheat flour was temporarily subject to safeguard action in 2014. Although Indonesia has reserved the right to use the special agricultural safeguard for 12 tariff lines (all dairy products), it was not invoked for any product in the period 2013-18 (the most recent year of notifications) (Sections 2.3.1.3 and 3.1.6.2).

4.24. Export taxes on palm oil, crude palm oil and its derivative products, raw cocoa, and leather remain in place (Section 3.2.2); changes involving the types and level of rates, including their implementation criteria, were made. Export prohibitions on fish eggs and fry, raw rubber, and certain wood products remain in place (Section 3.2.3.1). Export licensing requirements apply to: coffee; rice; palm oil; crude palm oil; bananas and pineapples to Japan in the context of the IJ-EPA; animals and animal products; and forestry industry products (Section 3.2.3.2).

4.25. As at 2018, seven SOEs (e.g. BULOG, BUMN and BUMD) were involved in agricultural, forestry and fishing activities, including trading (e.g. feed corn, alcoholic beverages, and fertilizers (Section 3.3.5, Chart 3.5 and Table A3.4)); during the review period, BULOG continued its rice import operations to maintain a buffer stock (Sections 3.3.5.1 and 4.1.5).

#### 4.1.4 Domestic support measures

4.26. The authorities use tax and non-tax policy instruments to raise agricultural output, productivity and competitiveness. According to the most recent WTO notification on domestic support commitments, dated October 2019 and covering the calendar year 2018, the current total aggregate measurement of support (AMS) was zero.<sup>28</sup> During the review period, rice remained the only item subject to market price support; this support increased from IDR 282,698 in 2013 to IDR 3.7 million in 2018.<sup>29</sup> Total development programmes subject to special and differential treatment, involving investment and input subsidies (credit for purchase of, and subsidies for, feed and fertilizer, available to low-income or resource-poor producers of estate crops, food crops, horticulture, and livestock), stood at IDR 44.9 million in 2018 (IDR 21.2 million in 2013); input subsidies accounted for 87.8% of this amount. Green box support stood at IDR 25.8 million in 2018

<sup>26</sup> FFTC-AP, *Analysis of Indonesian Government Strategies to Food Security: Harnessing the Potential of Natural and Human Resources*. Viewed at: [http://ap.fttc.agnet.org/ap\\_db.php?id=1027](http://ap.fttc.agnet.org/ap_db.php?id=1027).

<sup>27</sup> WTO document G/AG/N/IDN/64, 15 October 2019.

<sup>28</sup> WTO document G/AG/N/IDN/67, 17 October 2019.

<sup>29</sup> WTO documents G/AG/N/IDN/67, 17 October 2019; and G/AG/N/IDN/53, 21 September 2018.

(IDR 25.2 million in 2013); it consisted of infrastructural services, domestic food aid, research, pest and disease control, and extension and advisory services.

4.27. According to OECD data, between 2011 and 2015, Indonesia's producer support estimate, representing transfers to producers, increased from an estimated USD 19 billion to about USD 36 billion, equivalent to 4.2% of GDP (Table 1.2). Nearly all assistance was through market price support, much of which was the result of higher domestic prices compared to international prices for some agricultural products.<sup>30</sup>

### **Tax incentives**

4.28. GR No. 78 of 2019 increased the number of sectors in which businesses are eligible to apply for the corporate income tax allowance scheme (Section 3.3.1.1.1.1).<sup>31</sup> Agriculture is among the sectors included in the expanded Regulation, with producers of selected commodities such as corn, soybeans, and fish being eligible for the tax incentives. VAT exemptions remain in place, and include: livestock; seeds from agriculture, plantations and forestry; and animal and fish feed (and their ingredients) (Section 3.3.1.1.1.2 and Table 3.13). VAT is not levied on various basic necessities (rice, grain, maize, sago, soybeans, salt, meat, eggs, milk, fruit, and vegetables).

### **Land concessions**

4.29. The granting of land concessions to agribusiness investors remains an important policy mechanism for promoting agribusiness development. MoA Regulation No. 98 of 2013 offers guidance for investors to help smooth out the process for obtaining licences for plantation developments. It covers aspects of the process for acquiring permits, and other important aspects for plantation development, such as the area of land, and the type of management and processing capacity.<sup>32</sup> Indonesia's current forest and land governance systems allocate various responsibilities to district, provincial and national governments (Section 4.1.7). These include aspects of spatial planning, allocating licences for land concessions (such as for logging and mining activities, and oil palm and timber plantations), environmental safeguards, and budgets for environmental management.<sup>33</sup>

4.30. Under a Presidential Instruction, since 19 September 2018, a three-year moratorium on new licences for oil palm plantations has been in place.<sup>34</sup> It explicitly applies not just to new requests for licences but also to projects that have obtained some, but not all, of the permits needed to begin operating. It also evaluates the operating plantations that do not meet some standards, including areas whose status was changed from forest land to other land uses and is to be reconstituted to forest land again, or constituted to high conservation-value forest (wherever the timber volume estimate is considerably high). The policy constitutes not just a freeze on new licences, but an order for the relevant central government ministries and regional governments to review oil palm licensing data.

### **Inputs and irrigation**

4.31. The authorities consider that, in addition to fertilizers and feed, suitable and modern agricultural tools and machinery are necessary to improve the productivity of agricultural production. Budgetary outlays for subsidies for seeds and fertilizers increased, and were as follows: IDR 20.270 trillion (2013), IDR 22.635 trillion (2014), IDR 35.278 trillion (2015), IDR 29.525 trillion (2016), IDR 33.306 trillion (2017), and IDR 37.721 trillion (2018). Around 15%-20% of the subsidized seeds were distributed by the state-owned PT Pertani and PT Shang Hyang Seri; they mass-produce improved open-pollinated varieties, hybrid maize seed, and certified rice seeds for distribution to farmers. Around 50% of seed used by farmers is produced by large private companies.

<sup>30</sup> OECD. Viewed at: [https://www.oecd-ilibrary.org/agriculture-and-food/data/oecd-agriculture-statistics/agricultural-support-estimates-edition-2016\\_83ff9179-en](https://www.oecd-ilibrary.org/agriculture-and-food/data/oecd-agriculture-statistics/agricultural-support-estimates-edition-2016_83ff9179-en).

<sup>31</sup> GR No. 78 of 2019 on Income Tax Facility for Investments in Certain Business Lines and/or in Certain Regions.

<sup>32</sup> CIFOR, *Forest and land-use governance in a decentralized Indonesia*. Viewed at: [http://www.cifor.org/publications/pdf\\_files/OccPapers/OP-132.pdf](http://www.cifor.org/publications/pdf_files/OccPapers/OP-132.pdf).

<sup>33</sup> Asia Foundation, *Improving Indonesia's Forest and Land Governance*. Viewed at: <https://asiafoundation.org/resources/pdfs/ImprovingLandGovernanceIndonesia.pdf>.

<sup>34</sup> Mongabay, *Indonesian president signs 3-year freeze on new oil palm licenses*. Viewed at: <https://news.mongabay.com/2018/09/indonesian-president-signs-3-year-freeze-on-new-oil-palm-licenses/>.



The rest is produced by small growers, and distributed among themselves. The SOE PT Pupuk Indonesia (Persero) and its 10 subsidiaries, spread across the islands of Java, Sumatra and Kalimantan, are the largest fertilizer producers in Asia, and produce subsidized and non-subsidized fertilizers. Budgetary outlays for agricultural equipment and machinery also rose, and were: IDR 322.239 billion (2013), IDR 288.705 billion (2014), IDR 3.108 trillion (2015), IDR 2.235 trillion (2016), IDR 3.766 trillion (2017), and IDR 5.487 trillion (2018).

4.32. To foster self-sufficiency and increase yields, fertilizer subsidies remain available to producers. In the mid-2010s, in terms of budgetary outlays, they were the largest farm-support programme, and accounted for around half of the agriculture budget.<sup>35</sup> Budgetary outlays for fertilizer subsidies rose, and were as follows: IDR 17.620 trillion (2013), IDR 21.050 trillion (2014), IDR 31.320 trillion (2015), IDR 26.850 trillion (2016), IDR 28.840 trillion (2017), and IDR 34.009 trillion (2018). These subsidies allow small-scale farmers with 2 ha or less of land to buy government-supported fertilizer at around 50% to 75% of the market price.

4.33. Upgrading and transforming irrigation systems remains a policy priority (Section 4.1.2).<sup>36</sup> In 2017, the authorities allocated a budget of IDR 33.26 trillion for water resource development and management, a significant increase from the IDR 28.29 trillion allocated in 2016.<sup>37</sup> In 2019, priorities included: building five new dams under central government jurisdiction; improving the surface or gravity irrigation infrastructure under central government jurisdiction of 472.4 km; constructing nine other dams; and constructing groundwater irrigation infrastructure of 147 km. Furthermore, specific targets included 384,000 ha of irrigated land, swamp irrigation of 165,000 ha, and brackish-water irrigation of 29,000 ha; 970 km of irrigation canals and rivers normalized; and 1,560 units of new water catchment built across the country. IDR 4 trillion was allocated to special allocation funds for irrigation infrastructure, via direct transfers to local governments, to support the national irrigation targets set out in the RPJMN for 2015–19. These targets included rehabilitating 3 million ha of irrigated land through the Irrigation Improvement Program; developing new irrigation; and rehabilitating the irrigation infrastructure.

4.34. The 2011-16 Water Resources and Irrigation Sector Management Project–Phase II, under the Ministry of Public Works and Housing (MPWH), with a budget of IDR 253 billion supported by World Bank grants, intends to improve capacity-building and human resources for water resources management along the watersheds and irrigated areas, and to increase production and productivity in some regional rice production centres.<sup>38</sup> In addition, the Government set key performance indicators for irrigation systems in the MoA portfolio. In 2017, the MoA's irrigation targets consisted of: building tertiary irrigation to cover 100,000 ha of rice fields; expanding rice fields by 80,000 ha; and providing direct subsidies for 63,693 units of agricultural machinery and equipment. These targets were set to support specific programmes to optimize agricultural land and increase the planted and harvested area for rice.

### Concessional loans

4.35. Indonesia continues to provide subsidized credit to low-income or resource-poor producers for the purchase of inputs (see above) and for cattle breeding, as well as KUR loans (Section 3.3.1.2).<sup>39</sup> Kredit Usaha Pembibitan Sapi credit, with subsidized interest rates, was provided by implementing banks to cattle-breeding businesses until 2015; the budgetary outlays for these subsidies were IDR 25.413 billion in 2013 and IDR 31.721 billion in 2014. According to the authorities, in 2015, a new credit lined under the KUR, was seemingly introduced, targeting farmers, livestock groups and livestock cooperatives breeding cows and buffalo. It allows for concessional loans, with: 3% annual interest rate; credit ceiling of IDR 2 billion; maximum duration of 10 years;

<sup>35</sup> FAO, *Country Fact Sheet on Food and Agriculture Policy Trends*. Viewed at: <http://www.fao.org/3/a-i7696e.pdf>.

<sup>36</sup> ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020-45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>37</sup> ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020-45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>38</sup> ADB, *Policies to Support Investment Requirements of Indonesia's Food and Agriculture Development During 2020-45*. Viewed at: <https://www.adb.org/sites/default/files/publication/534336/indonesia-food-agri-development-2020-2045.pdf>.

<sup>39</sup> WTO document G/AG/N/IDN/67, 17 October 2019.



and a grace period of three years. In 2020 (until 3 March), loans amounted to IDR 0.45 trillion (4.99% of the target of KUR Livestock Subsector budget of IDR 9.01 trillion) and were accessed by 13,573 debtors for productive businesses in cattle breeding, dairy farming, dairy cattle, goats/sheep, poultry, and a combination of agriculture/plantation with livestock.

### **Minimum prices**

4.36. Price controls are in place for rice as well as some other basic necessities (Sections 3.3.4.2 and 4.1.5).

#### **4.1.5 Rice**

4.37. Rice remains a strategic crop in terms of employment, cropland area allocated and food consumption, making it a top policy priority. It also generates important economic spill-over effects, supporting jobs in the milling, trading, and food-catering sectors nationwide. Rice production is dominated by smallholder farmers, which account for around 90% of total rice production, with an average land area per farmer of less than 0.8 ha.<sup>40</sup> Around 85% of rice production comes from irrigated paddy fields.<sup>41</sup>

4.38. Indonesia remains the world's third largest rice producer and consumer (2019) and its thirteenth biggest importer.<sup>42</sup> During the review period, domestic production ranged from 35.5 million tonnes (2014) to 37.0 million tonnes (2017), consumption from 37.7 million tonnes (2019) to 38.5 million tonnes (2013), and imports from 350,000 tonnes (2016) to 2.35 million tonnes (2018). Reportedly, import dependence is due to the use of non-optimal production techniques in combination with large, albeit declining, per capita consumption and climatic conditions.<sup>43</sup> Per capita rice consumption was nearly 150 kg in 2017; it decreased to an estimated 128 kg in 2018/19 due to an ongoing switch to wheat-based products.<sup>44</sup> Production costs are the highest compared to some peers in Asia.<sup>45</sup>

4.39. The state-owned Perum BULOG continues to manage the Government's rice policy. It, *inter alia*, manages the Government rice reserve, maintaining a buffer stock of between one to one-and-a-half million metric tonnes per year, through purchases of domestically produced rice as well as imports. This reserve is used for: rice distribution to low income groups; market operations to maintain price stability at the producer and consumer levels; and emergency purposes, ASEAN reserves, and international cooperation and assistance.

4.40. In 2016, the authorities instructed the Central Bureau of Statistics (BPS) to collect and release rice-production data. The BPS, together with the Agency for Assessment and Application of Technology and other agencies, improved the calculation and collection of data on various stages of the rice production. The technology-based measurement is aimed at enhancing transparency, accuracy, and accountability of rice production data, to further help policymakers and the private sector make better decisions concerning domestic supply, to minimize rice price volatility and shocks.<sup>46</sup> According to the authorities, data is collected monthly, with GPS-enabled, geospatial-coordinated accuracy. This enables the management of regional distribution of rice,

<sup>40</sup> Indonesia Investments, *Rice*. Viewed at: <https://www.indonesia-investments.com/business/commodities/rice/item183>.

<sup>41</sup> USDA, *GAIN Report No. 1904 (2019)*. Viewed at: <https://apps.fas.usda.gov/newgainapi/api/report/downloadreportbyfilename?filename=Grain%20and%20Feed%20Annual%20Jakarta%20Indonesia%203-26-2019.pdf>.

<sup>42</sup> Index mundi, *Milled Rice*. Viewed at: <https://www.indexmundi.com/agriculture/?commodity=milled-rice&graph=total-supply>.

<sup>43</sup> Indonesia Investments, *Rice*. Viewed at: <https://www.indonesia-investments.com/business/commodities/rice/item183>.

<sup>44</sup> USDA, *GAIN Report No. 1904 (2019)*. Viewed at: <https://apps.fas.usda.gov/newgainapi/api/report/downloadreportbyfilename?filename=Grain%20and%20Feed%20Annual%20Jakarta%20Indonesia%203-26-2019.pdf>.

<sup>45</sup> Muhammad Firdaus (2018), *The Value Chain and Rice Price Policy in Indonesia*, Department of Economics, Bogor Agricultural University. Viewed at: [http://ap.fftc.agnet.org/ap\\_db.php?id=881&print=1](http://ap.fftc.agnet.org/ap_db.php?id=881&print=1).

<sup>46</sup> World Bank. Viewed at: <https://blogs.worldbank.org/eastasiapacific/uncooked-how-indonesia-instituted-reforms-produce-reliable-rice-production-data>.

production forecasting and import needs, and the early mitigation of pest attacks, floods, and drought.

4.41. During the review period, the main thrust of the rice policy remained virtually unchanged. Government intervention continues through border measures and domestic support measures.

### **Border measures**

4.42. Nominal tariff protection on rice items (HS1006) remained unchanged; in 2020, the MFN applied rate for all lines is at IDR 450 per kg, with AVEs ranging from to 0.4% (husked rice) to 7.7% (broken rice) (30% in 2012), and bound at 160% (Table A3.2).<sup>47</sup>

4.43. Restrictive import licensing requirements were reinforced in 2018; importers of rice to be used as a raw material were not allowed to import some forms of rice (HS codes 1006.30.30, 1006.30.40, and 1006.30.99), as these products may only be imported by SOEs (Sections 3.1.5.1 and 4.1.3). Furthermore, rice imports are restricted one month prior to, during, and two months after the main harvest period.

4.44. BULOG is only allowed to import medium-quality rice, while private companies can import specialty rice (e.g. jasmine and basmati rice).<sup>48</sup> The resale prices of the imported product are determined by considering the domestic rice price, in order to avoid market disruption. BULOG accounted for 69.4% (2012), nil (2013), 50.3% (2014), 94.8% (2015), 52.7% (2016), and 0% (2017) of total rice imports.<sup>49</sup>

### **Domestic support measures**

4.45. Rice production continues to receive significant market price support, and fertilizer and other input subsidies, *inter alia*, to address its low competitiveness, ensure price stabilization, and maintain it in line with self-sufficiency objectives (Sections 4.1.2 and 4.1.4).<sup>50</sup>

4.46. As at the time of Indonesia's previous Review, the SOE Perum BULOG ensures procurement by the Indonesian Government of domestic rice at prices set higher than international market prices (Section 4.1.4). BULOG can only buy paddy or rice from farmers when the market price is lower than, or equal to, the government purchasing price (*Harga Pembelian Pemerintah*, HPP). The HPP reference prices for paddy and rice, and associated quality criteria are contained in MoT Regulation No. 24 of 2020.<sup>51</sup> BULOG and government purchase prices are set out in Table 4.2. BULOG's domestic purchases accounted for 9.3% (2012), 8.8% (2013), 5.9% (2014), 6.3% (2015), 6.5% (2016) and 4.6% (2017) of total national domestic rice production.<sup>52</sup> Domestic sales accounted for 10.9% (2012), 10.5% (2013), 9.9% (2014), 11.3% (2015), 8.2% (2016) and 6.8% (2017) of total national rice consumption.<sup>53</sup>

<sup>47</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>48</sup> FAO, *Country Fact Sheet on Food and Agriculture Policy Trends*. Viewed at: <http://www.fao.org/3/a-i7696e.pdf>.

<sup>49</sup> WTO documents G/STR/N/13/IDN; G/STR/N/14/IDN; and G/STR/N/15/IDN, 24 November 2014; G/STR/N/16/IDN, 1 November 2016; and G/STR/N/17/IDN, 19 September 2018.

<sup>50</sup> OECD, *Indonesia*. Viewed at: [www.oecd.org/indonesia/](http://www.oecd.org/indonesia/); (2015) *Indonesia Policy Brief – Agriculture*, March. Viewed at: <https://www.oecd.org/policy-briefs/indonesia-agriculture-improving-food-security.pdf>. FAO, *Country Fact Sheet on Food and Agriculture Policy Trends*. Viewed at: <http://www.fao.org/3/a-i7696e.pdf>.

<sup>51</sup> MoT Regulation No. 24 of 2020. Viewed at <http://jdih.kemendag.go.id/peraturan/detail/1974/2>, replaces Presidential Instruction No. 5 of 2015. Viewed at: <https://peraturan.bpk.go.id/Home/Details/77363/inpres-no-5-tahun-2015>.

<sup>52</sup> WTO documents G/STR/N/13/IDN; G/STR/N/14/IDN; and G/STR/N/15/IDN, 24 November 2014; G/STR/N/16/IDN, 1 November 2016; and G/STR/N/17/IDN, 19 September 2018.

<sup>53</sup> WTO documents G/STR/N/13/IDN; G/STR/N/14/IDN; and G/STR/N/15/IDN, 24 November 2014; G/STR/N/16/IDN, 1 November 2016; and G/STR/N/17/IDN, 19 September 2018.

**Table 4.2 Rice price data, 2013-19**

Year	Month(s)	Government purchase price at BULOG's Warehouse <sup>a</sup> (IDR/kg)	Average retail price (IDR/kg)	Government purchase price to BULOG <sup>b</sup> (IDR/kg)	Benefit/ losses
2013	Jan-Dec	6,600	7,202	7,572	352
2014	Jan-Dec	6,600	8,404	8,048	742.74
2015	Jan-Feb	6,600	8,959	8,325	1,150.01
	Mar-Dec	7,300			
2016	Jan-Dec	7,300	9,107	8,865	2,686.47
2017	Jan-Dec	7,300	8,960	9,220	535.7
2018	Jan	7,300	9,509	9,583	5,220.08
	Feb-Mar	8,760			
	Mar-Dec	8,030			
2019	Jan-Dec	8,030	9,414	9,583	5,454.97

a The government purchase price at BULOG's warehouse is the purchase price of rice by Perum BULOG to producers (farmers) across Indonesia in accordance with Presidential Instruction 5/2015.

b The government purchase price to BULOG is the government purchase price at BULOG's warehouse plus transportation, maintenance and storage costs, bank interest and company margins.

Source: Information provided by the authorities.

4.47. According to an external source, the average domestic price of medium quality rice exceeded the average world price over the period 2010 to mid-2018 by a big gap, *inter alia*, driven by restrictions on imports, increasing production costs including labour costs and land rental, and the high costs of transportation and marketing; this is considered to pose a serious challenge to food price stability and food security in Indonesia.<sup>54</sup>

4.48. The decision on the level of rice imports by BULOG for public need is decided at the ministerial level coordination meeting led by the Coordinating Minister of Economic Affairs. BULOG imports rice based on an import approval from the Ministry of Trade and a recommendation from the Minister of Agriculture. The mark-up (average import price minus average representative domestic sales price, in value and percentage) was estimated to stand at USD 117/tonne or 18.4% (2012), USD 135/tonne or 24.2% (2013), USD 139/tonne or 27.6% (2014), USD 174/tonne or 38.4% (2015), USD 116/tonne or 23.7% (2016) and USD 115/tonne or 23.3% (2017).<sup>55</sup>

4.49. Until relatively recently consumer market prices for rice were determined by market forces, with the MoT instructing Perum BULOG to release stock to decrease prices (either release of domestic stock or foreign procurement) when consumer market prices increased by 10% or more. However, from August 2017, maximum retail prices (MRP) capping the retail price of rice have been enforced; reportedly, this measure led to market distortions in the rice market until 2018, when prices were stabilized.<sup>56</sup> Since 2018, those for medium-quality rice have been capped at IDR 9,450/kg (for Java, Southern Sumatera, Sulawesi, and Western Lesser Sunda Isles), IDR 9,950/kg (for Kalimantan, the rest of Sumatera, and Eastern Lesser Sunda Isles), and IDR 10,250/kg (for Maluku and Papua), while those for premium-quality rice have been capped at IDR 12,800/kg (for Java, Southern Sumatera, Sulawesi, and Western Lesser Sunda Isles), IDR 13,300/kg (for Kalimantan, the rest of Sumatera, and Eastern Lesser Sunda Isles), and IDR 13,600/kg (for Maluku and Papua).

4.50. In 2018, BULOG distributed a total of 1.2 million tonnes of rice under the Rice for the Poor Programme (Rastra, formerly the Subsidized Rice for the Poor Programme (*Beras untuk Rakyat Miskin* (RASKIN))), and the Non-Cash Food Aid programme (*Bantuan Pangan Non Tunai* (BPNT)) which started in 2017, initially targeting 1.28 million underprivileged families and then expanding to

<sup>54</sup> ADB (2019), *Policies to support Investment Requirements of Indonesia's Food and Agricultural Development During 2020-2024*. Viewed at: <https://www.adb.org/publications/indonesia-food-agriculture-development-2020-2045>.

<sup>55</sup> WTO document G/STR/N/17/IDN, 19 September 2018.

<sup>56</sup> MoT Regulation No. 127/2018 expanded the scope of market interventions to "large distributors" and/or BULOG's partners, to ensure the price stabilization for rice on the domestic market; previously, this authority was given only to BULOG. MoT Regulations No. 57/2017 on Maximum Retail Prices (MRP) of Rice of 24 August 2017, and No. 96/2018. USDA, *GAIN Report No. 1904*. Viewed at: [https://apps.fas.usda.gov/newgainapi/api/report/downloadreportbyfilename?filename=Grain%20and%20Feed%20Annual\\_Jakarta\\_Indonesia\\_3-26-2019.pdf](https://apps.fas.usda.gov/newgainapi/api/report/downloadreportbyfilename?filename=Grain%20and%20Feed%20Annual_Jakarta_Indonesia_3-26-2019.pdf).

15.6 million families in 2019. Each targeted family under the regular Rastra programme receives 10 kg of rice for free; until August 2019, RASKIN provided every poor household with 15 kg per month at 20%–30% of the market price.<sup>57</sup> On average, the programme receives 30% of the social protection budget.<sup>58</sup> Under the BPNT, the authorities deposit a total value of IDR 110,000 (USD 8.20) per month onto a purchasing card that can be used to buy rice and eggs commercially; the card recipients residing in 44 pilot project cities, expanded to 514 regencies/cities in 2019, can swipe the card at selected stores and receive rice and eggs to the sum of the given amount. In 2020, the BPNT was transformed into the Nine Basic Food Items Subsidy Program; this gives additional benefits for the targeted beneficiaries, in the form of increased amount of assistance (IDR 150,000/USD 10.58 per month) and access to diverse nutritious food in addition to rice and eggs. Furthermore, a number of provincial and district/municipal governments allocate additional spending from the Regional Budget, to increase the number of targeted beneficiaries and to add items to the food package (other commonly consumed foods, protein, and vegetables/fruits).

#### 4.1.6 Fisheries

4.51. During the review period, fisheries' GDP contribution increased slightly, from 2.3% in 2013 to 2.8% in 2019 (Table 1.2). According to the authorities, fisheries production (including aquaculture) grew from 20.8 million tonnes in 2014 to 23.1 million tonnes in 2018. In 2017, capture fisheries accounted for 30.5% and 51.3% of total fisheries output in volume and value terms, respectively, and the rest was supplied by aquaculture whose share is increasing; in 2018, Indonesia was the world's largest archipelagic state, the second largest for aquaculture (see below) after China, and a leading tuna producer.<sup>59</sup> According to the authorities, the number of fish stocks potential yield categorized by group of species also increased from 7.31 million tonnes in 2013 to 12.54 million tonnes in 2017.

4.52. The sector remains an important contributor to national food security and employment. The wild capture fisheries employed approximately 2.6 million workers in 2016 and 2.0 million in 2018, and aquaculture 3.8 million in 2016 and 4.3 million in 2018; additionally, over 1 million workers are involved in the processing and marketing of fisheries products.<sup>60</sup>

4.53. The majority of Indonesian fishers are small-scale fishers, with vessels under 10 GT (88%) but, in 2016, they represented just over 20% of total power, while medium-sized vessels between 20 GT and 100 GT represent approximately 30% of the capture power of the motorized fleet.<sup>61</sup>

<sup>57</sup> FAO, *Country Fact Sheet on Food and Agriculture Policy Trends*. Viewed at: <http://www.fao.org/3/a-i7696e.pdf>.

<sup>58</sup> FAO, *Country Fact Sheet on Food and Agriculture Policy Trends*. Viewed at: <http://www.fao.org/3/a-i7696e.pdf>.

<sup>59</sup> According to the authorities, by 2016, it was estimated that Indonesia supplied about 1 million tonnes of saltwater finfish per year, or 16% of the world's total tuna supply. Statistics Indonesia (2019), *Statistical Yearbook of Indonesia 2019*, 4 July. Viewed at: <https://www.bps.go.id/publication/2019/07/04/daac1ba18cae1e90706ee58a/statistik-indonesia-2019.html>; Statista, *Leading aquaculture producers worldwide as of 2018, by country*. Viewed at: <https://www.statista.com/statistics/755857/major-aquaculture-producers-worldwide/>; Indonesia Investments, *Fishing Industry Indonesia: Leading Tuna Producer, Concern about Overfishing*. Viewed at: <https://www.indonesia-investments.com/news/todays-headlines/fishing-industry-indonesia-leading-tuna-producer-concern-about-overfishing/item6835>; California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

<sup>60</sup> ResearchGate, Pomeroy, R.S. (2019), *Review of national laws and regulation in Indonesia in relation to an ecosystem approach to fisheries management*, January 2019. Viewed at: [https://www.researchgate.net/publication/330133371\\_Review\\_of\\_national\\_laws\\_and\\_regulation\\_in\\_Indonesia\\_in\\_relation\\_to\\_an\\_ecosystem\\_approach\\_to\\_fisheries\\_management](https://www.researchgate.net/publication/330133371_Review_of_national_laws_and_regulation_in_Indonesia_in_relation_to_an_ecosystem_approach_to_fisheries_management); California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

<sup>61</sup> California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

4.54. Fish and seafood are the leading source of animal protein for Indonesians (about 54% of their total animal protein intake); per capita national fish consumption increased steadily, from 33.89 kg/year in 2012 to 50.69 kg/year in 2018.<sup>62</sup>

4.55. Indonesia is an important exporter of fish and fish products, with exports valued at USD 4.1 billion in 2018 (2.5% of total merchandise exports) (Table 4.3), while imports were USD 344 million (0.2% of merchandise imports). The main exports are: frozen shrimp; cuttle fish and squid; and prepared tuna.

4.56. Indonesia's rich marine biodiversity and resources remain threatened by illegal, unreported and unregulated (IUU) fishing; efforts are being made to address this (see below). Reportedly, overfishing occurred due to the activities of illegal foreign vessels, and due to an insufficiently robust regulatory framework for domestic fishing activities; this assessment is not accepted by the authorities.<sup>63</sup> Pressure on fish stocks from the domestic fleet seemingly increased, with the number of small vessels growing with the encouragement of national policy (see below); the authorities are not of this opinion. The authorities seemingly placed high priority on aquaculture development, to drive increases in overall seafood production.

**Table 4.3 Exports of fish and fish products (WTO definition)<sup>a</sup>, 2012-18**

HS 2012	Description	2012	2013	2014	2015	2016	2017	2018
	<b>Total fish exports</b>	<b>3,682</b>	<b>3,934</b>	<b>4,355</b>	<b>3,656</b>	<b>3,937</b>	<b>4,247</b>	<b>4,504</b>
30617	Frozen, shrimp and prawns	917	1,181	1,531	1,190	1,260	1,404	1,346
30749	Cuttle fish and squid	87	99	94	147	277	304	402
160414	Fish preparations; tuna, etc., prepared or preserved	352	375	312	295	279	359	387
160510	Crab, prepared or preserved	153	188	260	245	257	198	314

a Fish and fish products are those in HS Chapter 03, 020840, 0508, 0509, 051191, 121229, 15, 16, and 230120.

Source: UNSD Comtrade Database. Viewed at: <https://www.uncomtrade.com>.

### **Policy and institutional framework**

4.57. The 2015–19 RPJMN set the following priorities in the fisheries sector: community development and empowerment through programmes for small-scale fishers and fish farmers in coastal and small island areas; mitigation and adaptation strategies regarding climate change for the marine and fisheries sector; improvement of the quality and profitability of fish products for small-scale fishers; improvement of fishery-related infrastructure; strengthening of monitoring, surveillance and enforcement systems to improve management and combat IUU fishing; and strengthening of human resource capacity.<sup>64</sup> RPJMN 2020–24 is in place since January 2020; as at July 2020, the latest policy objectives were only available in the Bahasa Indonesia language (Section 2.2.2).

4.58. The Ministry of Marine Affairs and Fisheries (MMAF) implements the Marine and Fisheries Development Policy 2020-24. The Policy has five main objectives, including improving communications with fishers (facilitating licensing, fisheries port development, fishing management in exclusive economic zone (EEZ) and high seas, fisheries protection, and empowerment to increase fishers income); improving and optimizing aquaculture (reducing unemployment and providing animal protein for human consumption); developing the marine and fisheries industry (meeting demands for industrial raw materials, improving product quality and added value, and increasing fisheries produce investment and exports); managing marine, coastal and small islands (strengthening surveillance of marine and fisheries resources and fish quarantine, in coordination

<sup>62</sup> FAO, *Fishery and Aquaculture Country Profiles – The Republic of Indonesia*. Viewed at: <http://www.fao.org/fishery/facp/IDN/en>; California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

<sup>63</sup> World Bank (2019), *Indonesia Economic Quarterly: Oceans of Opportunity - June 2019*, 1 July. Viewed at: <https://www.worldbank.org/en/country/indonesia/publication/june-2019-indonesia-economic-quarterly>.

<sup>64</sup> FAO, *Fishery and Aquaculture Country Profiles – The Republic of Indonesia*. Viewed at: <http://www.fao.org/fishery/facp/IDN/en>.



with related institutions); and improving human resources and research innovation in marine affairs and fisheries.<sup>65</sup>

4.59. In October 2019, under Article 4 of Presidential Decree No. 92 of 2019, the Coordinating Ministry for Maritime Affairs (CMMA), established in 2014, was replaced by the Coordinating Ministry for Maritime and Investment Affairs (CMMIA).<sup>66</sup> Its primary tasks and functions include: formulating, stipulating and implementing policies related to maritime and investment issues; overseeing the implementation of ministerial regulations related to maritime and investment issues; managing and handling issues related to the maritime and investment sector; supervising the National Priority Program and other policies determined by the President in the Cabinet Meeting; settling strategic issues related to the maritime and investment sector that cannot be settled by other ministries/government institutions, and assuring the implementation of the settlement; and executing other functions assigned by the President. The CMMIA coordinates, synchronizes, and oversees the policies and implementation thereof related to maritime and investment issues of the Ministry of Energy and Mineral Resources, the Ministry of Public Works and Public Housing, the Ministry of Transportation, the Ministry of the Environment and Forestry, the MMAF, the Ministry of Tourism and Creative Economy, and the Investment Coordinating Board. The MMAF and its departments remain entrusted with fisheries policy formulation and implementation. Its strategic plan focuses on reinforcing the identity of a maritime nation, combating IUU fishing, accelerating economy growth and enhancing food sovereignty through the enhancement of fishery products, and developing the maritime and marine economy.<sup>67</sup>

4.60. The MMAF follows an ecosystem approach to fisheries management (EAFM) for the long-term sustainability of fisheries and the ecosystem services provided to society (food security, livelihood, economic security, coastal protection, and human health and well-being).<sup>68</sup> Since 2010, the Fishery Resources Directorate of the MMAF has been developing EAFM Performance Indicators to support regulations related to the fisheries sector. The roadmaps for the implementation of the EAFM is developed for five-year periods, i.e. the 2010-14 and 2015-19. The outcome of the 2014 EAFM was the Technical Guidelines. In 2019, the outcomes were: certification for fisheries product traceability and eco-labelling; expansion of protected marine areas; the Fisheries Management Plan for 11 fisheries management areas (*Wilayah Pengelolaan Perikanan* (WPPs)), implemented by the Fisheries Management Body; the implementation of the harvest strategy for specific commodities (tuna, snapper, and grouper); the traceability of fisheries product related to IUU fishing activities; and the implementation of digital technology for documentation.

### **Regulatory and operational framework**

4.61. Fisheries management continues to be mandated under Law No. 45 of 2009. The Law regulates all matters concerning fisheries at the national level. It covers fisheries management; fisheries boats, gear and licensing; fisheries value-added; fisheries research and development; fisheries fees; fishers' empowerment and prosperity; fisheries courts and arbitration; and fisheries enforcement and sanctions. During the review period, the regulatory framework governing fisheries was updated in several areas.

4.62. Law No. 1/2014 amending Law No. 27/2007 on the Management of Coastal Area and Isles, which entered into force on 15 January 2014, is aimed at protecting, conserving, rehabilitating and

<sup>65</sup> Indonesia has the 6<sup>th</sup> largest EEZ in the world.

<sup>66</sup> The CMMA is responsible for planning and policy coordination across the MMAF, the Ministry of Energy and Mineral Resources, the Ministry of Transportation, and the Ministry of Tourism. California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

<sup>67</sup> Strategic Plan of the MMAF 2015–19. Viewed at: [https://kkp.go.id/an-component/media/upload-gambar-pendukung/kkp/LAPORAN/Renstra%20dan%20Renia%20KKP/RENSTRA%20Peraturan%20Menteri%2063%20FIMAL%20\(5\).pdf](https://kkp.go.id/an-component/media/upload-gambar-pendukung/kkp/LAPORAN/Renstra%20dan%20Renia%20KKP/RENSTRA%20Peraturan%20Menteri%2063%20FIMAL%20(5).pdf).

<sup>68</sup> The EAFM offers means to manage fisheries more holistically; it is a move away from fisheries management focused on target species, towards systems and decision-making processes that balance environmental, human and social well-being, within improved governance frameworks. Viewed at: <http://eafmlearn.org/>; and ResearchGate, Pomeroy, R.S. (2019), *Review of national laws and regulation in Indonesia in relation to an ecosystem approach to fisheries management*, January. Viewed at: [https://www.researchgate.net/publication/330133371\\_Review\\_of\\_national\\_laws\\_and\\_regulation\\_in\\_Indonesia\\_in\\_relation\\_to\\_an\\_ecosystem\\_approach\\_to\\_fisheries\\_management](https://www.researchgate.net/publication/330133371_Review_of_national_laws_and_regulation_in_Indonesia_in_relation_to_an_ecosystem_approach_to_fisheries_management).



utilizing the resources of coastal areas and small islands in a sustainable manner. The Law provides for the use of zoning plans for marine resources and marine areas, and the obligation to conduct research and development in order to improve the quality of planning and management of coastal areas and small islands.

4.63. The authorities' powers regarding combating illegal fishing were strengthened (see below). A one-year moratorium on new licences for foreign-built vessels was imposed, and over 1,000 vessel and company licences were reviewed. Ministerial Decree No. 26 of 2013 on the Fisheries Business in WPPs, regulating large fishing vessels of 300 GT or more, requires vessel owners to apply for a fishing licence and a fishery business licence. In 2015, the MMAF increased the fees associated with the capture fishing sector; no information on these fees was available from the authorities.

4.64. Since 1 January 2017, under MMAF Regulation No. 2/2015, all types of fishing trawl and seine nets (*cantrang*) are banned.<sup>69</sup> Between 2015 and 2017, the authorities distributed approximately 9,000 units of eco-friendly fishing gear to small-scale, artisanal, subsistence fisheries operating with vessels under 5 GT. To help ease concerns about the ban, in 2018, the MMAF was to distribute approximately 7,000 new pieces of fishing equipment to replace *cantrang* (see below); boats under 10 GT were to receive the equipment for free, while boats greater than 10 GT were to receive subsidized loans from the state-owned Bank Rakyat Indonesia and Bank Tabungan Negara (see below).

4.65. During the review period, Indonesia maintained total allowable catch (TAC) for small pelagics, big pelagics, demersal fish, reef fish, penaeid shrimp, lobster, blue swimming crab, 3-spot swimming crab, and squid at all of its 11 WPPs (Table A4.1).<sup>70</sup> The authorities indicated that TAC figures are not used as a basis for business quotas, meaning that TACs are not owned by individual businesses; Indonesia uses an input-control method, not a quota in the fisheries business. In 2017, the potential catch and TAC for all WPPs and species combined was 12.5 million tonnes and 9.77 million tonnes, respectively. The average utilization rate stood at 0.90, with overexploitation affecting lobster and squid (Table A4.1). According to MMAF data, between 2015 and 2019, capture fisheries production targets (marine and inland) rose from an overall 6.30 million tonnes to 10.47 million tonnes, and marine capture fisheries production rose from 6.20 million tonnes to 6.98 million tonnes. Reportedly, additional increases of these levels could have a significant impact on the future fisheries potential of the country, as nearly half of the wild capture fish stocks are overexploited, and at least seven WPPs show no opportunity for immediate expansion of production.<sup>71</sup> The authorities disagree with this view, and indicated that they continuously review fish stocks for better fisheries management.

4.66. Under the 2016 negative investment list, the fisheries sector areas to which FDI has access were revised, allowing 100% FDI for cold storage and processing; wild-capture fishing was also added to the list (100% domestic capital) (Section 2.4.2).<sup>72</sup> Reported foreign and domestic private investment in the sector amounted to approximately USD 406.4 million in 2016, of which USD 164.9 million was in new loans and USD 241.4 million in new equity investments; more than half of all investment was made in the processing industry (52%), followed by aquaculture (14%), trade (14%) and wild-capture fishery (11%).<sup>73</sup>

<sup>69</sup> The use of trawl and *cantrang* — a modified Danish seine or trawl with fine mesh nets that cover large tracts of nearshore waters — damage coral reefs and the seabed ecosystem and, thus, represents an unsustainable fishing practice. California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

<sup>70</sup> Data on potential catch, TAC, and utilization rate as at 2017 are contained at Table 3. Stock Status by WPP, 2017 at California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*; and MMAF Decree No. 50/2017. Viewed at: <http://jdih.kkp.go.id/peraturan/50%20KEPMEN-KP%202017.pdf>.

<sup>71</sup> California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

<sup>72</sup> Not all fish-processing or preservation is open for 100% FDI; some fish processing is reserved for SMEs or partnerships, e.g. fish salting/drying (KBLI 10211), smoking fish (KBLI 10212), fish preservation (KBLI 10214), and yeasting/fermentation of fish (KBLI 10215).

<sup>73</sup> California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

### **Border measures**

4.67. During the review period, tariff protection for fisheries increased slightly; in 2020, the simple average applied tariff was 6.0% (5.5% in 2012) (WTO definition, including HS codes 03, 0508, 150410, 150420, 1603-05, and 230120), with a peak rate of 20.0%, thus remaining below the overall applied MFN average (10.1%, 2020) and the average for agriculture at HS- and WTO- (non-agricultural products) definition levels (Table A3.1).<sup>74</sup> In 2020, there was an average gap of 34.4 (HS) or 34 (WTO definition) percentage points between bound rates in fishery products and the average MFN applied rate. Duty and tax concessions for imports of goods for the establishment and development of fisheries and marine products caught by licensed vessels as well as requirements for fishery products to pass through specified ports of entry remain in place (Sections 3.1.1.1, 3.1.3.6 and 3.3.1.1.2). Import licensing requirements for fishery products were issued in 2018 and 2019 (Table A3.4).

### **Domestic support measures**

4.68. Domestic support in different forms remains available to fisheries operators. Tax incentives in the form of corporate income tax allowances or holidays, similar to those for other activities, are in place (Sections 3.3.1.1.1.1 and 4.1.4).<sup>75</sup> Under MMAF Decree No. 17/PERMEN-KP/2015, criteria and/or conditions for fisheries investment to benefit from corporate income tax holidays, depending on the activity (e.g. aquaculture, cold storage facility, processing, or preservation) consist of: minimum value of investment; minimum output to be exported (30% to 80%); minimum absorption of workforce (50 to 90 persons, and 90% Indonesian nationals).<sup>76</sup> No data on tax expenditure relating to the implementation of tax incentives in fisheries were available from the authorities.

4.69. Non-tax incentives are mostly focused on small fishers. Law No. 7/2016 requires central and local authorities to provide education, incentives, insurance, and livelihood protection for fishers and salt farmers. According to Indonesia's two and only (since 1995) WTO full notifications pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, submitted in 2019, four out of the six notified schemes relate to fisheries. The authorities indicated that these schemes, run by the MMAF, are not related to international trade. They consist of:

- the National Fish Logistic System (since 2014, grants for fishers in remote areas for cold-chain system facilities and infrastructure: IDR 413.5 billion for 2015-18);
- the Fishing Vessels Construction Program (since 2015, grants for fishing vessels, fishing vessel machines, and environmentally friendly fishing gear: IDR 550 billion for 2015-18);
- the Rural Business Development Program (grants for purchasing facilities and developing infrastructure: IDR 1.37 trillion for 2011-13); and
- Fishers Insurance (payment of life insurance premiums for the first year of small-scale fishers (<10 GT) who have valid fisher cards and do not use prohibited fishing gear (see above): IDR 183 billion for 2016-18, and IDR 21 billion for 2019).<sup>77</sup>

4.70. In addition, under the terminated Fishing Vessels Construction Program, the authorities seem to have been in the process of expanding the domestic fleet, by providing 2,515 new nearshore ocean-going vessels and over 18,000 sets of gear to replace foreign fishing boats and create local employment in remote areas. Reportedly, in 2017, the MMAF allocated USD 28.88 million to procure fishing vessels as follows: 243 units of <5 GT vessels; 384 units of 5 GT vessels; 134 units of 10 GT vessels; 15 units of 20 GT vessels; and 6 units of 30 GT vessels. While only a small fraction had been delivered by November 2017, the MMAF had remained confident that it would reach its

<sup>74</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>75</sup> GR No. 9/2016; MoF Regulation No. 150/2018; and GR No. 78 of 2019 on Income Tax Facility for Investments in Certain Business Lines and/or in Certain Regions.

<sup>76</sup> Online information by the Investment Coordinating Board of the Republic of Indonesia.

<sup>77</sup> WTO documents G/SCM/N/253/IDN; G/SCM/N/284/IDN; and G/SCM/N/315/IDN, 20 May 2019; and G/SCM/N/343/IDN, 2 August 2019; and World Bank (2019), *Indonesia Economic Quarterly: Oceans of Opportunity - June 2019*, 1 July. Viewed at : <https://www.worldbank.org/en/country/indonesia/publication/june-2019-indonesia-economic-quarterly>.

target of disbursing 782 vessels by the end of 2017. Regarding the insurance scheme, compensation amounts include: USD 14,815 if a fisher dies in a fishing accident; USD 7,407 for fishers who suffer permanent disabilities; USD 1,481 for fishers' medical treatment due to injuries; and USD 11,852 for fishers killed in accidents unrelated to fishing activities. The scheme is only provided to fishers covered by the Social Security Management Agency or other insurance schemes taken out by ship owners.<sup>78</sup> The authorities could not confirm the data contained in this paragraph.

4.71. Financing facilities to MSMEs in the fishery sector, through micro-financing agencies or non-banking financial institutions, with a maximum interest rate of 4%, remain in place (Section 3.3.1.2).

4.72. Subsidized diesel continues to be provided, but in a more focused manner. Since 2015, access to this subsidy was limited to boats of less than 30 GT.<sup>79</sup> In response to attempts by larger boat owners to circumvent this change, the MMAF underwent a re-measuring and re-certifying exercise, thereby eliminating access to subsidies for boats that are in reality greater than 30 GT. According to state-owned PT Pertamina oil and natural gas mining company (Section 4.2.2.1.1) data, 1.2 million kilolitres (kL) of subsidized fuel was provided to fishers in 2016, down 19.46% from 1.49 million kL in 2015. No data on the budgetary outlays supporting this subsidy were available from the authorities. The authorities has considered the removal of all fuel subsidies for fishers, but this has not yet taken place.

4.73. Furthermore, in implementing the RJPMN 2015-19 (see above), the objectives of some priority programmes included:

- Capture Fisheries Management Program (total budget for five years: IDR 15,103.06 billion);
- Aquaculture Development Program (total budget for five years: IDR 13,640.22 billion), implementing: fish seed production improvement, enhancement of the seagrass culture area, aquaculture certification, aqua feed development, and improvement of the capacity of aquaculture business;
- strengthening the competitiveness of fishery products (total budget for five years: IDR 11,823.54 billion), through: fish logistic improvement, promotion of Indonesian fish products, fish processing (capabilities and business) improvement, quality improvement, and standardization;
- Marine Spatial Management Program (total budget for five years: IDR 8,185.15 billion), through several strategies, including: expansion of marine protected/conservation areas, improvement of community livelihood on small islands and in coastal areas, and coastal rehabilitation/restoration;
- fisheries resources management surveillance (total budget for five years: IDR 10,482.85 billion), through: monitoring and surveillance operation (sea patrol and air patrol), development of surveillance system and technology, and improvement of law enforcement regarding IUU fishing (capability and regulation); and
- human resources development and community empowerment (total budget for five years: IDR 8,603.07 billion), through: enabling education access for fisheries community, provision of assistance for the fisheries community, and improvement of skills of fishermen and fish farmers.

4.74. During the review period, action was also taken to facilitate the growth of aquaculture, which is amongst the fastest-growing in the world. This took place through the development of specialized zones to intensify production; investment in private hatcheries; distribution and marketing

<sup>78</sup> California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

<sup>79</sup> Presidential Decree No. 15/2012 and MMAF Regulation No. 13/2015, cited in California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

programmes; training; information systems; and access to capital.<sup>80</sup> Through the Director General of Aquaculture (DJBP), the MMAF established programmes for research and technology, aimed at optimizing aquaculture production, including the National Broodstock Center and Regional Broodstock Centers for shrimp, grouper, tilapia, and seaweed. The DJBP is also implementing a priority programme called *Gerakan Pakan Mandiri* (Self-Sufficiency Fish Feed Movement), which focuses on the utilization of local raw materials to produce low-cost fish feed for freshwater fish. In 2020, the MMAF supported the development of 13 Integrated Fisheries Centers, involving both capture fisheries and aquaculture production.

4.75. Indonesia's second proposal to the WTO Negotiating Group on Rules, submitted in June 2017, states, *inter alia*, that multilateral action in fisheries is needed, and that the main contributors to overfishing are the enhanced capacity of fishing vessels due to subsidies and IUU fishing (see below).<sup>81</sup> Indonesia supports disciplines relating to fisheries subsidies, especially those affecting overfishing and overcapacity, particularly of high-migratory species; high-seas fisheries and distant water fishing; and the elimination of subsidies that contribute to IUU fishing with special and differential treatment for developing countries and least-developed countries. An initial step to be taken would be to eradicate IUU fishing through deterrent measures.

### **Illegal activities**

4.76. During the review period, action in several areas was undertaken to address IUU fishing concerns.<sup>82</sup> A one-year prohibition (moratorium) from November 2014 to October 2015 was placed on foreign-owned and foreign-manufactured fishing vessels of more than 30 GT, as a large proportion of them was detected as engaging in illegal fishing activities in the national jurisdiction.<sup>83</sup> In the same year, under the second amendment of MMAF Decree No. 57/2014, transshipment – the offloading of catch at sea – was banned; the ban was applied to all fishing companies. Other areas of IUU-related action included: improving the governance of fishery business licences; promoting transparency in capture fisheries; analysing and evaluating local fishing vessels to promote compliance and better governance; and closing foreign investment in the capture fishing sector in 2016 to protect domestic natural resources (see above, and Section 2.4.2).

4.77. To address IUU fishing by foreign vessels, on 20 October 2015, a Task Force on the Prevention and Eradication of IUU Fishing was set up to, *inter alia*, investigate IUU fishing, develop policy recommendations, and strengthen coordination among enforcement agencies. Under Presidential Decree No. 115/2015, the administrative level was raised, and it was renamed the Task Force on Eradication of IUU Fishing (Task Force-115 - SATGAS-115). Additional aims were to strengthen the enforcement capacity of the MMAF, the navy, the police, the coast guard, and public prosecutors. Furthermore, enforcement actions were undertaken, through, *inter alia*, imposing administrative

<sup>80</sup> While marine capture fisheries production grew slowly, from 5.0 million metric tonnes in 2010 to around 6.2 million in 2017, aquaculture production more than doubled over the same period, from 2.4 million to 6.1 million metric tonnes. California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*; and World Bank (2019), *Indonesia Economic Quarterly: Oceans of Opportunity - June 2019*, 1 July. Viewed at : <https://www.worldbank.org/en/country/indonesia/publication/june-2019-indonesia-economic-quarterly>.

<sup>81</sup> WTO documents TN/RL/GEN/150/Rev.2, 9 October 2007; and TN/RL/GEN/189, 6 June 2017.

<sup>82</sup> According to MMAF estimates, illegal fishing costs Indonesia USD 3 billion to USD 20 billion per year; however, reportedly, the actual monetary and non-monetary costs may be much higher should other crimes associated with IUU fishing, including money laundering, human trafficking, tax fraud, and smuggling of drugs, weapons, and endangered species, be taken into account. California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*; and Mas Achmad Santosa (Coordinator of the Special Advisors of the Presidential Task Force to Combat Illegal Fishing (SATGAS 115)) presentation at the 4<sup>th</sup> International Symposium on Fisheries Crime, Copenhagen, 15 October 2018.

<sup>83</sup> Under MMAF Decree No. 26B/2015, which governs the analysis and evaluation of ex-foreign fishing vessels, the MMAF audited 1,132 vessels across 33 ports, all of which were in violation of the law, with 769 in "severe violation" and 363 in "average violation". Consequently, the MMAF revoked 15 business licences, 245 fishing licences, and 31 reefer licences. Furthermore, according to the authorities, between November 2014 and August 2018, the demolition of 488 illegal fishing vessels (mainly from Viet Nam (276), the Philippines (90), Thailand (50), Malaysia (41), and Indonesia (26)) was undertaken, to create a deterrent effect. Mas Achmad Santosa (Coordinator of the Special Advisors of the Presidential Task Force to Combat Illegal Fishing (SATGAS 115)) presentation at the 4<sup>th</sup> International Symposium on Fisheries Crime, Copenhagen, 15 October 2018; and MMAF Regulation No. 56/2014 cited in California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*.

sanctions; applying corporate criminal liability and a multi-legal regime; pursuing international cooperation (INTERPOL Multilateral Investigative Support Team, outreach, utilizing INTERPOL facilities, and capacity building); and forswearing transnational organized fisheries crime (in line with the UN Convention against Transnational Organized Crime (UNTOC)). In July 2017, through Global Fishing Watch (GFW), Indonesia became the first country to share its vessel monitoring system (VMS) data.<sup>84</sup>

#### 4.1.7 Forestry

4.78. Forestry continues to play an important role by providing social, economic and environmental benefits in Indonesia, which accounts for the world's 8<sup>th</sup> largest forest area.<sup>85</sup> During the review period, forestry's contribution to GDP increased from 0.6% in 2013 to 0.7% in 2020. Forest is mostly owned by the State (86.9%) (Law No. 41 on Forestry of 1999), and is classified into three categories: conservation forests, protection forests, and production forests. More than half of the total forest area is production forest. Production forests consist of permanent production forest, limited production forest, and convertible production forest.<sup>86</sup> In 2015, the total area of production forests rose from 56 million ha (2015) to 68 million ha (2018).<sup>87</sup> These forest areas consist of various types of land such as primary forests, secondary forests, forest plantations, and non-forested land (including endemic sand plains, savanna, and alpine tundra within conservation areas). Indonesia also houses more than 30 million ha of forest concession area (see below); this consists of three types of concessions, comprising natural forest concessions, plantation forest concessions, and ecosystem restoration forest concessions. The natural forest and ecosystem restoration concessions are allocated to permanent production forest and limited production forest land; plantation forest concessions are permissible only on permanent forest land. Additionally, Indonesia placed about 45% of its total forest area aside for the conservation of biodiversity or the protection of ecology.<sup>88</sup> Forest is managed either directly by government agencies or by private corporations and institutions based on forest concessions; the remainder is so-called titled forest.<sup>89</sup> Fires to clear land to expand plantations for palm oil production remain a driver of deforestation, although action was taken to address this problem (Section 4.1.4).<sup>90</sup>

<sup>84</sup> VMS is a cost-effective tool for the successful monitoring, control and surveillance of fisheries activities. Since 2013, Indonesia requires VMS on all boats greater than 30 GT (MMAF Regulation No. 10/2013). While the authorities have real-time access to the data, analysing and responding to it can take time (e.g. patrol boats may not be nearby). Data shared with the public is delayed for 72 hours. California Environmental Associates/The David and Lucile Packard Foundation (2018), *Trends in Marine Resources and Fisheries Management in Indonesia - A 2018 Review*; and Online information (<http://www.fao.org/fishery/vms/en>).

<sup>85</sup> Worldometer, *Forest Area by Country*. Viewed at: <https://www.worldometers.info/food-agriculture/forest-by-country/>.

<sup>86</sup> GR No. 44 of 2004 on Forestry Planning. Viewed at: <http://peraturan.go.id/peraturan/view.html?id=11e44c4f17513580ac76313231383530>.

<sup>87</sup> Forest Legality, *Indonesia – Forest Management*. Viewed at: <https://forestlegality.org/risk-tool/country/indonesia#tab-management>.

<sup>88</sup> Timber Trade, *Indonesia*. Viewed at: <https://www.timbertradeportal.com/countries/indonesia/>.

<sup>89</sup> A titled forest is a forest located on land on which the land title is registered by private organizations or individuals.

<sup>90</sup> Between 1990 and 2010, the total area of oil palm plantations increased from 1.1 million ha to 7.8 million ha; in 2018, it stood at 14.3 million ha. The rapid development of oil palm plantations was facilitated by governmental policies and further enhanced by the decentralization policy that enabled local governments to issue plantation permits. According to the World Bank, overall, the total damage and economic loss by fires in eight affected provinces throughout June-October 2019 was estimated at USD 5.2 billion, equivalent to 0.5% of GDP, mainly through the agriculture, transportation, trade, industry, and environmental sectors. Furthermore, the destruction by fire of millions of hectares of virgin forest made Indonesia one of the world's top contributors to the release into the air of carbon dioxide. Tacconi, L., Rodrigues, R.J., Maryudi, A. (2019), *Law enforcement and deforestation: Lessons for Indonesia from Brazil*, Forest Policy and Economics, Vol. 108, November. Viewed at: <https://www.sciencedirect.com/science/article/pii/S1389934118304623>; Statistics Indonesia (2019), *Statistical Yearbook of Indonesia 2019*, 4 July. Viewed at: <https://www.bps.go.id/publication/2019/07/04/daac1ba18cae1e90706ee58a/statistik-indonesia-2019.html>; World Bank (2019), *December 2019 Indonesia Economic Quarterly: Investing in People*, 11 December. Viewed at: <https://www.worldbank.org/en/country/indonesia/publication/december-2019-indonesia-economic-quarterly-investing-in-people>; Asia Sentinel, *Indonesia's Social Forestry Program*. Viewed at: <https://www.asiasentinel.com/p/indonesia-social-forestry-program>.



4.79. Between 2013 and 2017, logs, sawn wood and plywood production rose to 43.2 million m<sup>3</sup>, 2.8 million m<sup>3</sup> and 3.8 million m<sup>3</sup>, respectively.<sup>91</sup> High domestic consumption of logs is mainly due to use in the pulp and paper industry and tertiary industries, such as furniture production.<sup>92</sup> Between 2013 and 2019, exports of most forestry and related products increased, including wood charcoal (USD 118.8 million in 2013 to USD 297.8 million in 2018, dropping to USD 279.9 million in 2019); semi-processed wood (USD 555.6 million in 2013 to 771.2 in 2018, down to USD 666.7 million in 2019); pulp of wood (USD 1.8 million in 2013 to USD 2.8 million in 2019); and paper (USD 3.8 million in 2013 to USD 4.4 million in 2019).<sup>93</sup>

### **Policy and institutional framework**

4.80. During the review period, forestry policy objectives included: promotion of forest product exports and added value through foreign market penetration; increase of production of timber and non-timber forest products, plants and wildlife; new business configuration and industrial clusters; enhancement of the management of natural resources through rehabilitation of forests and lands, prevention of forest and land fires, reduction of the deforestation rate, promotion of waste management and reduction of plastic use; circular economy; reduction of mercury use; environmental pollution control; improvement of sustainable forest management smart practices based on 4.0 technology; and improvement of the conservation management strategy by involving local community, including customary community and stakeholder engagement.<sup>94</sup> Since 2019, ministerial strategies have also included: strengthening protected areas; strengthening sustainable production forest management; accelerating the provision of local community access to land and forests; providing entrepreneurship training and facilities for local communities; conserving water and the ecosystem; supporting the development of new capital; improving the environmental quality index; improving resilience to disaster and climate change; and implementing low-carbon development.

4.81. The Ministry of Environment and Ministry of Forestry were merged to create the Ministry of Environment and Forestry (MoEF) in 2015.<sup>95</sup> Its responsibilities are to organize governmental affairs in the field of environment and forestry; formulate policies in the field of sustainable forests and environmental conservation; manage the conservation of natural resources and their ecosystems; enhance watershed support capacity and protect forests; sustainably manage forestry production; enhance the competitiveness of the primary forest product industry; manage the environment; control pollution; control environmental damage; control climate change impact; control forest and land fires; a social forestry programme (see below); create partnerships; reduce damage; and reduce threats of forest destruction; and reduce violations of environmental and forestry legislation.<sup>96</sup>

### **Regulatory and operational framework**

4.82. During the review period, the regulatory framework governing the forestry sector was enhanced in several areas. Changes included MoEF Regulation No. P.30/Menlhk/Setjen/PHPL.3/3/2016 on the Assessment for Performance of Forestry Sustainable Production Management and Verification of Timber Legality to License Holders or Private Forests<sup>97</sup>;

<sup>91</sup> Statistics Indonesia (2019), *Statistical Yearbook of Indonesia 2019*, 4 July. Viewed at: <https://www.bps.go.id/publication/2019/07/04/daac1ba18cae1e90706ee58a/statistik-indonesia-2019.html>.

<sup>92</sup> Tacconi, L. Rodrigues, R.J., Maryudi, A. (2019), *Law enforcement and deforestation: Lessons for Indonesia from Brazil*, Forest Policy and Economics, Vol. 108, November. Viewed at: <https://www.sciencedirect.com/science/article/pii/S1389934118304623>.

<sup>93</sup> UNSD Comtrade Database.

<sup>94</sup> MoEF, *Welcoming New Year 2019: Minister of Environment and Forestry - Continue Corrective Actions*. Viewed at: [https://www.menlhk.go.id/site/single\\_post/1771](https://www.menlhk.go.id/site/single_post/1771).

<sup>95</sup> PR No. 16 of 2015 concerning the Ministry of Environment and Forestry.

<sup>96</sup> FAO, *PR No. 16 of 2015 concerning the Ministry of Environment and Forestry*. Viewed at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC174324>.

<sup>97</sup> FAO, *MOEF Regulation No. P.43/Menhut-II/2014 on the Assessment for Performance of Forestry Sustainable Production Management and Verification of Timber Legality to License Holders or Private Forests*. Viewed at: <http://www.fao.org/faolex/results/details/fr/c/LEX-FAOC174329>.



and MoEF Regulation No. P.85/MENLHK/SETJEN/KUM.1/11/2016 on Transportation of Cultivated Timber Forest Product Originated from Private Forests.<sup>98</sup>

4.83. Any entity, either in a natural forest or a production/plantation forest, must possess a concession licence granted by the MoEF.<sup>99</sup> In natural forests, a permit for a logging concession is valid for a maximum of 55 years, with a possible extension; while ecosystem restoration and industrial plantation forest permits are granted for 100 years maximum, without possibility of extension. Upon the granting of a permit, the beneficiary is required to develop a 10-year Forest Management Plan, based on a Periodic Comprehensive Forest Inventory and an Annual Operational Plan.

4.84. A temporary moratorium on granting permits to clear primary forests and peatlands for plantations or logging, introduced as part of wider efforts to reduce greenhouse gas emissions from deforestation in 2011, was accompanied by a 2018 moratorium on new licences for oil palm plantations (Section 4.1.2); it was made permanent on 5 August 2019. It prohibits the conversion of primary natural forests and peatlands to oil palm, pulpwood or logging concessions. According to MoEF data, between 2011 and 2018, the rate of deforestation in areas covered by the licensing ban, dropped by 38%; however, analysis of satellite imagery by Greenpeace, based on a different approach for defining the condition of primary forest and tree cover loss, showed the opposite.<sup>100</sup>

4.85. Concession licence holders operating in state forests are subject to a licence fee, set in 2014 (GR No. 12/2014).<sup>101</sup> An additional fee per licence per hectare and per year applies to plantations where the concession licence holder is converting natural forest to plantation with a clear-cut system with artificial regeneration. For timber production from state forests, two fees, based on three different diameter classes of roundwood, must be paid: the Reforestation Fund fee (*Dana Reboisasi* - DR) and the Forest Resources Provision fee (Provisi Sumber Daya Hutan - PSDH). The fees vary per species group, such as Meranti (*Shorea*), *Rimba Campur* (mixed timber species) and *Kayu Indah* (beautiful timber species), and per region. The DR is set at a fixed price in US dollars per cubic meter, while the PSDH is set at a benchmark price in rupiah plus 6%-10%. Forestry was estimated to contribute 1.2% to total non-tax revenue in 2019, compared to 1.6% in 2017.<sup>102</sup>

4.86. Since 2014, a social forestry programme is underway, as part of agrarian reform for the forestry sector.<sup>103</sup> It is aimed at, *inter alia*, reducing the deforestation rate and reducing illegal logging by improving the livelihood of slash-and-burn farmers, alleviating poverty, increasing employment, reducing social conflict, and promoting sustainable forest management. The programme remains in place with a cumulative target of 4 million ha in the period 2020-24. It represents a transfer of forest management responsibilities to user-groups across the archipelago, and offers forest-dependent farmers the opportunity to use designated forest plots legally for up to 35 years. It targets the allocation of 12.7 million ha of land to be managed by people who live in and around the forests. As at 30 May 2020, the MoEF (see below) had distributed permits for 6,622 groups, covering 4.2 million ha for about 857,819 households.<sup>104</sup> The Association of State Banks provided loans worth IDR 105 trillion (USD 7.53 billion) in 2017, with the number expected to increase to IDR 120 trillion in 2018; no information on the modalities of these loans was available from the authorities. In addition, in 2017, the MoEF and the Public Service Agency Center for Forest

<sup>98</sup> FAO, MoEF Regulation No. P.21/MenLHK-11/2015 on Administration of Forestry Products originating from Private Forests. Viewed at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC174357/>.

<sup>99</sup> TimberTrade, *Indonesia*. Viewed at: <https://www.timbertradeportal.com/countries/indonesia/#legality-profile>.

<sup>100</sup> Mongabay, *Indonesia forest-clearing ban is made permanent, but labelled 'propaganda'*. Viewed at: <https://news.mongabay.com/2019/08/indonesia-forest-clearing-ban-is-made-permanent-but-labeled-propaganda/>.

<sup>101</sup> This licence fee is calculated differently in three regions (Sumatera and Sulawesi, Kalimantan and Maluku, and Nusa Tenggara and Papua) and is incurred per year per ha per licence by the concession licence holder. TimberTrade, *Indonesia*. Viewed at: <https://www.timbertradeportal.com/countries/indonesia/#legality-profile>.

<sup>102</sup> Statistics Indonesia (2019), *Statistical Yearbook of Indonesia 2019*, 4 July. Viewed at: <https://www.bps.go.id/publication/2019/07/04/daac1ba18cae1e90706ee58a/statistik-indonesia-2019.html>.

<sup>103</sup> Asia Sentinel, *Indonesia's Social Forestry Program*. Viewed at: <https://www.asiasentinel.com/p/indonesia-social-forestry-program>; and MoEF. Viewed at: <https://www.menlhk.go.id/site/post/130>.

<sup>104</sup> CIFOR, *Taking stock of Indonesia's social forestry program*. Viewed at: <https://forestsnews.cifor.org/58344/taking-stock-of-indonesias-social-forestry-program?fnl=en>.

Development directed IDR 200.6 billion to 568 forest farmer groups.<sup>105</sup> By 2017, financing commitments had exceeded IDR 442.76 billion. These funds were used to facilitate production inputs, rehabilitate ponds, and offtake crop production. Reportedly, deforestation dropped from 1.09 million ha in 2015 to 0.479 million ha in 2017, and more than 2 million trees, including teak, mahogany, and sengon, were saved from illegal logging.<sup>106</sup>

4.87. Under the 2016 negative investment list, the upstream exploitation of timber forest products from natural forests is entirely reserved for domestic capital (Section 2.4.2, Table 2.5).

### **Border measures**

4.88. During the review period, tariff protection for forestry increased significantly. In 2020, the simple average rate on forest and forestry products (HS Section 9) rose to 5.1% (2.7% in 2012). It remains below the overall applied MFN average (10.1%, 2020). It continued to range from zero (fuel wood, wood in chips or particles, wood charcoal, wood in the rough, and wood sawn or chipped lengthwise) to 25% (Table A3.1), compared to a peak rate of 10% in 2012.<sup>107</sup> In 2020, there was an average gap of 34.9 percentage points between the bound rates in forestry products and the average MFN applied rates.

4.89. Exports of roundwood and rough sawn timber for all species remain banned, to protect domestic wood-processing industries, although reviewing this policy has seemingly been under consideration (Section 3.2.3.1 and Table 3.7).<sup>108</sup> New import and export (and pre-shipment inspection PSI) licensing requirements were introduced on processed forestry products in 2015 and 2018 (Sections 3.1.5.2, 3.2.1 and 3.2.3.2, and Tables 3.8 and A3.4). MoT Regulation No. 97/M-DAG/PER/12/2014 on Provisions on the Export of Forestry Industry Products, in force since January 2015, specified tariff lines of forestry products from timber, exporter registration/approval (registered exporters of forestry industry products (ETPIK)), timber legality certification requirements (see below), export documentation, and PSI requirements.<sup>109</sup> In 2016, based on MoT Regulation No. 84/M-DAG/PER/12/2016, the term ETPIK was replaced by "registered exporters" recorded in the MoEF Information System on Timber Legality (SILK). The number of registered exporters was: 777 (in 2013); 874 (in 2014); and 1,370 (in 2015). From January to May 2020, the SILK recorded 1,693 exporters.

4.90. Under the Timber Legality Verification System (SVLK), the authorities continued to issue "V-legal" licences to accompany exports of processed wood products listed in Attachment I Group A of MoT Regulation No. 84/2016.<sup>110</sup> Recent regulations were aimed at easing the procedures for smallholders and SMEs to obtain SVLK certification. Regulation No. 43 of 2014, as amended by Regulation No. 30 of 2016, includes a new procedure called the Supplier's Declaration of Conformity (SDoC), which reduces the burden of certification for certain suppliers (household industries, private forests, timber depots, and industries that source their timber entirely from private forests or SVLK-certified sources) by allowing them to self-assess their fulfilment of certain requirements for

<sup>105</sup> This funding is in the form of revolving funds. In 2008/09, IDR 2,014 trillion was initially allocated. Until 2020, the total commitment to finance debtors reached IDR 2.4 trillion. The revolving fund is distributed through three schemes, namely: loan, profit sharing, and sharia patterns. The interest rate refers to the BI rate, based on Regulation No. 112/PMK.05/2015. For the community, it is the BI rate (max. 8%); for business entities, the BI rate plus 4% (max. 10%); for intermediary institutions, 50% of the BI rate (max. 4%); and for forestry businesses in areas that have a protection function, the loan rate is 50% lower than the rate in production areas. From the total commitment of IDR 2.4 trillion, IDR 1.4 trillion were distributed to permit holders in industrial plantation forests, community plantation forests, village forests, community forests, and social forestry, as well as to silviculture intensive and off-farm (forestry industry) businesses.

<sup>106</sup> Asia Sentinel, *Indonesia's Social Forestry Program*. Viewed at: <https://www.asiasentinel.com/p/indonesia-social-forestry-program>.

<sup>107</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>108</sup> MoT Regulation No. 45/2019; TimberTrade, *Indonesia*. Viewed at: <https://www.timbertradeportal.com/countries/indonesia/#legality-profile>; and WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>109</sup> FAO, *MoT Regulation No.97/M-DAG/PER/12/2014 on Provisions on the Export of Forestry Industry Products*. Viewed at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC149319>.

<sup>110</sup> MoEF Decrees No. P38/Menhut-II/2009 of 12 June 2009; No. P68/Menhut-II/2011 on Changes to MoFR No. P.38/2009; P. 45/Menhut-II/2012 on Second Revisions to MoFR No. P.38/2009; P. 42/Menhut-II/2013 on Third Revisions to MoFR No. P.38/2009; and P. 43/Menhut-II/2014 on Performance Assessment of Management of Sustainable Production Forests and Timber Legality Verification for Permit Holders and Forest Owners.

obtaining the SVLK.<sup>111</sup> No data regarding the number of SDoC beneficiaries out of the total V-licence users were available from the authorities.

4.91. On 15 November 2016, following the signature in September 2013 and ratification in April 2014 of the Voluntary Partnership Agreement (VPA) with the European Union, Indonesia issued the world's first Forest Law Enforcement, Governance and Trade (FLEGT) timber export licences, certifying that the timber was harvested, transported, processed and traded according to Indonesian law.<sup>112</sup> FLEGT licences provide an economic incentive to producers, ensuring their shipments a green lane into major EU timber markets, and exempting them from the due diligence procedures for non-licensed timber imports.<sup>113</sup>

### **Enforcement and illegal activities**

4.92. During the review period, forest law enforcement in Indonesia was updated. Law No. 41/1999 on Forestry and Law No. 5/1990 on Conservation of Living Resources and their Ecosystems define a range of forest crimes and the associated penalties, from fines to prison terms.<sup>114</sup> Law No. 18/2013 on the Prevention and Eradication of Forest Destruction was aimed at strengthening forest law enforcement by: targeting organized forest crime; expanding the scope of the Law on Forestry to include oil palm plantations and mining in forested areas; and allowing the utilization of corporate criminal liabilities. In line with the Law, in 2015, the MoEF established the Directorate General of Law Enforcement (DGLE).<sup>115</sup> Forest law enforcement adopted a so-called multi-door strategy, a multi-agency coordination framework for investigation that responds to forest crimes with a broader range of offences; enforcement involves the MoEF, the MoF, the Attorney General, the National Police, and the Indonesian Transaction Reporting and Analysis Center.<sup>116</sup> Enforcement operations target three types of illegal forest activities: forest area encroachment; illegal logging; and illegal wildlife trade. In 2018, the MoEF indicated that enforcement operations are undertaken after receiving reports from field officers, communities or non-government organizations. Between January 2015 and June 2020, 424 forest area encroachment cases, 373 illegal logging cases, and 264 illegal wildlife trading cases were being handled. The MoEF also conducted 4 licence revocations, 21 licence suspensions, 231 government-mandated corrective actions, 23 written reprimands, and 115 written warnings.<sup>117</sup>

4.93. According to the authorities, illegal logging and timber trade persist on a small scale, and occur sporadically. A relatively small number of officers located at site level means there is an unbalanced ratio between the number of officers and the size of the forest area to be supervised. Illegal logging often occurs in forest areas with tenure conflict and small-scale illegal sawmill industry, thus making it more difficult to trace timber circulation.

<sup>111</sup> Forest Legality Initiative, *Indonesia*. Viewed at: <https://forestlegality.org/risk-tool/country/indonesia>.

<sup>112</sup> The VPA was a consequence of the European Union Timber Regulation, where only legal timber can enter the EU market. Forest Legality Initiative, *Indonesia*. Viewed at: <https://www.timbertradeportal.com/countries/indonesia/#legality-profile>.

<sup>113</sup> World Resources Institute, *Indonesia Has a Carrot to End Illegal Logging; Now It Needs a Stick*. Viewed at: <https://www.wri.org/blog/2018/01/indonesia-has-carrot-end-illegal-logging-now-it-needs-stick>.

<sup>114</sup> Tacconi, L., Rodrigues, R.J., Maryudi, A. (2019), *Law enforcement and deforestation: Lessons for Indonesia from Brazil*, Forest Policy and Economics, Vol. 108, November. Viewed at: <https://www.sciencedirect.com/science/article/pii/S1389934118304623>.

<sup>115</sup> The DGLE won the 2019 Asia Environmental Enforcement Awards, which was organized by UNEP, UNODC, UNDP, INTERPOL, the Secretariat of CITES and the Norwegian Government.

<sup>116</sup> The multi-door approach seeks to establish coherence between the inquiry, the investigation and the prosecution of forestry crimes, by using a combination of various laws related to environment, forestry, mining, taxation, money laundering, corruption, agriculture, and taxation. It targets crimes committed by corporations or corporate actors. The approach applies a follow-the-money approach in dealing with forest-related crime, in which law enforcers track the assets and bank accounts of the suspects, and perpetrators found guilty are obliged to pay the costs of the rehabilitation of damaged areas and return lost state revenues. Reportedly, as at 2015, coordination among institutions remained a significant challenge, as criminal cases are still handled by the respective law enforcement agencies. Tacconi, L., Rodrigues, R.J., Maryudi, A. (2019), *Law enforcement and deforestation: Lessons for Indonesia from Brazil*, Forest Policy and Economics Volume 108, November. Viewed at: <https://www.sciencedirect.com/science/article/pii/S1389934118304623>.

<sup>117</sup> MoEF, *The State of Indonesia's Forests 2018*. Viewed at: <https://www.menlhk.go.id/site/download?start=10>; Tacconi, L., Rodrigues, R.J., Maryudi, A. (2019), *Law enforcement and deforestation: Lessons for Indonesia from Brazil*, Forest Policy and Economics Vol. 108, November. Viewed at: <https://www.sciencedirect.com/science/article/pii/S1389934118304623>.

4.94. Indonesia remains committed to reducing its emissions from deforestation and forest degradation through the REDD+ mechanism.<sup>118</sup> A substantial amount of its carbon emissions is caused by deforestation and forest degradation resulting from land conversion activities, forest fires and illegal logging, a driver of deforestation (see above). Therefore, initiatives to curb illegal logging have formed a central part of any emission reduction strategy. Since 2017, upon the issue of MoEF Regulation No. 70/2017 concerning the Procedures for REDD+ Implementation, the authorities have implemented REDD+ to help reduce illegal logging activities by creating financial incentives to encourage compliance with the law, changes in behaviour and wider governance reforms. Under PR No. 77/2018 concerning the Management of Environmental Funds, the Funds Management Agency was set up. Financial incentives from the REDD+ Results-Based Payments scheme come from grants, donors, domestic income, and the private sector. So far, Indonesia has received grants from RI-Norway cooperation, the Green Climate Fund (at the proposal stage), and donor countries managed by the World Bank.

## 4.2 Mining and Energy

4.95. Mining and energy continue to make relatively significant contributions to GDP, exports, government revenue, and the development of remote regions; therefore, they attracted numerous policy and regulatory developments over the review period. The Ministry of Energy and Mineral Resources (MoEMR) remains in charge of policy making and implementation, through its directorates with specific responsibilities, including the Directorate General of Mineral and Coal (DGMCR), the Directorate General of Oil and Gas (DGO), Directorate General of Electricity (DGE), and the Directorate General of New and Renewable Energy and Energy Conservation (DGNREEC).<sup>119</sup> Other ministries and agencies, including the MoF, BAPPENAS, the Ministry of SOEs, and the MoEF, remain involved in various areas of the sector. The MoEMR also manages relevant activities of the state-owned utilities and energy service companies, and conducts research relevant to mandated energy goals. The Coordinating Ministry of Economic Affairs and the Coordinating Ministry for Maritime Affairs (CMMA) also have jurisdiction over mining and coal energy projects.

### 4.2.1 Mining

4.96. Mining remains an important activity contributing to economic growth. Indonesia continues to be a major player in the global mining industry; it is the world's leading producer of nickel (2018), 2<sup>nd</sup> of tin (2016), 4<sup>th</sup> of coal (2018), 7<sup>th</sup> of gold (2018), 10<sup>th</sup> of copper (2017), and 14<sup>th</sup> of bauxite (2017).<sup>120</sup> The mining sector's (excluding oil and gas extraction) contribution to GDP declined from 5.7% in 2013 to 4.3% in 2016, and recovered to 5.2% in 2018, *inter alia*, due to the increase in both commodity prices and export quotas for coal; it then dropped to 4.7% in 2019 (Table 1.2).<sup>121</sup> Its share in total employment decreased slightly, from 1.3% in 2013 to 1.1% in 2019 (Table 1.2); this ratio suggests possible higher labour productivity as compared to agriculture. Mining operators include large (e.g. BHP Billiton, Freeport-McMoRan and Vale), small and medium-sized firms, as well as SOEs (e.g. PT Indonesia Asahan Aluminium (Pernas) Inalum, the energy company PT Pertamina, and the coal producer Tambang Batubara Bukit Asam); in 2016, there were plans for Inalum and Pertamina to become the holding companies for all SOEs active in the mining and oil and gas sectors.<sup>122</sup> During the review period, total FDI inflows in mining dropped from USD 2.5 billion in 2013 to negative inflows (2017, 2018), as a result of the foreign ownership divestment rules and regulatory uncertainty (see below, and Section 1.3.2); these then recovered partly, to

<sup>118</sup> CIFOR, *Lessons for REDD+ from measures to control illegal logging in Indonesia*. Viewed at: <https://www.cifor.org/library/3505/>.

<sup>119</sup> MoEMR. Viewed at: <https://www.esdm.go.id/en/>; and ADB, *Summary of Indonesia's Energy Sector Assessment*. Viewed at: <https://www.adb.org/sites/default/files/publication/178039/ino-paper-09-2015.pdf>.

<sup>120</sup> USGS, *Nickel Statistics and Information*. Viewed at: <https://www.usgs.gov/centers/nmic/nickel-statistics-and-information>; World Coal Association, *Coal mining*. Viewed at: <https://www.worldcoal.org/coal/coal-mining>; and Enerdata, *Coal and lignite production*. Viewed at: <https://yearbook.enerdata.net/coal-lignite/coal-production-data.html>.

<sup>121</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>122</sup> Indonesia Investments, *Holding Company for Indonesia's State-Owned Miners Ready in Q1-2017*. Viewed at: <https://www.indonesia-investments.com/news/todays-headlines/holding-company-for-indonesia-s-state-owned-miners-ready-in-q1-2017/item7541>; and Deloitte, *2019-20 Investment Window into Indonesia (IWI)*. Viewed at: <https://www2.deloitte.com/content/dam/Deloitte/cn/Documents/international-business-support/deloitte-cn-ibs-investment-window-into-indonesia-2019-2020-en-200116.pdf>.



USD 1.7 billion in 2019.<sup>123</sup> Coal production bottomed to 461 million tonnes in 2015 due to weakening global supply and demand, and rose to 557 million tonnes in 2018, of which 63% was destined to meet domestic demand and the rest exported.<sup>124</sup> Mining (excluding oil and gas) continued to represent a high proportion of exports, particularly as mining products are generally priced in US dollars; its share of total exports dropped from 22% in 2013 to 19% in 2019, due the implementation of the ban on exports of unprocessed (or not-sufficiently processed) minerals in January 2014 and the introduction of a significant export duty on mineral concentrates; it then recovered to 20% in 2019 (of which 13.2 percentage points were coal and lignite) upon the ban's easing (see below).<sup>125</sup>

### Policy framework

4.97. The main policy framework for mining remains unchanged. Under the 2009 Mining Law, the policy objective is to support sustainable national development by, *inter alia*, setting the following requirements on stakeholders in mining activities: good mining practices; increasing the value-added of mining products; improving society; being cautious with regard to environmental impact; and maintaining good governance and bookkeeping.<sup>126</sup> The implementation of the first phase (2015-19) of the Master Plan of National Industry Development 2015-35 included the objective of increasing the value-added of mineral and oil processing (Section 2.2.2).

4.98. Both the central and regional governments play vital roles in setting mining policies, standards, guidelines, and criteria, as well as deciding on mining authorization procedures.<sup>127</sup> Reportedly, global mining companies rank Indonesia highly in terms of its prospective minerals, but poorly in terms of its mineral policies and investment climate.<sup>128</sup>

### Regulatory framework

4.99. During the review period, the main legislation governing mining activities, Law No. 4 on Mineral and Coal Mining of 2009 (the Mining Law), remained unchanged but implementing regulations were issued in several areas.<sup>129</sup> By November 2019, 32 regulations and 64 requirements for certifications, recommendations, and permits had been revoked, to reduce bureaucracy and duplication so as to simplify business activities and improve the economic competitiveness of the

<sup>123</sup> Reportedly, despite its geological potential, Indonesia has yet to capture a fair proportion of the global corporate mining exploration spending; it consistently received less than 2.5% of the global exploration budget during the period 2006-14, and only around 1% from 2015 to 2018, which appears extraordinarily low when compared to its mineral potential. PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>124</sup> Statistics Indonesia (2019), *Statistical Yearbook of Indonesia 2019*, 4 July. Viewed at: <https://www.bps.go.id/publication/2019/07/04/daac1ba18cae1e90706ee58a/statistik-indonesia-2019.html>; and Secretariat General of the National Energy Council, *Indonesia Energy Outlook (IEO) 2019*. Viewed at: <https://www.esdm.go.id/assets/media/content/content-indonesia-energy-outlook-2019-english-version.pdf>.

<sup>125</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>126</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>127</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>128</sup> According to the 2018 Fraser Institute Annual Mining Survey, the global perception of the Indonesian mining sector slightly improved, despite still ranking among the worst. In terms of the policy perception index, which appraises the friendliness of government policy to the mining sector, Indonesia ranked 70<sup>th</sup> (out of 83 economies), a slight improvement from 84<sup>th</sup> (out of 91 economies) in 2017. It appears that the taxation regime, uncertainty concerning disputed land claims, socio-economic agreements, and community development conditions continue to be deterrents to investment. However, in terms of the mineral potential index, representing the perceived geologic attractiveness, Indonesia dropped quite significantly from 1<sup>st</sup> out of the 91 countries surveyed in 2017 to 25<sup>th</sup> out of the 83 countries surveyed in 2018, possibly partly due to the limited exploration performed over the previous 10 years. PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>129</sup> The Mining Law is dependent upon a significant number of implementing regulations that provide detailed guidelines about how it will be administered. Most of the fundamental implementing regulations have been issued, although some clarifications seem to still be required. PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

sector.<sup>130</sup> At the same time, policy uncertainty in certain areas resulted from amending regulations on the same measure in a short period of time (e.g. maximum foreign shareholding, and export taxes). A revision to the Mining Law is under consideration since 2016; by mid-2019, the draft of a new Mining Law was being reviewed by the House of Representatives, and the next step was to be a discussion with the MoEMR and the DGMC but, by June 2020, there had been no progress. MoEMR Regulation No. 25 of 2018 on Minerals and Coal Business, which comprehensively covers operations of both the upstream and downstream mining activities, was issued in an attempt to improve the mining investment climate until the revision of the Mining Law is finalized; it was amended by MoEMR Regulation No. 50/2018.

4.100. Under the Mining Law, the central Government determines the areas that can be mined, except in certain exceptional circumstances for pre-determined areas where regional governments have the authority to grant mining business licences.<sup>131</sup> Several types of mining areas, as defined under the Mining Law, remain in place. They are: Mining Area (WP), a potential area for minerals and/or coal not bound by governmental administrative boundaries as part of the national spatial planning; Mining Business Area (WUP), part of a mining area already completed, with data, geology potential, and/or information about geology; Mining Business Licence Area (WIUP), an area authorized for use by a Mining Business Licence (IUP) holder; People's Mining Area (WPR), part of a mining area where small-scale mining activities are carried out; State Reserve Area (WPN), part of a mining area reserved for the national strategic interest; Special Mining Business Area, part of a WPN that may be commercialized; Special Mining Business Licence Area (WIUPK), an area authorized for use by a Special Mining Business Licence holder (see below). In 2018 and 2019, 7 WIUPs were auctioned by the central Government, and 19 by regional governments.

4.101. Under the Mining Law, the long-standing Contracts of Work (CoW) framework for foreign investment was replaced with a new area-based licensing system, that is applicable to both foreign and domestic investors and incorporates tendering procedures for granting licences, with the involvement of local and provincial governments, as well as the central Government.<sup>132</sup> The following types of mining licence may be issued to one or more parties within the designated WPs: an IUP, a general licence for mining business activities in a WUP area; a Special Mining Business Licence (IUPK), for mining activities in a specific WPN area; and a People's Mining Licence (IPR), for mining business in a WPR area of limited size and investment. IPRs are not available to foreign investors. MoEMR Regulation No. 11 of 2018 on Procedure for the Granting of Area, Licensing and Reporting in the Business Activity of Mineral and Coal Mining evidenced the Government's attempt to remove obstacles to foreign investment (see below), by allowing foreign investors to participate in tenders for WIUPs of over 500 ha.<sup>133</sup> A privately held company can only hold one licence (i.e. one IUP/IUPK), and only the companies that are listed on the Indonesian Stock Exchange (IDX) and the companies that have been granted non-metal mineral and/or rock WIUPs are entitled to hold more than one licence. Under the Mining Law, the transfer of an IUP/IUPK to another party is generally prohibited; however, GR No. 24/2012 provides an exception, whereby IUPs/IUPKs can be transferred if the transferee is at least 51% held by a company that already holds an IUP/IUPK.<sup>134</sup> Under PerMen 11/2018 (as amended by PerMen 22/2018 and PerMen 51/2018), IUPs are issued for periods ranging from 3 to 30 years (IUP-OP Specifically for Processing and/or Refining), and extended unlimited times by 20-year periods, depending on the type of licence.

4.102. Under the Mining Law, which removed some of the distinctions between domestic and foreign investors, and the 2016 negative investment list (Section 2.4.2, Table 2.6, which does not refer to mining (except for oil and gas), it appears that less than 100% foreign investment in the mining sector is allowed, subject to the foreign share ownership divestment rules on the transition from the pre-2009 licensing regime to the current one (i.e. conversion of CoWs and Coal Contracts of Work

<sup>130</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>131</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>132</sup> The transition from the previous regime, *inter alia*, requiring foreign ownership divestment has not been completed yet. PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>133</sup> Under the previous MoEMR Regulation No. 28 of 2013, foreign investors could only participate in tenders for WIUPs of over 5,000 ha.

<sup>134</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.



(CCoWs) to the new licensing system).<sup>135</sup> Since the enactment of the Mining Law, numerous changes in the foreign ownership divestment rules were implemented.<sup>136</sup> The foreign divestment requirement has reverted to the position whereby foreign shareholders must divest their interest in stages, currently commencing from the fifth year of production, so that foreign shareholders have a maximum shareholding of 49% by the tenth year of production. Divestment may be carried out through an initial public offering (IPO) on the IDX, if nobody among the central Government, provincial government, regency/municipal government, a national state-owned company (Badan Usaha Milik Negara, or BUMN), a regional state-owned company (Badan Usaha Milik Daerah, or BUMD) or a national private business entity is interested in taking the divestment shares.

### Border measures

4.103. During the review period, tariff protection remained below the overall applied MFN average (10.1%, 2020) and the average for agriculture and manufacturing. In 2020, the simple average stood at 8.4% (7.1% in 2012) and 3.7% (3.8% in 2012) at WTO-definition (excluding petroleum, including gas) and ISIC 2 levels (including crude oil and natural gas), respectively (Tables 3.2 and A3.1).<sup>137</sup> Thus, in 2020, there was an average gap of 30.2 percentage points and 36 percentage points at WTO-definition and ISIC levels, respectively, between the average MFN applied and bound rates. Tariff rates range from zero to 30% (WTO definition) or 10% (ISIC) (Table A3.1). Since August 2019, imports of taxable goods for coal mining entrepreneurs benefit from exemption from, or relief on, import duty under certain conditions (Section 3.1.3.6).<sup>138</sup>

4.104. Export taxes and restrictions to support the development of domestic downstream processing facilities were continued. Export taxes, currently ranging from zero to 60% (unprocessed minerals), continue to be levied on mineral ores, depending on their stage of processing. They were first put in place in 2017, and were changed in 2018 (Section 3.2.2, and Table 3.6); lower rates benefit mining companies committed to developing processing or refining facilities.<sup>139</sup> A ban on exports of unprocessed (or not-sufficiently processed) minerals was imposed in January 2014 but was relaxed on 11 January 2017 (the end of the three-year transition period) for a period of five years (i.e. 2022), allowing mining companies to continue exporting semi-processed products provided that they pay export taxes under the applicable laws and regulations on the minimum domestic processing and refining requirements.<sup>140</sup> Reportedly, the validity of certain documents necessary to export low-concentration nickel ore were to expire on 31 December 2019, thereby effectively reinstating the total export prohibition of nickel ore as of 1 January 2020 (Section 3.2.3.2). In the context of the WTO dispute settlement mechanism, on 22 November 2019, the European Union requested consultations with Indonesia regarding various measures concerning

<sup>135</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013; and PWC (2019), *Mining in Indonesia, Investment and Taxation Guide*, June 2019. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>136</sup> GR No. 1 of 2017, MoEMR Regulation No. 9 of 2017, and MoEMR Regulation No. 43 of 2018.

<sup>137</sup> Under the WTO definition, the minerals and metals category has a much wider scope, as it contains 1,554 tariff lines under the following HS codes: HS Chapter 25, HS2601-2621; HS2701-04, HS2706-08, HS2711-15, HS Chapter 31; HS3403; HS Chapters 68 to 71 (except HS6807, HS701911-19, HS701940-59); HS Chapters 72-76 (except HS7321-22); HS Chapters 78-83 (except HS8304-HS8305); and HS911310-20. Under ISIC 2 Rev.2, mining activities cover energy-producing materials (coal, lignite and peat, hydrocarbons, and uranium ore) and non-energy-producing materials (metal ores, various minerals, and quarry products).

<sup>138</sup> MoF Regulation No. 116/PMK.04/2019 (PMK-116), 13 August 2019; and ITR, *Indonesia: Indonesia issues a flurry of tax-related regulations*. Viewed at: <https://www.internationaltaxreview.com/article/b1hlmyxmjb4msb/indonesia-indonesia-issues-a-flurry-of-tax-related-regulations>.

<sup>139</sup> Between 2013 and June 2020, 17 smelters were operating. In December 2018, the MoF issued PMK No. 164/PMK.010/2018, to amend PMK No. 13/PMK.010/2017. PMK No. 164/PMK.010/2018, which was effective 30 days from the date of its promulgation, amended the physical progress stages of the refining facility's development, from the previous four stages to three stages (Table 3.6).

<sup>140</sup> This relaxation was an attempt to alleviate the impact on miners and on the country's export revenues from the ban. According to the BI, the relaxation of the ban on nickel ore provided for additional exports of USD 155 million and USD 628 million in 2017 and 2018, respectively, and bauxite exports posted an increase of USD 66 million and USD 265 million in 2017 and 2018, respectively, from only USD 430,000 in 2016. The BI noted that the export of nickel and bauxite ores in 2018 amounted to 19.8 million tonnes and 8.7 million tonnes, respectively, which were less than half of the quota capacity given by the MoEMR, indicating the potential for a revenue increase from the export of both commodities in the future. GR No. 1/2017 (the fourth amendment to GR No. 23/2010), cited in PWC (2019), *Mining in Indonesia, Investment and Taxation Guide*, June 2019. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

certain raw materials necessary for the production of stainless steel, including restrictions (Sections 2.3.1.1, 3.1.3.6 and 3.2.3.2) on exports of nickel.

### **Domestic production measures**

4.105. All IUP/IUPK holders are required to pay production royalties at varying rates, depending on the mining scale, the production level, and the mining commodity price. Currently, the range of percentages on sale proceeds is as follows: coal open pit 3%-7%, and coal underground 2%-6%; nickel 4%-5%; iron, zinc and tin 3%; copper 4%; iron sand, bauxite, and gold 3.75%; and silver 3.25%.<sup>141</sup> Between 2017 and 2019, general mining revenues rose by 40.7% to IDR 24,961 billion, and accounted for 7% (2017), 6.5% (2018) and 6.6% (2019) of total non-tax revenue.<sup>142</sup>

4.106. Mineral and coal sales benchmark prices, and the floor price for royalty calculation, have been in place since December 2017.<sup>143</sup> If the actual sales price is higher than the benchmark price, then the royalty calculation is based on the actual sales price; if below, the benchmark price is used. Benchmark prices for metal minerals and coal are based on the benchmark price formula, which takes certain factors into account.<sup>144</sup> The benchmark price is updated monthly, and is determined in accordance with market prices (based on a basket of recognized global and Indonesian coal indices, in the case of coal).

4.107. Under MoEMR Regulation No. 34 of 2009, effective since 31 December 2009, on Prioritizing Mineral and Coal Resources for Domestic Usage, i.e. the domestic market obligation (DMO), producers of minerals (seemingly until 2018) and coal (see below) have been required to allocate a minimum percentage of their total production to the domestic market.<sup>145</sup> The Regulation includes strict sanctions for failure to comply with the DMO requirement, including a cut of up to 50% in quotas for mining production (for the mining company) or trading volume (for the trading company) in any relevant year. No data on compliance with DMO requirements for each mineral other than coal were available from the authorities. Since April 2010, holders of mineral or coal IUPs or IUPKs have been required to carry out domestic processing in order to increase the value that is added to the mineral or coal that they produce, either directly or in cooperation with other companies, or IUP/IUPK holders. Minimum in-country processing and refining requirements, as set out in PerMen No. 25/2018, are not applicable if the products are directly used for the domestic interest, or the minerals are exported for research and development purposes, provided that a recommendation from the DGMC, on behalf of the MoEMR, and export approval from the MoT's DGFT are obtained.

4.108. Mining (upstream and downstream) activities are supported by several tax allowances and incentives (Section 3.3.1). The tax allowances consist of: a reduction in net taxable corporate income of up to 30% of the amount that has been invested, in the form of qualifying fixed assets (including land), pro-rated at 5% for six years; accelerated depreciation and amortization; 10% withholding tax on the dividends paid to non-residents; and an increased loss carry-forward period, from five years to a maximum of ten years.<sup>146</sup> Mining sector tax incentives are subject to certain criteria,

<sup>141</sup> MoEMR Decree No. 1823 K/30/MEM/2018 concerning the Guidelines on the Implementation of the Imposition, Collection, and Payment of Mineral and Coal Non-Tax State Revenue, cited in PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>142</sup> Statistics Indonesia (2019), *Statistical Yearbook of Indonesia 2019*, 4 July. Viewed at: <https://www.bps.go.id/publication/2019/07/04/daac1ba18cae1e90706ee58a/statistik-indonesia-2019.html>.

<sup>143</sup> GR No. 23/2010 (amended by GR No. 1/2017), as further implemented by PerMen No. 7/2017 and PerMen No. 25/2018.

<sup>144</sup> For metal minerals, these factors include, but are not limited to, the value/content of the metal mineral; the mineral reference price; corrective factors; treatment costs; and refining charges. For the determination of the coal benchmark prices, examples of these factors include: calorific value of the coal; the coal reference price (*Harga Batubara Acuan*, HBA); moisture content; sulphur content; and ash content. Where coal is sold on a term basis, the HBA that is used as the reference for determining the price of coal in the sales contract is based on the formula of 50% of the HBA in the month of the signing of the contract, plus 30% of the HBA in the month prior to the signing of the contract, plus 20% of the HBA two months prior to the signing of the contract. PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>145</sup> Global Trade Alert, *Indonesia: Domestic market obligation (DMO) for mineral and coal producers*. Viewed at: <https://www.globaltradealert.org/intervention/13775/export-quota/indonesia-domestic-market-obligation-dmo-for-mineral-and-coal-producers>.

<sup>146</sup> Tax allowances are contained in GR No. 18/2015 and MoF Regulation No. 89/PMK.010/2015. GR No. 18/2015 was amended by GR No. 9/2016 but it did not change the criteria for the eligible mining

for: basic iron and steel manufacturing; gold and silver processing and refining; certain brass, iron ore, uranium, thorium, tin, lead, copper, aluminium, zinc, manganese and nickel processing and refining activities; coal gasification; and the use of coal for energy liquefaction. Apart from the processing and refining of copper, silver, and gold, these income tax incentives are generally only applicable to activities undertaken outside Java. Tax expenditure for the mining sector was estimated at IDR 2.584 billion (2106), IDR 2.543 billion (2017) and IDR 2.850 billion (2018).<sup>147</sup>

## Coal

4.109. During the review period, in addition to other measures discussed above, coal has been subject to special pricing (Section 3.3.4.2), DMO, and transport/insurance (implementation pending) requirements, in an attempt to support the state-owned electricity company PT Perusahaan Listrik Negara (Persero) PLN and national shipping and insurance industries. In March 2020, the MoEMR set the selling price of coal (with a calorific value of 6,322 kcal/kg Gross as Received, a total moisture of 8%, etc.) (HBA) procured for electricity generation for public use at a maximum of USD 67.08/mt compared to USD 90.57/mt in March 2019.<sup>148</sup> The HBA for coal is set on a monthly basis; the annual HBA was USD 95.5/tonne (2012), USD 82.9/tonne (2013), USD 72.6/tonne (2014), USD 60.1/tonne (2015), USD 61.8/tonne (2016), USD 85.9/tonne (2017), USD 66.3/tonne (2019), and USD 52.98/tonne (2020).<sup>149</sup> Since April 2010, CCoWs, IUP-OPs and IUPK-OPs holders have been required to meet the minimum coal DMO of 25% of their annual production plan, as approved by the MoEMR in 2018, the coal DMO was set at 25% of the production volume (of which 80% designated for the state-owned electricity company PLN (Section 4.2.3.2)), with the coal reference price, capped at a maximum of USD 70/mt, where the HBA exceeds USD 70/mt.<sup>150</sup> A mining company unable to meet its DMO obligation may purchase DMO credits from mining companies that have exceeded their DMO obligations. Between 2013 and 2019, in practice, the DMO ratio rose progressively from 15.2% to 22.5% of the actual coal output, which also increased steadily from 474.00 tonnes to 616.16 tonnes. Under MoT Regulation No. 82/2017, coal exporters are required to use Indonesian-owned sea transportation companies, and insurance from domestically owned insurance companies, except when no national provider is available or when an exemption has been approved by the Minister of Trade; following strong reaction from the coal industry relating to the readiness of the national shipping to support coal exports and the fact that most coal is exported free-on-board with the buyer bearing the cost of insurance and freight, implementation was delayed until May 2019 for insurance and May 2020 for shipping.<sup>151</sup>

## 4.2.2 Energy

4.110. During the review period, Indonesia remained dependent on energy imports to cover its consumption needs. Total primary energy supply rose by 20%, from 1.2 million barrels of oil equivalent (BOEs) (2013) to 1.5 million BOEs (2018), and its mix (excluding biomass) changed, with oil, gas and hydropower being overtaken by coal, renewables and biofuels.<sup>152</sup> As at 2018, it consisted of oil (38.81%), coal (32.97%), gas (19.67%), hydropower (2.74%), geothermal (1.78%), solar (0.02%), wind (0.03%), other renewables (2.03%), biofuel (1.94%) and biogas (0.01%), compared to 2013 figures of oil (48.13%), coal (24.79%), gas (22.12%), hydropower (3.15%), geothermal

sectors. PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at:

<https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>147</sup> MoF, *Tax Expenditure Report 2019*. Viewed at: <https://fiskal.kemenkeu.go.id/publikasi/tax-expenditure-report>

<sup>148</sup> GR No. 8/2018, MoEMR Regulation No. 19/2018, and MoEMR Decree No. 1395 K/30/MEM/2018.

<sup>149</sup> The HBA is a monthly average price, based on 25% of each of the following: Platts Kalimantan 5,900 kcal/kg GAR assessments; Argus-Indonesia Coal Index 1 (6,500 kcal/kg GAR); Newcastle Export Index (6,322 kcal/kg GAR); and globalCOAL Newcastle (6,000 kcal/kg NAR). Indonesia Investments, *Domestic Market Obligation Indonesia: Coal Price Capped at \$70 per Ton*. Viewed at: <https://www.indonesia-investments.com/business/business-columns/domestic-market-obligation-indonesia-coal-price-capped-at-70-per-ton/item8653>; and S&P Global Platts, *Listen: When it comes to crude, Chinese buyers are spoilt for choice*. Viewed at: <https://www.spglobal.com/platts/en/market-insights/podcasts/oil/043020-china-crude-buyers>.

<sup>150</sup> Reportedly, the special price and DMO requirements were to significantly ease the burden of PLN, since its production costs had increased significantly after coal prices spiked in late 2016. MoEMR Decree No. 78 K/30/MEM/2019, concerning the Determination of Minimum Coal Sales for the Domestic Market Obligation for the Year 2019; and PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>151</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at:

<https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>152</sup> MoEMR (2019), *2018 Handbook of Energy & Economic Statistics of Indonesia*.

(1.25%), and biofuel (0.56%). Final energy consumption continued to considerably outstrip supply, and rose by 10.9% from 844,527 BOEs (2013) to 936,332 BOEs (2018); in 2018, its allocation by type of energy mainly consisted of fuel (38.8%), electricity (18.7%), biodiesel (13.1%), and coal (11.6%), whereas by type of consumer it mainly was transportation (45.06%), industry (33.51%) and households (14.76%). To meet its 2018 energy consumption needs, Indonesia imported 349,201 BOEs, of which 47.4% was petroleum fuel, 32.4% crude oil, 13.6% liquefied natural gas (LNG), and 6.6% coal and electricity (Section 4.2.2.2).

4.111. Under the 2014 National Energy Policy (*Kebijakan Energi Nasional*, KEN), a comprehensive policy covering both the supply and demand sides, the authorities aimed at achieving security of the domestic energy supply by reducing gasoline dependency and increasing the use of renewable energy. It also addresses: the availability of energy to meet the nation's requirements; energy development priorities; the utilization of national energy resources; and national energy buffer reserves. The KEN sets a clear target of the share of each type of primary energy, from 2025 to 2050, as follows: new and renewable energy (NRE) at least 23% in 2025 and 31% in 2050; oil less than 25% in 2025 and 20% in 2050; coal at least 30% in 2025 and 25% in 2050; and gas at least 22% in 2025 and 24% in 2050.<sup>153</sup> The RPJMN 2015-19 was, *inter alia*, aimed at achieving energy sovereignty by utilizing domestically available energy resources (gas, coal and hydropower), as well as fulfilling energy demand by prioritizing the development of renewable energy (Section 2.2.2).<sup>154</sup> The National General Energy Plan (*Rencana Umum Energi Nasional*, RUEN), consisting of a cross-sectorial strategy and an implementation plan to achieve the 2014 KEN objectives, was issued in March 2017.<sup>155</sup> The RUEN sets out the results of the energy demand-supply modelling until 2050, and the policies and strategies to be undertaken to achieve those targets. Under the RUEN, the Government seeks to re-emphasize energy use as a driver of the national economy. The RUEN's objectives include ensuring universal access to affordable, reliable and modern energy services; increasing the electrification ratio to 100% by 2020; construction of biogas infrastructure (preparing a roadmap to achieve biogas production of 47.4 million standard cubic feet per day by 2025 for the household sector); accelerating the substitution of oil fuel with gas in the household sector; and developing a city gas network for 4.7 million household connections by 2025.<sup>156</sup> It also serves as a reference for central and local governments, SOEs and other stakeholders to contribute to improving national energy security and equitable access to energy.<sup>157</sup> The RUEN, which is coordinated by the National Energy Council, is to be reviewed every five years, or whenever there are changes to the fundamentals of the KEN or strategic energy policies.

#### 4.2.2.1 Hydrocarbons

4.112. The DGOG under the MoEMR remains responsible for the preparation, implementation, direction, supervision and implementation of various policies in the oil and gas industry, including: the lifting calculation formula and its division between the local and central governments; the policy on the gradual reduction of the fuel subsidy (Section 4.2.2.1.2); the offering of new exploration and production blocks; and the preparation of other policies for the oil and gas industry.<sup>158</sup>

##### 4.2.2.1.1 Upstream

4.113. During the review period, the contribution of oil, gas and geothermal extraction to GDP dropped drastically, from 5.6% (2013) to 2.9% (2019) (Table 1.2). In 2019, Indonesia was the

<sup>153</sup> GR No. 79 of 2014 on the National Energy Policy (NEP). IAEA, *Country Nuclear Power Profiles, 2018 Edition*. Viewed at: <https://www-pub.iaea.org/MTCD/Publications/PDF/cnpp2018/countryprofiles/Indonesia/Indonesia.htm>.

<sup>154</sup> FAO, *National Medium-Term Development Plan 2015-19*. Viewed at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC183392/>.

<sup>155</sup> PR No. 22/2017, cited in PWC (2018), *Power in Indonesia, Investment and Taxation Guide*, November 2018, 6<sup>th</sup> edition.

<sup>156</sup> UNESCAP, *National Energy Policy in Indonesia*. Viewed at: <https://www.unescap.org/sites/default/files/UN%20ESCAP%20Workshop%20Indonesia%20Mr.%20Budi%20Cahyono.pdf>.

<sup>157</sup> USAID, *Indonesia's National Energy Plan Signed*. Viewed at: <http://www.iced.or.id/en/indonesias-national-energy-plan-signed/>; and Purnomo Yusgiantoro Center, *A Brief Review on Indonesia's National Energy Policy*. Viewed at: <https://publication-pyc.org/wp-content/uploads/2018/12/A-Brief-Review-on-Indonesias-National-Energy-Policy.pdf>.

<sup>158</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide*, September 2019, 10<sup>th</sup> Edition. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities--mining-publications/oil-gas-guide-2019.html>.



world's 23<sup>rd</sup> largest oil producer; it held proved oil reserves of 3.2 billion barrels at end-2018.<sup>159</sup> Between 2013 and 2018, crude oil production ranged from 772,252 barrels of oil per day (2018) to 831,000 barrels per day (2016); the declining production was due, *inter alia*, to few significant oil discoveries, and reliance upon mature oil fields that continue to decline in production. In the same period, the share of oil in total exports dropped from 5.6% to 2.8% and to 1% (2019) alongside oil price developments (Table A1.3).

4.114. In 2018, Indonesia ranked 11<sup>th</sup> in terms of global gas production, and its proven reserves stood at 96 trillion cubic feet.<sup>160</sup> Gas production represents 60% of total oil and gas production in thousand BOE per day, and this portion is estimated to increase to 70% in 2020 and 86% in 2050. Between 2013 and 2018, gas production ranged from 6.8 billion standard cubic feet per day (2013) to 8.2 billion standard cubic feet per day (2016).<sup>161</sup> In the same period, the shares of natural gas in gaseous state and liquefied natural gas in total exports dropped from 2.8% to 2.0% and from 7.1% to 3.9%, respectively (Table A1.3).

4.115. Between 2013 and 2018, upstream oil and gas investment dropped progressively by about 47%, from USD 19.3 billion (2013) to USD 10.3 billion (2017), before recovering slightly to USD 10.9 billion.<sup>162</sup> In order to boost production, the Government declared several new upstream oil and gas strategic projects, such as the Jangkrik field development; the Tangguh Train-3; the Indonesia Deepwater Development Project; and Inpex's Abadi field development. Between 2013 and 2018, the oil and gas non-tax contribution to total state revenue peaked at 14.1% in 2014, and bottomed at 2.8% in 2016, before recovering to 4.9% in 2017 and 7.4% in 2018 due to rising oil prices.<sup>163</sup> According to Statistics Indonesia data, between 2017 and 2019, the shares of oil and natural gas revenue to total non-tax revenue rose from 20% to 31.3% and from 5.4% to 10.9%, respectively.<sup>164</sup> Furthermore, the share of corporate income tax from oil and gas in total tax revenue dropped considerably, from 8.2% in 2013 to 3.8% in 2019 (Table 3.10), reflecting, *inter alia*, world price and domestic sectoral policy developments.

4.116. Most oil and gas production is carried out by international contractors under production-sharing contract (PSC) arrangements (see below).<sup>165</sup> The state-owned limited liability company PT Pertamina (Persero) ensured 23.59% and 30.41% of oil and gas production, respectively, in 2018; in recent years, it has expanded its scope to include gas, renewables and upstream operations, both within Indonesia and abroad (Section 4.2.2.1.2 and 4.2.2.3).<sup>166</sup> The subsidiaries of the state-owned PT Perusahaan Gas Negara (PGN) (Section 4.2.3.1.2) also operate in upstream activities. Under GR No. 6 of 2018, an SOE holding company in the oil and gas sector was established, which combined the business of PGN with Pertamina, and appointed Pertamina as the holding company of SOEs serving the oil and gas industry.<sup>167</sup> In April 2018, Pertamina became the major shareholder of PGN, by acquiring the Government's controlling 56.96% stake, while PGN continues to be a publicly listed company. Thereafter, the PGN acquired 51% of the Pertamina shares

<sup>159</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities--mining-publications/oil-gas-guide-2019.html>.

<sup>160</sup> PWC (2019), *Mining in Indonesia, Investment and Taxation Guide, June 2019*. Viewed at: <https://www.pwc.com/id/en/energy-utilities-mining/assets/mining/mining-guide-2019.pdf>.

<sup>161</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities--mining-publications/oil-gas-guide-2019.html>.

<sup>162</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities--mining-publications/oil-gas-guide-2019.html>.

<sup>163</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities--mining-publications/oil-gas-guide-2019.html>.

<sup>164</sup> Statistics Indonesia (2019), *Statistical Yearbook of Indonesia 2019*, 4 July. Viewed at: <https://www.bps.go.id/publication/2019/07/04/daac1ba18cae1e90706ee58a/statistik-indonesia-2019.html>.

<sup>165</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities--mining-publications/oil-gas-guide-2019.html>.

<sup>166</sup> Pertamina entered into several joint operations within Indonesia, including taking over the operation of expiring PSCs from international oil and gas companies. It has upstream operations in Viet Nam, Malaysia, Sudan, Qatar and Libya, and provides aviation fuel services at ten international airports.

<sup>167</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities--mining-publications/oil-gas-guide-2019.html>.

in Pertagas, thus becoming the majority shareholder of Pertagas. Under GR No. 23/2020 on the National Economic Recovery Programme, which took effect on 11 May 2020, as with the state-owned electricity company PT Perusahaan Listrik Negara (Persero) (PLN) (Section 4.2.2.2), Pertamina is to receive IDR 45 trillion in the form of accelerated compensation payments, representing the retail price difference for certain types of fuel.<sup>168</sup>

### ***Institutional and regulatory framework***

4.117. In 2013, BPMIGAS was replaced by the Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas), an autonomous agency.<sup>169</sup> SKK Migas controls upstream activities and manages oil and gas contractors on behalf of the Government, so that the extraction of natural oil and gas resources provide maximum benefits and revenues for the State. Its role consists of: advising the MoEMR on the preparation and offering of the bidding round of work areas and joint cooperation contracts (JCCs, see below); acting as a party to JCCs; assessing first field development plans in a given work area, and submitting evaluations to the MoEMR for approval; approving development plans; approving work plans and budgets; reporting to the MoEMR, and monitoring the implementation of JCCs; and appointing sellers of the State's portion of petroleum and/or natural gas to the Government's best advantage. A member of OPEC since 1961, Indonesia suspended its membership in 2009 after years of declining production, re-joined in January 2016, but suspended its membership again in November 2016, seemingly due to OPEC requests to cut production.

4.118. During the review period, regulatory reform benefited upstream activities. Aside from the changes in the PSC system (see below), the Government revoked, in March 2018, 18 regulations and 23 requirements for certifications, recommendations, and permits, in an attempt to reduce duplication in certification, shorten bureaucracy, and simplify business.<sup>170</sup>

4.119. The main legislation governing upstream and downstream oil and gas activities, Law No. 22 of 23 November 2001, remains unchanged but several new regulations were issued over the review period; a draft amendment of the Law became publicly available in 2018 for comments from relevant stakeholders, and was still with Parliament as at July 2020.

4.120. Upstream activities (i.e. exploration and exploitation) continue to be conducted in regions known as work areas.<sup>171</sup> Work areas are formalized upon approval from the MoEMR, in consultation with SKK Migas and the relevant local authorities, and then specified in a JCC (see below). A work area can be offered either through a tender or a direct offer. The first 2019 oil and gas tender resulted in two new oil and gas work areas, while the second 2019 tender, with four working areas offered, was still ongoing at the end of July 2020.

4.121. During the review period, a major change in upstream contracting was made. Activities remain controlled through JCCs (predominantly PSCs, Service Contracts, or Joint Operation Agreements) between the contractor (i.e. business entity or permanent establishment) and the executing agency (i.e. SKK Migas).<sup>172</sup> In 2017, to revive deteriorating investment in the oil and gas industry, the MoEMR introduced a new form of PSC based on gross production split (Gross Split

<sup>168</sup> This funding is aimed at strengthening the capital structure of the companies or their subsidiaries affected by the outbreak, and increasing SOEs' and their subsidiaries' capacity in carrying out economic recovery programmes mandated by the Government. Viewed at: <https://www.thejakartapost.com/SSL+government-issues-regulation-on-economic-recovery-program-focuses-on-soes-msmes.html>.

<sup>169</sup> BPMIGAS was dissolved by the Constitutional Court on 13 November 2012 because it was considered to be in conflict with the 1945 Constitution. PR No. 9 of 2013 concerning Management of Upstream Oil and Gas Business Activities, cited in PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>170</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>171</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>172</sup> Indonesia is an international pioneer in many areas of oil and gas production, including the development of the PSC model. Article 6 of Law No. 22, cited in PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.



PSC), replacing the cost-recovery scheme in place since 2008.<sup>173</sup> Under MoEMR Regulation No. 26/2017 (amended by MoEMR Regulations No. 47/2017, No. 24/2018, and No. 46/2018): for (conventional) PSCs, unrecovered investment costs can be carried forward to the extended (conventional) PSC; and for the new Gross Split PSC, unrecovered investment costs should be considered as an additional split/take for the existing contractor. Every contractor can hold only one work area (the "ring-fencing" principle) and must return it, in stages or in its entirety. JCCs remain valid for a maximum of 30 years from the date of approval. After this time, the contractor can apply to the MoEMR for an extension of a maximum 20-year period per extension, which can be submitted no earlier than 10 years and no later than 2 years before the JCC expires. According to the DGOG's 2018 Annual Report, between 2017 and 2018, 11 new contracts were signed compared to 27 in 2013-16; this reduction may partly be a consequence of investors taking time to consider the change in the PSC system, which has possibly also had an impact on reduced oil and gas non-tax state revenue.

4.122. Upstream and downstream activities (Section 4.2.2.1.2) may be carried out by SOEs, regional administration-owned companies, cooperatives, small-scale businesses or private-business entities. Upstream activities may include branches of foreign incorporated enterprises as a permanent establishment. However, upstream entities are prohibited from engaging in downstream activities, and vice versa, except where an upstream entity must build transport, storage or processing facilities or other downstream activities that are integral to supporting its exploitation activities.<sup>174</sup>

4.123. Under the 2016 negative investment list, which replaced the 2014 list (Section 2.4.2, Table 2.6), foreign investment companies: may no longer engage in onshore drilling; the maximum foreign shareholding for offshore drilling is 75%; may no longer engage in oil and gas construction services for onshore pipe installations, production installations, horizontal/vertical tanks or storage installations; the maximum foreign shareholding for oil and gas construction services for offshore pipe installations and spherical tanks is 49%, while for construction of oil and gas platforms it is 75%; may no longer engage in the operation and maintenance of wells, design and engineering support services, or technical inspections; and, for oil and gas survey services, the maximum foreign shareholding is 49%.<sup>175</sup>

### **Border measures**

4.124. During the review period, tariff protection for upstream and downstream (Section 4.2.2.1.2) hydrocarbons (several HS27 sub-headings) remained unchanged, and remained below both the overall applied MFN average (10.1%, 2020) and the average for agriculture and manufacturing. The MFN applied rates remain at zero (e.g. crude oil) and 5%, depending on the product, and tariffs are bound at a single rate of 40%; this suggests an average gap of either 35 percentage points or 40 percentage points.

4.125. Imports for use in upstream oil and gas exploitation activities are exempt from import duties, VAT and the luxury-goods sales tax. In 2017, this exemption represented tax expenditure estimated at IDR 194 billion for PSC-related imports (Section 3.1.3.6). Imports require appropriate approvals from the MoEMR, the MoF and other minister(s), and can be imported only if they are not available domestically and/or meet requirements in terms of quality/grade, efficiency, guaranteed delivery time and after-sales service. Import restrictive licensing on oil and gas seems to remain in place (Section 3.1.5.2, and Table A3.4). Quantitative export restrictions based on DMO requirements for

<sup>173</sup> Reportedly, the Gross Split regime, under MoEMR Regulation No. 8/2017 as amended by MoEMR Regulation No. 52/2017, has fundamentally "shifted" the key principles and regulatory framework of the (conventional) cost-recovery model in the upstream sector, which had been in place for more than 40 years. The PSC with a cost-recovery mechanism, introduced in 2008, was the fifth-generation PSC; while the after-tax equity split was negotiable, it limited the spending available for cost recovery (via a negative list, as regulated) and offered incentives in other areas such as via investment credits. PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>174</sup> Article 10 of Law No. 22, cited in PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>175</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

oil and gas seemingly continue to apply (Section 3.2.3.2, and Table 3.8). No data on annual import and export quotas were available from the authorities.

### **Domestic production measures**

4.126. Under Law No. 22, entities carrying out oil and natural gas business activities must give priority to the use of local manpower, and domestic goods, services, and engineering and design capabilities, in a transparent and competitive manner.<sup>176</sup> Local-content requirements on procurement for oil and gas projects were to be raised from 61% in 2012 to 64% by 2024 (Section 3.1.7).

4.127. Since 2013, procurement of goods and services by oil and gas contractors has remained subject to preference requirements in favour of domestic suppliers of goods, services, technology, and design and engineering capabilities, as long as they are of comparable quality, price and availability to foreign ones (Section 3.3.6).<sup>177</sup> Local goods and services must be given preference if their prices are within a margin of 15% and 7.5% compared to the lowest tender, respectively. For purchases in excess of USD 5 million, detailed procedures, including the calling of tenders and approval by SKK Migas, must be followed. All goods and equipment purchased by contractors in the context of petroleum operations become state-owned goods; they are administered by SKK Migas as stipulated in the PSC.

4.128. During the review period, DMOs for both oil and gas required under Law No. 22 and relevant implementing regulations remained in place. The contractor is responsible for meeting demand for crude oil and/or natural gas for domestic needs. Since 2017, the DMO has been at 25% of the produced petroleum and/or natural gas; previously, it was set at a maximum of 25% of the contractor's share of production.<sup>178</sup> In 2017, an incentive in the form of a DMO holiday (for oil), issued by the MoEMR upon MoF approval, was introduced. Since 2018, the state-owned Pertamina (see above) is required to prioritize the procurement of crude oil from domestic sources prior to importing, with PSC contractors being obliged to offer their portion of crude oil to Pertamina, before exporting, pursuant to business-to-business negotiations (presumably meaning that the crude need not be sold under "market" value); there has reportedly been concern over this measure possibly resulting in lowering of oil export revenue.<sup>179</sup>

4.129. Upstream activities are supported by several tax allowances and incentives (Sections 3.3.1 and 4.2.2.3). Tax incentives include: duty-free import of goods under PSCs for oil and gas; land and building tax deductions for the oil and gas sector in the exploration phase; land and building tax deductions for geothermal mining in the exploration phase (Section 4.2.2.3); and income tax borne by the Government for geothermal enterprises.

#### **4.2.2.1.2 Downstream**

4.130. During the review period, the contribution of oil and gas manufacturing industries to GDP dropped from 3.4% (2013) to 2.2% (2019) (Table 1.2). With a refining capacity of just over 1.151 million barrels per day in 2018, and a domestic product demand of 1.5-1.6 million barrels per day, Pertamina must import more than a third of its fuel requirements, instead of bringing in crude for processing.<sup>180</sup>

<sup>176</sup> MoEMR Regulation No. 15/2013 on the Use of Domestic Products for Upstream Business of Oil and Natural Gas implements the relevant provisions of Law No. 22.

<sup>177</sup> MoEMR Regulation No. 15 of 2013 of 22 February 2013.

<sup>178</sup> GRs No. 35 and No. 79/2010, as amended by GR No. 27/2017, cited in PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>179</sup> MoEMR Regulation No. 42/2018, cited in PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>180</sup> Nikkei Asian Review, *Pulling Indonesian oil refining out of decline*. Viewed at: <https://asia.nikkei.com/Opinion/Pulling-Indonesian-oil-refining-out-of-decline>; Reuters, *Indonesia's Pertamina plans investment increase to double refinery capacity*. Viewed at: <https://af.reuters.com/article/commoditiesNews/idAFL3N20H2ZP>; and MoEMR (2019), *2018 Handbook of Energy & Economic Statistics of Indonesia*.

4.131. As at 2013, Pertamina owned six oil refineries, which had a total combined capacity of around 1 million barrels (160,000 cubic metres) of oil per day; in addition, it was responsible for another four smaller capacity refineries. The authorities indicated that Pertamina has no *de jure* monopoly rights regarding fuel imports or oil refining (see below). Pertamina plans to double its refining capacity to 2 million barrels per day by 2026; as at February 2019, it was working on at least seven refinery projects. Pertamina continues to operate the largest distribution network of petroleum products (gas stations, etc.) in the country. It has invested in two operating companies, which manage output from liquefied natural gas (LNG) plants (PT Badak LNG, and PT Donggi Senoro LNG).

4.132. PGN, which is partly owned by Pertamina since 2018 (Section 4.2.2.1.1), continues to operate a natural gas distribution pipeline network and a natural gas transmission pipeline network.<sup>181</sup> Following the acquisition, Pertamina and PGN agreed to integrate and streamline the gas distribution business previously held by PGN and PT Pertamina Gas (Pertagas), a wholly-owned subsidiary of Pertamina. In December 2018, PGN acquired Pertamina's 51% controlling interest in Pertagas, and became the sub-holding entity for gas operations.

### **Policy and institutional framework**

4.133. Phase VIII of the 16 Economic Policy Packages (EPP), introduced in 2015, focused on intensifying domestic oil production through incentives for the development of oil refineries by the private sector (Section 2.2.2, and Table 2.2).<sup>182</sup>

4.134. BPH Migas, an autonomous agency, remains the regulatory agency charged with ensuring sufficient natural gas and domestic fuel supplies, and the safe operation of refining, storage, transportation and distribution of gas and petroleum products via business licences.<sup>183</sup> It remains responsible for the supervision of fuel oil distribution and the transportation of gas through pipelines operated by Indonesian-incorporated entities (PT companies).

### **Regulatory framework**

4.135. Similar to upstream activities, Law No. 22 remains the main legal framework governing downstream operations.<sup>184</sup> Businesses are required to operate through a PT company, and to have a business licence (issued by the BKPM and the MoEMR, with input from BPH Migas). To guarantee the availability and distribution of certain types of fuel oil, the MoEMR has the authority to designate areas of trading of certain types of fuel oil. Transportation of gas by pipelines via a transmission segment or a distribution network area is permitted only with the approval of BPH Migas, with licences being granted only for specific pipelines/commercial regions.

4.136. Downstream activities remain open to domestic and foreign private investment. Law No. 22 formally liberalized the downstream market by opening the sector (processing, transportation, storage, and trading) to FDI, and ending the former *de jure* monopoly of Pertamina.<sup>185</sup>

<sup>181</sup> PGN subsidiaries and affiliated companies are involved in upstream activities, downstream activities, telecommunications, construction, and a floating storage and regasification terminal. PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>182</sup> Indonesia Investments, *16<sup>th</sup> Economic Policy Package Indonesia: Investment, Tax Holiday & Export Earnings*. Viewed at: <https://www.indonesia-investments.com/news/todays-headlines/16th-economic-policy-package-indonesia-investment-tax-holiday-export-earnings/item9035>.

<sup>183</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>184</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

<sup>185</sup> PWC (2019), *Oil and Gas in Indonesia, Investment and Taxation Guide, September 2019, 10<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/oil-gas-guide-2019.html>.

**Border and domestic production measures**

4.137. During the review period, tariff protection and non-tariff measures on downstream activities remained unchanged (Section 4.2.2.1.1).

4.138. To reduce the increasing volume of liquefied petroleum gas (LPG) imports, a programme to substitute LPG for dimethyl ether from coal, and to substitute LPG stoves for induction stoves, was being prepared as at July 2020.

4.139. PT companies continue to pay a royalty to BPH Migas for: carrying out the supply and distribution of fuel oil and/or transmission of natural gas via pipeline; or operating the natural gas distribution network facilities in the distribution network area and/or transmission section. The royalty is settled monthly, and is volume-based (GR No. 48/2019); as at 2019, the rates for fuel oil sales were 0.25% (sales volume <25 million kL), 0.175% (sales volume >25 and <50 million kL) and 0.075% (sales volume >50 million kL) of the selling price, depending on the volume sold, and gas transmission rates were 1.5% (volume >100 million kL) and 2.5% (volume <100 million kL) transmission tariff per 1,000 standard cubic feet. For natural gas sales by pipeline the royalty rates were 0.25%.

4.140. During the review period, downstream activities benefited from expanded tax incentives, in the form of tax holidays for pioneer industries (since 2018) and tax allowances available on a sector-specific basis for national priority activities with specific potential development areas (GR No. 78/2019) (Sections 2.4.4 and 3.3.1.1.1.1).

4.141. During the review period, very significant changes to Indonesia's fuel subsidy policy were made.<sup>186</sup> Under reforms undertaken in 2015, changes were as follows: the gasoline subsidy in the Java-Madura-Bali (Jamali) area, in central Indonesia, was entirely removed, and gasoline sold outside this region still received a 2% subsidy, in compensation for higher distribution costs; a fixed subsidy for diesel, set at IDR 1,000 (USD 0.08) per litre below market prices, was introduced, and was then reduced to IDR 500 per litre in July 2016; and the retail price of kerosene across the country was fixed at IDR 2,500 (USD 0.20) per litre. Under the new pricing system, which aims to limit volatility and equalize fuel prices across the country, gasoline and diesel prices are adjusted on a regular basis, according to a published pricing formula.<sup>187</sup> In a renewed effort to even-out fuel-price disparities across the country, a Single Fuel Price policy was introduced on 17 October 2016 to align retail fuel prices in 150 remote regions with prices in the Jamali region (IDR 6,450 for gasoline and IDR 5,500 for diesel as at June 2017). As at April 2018, subsidies kept three fuel retail prices below world market prices: gasoline (distribution cost compensation); diesel (fixed subsidy); and kerosene (fixed price). Since 2014, falling energy prices and substantial reforms have allowed significant reduction in the entire energy subsidy bill.<sup>188</sup> No recent data on the budgetary outlays to support the fuel subsidy policy were available from the authorities.

<sup>186</sup> Indonesia has a long history of keeping the domestic prices of its fossil fuels artificially low. *Indonesia's effort to phase out and rationalise its fossil-fuel subsidies - A report on the G20 peer-review of inefficient fossil-fuel subsidies that encourage wasteful consumption in Indonesia*, prepared by the members of the peer-review team: China, Germany, Italy, Mexico, New Zealand, World Bank, IEA, IISD – GSI, GIZ Indonesia and OECD (Chair of the peer-review), April 2019.

<sup>187</sup> The price-setting formula takes the average international oil price index as a reference (Indonesia uses the Mean of Platts Singapore), adjusted for the USD/IDR exchange rate, storage and distribution costs, 10% VAT, 5% vehicle fuel tax, and a margin for distributors (ranging from 5% to 10%). *Indonesia's effort to phase out and rationalise its fossil-fuel subsidies - A report on the G20 peer-review of inefficient fossil-fuel subsidies that encourage wasteful consumption in Indonesia*, prepared by the members of the peer-review team: China, Germany, Italy, Mexico, New Zealand, World Bank, IEA, IISD – GSI, GIZ Indonesia and OECD (Chair of the peer-review), April 2019.

<sup>188</sup> Between 2014 and 2015, the Government saved IDR 120 trillion (USD 9 billion), as fossil fuel subsidy outlays dropped from IDR 240 trillion (USD 20 billion) to IDR 60 trillion (USD 4.5 billion). The share of fossil fuel and electricity (Section 4.2.2.2) subsidies in total government expenditure fell by 12.5 percentage points, while their share in GDP decreased from 4% to 1.5%; this important cut enabled the reallocation of spending towards productive sectors. In 2015, more than 60% of fossil-fuel subsidy savings were invested in infrastructure and rural and regional development projects. *Indonesia's effort to phase out and rationalise its fossil-fuel subsidies - A report on the G20 peer-review of inefficient fossil-fuel subsidies that encourage wasteful consumption in Indonesia*, prepared by the members of the peer-review team: China, Germany, Italy, Mexico, New Zealand, World Bank, IEA, IISD – GSI, GIZ Indonesia and OECD (Chair of the peer-review), April 2019.

#### 4.2.2.2 Electricity

4.142. During the review period, on-grid installed power plant (PP) capacity increased by 22%, from about 51.0 GW (2013) to 62.2 GW (or 64.9 GW off-grid, 2018); in 2018, the fuel mix consisted of coal/steam PPs (50.7%), combined cycle (gas and steam turbine) PPs (18%), gas PPs (8.6%), hydro PPs (7.1%), diesel PPs (6.8%), gas engine PPs (3.8%), and other renewable energy PPs (1.2%) (Section 4.2.2.3), reflecting Indonesia's natural abundance of coal and hydrocarbons.<sup>189</sup> Between 2013 and 2018, off-grid PP production increased by 31.3%, to 283,815.24 GWh. As at end-2017, through its over 600 isolated grids and eight major networks, the state-owned PLN (see below) served 67.5 million customers (53.9 million in 2013), through a transmission network comprised of 48,901 kilometre circuits (kmc) (39,395 kmc in 2013) of transmission lines, 113,791 Megavolt Amperes (81,345 MVA in 2013) of transmission transformer capacity, and 946,101 kmc (798,944 kmc in 2013) of electric distribution lines.<sup>190</sup> In 2019, the PLN served 75.7 million customers, and operated 58,959 kmc of transmission network, substations producing 144,408 MVA, and 979,855 kmc of distribution network. The national average electrification rate rose from 80.51% (2013) to 98.89% (end-2019); however, electricity distribution remains uneven, with higher ratios in more industrialized areas, such as the western part of Java.<sup>191</sup> Electricity consumption per capita on a national basis rose significantly, from 774 kWh in 2013 to 1,021 kWh in 2017, but it is still relatively low compared to most neighbouring countries.<sup>192</sup> The structure of domestic sales remained virtually unchanged and, in 2018, on-grid electricity was supplied as follows: 97,800 GWh (42%) for households; 76,900 GWh (33%) for industry; 59,500 GWh (25%) for the commercial sector, and 274 GWh (0.12%) for transportation, especially commuter trains.<sup>193</sup> In 2019, electricity sales of 245,518 GWh consisted of: household customers 103,733 GWh (42.2%); industry 77,879 GWh (31.7%); business 46,901 GWh (19.1%); and others 17,005 GWh (6.93%). To meet demand, electricity imports from Malaysia increased from 3 GWh in 2013 to 1,496 GWh in 2018 and 1,682 GWh in 2019, due to a shortage of power in West Kalimantan and an interconnection that became operational in January 2016; they are carried out under a 20-year agreement, signed on 5 September 2012, between PLN (see below) and the Malaysian Sarawak Energy Supply Corporation.<sup>194</sup>

4.143. The PLN remains responsible for the majority of power generation, with *de facto* exclusive powers over the transmission, distribution and supply of electricity to the public; it is also the electricity provider of last resort.<sup>195</sup> The PLN is regulated and supervised by the MoEMR, the Ministry of SOEs, and the MoF. Private-sector participation is allowed through independent power producer

<sup>189</sup> Increasing oil prices drove the energy mix away from diesel PPs. The PLN aims to significantly reduce the use of oil in future energy generation, from 5.8% in 2017 to 0.4% by 2023; in 2013, its share stood at 11.6%. PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>; MoEMR (2019), *2018 Handbook of Energy & Economic Statistics of Indonesia*.

<sup>190</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>; MoEMR, *Country Report – Electricity Sector in Indonesia*. Viewed at: <https://eneken.ieej.or.jp/data/7390.pdf>.

<sup>191</sup> Statista, *Electrification rate in Indonesia from 2010 to Q3 2019*. Viewed at: <https://www.statista.com/statistics/865133/indonesia-electrification-rate/>.

<sup>192</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>193</sup> MoEMR (2019), *2018 Handbook of Energy & Economic Statistics of Indonesia*; and Secretariat General of the National Energy Council (2019), *Indonesia Energy Outlook 2019*. Viewed at: <https://www.esdm.go.id/assets/media/content/content-indonesia-energy-outlook-2019-english-version.pdf>.

<sup>194</sup> The Sarawak-West Kalimantan link is the first Indonesian leg of the ASEAN Power Grid project; connections already exist between a number of ASEAN countries, including Thailand, Lao PDR, Malaysia, Singapore, Viet Nam and Cambodia. PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>; and MoEMR (2019), *2018 Handbook of Energy & Economic Statistics of Indonesia*.

<sup>195</sup> The private sector is legally permitted to operate transmission and distribution grids. Certain transmission lines are built by IPPs, particularly those for PPs in remote areas, in order to connect them to the closest PLN substation. However, ownership of these transmission lines is typically transferred to the PLN upon completion of construction. PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.



(IPP) or public-private partnership (PPP) arrangements; appointments are most often granted through competitive tenders, although IPPs can be directly selected or directly appointed in certain circumstances.<sup>196</sup> Since 2013, the PLN has made power purchase agreements with 26 IPP fossil-fuelled projects, with a total capacity of 15.3 GW. Operators generating electricity for their own use rather than for sale to the PLN, known as private power utility (PPUs), may sell their excess power under a power purchase agreement (PPA) of less or more than one year, depending on local power needs, at a maximum benchmark price equal to 90% of the regional electricity generation cost (*Biaya Pokok Pembangkitan*, BPP).<sup>197</sup> IPPs can design, finance, and construct special facilities (transmission lines/switchyard/any facilities that have been agreed to in the PPAs); these are taken over by the PLN upon the completion of the construction. Upon being taking over by the PLN, this latter shall own, operate, and maintain the special facilities; since 2013, 25 fossil-powered IPPs built special facilities in agreement with the PLN. Whenever the PLN needs to work with a foreign business entity, priority must be given to entities owned by the related foreign government (i.e. a foreign SOE).<sup>198</sup> The 2017 strategy of assigning many fossil fuel-based projects to PLN subsidiaries is now being applied to some renewables projects too; the PLN generally expects its subsidiary to take a 51% shareholding in a project's special purpose vehicle.<sup>199</sup> The majority of the power-generating assets remain controlled by the PLN, including its subsidiaries (e.g. Indonesia Power, Pembangkitan Jawa Bali, and PLN Batam). In 2013, the total installed capacity consisted of PLN power plants and subsidiaries of 34,206 GW (71%), IPP plants of 9,687 GW (20%), and rental plants of 4,296 GW (9%); in 2019, it was 42,832 GW (68%), 18,161 GW (29%) and 1,840 GW (3%), respectively. Under GR No. 23/2020 on the National Economic Recovery Program, which took effect on 11 May 2020, as with Pertamina, the PLN is to receive IDR 45.42 trillion in the form of accelerated compensation payments.<sup>200</sup>

### **Policy and institutional framework**

4.144. During the review period, power policy objectives were set out in different documents. Under the 2014 KEN (see above), the key points directly related to the sector include: reaching installed capacity for power generation of 115 GW by 2025 and 430 GW by 2050; achieving per capita electricity consumption of 2,500 kWh by 2025 and 7,000 kWh by 2050; and attaining an electrification ratio of close to 100% by 2020.<sup>201</sup>

4.145. The National Electricity Plan (RUKN) develops the framework for the electricity supply system to meet domestic demand, and is reviewed at least every three years.<sup>202</sup> It provides guidance on investment and funding, and targets for increasing the use of NRE resources and electrification coverage. The RUKN, *inter alia*, sets: a 20-year projection of electricity demand and supply; the investment and funding policy; and the approach to the utilization of NRE resources (Section 4.2.2.3). The draft 2015-34 RUKN was developed based on the KEN and RUEN (see above), which are stipulated under GR No. 79/2014 and PR No. 22/2017, respectively.

4.146. The 2016-25 Electricity Supply Business Plan (RUPTL), a 10-year electricity development plan for operating areas that is reviewed annually, includes demand forecasts, future expansion plans, electricity production forecasts, and fuel requirements.<sup>203</sup> It indicates the projects to be developed by the PLN, and those available to IPPs. Direct selection or direct appointments for IPPs to build PPs are based on the RUPTL. To achieve an electrification ratio of 99.7% by 2025, the RUPTL indicates that at least 80.5 GW of PPs will need to be constructed by 2025, with 18.2 GW of plants

<sup>196</sup> GR No. 14/2012 (as amended by GR No. 23/2014), and PR No. 38/2015 and its implementing LKPP Regulation No. 19/2015 on Government Procurement of Goods and Services Policy Board Regulation.

<sup>197</sup> MoEMR Regulation No. 19/2017.

<sup>198</sup> PR No. 4/2016, as amended by PR No. 14/2017.

<sup>199</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/publications/assets/eumpublications/utilities/power-guide-2018.pdf>.

<sup>200</sup> Viewed at: <https://www.thejakartapost.com/SSL+government-issues-regulation-on-economic-recovery-program-focuses-on-soes-msmes.html>.

<sup>201</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/publications/assets/eumpublications/utilities/power-guide-2018.pdf>.

<sup>202</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>203</sup> PWC (2018), *Power in Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

to be constructed by the PLN and 45.7 GW by IPPs; the remaining 16.6 GW has not yet been allocated between the PLN and IPPs. According to the RUPTL, the construction of this level of power generation would require investment of at least USD 31.9 billion by the PLN, and USD 78.2 billion by IPPs. A five-year 35 GW Programme 2015-19, announced in late 2014, was aimed at improving the overall power systems, by completing generation projects of this capacity, as well as 46,000 km of transmission lines.<sup>204</sup> As a result of changes in both demand forecasts and planned capacity targets at the 2018 RUPTL, the PLN and IPP investors are now expected to construct about 56 GW of generating capacity by 2027, with 16.6 GW by the PLN and 32 GW by IPPs, and 7.4 GW yet to be allocated. Furthermore, the deployment of 35 GW of new generating capacity by 2019 was officially delayed until 2024. Under the RUPTL 2019-28, the electrification ratio targeted is set at 100%, with PP total capacity planned to be built of 56.395 GW, consisting of 16.243 GW built by the PLN, 33.666 GW by IPPs, 300 GW by cooperation between operators in Wilayah Usahas, and 6.185 GW unallocated; to meet these targets, investment of USD 36.9 million by the PLN and USD 58.8 million by IPPs is required.

4.147. Phase IX (January 2016) of the EPP also focused on accelerating electricity generation (Section 2.2.2, and Table 2.2).

4.148. The MoEMR and its sub-agencies, i.e. the DGE and the DGNREEC (see above), continue to oversee the management of all electricity-related activities. It is responsible for developing policies and strategies, supervising electricity company businesses, and implementing laws and regulations.

### **Regulatory framework**

4.149. During the review period, the main legislation governing electricity, Law No. 30/2009, remained unchanged but several new or amended implementing regulations were issued. They included: GR No. 23 of 2014 on Business Activities of Electricity Provision; PR No. 4 of 2016 (Article 14) on Electricity Infrastructure Acceleration (Section 4.2.2.3); MoEMR Regulation No. 38/2016 on the Acceleration of Electrification in the Least Developed Rural, Isolated, Border and Populated Small Island Areas through Small-Scale Electricity Supply Businesses; MoEMR Regulation No. 35/2013 on Electricity Business Provision, amended by MoEMR Regulation No. 12/2016; PR No. 4/2016 on Infrastructure Development Acceleration Development amended by PR No. 14/2017, last amended by MoEMR Regulation No. 10/2019 on Electricity Business Plan Preparation; MoEMR Regulation No. 19/2017 on Coal Utilization for Power Generation and Excess Power Purchase; MoEMR Regulation No. 27/2018 on Compensation on Land, Building, and/or Plants under Transmission Line-Free Space; and MoEMR Regulation No. 2/2019 on amendment of MoEMR Regulation No. 18/2015 on Minimum Free Space and Minimum Free Distance on High Voltage Line, Extra High Voltage Line and High Voltage Line DC for Electricity Transmission.

4.150. Under the 2009 Electricity Law and GR No. 14/2012 (as amended by GR No. 23/2014), private participation in the supply of power for public use and for transmission and distribution is allowed, although it is *de facto* limited to the power-generation sector (see above). Under MoEMR Regulation No. 1/2015 on Power Wheeling, which aims to allow IPPs and PUs to use the PLN's existing transmission and distribution networks, it seems that there may be a change upon the release of implementing regulations on the detailed technical procedures and financial charges for access to the networks.<sup>205</sup> So far, no IPP PP or power utility has used the power wheeling mechanism.

4.151. Under the Electricity Law, electricity supply for public use can only be carried out in an integrated manner by one business entity within one operating area, or *Wilayah Usaha*.<sup>206</sup> To obtain a *Wilayah Usaha*, SOEs, private enterprises, cooperatives and self-reliant community institutions can make a request to the MoEMR through the DGE. As at end-2017, the authorities had issued

<sup>204</sup> PR No. 4/2016 (as amended by PR No. 14/2017) and MoF Regulation No. 130/2016. PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>205</sup> Power wheeling is the joint use of networks to optimize their value and to speed up the supply of additional generating capacity. PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>206</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

52 *Wilayah Usahas*, including that of the PLN, with 27 *Wilayah Usahas* already in operation and 15 not yet operating.

4.152. Holders of an Electricity Supply Business Licence or an Electricity Supporting Services Licence continue to be required to prioritize the use of domestic products and services (Section 3.1.7). Under MoI Regulation No. 54/M-IND/PER/3/2012 (as amended by MoI Regulation No. 5/M-IND/PER/2/2017), the minimum local content requirement for different sources of power generation for goods and services combines ranges: from 28.96% (geothermal) to 70.79% (coal-fired); and from 17.39% (Extra-High Voltage GIS) to 76.17% (High-Voltage Aerial Network) for transmission.<sup>207</sup>

4.153. Under the 2016 negative investment list, replacing the 2014 list (Section 2.4.2, Table 2.6), FDI limitations in the power sector are as follows: micro PPs (<1 MW) closed to foreign investment; small PPs (1 MW–10 MW) open to foreign ownership of up to 49%; small geothermal PPs (≤10 MW) open to foreign ownership of up to 67%; PPs with a capacity of more than 10 MW open to foreign ownership of up to 95% or 100% for PPP projects; electrical power transmission and distribution open to foreign ownership of up to 95% or 100% for PPP projects; power supply construction and installation (including consultancy) projects and the operation and management of electrical power installations open to foreign ownership of up to 95%; construction and installation of high-/extra-high-voltage electric power utilization open to foreign ownership of up to 49%; construction and installation of low-/medium-voltage electric power utilization closed to foreign investment; examination and testing on installations of high-/extra-high-voltage electrical power supply or utilities open to foreign ownership of up to 49%; examination and testing on installations of low-/medium-voltage electrical power utility installations closed to foreign investment; and geothermal operation and maintenance services open to foreign ownership of up to 90%, and drilling and surveying services of up to 95%.

### **Domestic support and tariffs**

4.154. During the review period, the special price and DMO requirements in place for coal seem to have significantly eased the burden of the PLN, since its production costs had increased after coal prices spiked in late 2016 (Section 4.2.1). Import duties and excise tax expenditure estimates for capital goods for the construction/development of the PP industry in the interests of the public stood at IDR 4 billion (2016) and IDR 3 billion (2017) (Section 3.1.3.6).

4.155. During the review period, reforms were undertaken to reduce electricity tariff subsidization and cross-subsidization. Retail tariffs remained below production cost, the gap being covered by a subsidy (Table 4.4). Since 2013, the electricity subsidy has stabilized, due to the stabilization of the average cost of electricity supply and the PLN's ability to pass on increases in inflation, the price of oil and the USD/IDR exchange rate to non-subsidized consumers (see below) through the automatic tariff adjustment mechanism in place since 2014.<sup>208</sup> This subsidy includes a public service obligation (PSO) margin, originally set in 2009 at 5% above the cost of electricity supplied, increased to 8% for 2010 and 2011, and reduced to 7% from 2012 onwards. Electricity tariffs under the adjustment mechanism were reviewed in 2014, 2016, 2017 (twice), 2018, 2019 and 2020.<sup>209</sup>

4.156. Since 2017, the electricity subsidy has applied to customer categories whose electricity tariff is lower than the average cost of electricity supply (Table 4.4); however, it does not apply to customers subject to the adjustment mechanism or customers not charged by the PLN (e.g. tenants

<sup>207</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>208</sup> Prior to the 1997 Asian financial crisis, the PLN was not subsidized, and tariffs were automatically adjusted. The automatic tariff adjustment mechanism was suspended in 1998 and, in the following 14 years, tariffs were adjusted only once (in 2003). This crippled the PLN financially, and the Government was forced to provide financial support to it. In 2014 (Permen ESDM 31/2014), the automatic tariff adjustment mechanism was reintroduced. It is applied monthly to 12 tariff classes. In 2015, Permen ESDM 9/2015 extended this treatment to residential consumers with R-1 1,300 VA and 2,200 VA connections. The automatic tariff adjustment mechanism adjusts tariffs based on the USD/IDR exchange rate, the Indonesian crude oil price, and inflation. ADB (2016), *Achieving universal electricity access in Indonesia*; and MoEMR Regulation No. 31/2014, as amended by MoEMR Regulation No. 9/2015.

<sup>209</sup> MoEMR Regulations No. 31/2014, No. 28/2016, No. 18/2017, No. 41/2017, No. 32/2018, No. 19/2019, and No. 3/2020.

in industrial estates).<sup>210</sup> Since January 2017, the authorities began to revoke the electricity subsidy for 900 VA customers, classified as high-income households. This followed the previous subsidy removal, on 1 January 2015, for 1,300-6,600 VA household customers, 6,600 VA up to >200 kVA business and government offices customers, >200 kVA industrial customers, public street lighting, and special services. As at 2018, except for 450 VA and some 900 VA customers (which are not classified as high-income households), all customers pay market price for electricity and, in 2019, budgetary outlays for electricity tariff subsidization were 49.95% less than in 2012 (Table 4.4, and Section 4.2.2.1.2). According to data from the authorities, during the review period, the average market electricity tariff represented from 58.47% (2013) to 83.84% (2017) of power production, transmission, and distribution cost.

**Table 4.4 Average cost, average tariff, and subsidies, 2012-19**

Year	Average cost (IDR/kWh)	Average tariff (IDR/kWh)	Subsidy (IDR trillion)
2012	1,374	728	103.3
2013	1,399	818	101.2
2014	1,420	940	99.3
2015	1,300	1,035	56.6
2016	1,265	991	58.0
2017	1,318	1,105	45.7
2018	1,406	1,123	48.1
2019	1,379	1,126	51.7

Source: 2017 PLN Statistics in PWC (2018), *Power in Indonesia, Investment and Taxation Guide*, November 2018, 6<sup>th</sup> Edition. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

4.157. Under the Electricity Law, although electricity tariffs do not need to be uniform throughout the country, they differentiate depending on the end-user group, and thus involve cross-subsidization support among consumer categories.<sup>211</sup> In general, they are set by taking into account the customer's purchasing power and installed power capacity. The higher the installed power capacity, the higher the tariff imposed. The higher the electricity consumption, the higher the multiplier used to determine the tariff imposed, in order to encourage customers to use electricity wisely. Different tariffs are subject to different subsidy arrangements. For example, in 2017, tariffs for low-income households were heavily subsidized, at IDR 415/kWh, which was less than a third of the average electricity supply cost, of IDR 1,318/kWh. As at September 2019, Indonesia's average electricity price for households was IDR 1,099 (USD 0.0785) per kWh, lower than the tariffs of the Philippines, Cambodia, Thailand and Viet Nam, but higher than Malaysia; furthermore, it was the second lowest after Malaysia within the ASEAN group.<sup>212</sup>

#### 4.2.2.3 Renewable energy

4.158. Despite its enormous potential in NRE resources, Indonesia has been relatively slow to develop renewable energy. Fuel subsidies, low electricity tariffs, high NRE PP production costs, complex regulations, legal uncertainties, lack of domestic support, lack of low-interest financing, difficulties in accessing reliable and efficient technology, logistical challenges, and extensive cheap coal resources have seemingly deterred potential renewables investments (Sections 4.2.2, 4.2.2.1.2 and 4.2.2.3).<sup>213</sup> Consequently, production of renewable energy remains modest compared to fossil energy production. Three classes of NRE sources are in place: sources already being widely used in commercial operations (e.g. geothermal, hydro and biomass); sources being developed commercially but with some residual concerns over the regulatory and commercial aspects (e.g.

<sup>210</sup> MoF Regulation No. 44/2017, as amended by MoF Regulation No. 162/2017, concerning the Procedures for the Provision, Calculation, Payment and Accountability for Electricity Subsidy.

<sup>211</sup> PWC (2018), *Power in Indonesia, Investment and Taxation Guide*, November 2018, 6<sup>th</sup> Edition. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>212</sup> GlobalPetrolPrices.com, *Indonesia electricity prices*. Viewed at: [https://www.globalpetrolprices.com/Indonesia/electricity\\_prices/](https://www.globalpetrolprices.com/Indonesia/electricity_prices/).

<sup>213</sup> Secretariat General of the National Energy Council (2019), *Indonesia Energy Outlook 2019*. Viewed at: <https://www.esdm.go.id/assets/media/content/content-indonesia-energy-outlook-2019-english-version.pdf>; and PWC (2018), *Power In Indonesia, Investment and Taxation Guide*, November 2018, 6<sup>th</sup> Edition. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.



solar and wind); and sources at the research stage only (e.g. ocean energy).<sup>214</sup> Hydropower remains the largest single source of renewable power (Section 4.2.2.3). Despite naturally high solar penetration across most parts of the country, solar photovoltaic panel deployment currently remains limited (estimated at 109 Mega Watt peaks). With Indonesia possessing one of the largest geothermal resources in the world (total resources of 23.9 GW), its share in the country's fuel mix is expected to grow almost fourfold, from 2,130.7 MW (2020) to 8 GW in 2030.<sup>215</sup> Although wind has not played an important role in the fuel mix so far, progress has been observed, with the 75 MW Sidrap wind farm in South Sulawesi becoming operational in March 2018.

4.159. During the review period, the contribution of NRE sources to total primary energy supply rose considerably; as at 2019, they accounted for 9.15% of total primary energy supply compared to 4.96% in 2013.<sup>216</sup> The share of NRE sources in the total on-grid installed PP capacity dropped from 12.8% (2013) to 11.4% (2018). Between 2013 and 2018, NRE PP production increased by 20.3%, to 31.7 GWh; the PLN's share dropped from 65.5% to 46.5% of the total NRE power output by all operators (Section 4.2.2.3). Since the introduction of the B20 Mandatory Program in January 2018, the number of biodiesel plants increased; in 2019, the production capacity of the 26 biodiesel plants reached 12.06 million kL. Over the review period, palm-oil based biodiesel production ranged from 1.65 million kL in 2015 to 6.17 million kL in 2018, of which 60.8% was sold domestically, and 8.4 million kL in 2019, of which 76.1% was sold domestically; biogas supply stood at 25,700 m<sup>3</sup> in 2018. Following the implementation of the Biogas Development Program, in 2019, 47,414 biogas units were producing 74,885 m<sup>3</sup> of gas per day, or 26.96 million m<sup>3</sup> per year.

### Policy framework

4.160. The overall primary policy objectives in expanding the use of NRE are: to improve energy security by diversifying the feedstocks used by the PLN and IPPs to generate power and encourage the use of renewable energy as an ancillary source where it is readily available and untapped; to accelerate improvements to the electrification ratio and access to the energy infrastructure, particularly for areas without grid access (i.e. rural, remote and border areas, and islands); and to contribute towards the attainment of greenhouse gas (GHG) emissions targets, and encourage the green economy, so as to cut GHG emissions by 29% by 2030.<sup>217</sup>

4.161. The 2014 KEN and the 2017 RUEN set a target of at least 23% renewable energy of the primary energy mix by 2025 (and 31% by 2050); an energy-efficiency target of reducing primary energy intensity by 1% per year until 2025 is set in the RUEN.<sup>218</sup> In the 2018 RUPTL, the target for renewable energy deployment in the fuel mix was revised, and was estimated to increase from 12.5% in 2018 to 20.4% by 2027, which is to be mainly supported by geothermal energy (9.8%) and hydropower (9.3%). The 2018 biofuels programme remains a key component of the KEN for meeting the NRE targets; it has taken on national importance as a means to reduce imports, to improve the balance of payments, become energy self-sufficient, and support the palm oil sector.<sup>219</sup> The 2017 Low Carbon Development Plan focuses on using the agriculture, forestry, waste, transport and marine sectors to reduce GHG emissions.<sup>220</sup> As at 2018, the road map for the development of nuclear power plants was under preparation, with the involvement of the MoEMR, the PLN, the

<sup>214</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>215</sup> Indonesia has a geothermal potential of almost 24,000 MW across 351 locations. As at 2020, only 14 working areas (or concessions) were operating, out of 75 identified potential working areas. The total installed capacity was is 2,130.7 MW (as at June 2020) (1,344.0 MW in 2013) equivalent to only 8.89% of the total estimated geothermal resources. PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>216</sup> MoEMR (2019), *2018 Handbook of Energy & Economic Statistics of Indonesia*.

<sup>217</sup> PWC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>218</sup> *National Energy Policy in Indonesia and its Alignment to Sustainable Development Goals 7 (SDG7) and Paris Agreement (NDC)*, presentation at the Workshop of National Expert SDG Tool for Energy Planning (NEXSTEP) UNESCAP, Bangkok, 19 March 2019.

<sup>219</sup> USDA Foreign Agricultural Service (2019), *Indonesia Biofuels Annual Report 2019*, GAIN Report Number: ID1915, 15 July.

<sup>220</sup> OECD (2018), *OECD Economic Surveys Indonesia*, October.



National Nuclear Energy Agency, the Nuclear Energy Regulatory Agency, and the Indonesia Nuclear Professional Association.<sup>221</sup>

### **Regulatory framework**

4.162. During the review period, the regulatory framework in this area was updated with new or amended general or NRE-specific regulations (Section 4.2.2.3).<sup>222</sup> Law No.30 of 2007 sets the priority of supplying and utilizing NRE, including biofuels. GR No. 79/2014 on the KEN requires that the development of renewable energy resources consider economic viability; however, the potential renewable energy resources are based on a technical assessment by the MoEMR only, and do not necessarily consider the financial/economic viability of individual projects. Regulations regarding solar power systems include MoEMR Regulation No. 49 of 2018 on the Utilization of Roof Top Solar PV by PT Perusahaan Listrik Negara (PLN) Consumer, and MoI Regulation No. 5/M-IND/PER/2/2017 setting the level of domestic components for solar modules at at least 50% by 2018 and 60% by 2019 compared to the previous 30% for solar home system modules and 26% for communal solar system modules.

### **Domestic support and tariffs**

4.163. Under PR No. 4 of 2016 on Electricity Infrastructure Acceleration (as amended by PR No. 14/2017), domestic support to NRE sources is prioritized, in order to achieve the targeted energy mix under the KEN. Central and/or local government support may take the form of: fiscal incentives; licensing and non-licensing relief; electricity tariffs for NRE sources (see below); the establishment of a separate business entity to generate energy from NRE sources for sale to the PLN; and specific incentives for NREs. Hydro, geothermal and wind power projects, including transmission lines, can be developed in Natural Reserve Areas and Natural Conservation Areas, in accordance with prevailing laws and regulations.

4.164. During the review period, NRE projects benefited from expanded tax incentives, in form of tax holidays for pioneer industries (since 2018), including electricity infrastructure, and tax allowances available on a sector-specific basis for national priority activities and with specific potential development areas (GR No. 78/2019) (Sections 2.4.4, 3.3.1.1.1.1 and 4.2.2.1.2).<sup>223</sup> Tax holidays include a holiday from the payment of corporate income tax, for a period of up to 20 years. Tax allowances involve corporate income tax incentives as follows: a reduction in taxable income of up to 30% of qualifying expenditure on fixed assets (including land); an extended tax loss carry-forward period of up to 10 years; accelerated depreciation and amortization rates; and a maximum dividend withholding tax rate of 10% for IPPs involved in renewable energy. Furthermore, customs duty and VAT exemption benefit imports of goods used in geothermal business activities (MoF Regulations No. 177/2007, and No. 142/2015); imports by IPPs involved in renewable energy are exempt from withholding tax (MoF Regulation No. 21/2010).

4.165. Action was taken to address issues relating to the regulatory framework on tariffs and pricing, one of the most sensitive issues in renewable energy investment and development. MoEMR Regulation No. 50/2017 on Renewable Energy Utilization for Electricity Supply to Create a Better Investment Climate by Promoting Fairness, Efficiency and Affordable Electricity Price (revoking MoEMR Regulation No. 12/2017, as amended by MoEMR Regulation No. 43/2017) established a new mechanism to determine tariffs, based on electricity generated by renewable energy PPs and purchased by the PLN from IPPs. The tariff is now determined by benchmarking against the applicable of either the Regional Electricity Generation Cost (BPP) (Section 4.2.2.2) in the area where the power is generated, or B2B negotiations between the PLN and the IPPs.<sup>224</sup> PR No. 35/2018

<sup>221</sup> IAEA, *Country Nuclear Power Profiles, 2018 Edition, Indonesia*. Viewed at: <https://www-pub.iaea.org/MTCD/Publications/PDF/cnpp2018/countryprofiles/Indonesia/Indonesia.htm>.

<sup>222</sup> PwC (2018), *Power In Indonesia, Investment and Taxation Guide, November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>223</sup> PwC (2018), *Power In Indonesia Investment and Taxation Guide November 2018, 6<sup>th</sup> Edition*. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>224</sup> Until 2016, the regulations on tariffs were designed with private investors in mind. MoEMR Regulation No. 12/2017 (as amended by MoEMR Regulation No. 43/2017) on the Utilisation of Renewable Energy Resources for Electricity seemingly caused concern due to its poor incentives for new investments especially in low-cost areas (e.g. Java and Sumatera). PwC (2018), *Power In Indonesia Investment and*

provides a separate price for electricity from waste-to-energy PPs, that is higher than that in MoEMR Regulation No. 50/2017.<sup>225</sup> In March 2018, the PLN's Board of Directors issued a new policy, based on Decree No. 0022P/DIR/2018, regarding power purchases from renewables as an implementing regulation of MoEMR Regulation No. 50/2017; this internal regulation was aimed at providing guidance for power purchases from IPPs, in order to equalize, simplify and accelerate the power purchase process.<sup>226</sup>

4.166. Indonesia considers biodiesel as an efficient way to develop more environmentally friendly solutions to fulfil current energy demand; increase energy security and reliability; reduce the consumption and import of fossil fuel; increase economic added value by downstream biofuel industry; and support the domestic agriculture-based economy. During the review period, the 2008 Biodiesel Mandatory Program, aiming for a mixture of diesel oil with fatty acid methyl ester (FAME) from palm oil, a chief deforestation driver (Section 4.1.7), intensified.<sup>227</sup> Since 2016, the B20 Mandatory Program has been in place; it requires the use of 20% FAME in biodiesel for the PSO transport sector or those activities carried out by state-owned companies to serve public needs. To address increasing economic pressures related to the current account deficit and weakening rupiah, save on foreign exchange reserves, and increase consumption of domestic biodiesel, in September 2018, the B20 Mandatory Program was expanded, at short notice, from the PSO to the non-PSO transport sector. The Program received government support as, in general, the price of biodiesel is higher than the diesel oil price. Between 2008 and 2015, a subsidy from the State Budget covered the gap between the Market Price Index of Biodiesel and the Market Price Index of Diesel Oil, both defined by the Government. In August 2015, the subsidies scheme was replaced, with support from the Crude Palm Oil (CPO) Fund, which collects a levy on crude and refined palm oil exports to, *inter alia*, compensate biodiesel producers from price spreads between biodiesel and fossil diesel, thus avoiding losses (Sections 3.2.2 and 4.1.3).<sup>228</sup> Initially, the incentives were only available to the PSO sector but, on 1 September 2018, their scope was expanded to non-PSO sectors. The B30 Mandatory Program, with 18 biodiesel producers committed to it, became effective nationwide on 1 January 2020. Pertamina (Section 4.2.2.1) and PT AKR, one of Indonesia's largest private sector distributors of basic chemicals, petroleum, logistics, and supply chain solutions, were entrusted with the B30 distribution. B30 is expected to further increase energy security and independence through renewable sources; stabilize CPO prices; support the downstream palm oil industry; meet renewable energy targets; reduce diesel consumption by up to 9.59 million kL per year; lead to foreign exchange savings of up to USD 4.4 billion; and reduce GHG emissions by up to 14.34 million tonnes of CO<sub>2</sub>.<sup>229</sup> On 16 December 2019, Indonesia requested WTO dispute consultations with the

*Taxation Guide November 2018*, 6<sup>th</sup> Edition. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>225</sup> MoEMR Regulation No. 50/2017 regulates the tariff regimes for renewable electricity generation with tariffs still benchmarked to PLN's average electricity generation cost. It provides new mechanisms for determining the tariffs of renewable energy for electricity generation including Solar PV, wind, hydro, biomass, biogas, waste-to-energy and ocean energy. The purchase of electricity generated using these technologies will now be determined by benchmarking against the BPP or based on negotiations between IPP and PLN.

Additionally, Component E of a PPA which reimburses investors for transmission line spending from the power plant to the PLN grid is to be conducted through B2B negotiations between PLN and IPPs. PwC (2018), *Power In Indonesia Investment and Taxation Guide November 2018*, 6<sup>th</sup> Edition. Viewed at:

<https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>226</sup> PwC (2018), *Power In Indonesia Investment and Taxation Guide November 2018*, 6<sup>th</sup> Edition. Viewed at: <https://www.pwc.com/id/en/pwc-publications/industries-publications/energy--utilities---mining-publications/power-guide-2018.html>.

<sup>227</sup> Minister of Energy and Mineral Resource regulation No.32 of 2008; Fitriani Tupa R. Silalahi, Togar M. Simatupang and Manahan P. Siallagan (2019), *Biodiesel produced from palm oil in Indonesia: Current status and opportunities*, published at Volume 8, Issue 1, 81–101 of AIMS Energy, 19 January; USDA Foreign Agricultural Service (2019), *Indonesia Biofuels Annual Report 2019*, GAIN Report Number: ID1915, 15 July.

<sup>228</sup> The Indonesian Oil Palm Plantation Fund Management Agency (BPDPKS), was established in 2015 to accelerate the implementation of the biodiesel programme. It was assigned to manage the fully private-sourced CPO Fund. Indonesian biodiesel producers sell their biodiesel primarily to Pertamina. As, generally, the price of biodiesel is higher than that of fossil diesel, Pertamina purchases biodiesel at the price of the latter. The BPDPKS, through the CPO Fund, covers the price difference by paying it to biodiesel producers through a strict administrative process where an independent surveyor is closely involved. The authorities indicated that, as the CPO Fund collected and managed by the BPDPKS is purely generated from the private sector, this programme does not involve any government subsidies. CPO funding is also available for broad usages, including replanting and research.

<sup>229</sup> The Insider Stories. Viewed at: <https://theinsiderstories.com/b30-will-absorb-additional-3mt-of-cpo-in-2020-says-vp/> and <https://theinsiderstories.com/indonesia-appoints-18-producers-to-run-b30-program/>.

European Union, regarding measures adopted by the European Union and its member States in the renewable energy sector relating to biofuels (Section 2.3.1 and Table 2.4).<sup>230</sup> As at June 2020, Indonesia was preparing for the implementation of the B50 Mandatory Program by the end of same year; several challenges, such as proper technology, technical specifications, financial requirements, and feedstock sustainability, still remain to be addressed. Additional support was provided by luxury goods sales tax holidays for vehicles with biofuel engines (Section 3.3.1.1.1.3).

### 4.3 Manufacturing

#### 4.3.1 Features

4.167. Manufacturing, a primary production-dependent sector, remains an important activity in terms of its contributions to the economy, employment and merchandise exports. While its share in GDP dropped slightly from 21.6% in 2013 to 20.5% in 2019, its share in total employment rose from 13.8% to 15.0% (Table 1.2), suggesting a deterioration of labour productivity, which remains higher than in agriculture but much lower than in services. In addition, the deterioration of manufacturing's competitiveness, about to be addressed by the authorities (see below), was reflected in the country's diminished attractiveness as a destination for export-oriented FDI.<sup>231</sup> In GDP terms, in 2019, the main manufacturing activities related to: food products and beverages (6.7%); oil and gas (2.2%); chemicals (1.8%); and transport equipment (1.7%) (Table 1.2). The share of manufactured products in total merchandise exports rose from 37.2% in 2013 to 45.8% in 2019; in 2019, the main items included iron and steel with a share of 4.7% (0.9% in 2013), chemicals with 6.2% (6.0%), other semi-manufactures (e.g. paper and paperboard, and plywood) with 6.8% (6.3%), and machinery and transport equipment (e.g. automotive products, office machines and telecommunication equipment and electrical machines) with 13.4% (12.1) (Table A1.3). During the review period, FDI inflows in manufacturing remained volatile; they bottomed at USD 3.7 billion in 2015, peaked at USD 11.3 billion in 2018, and dropped to an estimated USD 10.2 billion in 2019 (Section 1.3.2). As at 2014, manufacturing FDI seemed to be increasingly oriented to serve the domestic market.<sup>232</sup>

4.168. The bulk of manufacturing firms continue to be micro and small firms (99.3%), with only a small and diminishing percentage accounted for by medium and large firms (less than 1%); SMEs are not linked to GVCs, and face numerous obstacles to growth.<sup>233</sup> In 2018, 30,754 large and medium manufacturing firms employed 6 million workers (35,163 firms, and 6.4 million workers in 2013); in 2017, 4.1 million micro firms employed 7.7 million workers (3.2 million and 6 million in 2014); and 358,791 small firms employed 3.1 million workers in 2014).<sup>234</sup> The food manufacturing activity has the largest number of firms, employment share, and value added.<sup>235</sup> However, high-tech manufacturing sectors, such as chemicals and chemical products, motor vehicles, and electrical equipment, although relatively small, also generate a substantial share of total manufacturing value added. Large firms and joint ventures appear to be the most productive.

<sup>230</sup> The EU biodiesel market is worth an estimated EUR 9 billion a year, with imports from Indonesia reaching some EUR 400 million. According to the European Commission's investigation, Indonesian biodiesel producers benefit from grants, tax benefits and access to raw materials below market prices. European Commission, *Commission imposes countervailing duties on Indonesian biodiesel*. Viewed at: <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2057>.

<sup>231</sup> According to the World Bank, high logistics costs, due to inefficiencies, have long been an issue; they are estimated to account for some 25% of manufacturing costs – significantly higher than the 15% in Thailand and 13% in Malaysia. Furthermore, higher barriers in services (Sections 2.4.2 and 4.4) stifle competitiveness in manufacturing industries that use these services more intensively in production; restrictions on investments also appear to worsen the competitiveness of the manufacturing sector. ADB/BAPPENAS (2019), *Policies to Support the Development of Indonesia's Manufacturing Sector during 2020–24 - A Joint ADB–BAPPENAS Report*, January; and World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

<sup>232</sup> In 2014, only 35% of new foreign manufacturing plants were export-oriented, a significant drop from the 58% in 1996; this drop is even more marked when considering a historically export-oriented industry like electronics, where the share of export-oriented plants of total new foreign plants fell from 67% to 17%. World Bank Group (2018), *Indonesia Economic Quarterly - Strengthening competitiveness*, December.

<sup>233</sup> ADB/BAPPENAS (2019), *Policies to Support the Development of Indonesia's Manufacturing Sector during 2020–24 - A Joint ADB–BAPPENAS Report*, January.

<sup>234</sup> Statistics Indonesia (2019), *Statistical Yearbook of Indonesia 2019*, 4 July. Viewed at: <https://www.bps.go.id/publication/2019/07/04/daac1ba18cae1e90706ee58a/statistik-indonesia-2019.html>.

<sup>235</sup> ADB/BAPPENAS (2019), *Policies to Support the Development of Indonesia's Manufacturing Sector during 2020–24 - A Joint ADB–BAPPENAS Report*, January.

Foreign-owned manufacturing plants seem to produce about half of manufacturing exports.<sup>236</sup> A concentration of SOEs in relatively capital-intensive activities, including steel, cement, fertilizers, pharmaceuticals, telecom equipment, aircraft, ships and railways, seems to persist.<sup>237</sup>

### 4.3.2 Policy, institutional and regulatory framework

4.169. During the review period, policy initiatives were undertaken to, *inter alia*, support a shift from a commodity-reliant economy to a manufacturing-powered one, and diversify manufacturing, a seemingly difficult task so far.<sup>238</sup> Improving industrial competitiveness has been a priority objective, set at Phase I (September 2015) of the 16 Economic Policy Packages (Section 2.2.2, and Table 2.2). To support industrial growth, the Master Plan of National Industry Development 2015-35 focuses on developing upstream and intermediate industries, based on natural resources, and on improving the use of industrial technology and the quality of human resources. It, *inter alia*, targets raising the contribution of the industrial sector to GDP from 20% in 2018 to 30% by 2035, and reducing dependency on imported raw materials and capital goods to address the trade deficit (Section 2.2.2).

4.170. The Master Plan is supported by the 2018 Making Indonesia 4.0 strategy, which followed the Industry 3.0 built around the use of electronics and information technology to further automate production. It is aimed at: expanding the manufacturing sector, raising labour productivity, and using new technology to achieve higher growth through export promotion and "reindustrialization".<sup>239</sup> Making Indonesia 4.0 seeks global competitiveness in the five target industries: food and beverages, textiles and garments, automotive, electronics, and chemicals. By 2030, Indonesia aims to become globally competitive in new advanced technologies, such as artificial intelligence, robotics and genetics research. The authorities have laid out 10 national priorities to help the manufacturing sector reap the benefits of Making Indonesia 4.0 (Section 2.2.2). Moreover, they plan to enhance domestic production of inputs, revamp industrial zones under a single nationwide industry-zoning roadmap, embrace green growth opportunities, and build more coherent policies/regulations through cross-ministry collaborations.

4.171. The MoI remain responsible for policy formulation and implementation, and for providing supervision and administrative support. In addition, the Indonesian Chamber of Commerce and Industry, an umbrella organization with 34 regional chambers and over 500 district branches, is a key entity representing private-sector interests (Section 2.2).<sup>240</sup>

4.172. During the review period, several trade and trade-related regulatory developments were undertaken which directly affect investment, production and trade of manufacturing products (Sections 2.4, 3.1, 3.2 and 3.3).

### 4.3.3 Border measures

4.173. During the review period, the MFN average tariff for manufacturing (HS 25-97) increased considerably, from 7.5% in 2012 to 10.1% in 2020 (Tables 3.2 and A3.1); it is equivalent to the overall applied MFN average (10.1%, 2020) and slightly below the average for agriculture. In 2020,

<sup>236</sup> World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

<sup>237</sup> They include: PT Bio Farma (pharmacy manufacture); PT Industri Kereta Api (railway manufacture); PT Pupuk Indonesia (fertilizer); PT Krakatau Steel (steel manufacture); PT Barata Indonesia, PT Boma Bisma Indra, PT Dahana, PT Dirgantara Indonesia, PT Dok dan Perkapalan Surabaya, PT Garam, PT Industri Gelas, PT Industri Nuklir Indonesia, PT Industri Sandang Nusantara, PT Kertas Kraft Aceh, PT Kertas Leces, PT Len Industri, PT Primmisima, PT Pupuk Indonesia Holding Company, PT Semen Baturaja, PT Semen Indonesia, and PT Semen Kupang (processing manufacture); PTDI or Indonesian Aerospace (IAe) (aircraft manufacture); PT Dok dan Perkapalan Kodja Bahari, PT Industri Kapal Indonesia, and PT PAL Indonesia (shipyards); and PT Industri Telekomunikasi Indonesia (telecoms). World Bank/International Finance Corporation (2019), *Creating Markets in Indonesia - Unlocking the Dynamism of the Indonesian Private Sector: A Country Private Sector Diagnostic*, October.

<sup>238</sup> OECD (2018), *OECD Economic Surveys Indonesia*, October.

<sup>239</sup> OECD (2018), *OECD Economic Surveys Indonesia*, October; and ADB/BAPPENAS (2019), *Policies to Support the Development of Indonesia's Manufacturing Sector during 2020-24 - A Joint ADB-BAPPENAS Report*, January.

<sup>240</sup> Oxford Business Group, *New policy and incentives encourage tech innovation and manufacturing in Indonesia*. Viewed at: <https://oxfordbusinessgroup.com/overview/powering-production-new-policy-and-incentives-encourage-technological-innovation-and-local>.



there was an average gap of 25.6 percentage points between the average MFN applied and the bound rates in manufacturing; the MFN applied rates on certain machinery and apparatus exceeded their bound rates (Table A3.3). Tariff escalation became more pronounced for virtually all industries (Section 3.1.3.3). Peak rates continue to be applied on transport equipment at 50% (40% in 2012) and 150% on certain chemicals and photographic supplies (Table A3.1 and Section 4.3.6). Duty and tax concession continue to apply to equipment not produced domestically (Section 3.1.3.6); since 2017, the Import Tax Waiver for Materials for Export Oriented Goods, an incentive programme for SMEs to reduce costs related to the import of materials, has included import duty and import VAT exemptions on imported raw materials to be processed, assembled, or installed into export goods.<sup>241</sup> In September 2018, Indonesia raised the withholding tax rates for certain imported (and exported) goods, involving, *inter alia*, consumer goods (e.g. audiovisual equipment, and textiles) and daily necessities (e.g. shampoos, and cosmetics) (Section 3.1.4).

4.174. Import licensing requirements for certain manufactures (e.g. cell phones, handheld computers and tablets; certain textiles and textile products; LPG and LPG gas containers; used capital goods; oil and gas; sodium triopoly phosphate; and fertilizer) raised concern among some WTO Members (Section 3.1.5.2). During the review period, most anti-dumping action affected steel and chemical products, while safeguards affected a variety of manufactures (e.g. metals, and textiles) (Section 3.1.6). Local-content requirements embodied in duty and tax concessions, government procurement preferences, and specific activities (e.g. mining and energy projects) continue to support domestic manufacturing (Sections 3.1.3.6, 3.1.4, 3.3.6, 4.2.2.1.1 and 4.2.2.2). Export taxes on certain commodities (e.g. palm oil, CPO and its derivative products, leather and wood, raw cocoa, and mineral ores) continued to ensure domestic supplies for local processing, and tax (including corporate income tax) and non-tax incentives under zone-designated schemes (e.g. FTZs, bonded zones, EPTs and SEZs) remained in place to support domestic processing of manufactures for export (Sections 3.2.2 and 3.2.4.2). Since 2017, the Export-Oriented People's Business Credit has been provided by the Indonesia Eximbank to export-oriented MSMEs (78% of loans in manufacturing, 2019) directly involved in export activities, with 9% interest rates on loans (Sections 3.2.5 and 3.3.1.2). As part of Phase XI of the EEPs (Section 2.2.2, and Table 2.2), this measure aims to diversify Indonesia's exports, and encourage investment in higher-value processed goods, automotive, and electronics.<sup>242</sup>

#### 4.3.4 Domestic support measures

4.175. Similar to other activities, tax and non-tax incentives, including tax allowances, tax holidays (involving corporate income tax) and subsidized credit (see below), remain available to manufacturing firms. During the review period, tax incentives were expanded for certain industries. In April 2018, the Government widened the eligibility for tax holidays to 17 specified "pioneer" industries (including machinery manufacturing and economic infrastructure), and simplified the application process (Section 3.3.1.1.1.1).<sup>243</sup> The holidays range from 5 to 20 years, depending on investment size. There are also tax holidays and other incentives in designated zones, and tax allowances for 145 business segments (Sections 3.3.1.1.1.1 and 3.2.4.2). Tax holidays are generous but have almost no takers — nine firms in 2018, zero firms in 2016 and 2017, and only one in 2015.<sup>244</sup> Reportedly, the tax allowance has very few recipients, which are mostly large, high-tech firms in the chemical and automotive industries; between 2015 and 2017, only 50 investors took advantage of the tax allowance incentive. These numbers seem low, given the number of medium and large firms operational in manufacturing. According to the OECD, under specific assumptions, tax incentives would reduce the effective average tax rate that a manufacturing firm could face by 13 percentage points.<sup>245</sup>

4.176. During the review period, various subsidized loans under the KUR programme (Section 3.3.1.2), the SOE corporate social responsibility programme, and the Kredit Cinta Rakyat programme, were used to support MSMEs, including those involved in manufacturing (Section 3.3.1.2). Reportedly, the use of the KUR in the manufacturing sector is very small, at

<sup>241</sup> ADB/BAPPENAS (2019), *Policies to Support the Development of Indonesia's Manufacturing Sector during 2020–24 - A Joint ADB–BAPPENAS Report*, January.

<sup>242</sup> ADB/BAPPENAS (2019), *Policies to Support the Development of Indonesia's Manufacturing Sector during 2020–24 - A Joint ADB–BAPPENAS Report*, January.

<sup>243</sup> OECD (2018), *OECD Economic Surveys Indonesia*, October.

<sup>244</sup> ADB/BAPPENAS (2019), *Policies to Support the Development of Indonesia's Manufacturing Sector during 2020–24 - A Joint ADB–BAPPENAS Report*, January.

<sup>245</sup> OECD (2018), *OECD Economic Surveys Indonesia*, October.



around 4% to 5% of the amount available per year, possibly due to the fact that the majority of manufacturing firms are small and medium-sized rather than micro-sized.<sup>246</sup>

#### 4.3.5 Garments, textiles and footwear

4.177. The garment, textile and footwear (GTF) industry remains an important, albeit slightly declining, activity. It was estimated to account for around 7% of total manufacturing gross value-added (GVA) in 2016, equivalent to around 1.4% of GDP, a slight decrease compared to 7.5% and 1.6%, respectively, in 2012.<sup>247</sup> As at 2016, the GTF employed 4.2 million people (about 4.3 million in 2013), representing 3.6% (3.8% in 2013) of total employment. In 2013, labour productivity (GVA per person employed) in the GTF industry was estimated to be higher than in some regional counterparts, including Viet Nam and Cambodia, but lower than in Thailand and the Philippines.<sup>248</sup> In 2016, the GTF seemed to attract more FDI than domestic direct investment (DDI); its share in total FDI was 1.6% (2.0% in 2015), and 1.5% of total DDI in both 2015 and 2016. In terms of DDI, in 2016, USD 241 million was invested in 284 different projects in the textile industry, and USD 5.1 million into 21 projects in the leather goods and footwear industry; and, regarding FDI, USD 321 million was invested in 886 textile industry projects, and USD 144 million in 279 leather goods and footwear industry projects.<sup>249</sup> In 2018, the share of total merchandise exports of textiles decreased slightly to 2.2% (2.5 in 2013), whereas those of clothing and sports footwear rose to 5% (4.2% in 2013) and 1.6% (1.2% in 2013), respectively (Table A1.3).

4.178. Under the Making Indonesia 4.0 roadmap, textiles is among the five sectors that are identified in promoting FDI and DDI (Sections 2.2.2 and 4.3.2). Whereas GTF activities are eligible for all general tax and non-tax incentives, they are not part of the 17 pioneer industries benefiting from corporate tax holidays (Sections 2.4.4, 3.3.1.1.1 and 4.3.4).

4.179. During the review period, MFN average tariff protection for textiles and textile articles (HS Section 11) and footwear, headgear, etc. (HS Section 12) and peak rates were raised significantly to 15.3%, with a peak of 35% (10.8%, peak rate 15% in 2012) and 16.4% with a peak 30% (13.9%, peak rate 25% in 2012), respectively (Section 3.1.3.2, and Tables 3.2 and A3.1); these rates considerably exceed both the overall applied MFN average (10.1%, 2020) and the average for manufacturing. In 2020, there was an average gap of 14.1 percentage points and 22.7 percentage points between the average MFN applied and the bound rates in textiles and textile articles, and footwear, headgear, etc., respectively.

4.180. Special importer identity numbers for certain imports, including footwear and textiles, were abolished in 2016 (Section 3.1.1.1). Import-restrictive licensing requirements for textiles were a matter of concern to some WTO Members over the review period (Table A3.4, and Section 4.3.3). Registration requirements for TBT reasons remain especially prevalent for certain items, including textiles and clothing, and footwear (Section 3.3.2.3). Less onerous labelling requirements on various textiles and clothing products, leather articles, and footwear were introduced in 2019 (Section 3.3.2.5).

4.181. To enhance competitiveness of, and job creation in, export-oriented GTF companies employing at least 2,000 workers and exporting 50% of their total sales, since July 2016, a 50% discount on the income tax rate (i.e. 2.5% instead of 5%) has been applied to workers earning a

<sup>246</sup> ADB/BAPPENAS (2019), *Policies to Support the Development of Indonesia's Manufacturing Sector during 2020–24 - A Joint ADB–BAPPENAS Report*, January.

<sup>247</sup> The garment industry remains implicated in almost every activity of the textile supply chain, including yarn production, weaving, knitting, dyeing, printing and finishing, and clothing manufacture, including a large man-made fibre industry. ILO, *Indonesia Garment and Footwear Sector Bulletin, Issue I, September 2017*. Viewed at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms\\_625195.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625195.pdf).

<sup>248</sup> ILO, *Indonesia Garment and Footwear Sector Bulletin, Issue I, September 2017*. Viewed at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms\\_625195.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625195.pdf).

<sup>249</sup> ILO, *Indonesia Garment and Footwear Sector Bulletin, Issue I, September 2017*. Viewed at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms\\_625195.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_625195.pdf).

maximum of IDR 50 million (approx. USD 3,850) per year.<sup>250</sup> The United States remains the main destination for Indonesia's garment/clothing exports, accounting for around 52.6% of its total exports in 2018; it is followed by the European Union (15.54%) and Japan (10.1%).<sup>251</sup>

#### 4.3.6 Automotive

4.182. In 2019, Indonesia was the world's 17<sup>th</sup> (15<sup>th</sup> in 2013) and Asia's 6<sup>th</sup> largest motor vehicle producer, and ASEAN's largest vehicle market. Output stood at 1.3 million units (1.0 million cars, and 0.2 million commercial vehicles) compared to 1.2 million units (0.9 million cars, and 0.3 million commercial vehicles) in 2013, and domestic market sales at 1.0 million units.<sup>252</sup> Although the share of transport equipment in GDP dropped from 2.1% in 2013 to 1.7% in 2019 (Table 1.2), the share of automotive products and other transport equipment in total merchandise exports increased to 3.9% (2.3% in 2013) and 2.0% (1.3% in 2012), respectively, in 2019 (Table A1.3); at the same time, the share of motor vehicles for the transport of persons rose from 1.2% to 2.4%. Indonesia exported 346,000 vehicles in 2018, of which 264,000 were completely built up, and the rest completely knocked down.<sup>253</sup> Automotive products' share of total merchandise imports remained relatively stable, at 4.1% in 2013 and 4.0% in 2019 (Table A1.4). As at 2018, domestic sales were dominated by Japanese brands.<sup>254</sup> Domestic car sales registered a 9.6% plunge in 2019; as at December 2019, 1.04 million cars were sold, compared to 1.15 million units at the corresponding period in 2018.<sup>255</sup> As at 2019, Indonesia's annual vehicle production capacity stood at 2.3 million units.<sup>256</sup>

4.183. Under the National Industry Development 2015-35 (Section 4.3.2), Indonesia envisions becoming a major player in the global automotive industry and, therefore, needs to develop a reliable, competitive and sustainable industry.<sup>257</sup>

4.184. During the review period, the MFN average tariff and peak rates for transport equipment (HS Section 17), including automotive, were raised significantly to 26.3%, with a peak of 50.0% (HS 8702 motor vehicles for the transport of 10 or more persons, including the driver, HS 8703 motor cars and other motor vehicles principally designed for the transport of person (other than those of HS heading 8702), and HS 8704 motor vehicles for the transport of goods) compared to 16.9%, with a peak of 40.0% (same as for 2020 plus HS 8706 and 8707 chassis and bodies for motor vehicles of HS8701 to 8705, and HS871610 trailers and semi-trailers of the caravan type, for housing or camping) in 2012 (Tables 3.2 and A3.1); this average is more than double of both the overall applied MFN average (10.1%, 2020) and the average for manufacturing.<sup>258</sup> In 2020, there was an average gap of 13.2 percentage points between the average MFN applied and the bound rates in transport equipment.<sup>259</sup>

<sup>250</sup> Indonesia Investments, *Government of Indonesia Offers 50% Discount on Income Tax*. Viewed at: <https://www.indonesia-investments.com/news/todays-headlines/government-of-indonesia-offers-50-discount-on-income-tax/item7320>.

<sup>251</sup> As a beneficiary of the US GSP, Indonesia enjoys low tariffs on textile and garment exports to the United States, which remains the largest market for Indonesian shipments in this sector. UNSD Comtrade Database.

<sup>252</sup> International Organization of Motor Vehicle Manufacturers, *2019 Production Statistics*. Viewed at: <http://www.oica.net/category/production-statistics/2019-statistics/>; and Statista, *Number of motor vehicles sold in the ASEAN region 2019, by country*. Viewed at: <https://www.statista.com/statistics/583382/asean-motor-vehicle-sales-by-country/>.

<sup>253</sup> Jakarta Post, *Indonesia to welcome US\$900m in automotive industry: Minister*. Viewed at: <https://www.thejakartapost.com/news/2019/02/13/indonesia-to-welcome-us900m-in-automotive-industry-minister.html>.

<sup>254</sup> Automotive Industry Portal, *Indonesia – Flash report, Sales volume, 2018*. Viewed at: [https://www.marklines.com/en/statistics/flash\\_sales/salesfig\\_indonesia\\_2018](https://www.marklines.com/en/statistics/flash_sales/salesfig_indonesia_2018).

<sup>255</sup> Jakarta Globe, *Indonesia's Automotive Industry Won't Hit the Brakes Anytime Soon*. Viewed at: <https://jakartaglobe.id/opinion/indonesias-automotive-industry-wont-hit-the-brakes-anytime-soon>.

<sup>256</sup> Director General for Metal Machinery Transportation Equipment and Electronic Industry presentation titled *Government Policy on Future Automotive Technology* at the 14<sup>th</sup> Gaikindo International Automotive Conference, 24 July 2019.

<sup>257</sup> Director General for Metal Machinery Transportation Equipment and Electronic Industry presentation titled *Government Policy on Future Automotive Technology* at the 14<sup>th</sup> Gaikindo International Automotive Conference, 24 July 2019.

<sup>258</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>259</sup> Rates on 81.8% of tariff lines under HS Section 17, including HS heading 8703, are unbound; for those that are bound, the highest bound rate is 40%.

4.185. Automotive activities remain eligible for all general tax and non-tax incentives (Sections 2.4.4, 3.3.1.1.1.1 and 4.3.4). Since 2019, to reduce petrol consumption and GHG, support has been provided through luxury goods sales tax (LGST) holidays for alternative-fuel vehicles (Section 3.3.1.1.1.3). In addition, other support includes: special credit for electric vehicles with an interest rate of 3.8% per year and a tenor of six years by the state-owned bank PT BRI Persero (Table 3.26); and providing a 100% discount for the electricity upgrade for owners of electric cars, and a 75% discount for owners of electric motorcycles, by the state-owned PT PLN Persero (Section 4.2.2.2).<sup>260</sup>

4.186. During the review period, action was taken to promote the electric vehicle (EV) industry; the target is for the EV industry to begin domestic production by 2021 or 2022, and export 200,000 electric cars (20% of the overall 1 million car export target) by 2025.<sup>261</sup> PR No. 55/2019, encouraging local content requirements (see below) and fiscal and non-fiscal incentives to promote the EV industry, came into force on 12 August 2019.<sup>262</sup> The implementing regulations to be introduced by the respective ministries to enforce this PR were to be issued no later than one year after its entry into force; as at July 2020, they were still under discussion.

4.187. Under PR No. 55/2019, the possible fiscal and non-fiscal incentives for the EV industry include: import duty incentives for importing KBL battery-based completely knocked down EVs, KBL battery-based incompletely knocked down EVs, or major components for the number and for certain period of time; sales tax incentives for luxury goods; incentives for central or regional tax exemption or reduction; incentives regarding import duty on the importation of machinery, goods and materials in the context of investment; suspension of import duties in the framework of exports; incentives for import duties borne by the Government (Section 3.1.3.6) for the importation of raw materials and/or supporting materials used in the framework of the production process; incentives for making electric battery-charging station equipment; fiscal incentives for research, development and technological innovation activities as well as vocational components of the battery-based KBL; parking fees at locations determined by the regional government; reduction of electricity charging fees at electric battery-charging stations; financial support for electric battery-charging station infrastructure development; professional competency certification for the human resource development related to battery-based EVs; and product certification and/or technical standards for the battery-based EV industrial company and the related component industry.

4.188. Under PR No. 55/2019, a minimum local content of 40% for two-wheeled or three-wheeled EVs manufactured between 2019 and 2023 is required.<sup>263</sup> The local content requirement is to be raised to a minimum of 60% if the EVs are produced between 2024 and 2025, and to a minimum of 80% if they are manufactured after 2026. At the same time, four-wheeled or more EVs produced between 2019 and 2021 are required to have a minimum local content of 35%, a minimum of 40% if they are manufactured during the period 2022-23, a minimum of 60% in 2024-29, and a minimum of 80% from 2030 onwards.

## 4.4 Services

### 4.4.1 Features

4.189. The contribution of services to GDP rose gradually over the review period, from 42.6% in 2013 to 46.1% in 2019. The main services activities are: wholesale and retail trade, car and motorcycle reparations (13.6% of GDP in 2019, compared with 13.5% in 2013); transport and storage (5.8% in 2019, 4.0% in 2013); finance and insurance (4.4% in 2019, 4.0% in 2013) and information and communication (4.1% in 2019, 3.7% in 2013) (Table 1.2). In 2019, the services

<sup>260</sup> Director General for Metal Machinery Transportation Equipment and Electronic Industry presentation titled *Government Policy on Future Automotive Technology* at the 14<sup>th</sup> Gaikindo International Automotive Conference, 24 July 2019.

<sup>261</sup> PWC, *Indonesia's Automotive Industry Won't Hit the Brakes Anytime Soon*. Viewed at: <https://www.pwc.com/id/en/media-centre/pwc-in-news/2020/english/indonesias-automotive-industry-wont-hit-the-brakes-anytime-soon.html>.

<sup>262</sup> Global Trade Alert, *Indonesia: 2019 presidential regulation to promote local EV industry*. Viewed at: <https://www.globaltradealert.org/intervention/73881/tax-or-social-insurance-relief/indonesia-2019-presidential-regulation-to-promote-local-ev-industry>.

<sup>263</sup> PWC, *Indonesia's Automotive Industry Won't Hit the Brakes Anytime Soon*. Viewed at: <https://www.pwc.com/id/en/media-centre/pwc-in-news/2020/english/indonesias-automotive-industry-wont-hit-the-brakes-anytime-soon.html>.

sector accounted for 49.2% of employment, the main sectors being: wholesale and retail trade, car and motorcycle reparations (18.8% of employment in 2019 and 18.6% in 2013); accommodation, food and beverage service activities (6.7% in 2019, compared with 3.8% in 2013); education (5.0% in 2019, 4.5% in 2013); and transport and storage (4.4% in 2019, 4.1% in 2013) (Table 1.2). The services sectors that have seen the biggest FDI inflows over the review period were trade and repair, transport, storage and communications, and financial intermediation (Table 1.5).

4.190. Over the period 2013-19, Indonesia maintained a small trade deficit in services, ranging from -1.3% of GDP in 2013 to -0.6% of GDP in 2018. Over this period, Indonesia saw a growth in services exports in all years except 2013 and 2015 (Table 1.1). In 2018, Indonesia was ranked the 41<sup>st</sup> largest exporter and the 34<sup>th</sup> largest importer of commercial services in the world (including intra-EU trade).<sup>264</sup>

#### 4.4.2 Overall commitments under the General Agreement on Trade in Services (GATS) and RTAs

4.191. Indonesia's schedule of WTO GATS specific commitments continues to cover business services; communication services; construction and related engineering services; financial services; tourism and travel-related services; and transport services. MFN exemptions remain in relation to movement of personnel; construction and related engineering services; and financial services.<sup>265</sup> RTAs to which Indonesia is a signatory which contain services commitments are ASEAN-Australia-New Zealand; ASEAN-China; ASEAN-Hong Kong, China; ASEAN-India; and ASEAN-Republic of Korea (Table 2.5). Over the review period, Indonesia expanded its services commitments under the AFAS, and the RTA between ASEAN and India was expanded to cover trade in services (Section 2.3.2).

#### 4.4.3 Financial services

4.192. As at December 2019, the total assets of the financial sector stood at the equivalent of just over 77% of GDP (compared with 66% in 2012). In terms of assets, banking dominates the financial services sector, followed by insurance, mutual funds, and finance companies (Table 4.5).

**Table 4.5 Structure of the financial sector, December 2019**

Type of institution and year	Assets (IDR trillion)	Assets (%)	% of GDP <sup>a</sup>
Banks	8,712.59	70.71	55.02
Insurance <sup>b</sup>	913.81	7.42	5.77
- Health care and Social Security Agency	15.15	0.12	0.10
Finance companies	518.14	4.20	3.27
Pension funds	295.62	2.40	1.87
- Workers Social Security Agency	442.20	3.59	2.79
Pawnshops	65.66	0.53	0.41
Microfinance institutions	1.07	0.01	0.01
Venture capital companies	18.65	0.15	0.12
Guarantee companies	21.91	0.18	0.14
Securities firms	55.50 <sup>c</sup>	0.45	0.35
Mutual funds	816.85	6.63	5.16
Outstanding corporate bonds	445.10	3.61	2.81
Total	12,322.25	100.0	77.82

a Indonesia's 2019 nominal GDP was IDR 15,833.9 trillion.

b Data on insurance assets consist of life and non-life insurance assets (conventional and sharia insurance), reinsurance assets, mandatory insurance, and social insurance.

c This data covers the total assets of 118 of the total 123 securities firms, as 5 securities companies did not submit their financial reports due to their inactive status. Two of the 118 securities companies had not yet submitted their 2019 financial reports, therefore the number of total assets from their 2018 financial reports was used.

Source: Information provided by the OJK.

4.193. The financial services authority (*Otoritas Jasa Keuangan*, (OJK)) is the sole regulatory authority for all financial services institutions (banks, securities companies, insurance companies,

<sup>264</sup> WTO, *Trade Profile, Indonesia (2018)*. Viewed at: [https://www.wto.org/english/res\\_e/statistics\\_e/daily\\_update\\_e/trade\\_profiles/ID\\_e.pdf](https://www.wto.org/english/res_e/statistics_e/daily_update_e/trade_profiles/ID_e.pdf).

<sup>265</sup> WTO, *World Bank i-TIP Database*. Viewed at: <http://i-tip.wto.org/services/default.aspx>.

pension funds, and multi-finance companies). The OJK was established in 2011, assuming non-bank and capital market supervisory responsibilities of the MoF (Capital Market and Financial Institutions Supervisory Agency), and taking over the banking sector supervisory responsibilities of the central bank (Bank Indonesia - BI), commencing in January 2014. The OJK coordinates with the BI in setting banking policies related to the capital adequacy ratio for banks; receiving foreign exchange; offshore funding and commercial loans; banking products; derivative transactions; and other banking activities. The BI may also conduct special investigations on banks after informing the OJK; the results of these investigations must be conveyed to the OJK. The Indonesia Deposit Insurance Corporation (IDIC) manages the deposit insurance system; all banks operating within the Indonesian territory must become a member of, and take out insurance under, this system. The banks pay an insurance premium of 0.1% from the average monthly balance of total deposits in each semester, which is paid twice a year.

4.194. The OJK's "master policies" objectives for the period 2017-22 are: (i) developing and conducting IT-based supervision of the financial services sector; (ii) reinforcing regulation, licensing and integrated supervision of financial conglomerates; (iii) implementing international prudential standards that best fit national interests; (iv) reforming the non-bank financial industry into a stronger and more competitive one; (v) increasing efficiency in the financial services industry, to transform the industry into a competitive one; (vi) revitalizing the capital market to promote long-term development financing; (vii) optimizing financial technology roles by means of proper regulation, licensing and supervision; (viii) reducing disparity by providing financial access; (ix) increasing consumer education and protection activities' effectiveness; and (x) promoting Islamic finance's increased contribution in providing funding sources for development.<sup>266</sup>

4.195. In 2016, the Government issued the National Strategy for Financial Inclusion. It has five pillars: financial education, public property rights, financial distribution channels and intermediary facilities, financial services in government sectors, and consumer protection. The pillars are supported by three foundations: favourable policies and regulations, supportive financial information technology and infrastructure, and effective implementation mechanisms and organization. Its aim is to increase the population's access to banking services, and it was expected to increase the proportion of citizens with bank accounts from 36% in 2014 to 75% by 2019.<sup>267</sup> Based on an OJK survey, Indonesia's financial inclusion index reached 76.19% in 2019. To further advance financial inclusion in Indonesia, the President instructed the following actions in the next few years: further expansion of the usage of formal financial products and services; further development of digital financial services; and improved consumer protection in financial institutions.<sup>268</sup> The Government's target is now to achieve 90% financial inclusion by 2024.

4.196. Furthermore, in 2019, the BI issued the Indonesia 2025 Payment System Vision, which contains five elements: (i) supporting the integration of national digital economy and finance; (ii) supporting banking digitalization; (iii) guaranteeing the interlink between fintech and banking; (iv) ensuring the balance between innovation, consumer protection and healthy business competition; and (v) safeguarding national interests in cross-border digital economy and finance. It was followed up by the issuance of the Indonesia Payment Systems Blueprint (IPSB), which contains five initiatives to achieve the Vision, namely: (i) open banking; (ii) retail payment systems; (iii) financial market infrastructure; (iv) data; and (v) regulatory, licensing and supervision elements. These initiatives are to be implemented simultaneously by five working groups under the BI.<sup>269</sup> The IPSB 2025 set the course for the development of the digital economy and finance, seeking to ensure continuity in the functions performed by the BI and in support of economic and financial inclusion. As indicated by the authorities, one initiative that has already been implemented was the launch, in August 2019, of the Quick Response Code standard (the QR Code Indonesian Standard (QRIS)) for payments through server-based e-money applications, electronic wallets and mobile

<sup>266</sup> OJK, *Press Release: OJK Sets 10 Master Policies for 2017 – 2022 Period*. Viewed at: <https://www.ojk.go.id/en/berita-dan-kegiatan/siaran-pers/Pages/Press-Release-OJK-Sets-10-Master-Policies-for-2017-%e2%80%93-2022-Period.aspx>.

<sup>267</sup> PR No. 82/2016 on National Strategy for Financial Inclusion. Viewed at: <https://peraturan.go.id/peraturan/view.html?id=11e6b61dc065aea0a831313032323337>.

<sup>268</sup> Ministry of State Secretariat. Viewed at: <https://www.presidenri.go.id/transkrip/rapat-terbatas-tentang-strategi-nasional-keuangan-inklusif/>.

<sup>269</sup> The Jakarta Post, *Indonesia promotes financial inclusion with new strategy*. Viewed at: <https://www.thejakartapost.com/news/2016/11/18/indonesia-promotes-financial-inclusion-with-new-strategy.html>; and Baker Mackenzie, *Bank Indonesia Issues Blueprint for 2025 Payment System*. <https://www.bakermckenzie.com/en/insight/publications/2019/11/bank-indonesia-2025-payment-system>.



banking; this has been fully implemented since January 2020. The QRIS aims to enhance transaction efficiency, accelerate financial inclusion, and advance MSMEs. It was constructed using EMV Co. international standards to support broader payment system instrument interconnectedness and accommodate the specific needs of Indonesia, thus providing interoperability between providers, instruments and countries.

4.197. Over the review period, the only legislative changes in the financial services sector related to insurance (see below). Additionally, several regulations were circulated by the OJK in the insurance, banking and securities sectors. According to the authorities, most regulations are prudential measures relating to business activities, presence, licensing, and the management of foreign workers. Additionally, regulations were issued on consumer protection in the financial services sector; alternative dispute resolution agencies in the financial services sector<sup>270</sup>; and the implementation of an Anti-Money Laundering Program and Prevention of Terrorism Financing Program in the financial services sector.<sup>271</sup>

4.198. Investment restrictions in the financial services sector remain unchanged (Table 4.6). As indicated by the authorities, under current regulations, national treatment is applied to investors wishing to obtain a licence to establish a commercial conventional bank or a commercial sharia bank. In general, the same set of prudential regulations (such as minimum capital requirements, and activities permitted) apply to both foreign-owned and domestically owned banks. However, domestic banks falling in the BUKU 1 and BUKU 2 categories (banks with Tier 1 capital of up to IDR 5 trillion) are exempted from liquidity buffer requirements (liquidity coverage ratio and net stable funding ratio), while these buffers apply to all foreign-owned banks regardless of their Tier 1 capital.

**Table 4.6 Limitations on foreign participation in financial services, 2020**

Services	Ownership
Conventional bank; sharia bank; money market broker company	Subject to a special licence from the Financial Services Authority
Conventional rural bank; sharia rural bank	Domestic capital: 100%
Investment finance company; working capital finance company; multi-purpose finance company; venture capital	Foreign capital ownership: max. 85%
Life insurance company; reinsurance company; general insurance company; insurance loss adjuster company; insurance agent company; insurance broker company; reinsurance broker company; actuarial consultant service company	Foreign capital ownership: max. 80%
Guarantee company	Foreign capital ownership: max. 30%
Non-bank foreign exchange trader	Domestic capital: 100%
Non-bank electronic money issuer; money broker company; central counterparty for over-the-counter interest rates; electronic trading platforms	Foreign capital ownership: max. 49%
Principal, switching provider, clearing provider, and/or settlement provider; switching agency of national payment gateway operator	Foreign capital ownership: max. 20%

Source: Law No. 44 of 2016 concerning Lists of Business Fields that are Closed to and Business Fields that are Open with Conditions to Investment. Viewed at: [https://www2.bkpm.go.id/images/uploads/prosedur\\_investasi/file\\_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf](https://www2.bkpm.go.id/images/uploads/prosedur_investasi/file_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf); and BI.

4.199. IMF's most recent Article IV Report on Indonesia (in 2019), *inter alia*, commended Indonesia for protecting financial stability, highlighting strong bank balance sheets. Some concerns remained about Indonesia's shallow financial markets, and it was pointed out that financial deepening would help mobilize domestic resources to finance the economy and lessen reliance on volatile external financing.<sup>272</sup>

<sup>270</sup> OJK Regulation No. 1/POJK.07/2014 concerning Alternative Dispute Resolution Agencies in the Financial Services Sector was issued in order to create a rapid, inexpensive, fair and efficient dispute resolution mechanism. The Regulation stipulates the requirements for alternative dispute resolution agencies to register at the OJK. These must have a dispute resolution mechanism that contains at least mediation, adjudication and arbitration; and they must apply principles of accessibility, independence, fairness, efficiency and effectiveness.

<sup>271</sup> These OJK regulations are respectively: No. 1/POJK.07/2013; No. 1/POJK.07/2014; and No. 12/POJK.01/2017.

<sup>272</sup> IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at:

#### 4.4.3.1 Banking

4.200. Legislation governing the banking sector remains Law No. 7 of 1992 on Banking, as last amended by Law No. 10 of 1998 and Act No. 21 of 2008 on Islamic Banking. The Banking Law distinguishes commercial banks from rural banks by the scope of their services. Commercial banks may provide an extensive range of financial services, including raising funds from the public in order to offer loans, trading negotiable instruments, providing bank guarantees, issuing credit cards, and settling and receiving foreign currency payments. In contrast, rural banks have a very limited scope of services. They may raise funds from the public, provide loans, and extend credit, but may not be involved in foreign currency transactions or in direct clearing settlements. Neither type of bank may engage in the insurance business, except through a bank insurance arrangement with a licensed insurance company. Commercial banks may establish a separate sharia business unit to provide financial services based on Islamic banking principles. Rural banks may also operate as sharia banks.<sup>273</sup>

4.201. As at the time of the previous Review, foreign banks seeking to establish operations, including opening a branch in the country, must be rated "A" by a leading international rating agency; rank among the 200 largest banks in the world, by total assets; have paid-up operating funds of at least IDR 3 trillion; and have permission from their home market regulator. Foreign banks may establish branches and sub-branches in 12 major cities in Indonesia. However, in line with the banking consolidation policy, the OJK imposed a moratorium on new banking licences for both domestic and foreign investors. Instead, investors are directed to invest in existing banks, in accordance with relevant regulations.<sup>274</sup> In order to support these initiatives, banks are exempt from both the Single Presence Policy, and limitations on commercial bank share ownership.

4.202. Key developments in the banking sector over the review period included:

- the launch of the Financial Information Services System (SLIK) in 2017; this is a tool for exchanging financing or credit information among institutions in the financial field, *inter alia*, to help reduce non-performing loans and increase funds provided. It replaces the Debtor Information System<sup>275</sup>;
- the launch, also in 2017, of the BI's integrated electronic payment system network, the National Payment Gateway (NPG), which aims to provide a secure, efficient payment system for Indonesian banking customers. Since June 2018, all domestic payment transactions made within Indonesia (excluding credit cards) are processed through the NPG. The advantage of the system is that consumers may conduct payment transactions in all electronic data capture machines and automated teller machines in Indonesia, regardless of which bank issues their cards. As indicated by the authorities, global players participated in the making of the NPG Standard through the Association of Indonesian Payment System. Foreign/global companies (for example credit card companies) may participate in NPG switching through either of two avenues: (i) they can create an NPG switching agency through a joint venture with a domestic partner, to provide the infrastructure for local switching/domestic transactions; maximum foreign equity participation is 20%, and foreign/global companies can focus on the cross-border transactions without having to adjust their current foreign equity participation; or (ii) they can have a business arrangement with one of the NPG switching agencies; this can be in the form of providing the handling process technology, transaction security, or any value-added services that are required by the NPG switching agency. The authorities also indicated that the BI continues to modernize retail payment systems through more efficient and secure infrastructure, including by creating BI-FAST, a new fast payment infrastructure for card-based instruments, electronic money and direct to account (debit

<https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

<sup>273</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>274</sup> These Regulations are POJK No. 41/POJK.03/2019 concerning the Merger, Consolidation, Acquisition, Integration and Conversion of Commercial Banks, and POJK No. 12/POJK.03/2020 on Commercial Banks Consolidation.

<sup>275</sup> OJK, *Press Release: OJK Launches Financial Information Services System (SLIK) to Enhance Debtor Information System*. Viewed at: [https://www.ojk.go.id/en/berita-dan-kegiatan/siaran-pers/Pages/Press-Release-OJK-Launches-Financial-Information-Services-System-\(SLIK\)-to-Enhance-Debtor-Information-System.aspx](https://www.ojk.go.id/en/berita-dan-kegiatan/siaran-pers/Pages/Press-Release-OJK-Launches-Financial-Information-Services-System-(SLIK)-to-Enhance-Debtor-Information-System.aspx).

and credit) transfers. The existing NPG will collaborate with BI-FAST and the existing BI clearing system to perform the backbone function of switching, clearing and settlement of domestic retail transactions. The interface connections will make various mobile-based services easier and cheaper;

- in 2017, the issuance of a regulation allowing the Directorate General of Taxation to access bank accounts without having to obtain permits from the Minister of Finance or the Governor of the BI (as previously required). This applies to customers of both Indonesian banks and foreign banks. Previous regulations in force only applied to customers of foreign banks.<sup>276</sup> This step was taken in the context of Indonesia's pledge to join the OECD-led Automatic Exchange of Information initiative<sup>277</sup>;
- the Government's banking sector-related response to the COVID-19 pandemic in 2020 (Section 1). Under GR No. 23/2020 on the National Economic Recovery Plan, the State allocated IDR 35 trillion of funding to be distributed to domestic banks, at certain interest rates, to give them more liquidity to undertake loan restructuring and disburse additional loans to businesses. Participating banks must meet certain requirements: they must be commercial banks; be at least 51% owned by Indonesian individuals or entities; be categorized by the OJK as sound; and be one of the country's 15 largest banks in asset value. It is foreseen that these banks will also lend to secondary banks to enable them to undertake similar loan activities<sup>278</sup>; and
- additionally, in response to COVID-19, the OJK provided stimulus through the issuance of new regulations for banking, capital markets, and the non-banking financial industry.<sup>279</sup> These stipulate, *inter alia*, provisions on finance restructuring for debtors affected by COVID-19; the conduct of relaxation policies for credit quality assessment; written orders for handling bank and non-bank financial institution problems; banning short-sell transactions; allowing buy-back without prior approval from the Shareholders General Meeting, for issuers and public companies; implementing trading halts; and modifying the auto rejection threshold.

4.203. The banking sector remains dominated by majority-state-owned banks, which accounted for around 50% of total banking assets. Four majority-state-owned banks dominate the market: Bank Mandiri (government share is 60%), Bank Rakyat (56.75%), Bank Negara Indonesia (60%) and Bank Tabungan Negara (60%). Three of these are "category four", which is the highest level of banking structure; these banks have very flexible operations, in that they can provide any services and there is no limitation on the number of branches that can be operated, subject to the approval of the OJK. There is one state-owned bank at level three. Majority-state-owned banks and domestic banks together account for 72.7% of total banking assets. The majority of foreign-owned banks are incorporated in Indonesia (Tables 4.7 and 4.8). The review period saw a decrease in the total number of banks (from 120 in December 2013 to 110 in December 2019), no change in the number of foreign-controlled banks (30), and a reduction in the number of branches of foreign banks, from 10 to 8. Over the review period, there were several bank mergers and acquisitions. Concerns were expressed that the small size of most banks prevents them from leveraging economies of scale, which contributes to high intermediation costs and increases the administrative cost of financial regulation.<sup>280</sup>

<sup>276</sup> The Jakarta Post, *Government issues regulation to end bank secrecy*. Viewed at: <https://www.thejakartapost.com/news/2017/05/17/government-issues-regulation-to-end-bank-secrecy.html>.

<sup>277</sup> Economist Intelligence Unit, *Financial Services Industry Report, 2<sup>nd</sup> Quarter 2019*. Viewed at: [www.eiu.com](http://www.eiu.com).

<sup>278</sup> The Jakarta Post, *Government issues regulation on economic recovery program, focuses on SOEs, MSMEs*. Viewed at: <https://www.thejakartapost.com/news/2020/05/12/government-issues-regulation-on-economic-recovery-program-focuses-on-soes-msmes.html>.

<sup>279</sup> Some of the regulations were issued to implement GR in Lieu of Law No. 1 of 2020 regarding State Financial Regulation and Financial System Stability, issued in response to the COVID-19 pandemic, which was passed into Law No. 2 of 2020 in May 2020.

<sup>280</sup> World Bank Group, (October 2019), *Creating Markets in Indonesia, Unlocking the Dynamism of the Indonesian Private Sector*. Viewed at: <https://www.ifc.org/wps/wcm/connect/8f1d3b14-66c2-4452-a70c-dbe79e7544f5/201910-CPSD-Indonesia-v2.pdf?MOD=AJPERES&CVID=m.8RZD6>.

**Table 4.7 Share of commercial bank ownership (both conventional and sharia), December 2019**

	Number of banks	Total assets (IDR million)	% of total banking industry
Government	31	4,291,647,423	50.12
Domestic	41	1,931,532,496	22.56
Foreign	38	2,339,794,378	27.32
Foreign bank branch	8	451,513,981	5.27
Foreign-owned locally incorporated bank	30	1,888,280,397	22.05
<b>Total</b>	<b>110</b>	<b>8,562,974,297</b>	<b>100</b>

Source: Information provided by the OJK.

**Table 4.8 Leading commercial banks (both conventional and sharia), ranked by assets, December 2019**

	Assets (IDR trillion)	Market share (%)
Leading domestic banks		
Bank Rakyat Indonesia	1,344.5	15.7
Bank Mandiri	1,134.8	13.3
Bank Central Asia	905.6	10.6
Bank Negara Indonesia	780.6	9.1
Bank Tabungan Negara	314.2	3.7
Leading foreign-controlled banks		
Bank CIMB Niaga	273.1	3.2
Bank OCBC NISP	180.8	2.1
Bank Danamon Indonesia	170.2	2.0
Bank BTPN	168.2	2.0
MUFG Bank	163.7	1.9
Bank Permata	161.2	1.9
Bank Maybank Indonesia	155.2	1.8
Bank HSBC Indonesia	111.4	1.3
Bank UOB Indonesia	105.5	1.2
Bank DBS Indonesia	90.1	1.1
<b>Total</b>	<b>8,562.9</b>	<b>100.0</b>

Source: Information provided by the OJK.

4.204. In 2019, the sharia banking industry comprised 14 sharia banks, 20 sharia bank units, and 164 sharia rural banks. Total assets of sharia banks increased from IDR 248.11 trillion in 2013 to IDR 538.32 trillion in December 2019.<sup>281</sup>

4.205. As reported by the authorities, Indonesia has fully implemented the Basel III capital, leverage ratio and liquidity standards, and the OJK published new regulations in these areas.<sup>282</sup> The Basel Committee's Regulatory Consistency Assessment Program (RCAP) assessment of 2016 gave a "compliant" grading for the liquidity coverage ratio and "largely compliant" for the capital standard. Indonesia also implemented other Basel III standards, comprising the standardized approach for measuring counterparty credit risk exposures; revisions to the securitization framework; interest rate risk in the banking book; the framework for dealing with domestic systemically important banks; and large exposures framework.<sup>283</sup> In early 2020, Indonesia completed the RCAP process for Large Exposures and Net Stable Funding Ratio, with both standards resulting in a "compliant" grade from the Basel Committee.

4.206. There were no bank failures over the period January 2013 to end-May 2020. During the review period, domestic banks posted stable and strong capital and profitability. As reported by the

<sup>281</sup> OJK. Viewed at: <https://www.ojk.go.id/id/kanal/syariah/data-dan-statistik/statistik-perbankan-syariah/Pages/Statistik-Perbankan-Syariah---Desember-2019.aspx>.

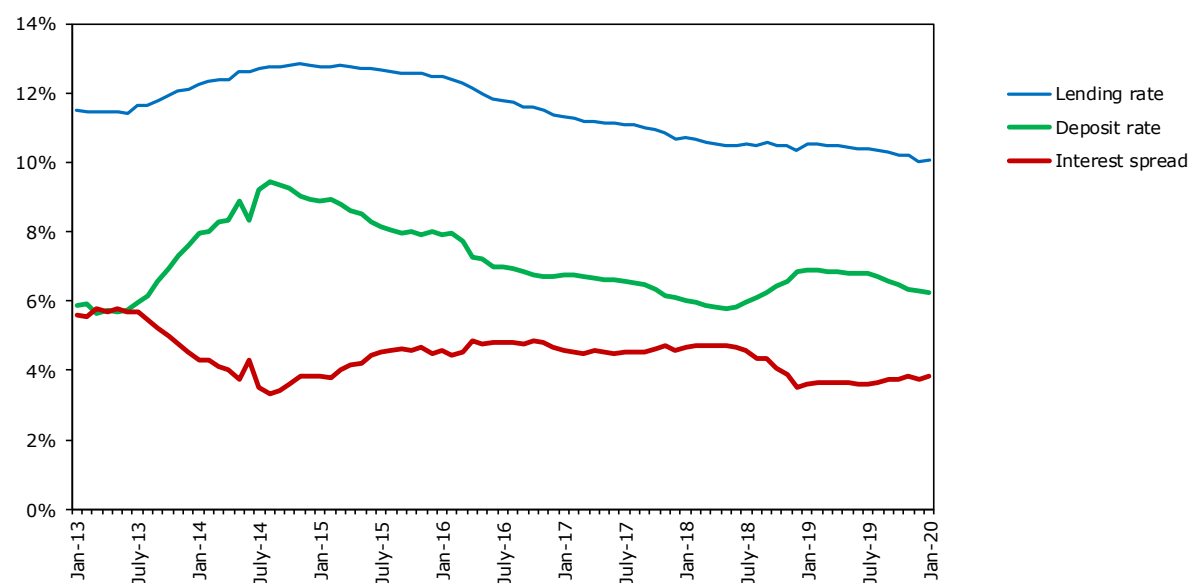
<sup>282</sup> OJK Regulation No. 11/POJK.03/2016 implements the minimum capital requirement for Common Equity Tier 1 (CET 1), Additional Tier 1 (AT 1), Tier 2, Capital Conservation Buffer (CCB), Countercyclical Buffer (CCyB) and Capital Loss Absorption at the Point of Non-Viability (PONV). POJK Regulation No. 31/POJK.03/2019 implements ration leverage requirements; and liquidity standards are implemented by POJK Regulation No. 42/POJK.03/2015 concerning the Liquidity Coverage Ratio and POJK Regulation No. 50/POJK.03/2017 concerning the Net Stable Funding Ratio.

<sup>283</sup> These are contained in the following regulations, respectively: SEOJK Regulation No. 48/SEOJK.03/2017; POJK Regulation No. 11/POJK.03/2019; SEOJK Regulation No. 12/SEOJK.03/2018; POJK Regulation No. 2/POJK.03/2018; and POJK Regulation No. 32/POJK.03/2018.

BI, Indonesian banks are well-capitalized, as indicated by a capital adequacy ratio (CAR) above 20% up to May 2020 (time of writing). Non-performing loans (NPLs) remained low, and were 3.0% (gross) and 1.17% (net) in May 2020. Over the review period, the highest NPL rates were 3.22% in August and October 2016, and the lowest were 1.73% in December 2013. Payment system availability, both cash and non-cash, remained uninterrupted. Nevertheless, the BI indicated that potential risks associated with the COVID-19 impact on financial system stability must still be anticipated.<sup>284</sup> Potential weaknesses in the banking sector identified by the IMF have been banks' high exposure to the corporate sector and the vulnerability of some non-systemic banks to liquidity shocks, including foreign exchange liquidity shortfalls.<sup>285</sup> The IMF advised the OJK to continue efforts to strengthen enforcement of prudential regulations, including on credit and risk management, and supervision of financial conglomerates. Moreover, it suggested that stronger coordination between the IDIC and the OJK on bank recovery and resolution would strengthen the crisis management framework, and that the corporate prudential FX regulation should be further improved by extending its coverage to all FX liabilities of systemic corporates.<sup>286</sup>

4.207. The World Bank Group drew attention to constraints faced by Indonesian companies in accessing credit, citing a 2015 study which found that around 60% of Indonesian firms that require a loan do not request one, representing a larger share than in comparator countries. The main reasons include: financial-market inefficiencies, high interest rates, high collateral requirements and complex procedures. It points out that these credit constraints undermine the competitiveness of firms, as they are associated with lower rates of productivity and employment growth.<sup>287</sup> Over the review period, lending rates ranged from 10.34% to 12.84%, and interest spreads ranged from 3.33 percentage points to 5.8 percentage points, representing variations in banks' profit margins (Chart 4.1).

**Chart 4.1 Interest rate spread (%), January 2013 to January 2020**



Source: IMF, IFS online information.

<sup>284</sup> BI, *Monetary Policy Review April 2020*. Viewed at: <https://www.bi.go.id/en/publikasi/kebijakan-moneter/tinjauan/Pages/Tinjauan-Kebijakan-Moneter-April-2020.aspx>.

<sup>285</sup> At the time of writing, the IMF reported that 52% of bank loans were extended to the corporate sector.

<sup>286</sup> IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

<sup>287</sup> World Bank Group (October 2019), *Creating Markets in Indonesia, Unlocking the Dynamism of the Indonesian Private Sector*. Viewed at: <https://www.ifc.org/wps/wcm/connect/8f1d3b14-66c2-4452-a70c-dbe79e7544f5/201910-CPSD-Indonesia-v2.pdf?MOD=AJPERES&CVID=m.8RZD6>.



#### 4.4.3.2 Fintech

4.208. As at December 2019, a total of 164 registered/licensed fintech companies were operating in Indonesia, of which 152 were conventional, and 12 were sharia fintech companies. 113 of these companies were locally owned, while 39 were foreign-owned.

4.209. Over the review period, several regulations were issued to govern the fintech segment (Table 4.9). The IMF indicated that pursuing the Bali Fintech agenda, as developed by the World Bank and the IMF, including enhancing foundational infrastructures such as broadband Internet, mobile data services, data repositories, and payment and settlement services, will support financial inclusion, higher productivity and exports. However, to mitigate any resulting possible risks to financial stability and integrity, particularly exposure to cyberattacks, supervisors should include cybersecurity in the regular monitoring and audits of financial institutions.<sup>288</sup>

**Table 4.9 Fintech regulations, May 2020**

OJK Regulation	Summary of provisions
No. 77/POJK.01/2016 on Information Technology-based Lending	Designed to support the growth of fintech peer-to-peer (P2P) lending platforms as new financing alternatives for communities that have yet to enjoy optimal services from incumbent financial service institutions. P2P platforms are classified as other financial services institutions. The Regulation also mandates customer protection.
No. 12/POJK.03/2018 on Implementation of Digital Services by Commercial Banks	Regulates the use of information technology for digital banking. All banks that wish to issue electronic/digital products must request permission from the OJK. Banks must emphasize product innovation, co-operation with partners, and digital processes to ensure better services for customers and effective risk management.
No. 13/POJK.02/2018 on Digital Financial Innovation in the Financial Services Sector	This is an umbrella regulation for fintech. Any fintech companies that are not yet regulated by other authorities must apply to the OJK to go through the regulatory sandbox process and get registered. The key dimension of this Regulation is responsible finance innovation, adoption of a robust security system and good governance, and compliance with customer protection and anti-money laundering/combating the finance of terrorism rules.
No. 37/POJK.04/2018 on Equity Crowd Funding	This Regulation focuses on regulating equity crowdfunding. It is aimed at boosting economic growth in Indonesia by providing access to start-up companies and SMEs to raise funds electronically for the development of their business.
PBI No. 19/12/PBI/2017 on Implementation of Financial Technology	This Regulation stipulates the obligation for fintech to be registered with the BI. It is designed to support the growth of payment-related fintech while safeguarding consumer protection, risk management and financial stability.
PADG No. 19/14/PADG/2017 regarding Regulatory Sandbox	Designed to support the growth of fintech, which involves payment system elements.

Source: BI.

#### 4.4.3.3 Insurance

4.210. In 2018, the assets of the insurance sector were the equivalent of 8.2% of GDP (compared with 7.6% in 2014).<sup>289</sup> The sector remains small and fragmented. The insurance penetration rate, while growing, remains low, rising from 2.24% in 2014 to 2.91% in 2019. Over the review period, there was a steady increase in the number of life insurance companies operating in Indonesia, from 49 in 2013 to 60 in 2019; there was a reduction in the number of general insurance companies (from 82 in 2014 to 78 in 2019). The number of reinsurance companies grew from four in 2014 to seven in 2019.<sup>290</sup> Table 4.10 sets out ownership and market share of insurance companies. The life insurance industry is dominated by foreign equity, while the general insurance industry is dominated by domestic companies. Export credit insurance for all products except oil and gas is available from the state-owned Asuransi Ekspor Indonesia (Section 3.2.5).

<sup>288</sup> For more details, IMF, *Bali Fintech Agenda*. Viewed at: <https://www.imf.org/en/Publications/Policy-Papers/Issues/2018/10/11/pp101118-bali-fintech-agenda>.

<sup>289</sup> General Insurance Association of Indonesia, *Indonesia General Insurance Market Update 2019*. Viewed at: <http://aaui.or.id/wp-content/uploads/2019/10/INDONESIA-MARKET-UPDATE-y-2018-2019-1.pdf>.

<sup>290</sup> These figures include both sharia and conventional insurance companies.

**Table 4.10 Insurance sector market structure and market share, 2019**

	<b>State-owned (market share)</b>	<b>Private (market share)</b>	<b>Joint venture (market share)</b>
Life insurance companies	1 company PT Jiwasraya, Persero (3.89%)	36 companies, of which the 3 largest are: PT Asuransi Simas Jiwa (6.22%) PT Indolife Pensiontama (5.91%) AJB Bumiputera 1912 (4.07%)	23 companies, of which the 3 largest are: PT Prudential Life Assurance (12.98%) PT Asuransi Jiwa Manulife Indonesia (9.16%) PT AIA Financial (9.06%)
General insurance companies	2 companies PT Asuransi Jasa Indonesia (16.04%) PT Asuransi Kredit Indonesia (Persero) (19.16%)	54 companies, of which the 3 largest are: PT Asuransi Astra Buana (8.40%) PT Tugu Pratama Indonesia (8.21%) PT Asuransi Central Asia (6.59%)	22 companies, of which the 3 largest are: PT Chubb General Insurance Indonesia (1.31%) PT Asuransi Allianz Utama Indonesia (1.51%) PT AIG Insurance Indonesia (0.80%)
Reinsurance companies	1 company PT Reasuransi Indonesia Utama (32.94%)	6 companies, of which the 3 largest are: PT Reasuransi Nasional Indonesia (24.89%) PT Tugu Reasuransi Indonesia (18.11%) PT Maskapai Reasuransi Indonesia Tbk (13.38%)	No companies

Source: Information provided by the OJK.

4.211. Since 2013, six insurance companies have had their licences revoked due to bankruptcies, eight insurance/reinsurance companies have had their licences revoked due to merger activities, and six insurance companies have been changed into public companies. As indicated by the authorities, the COVID-19 pandemic has had a significant impact on the life insurance sector, which was highly invested in the capital market and hence affected by falling yields (Section 4.4.3.4). More generally, the insurance sector has suffered from COVID-19-related changes to consumption patterns, with consumers prioritizing primary needs over the purchase of insurance policies; this has led to falling insurance premiums.

4.212. A new insurance law entered into force in 2014 (Law No. 40 of 2014) and was followed by 53 implementing regulations. The Law applies to all insurance business companies (insurers, reinsurers, brokers, agents, and loss adjusters). Among the main changes introduced compared with previous law (Law No. 2 of 1992) are the tightening of restrictions on foreign ownership and the introduction of a single presence policy. Minimum paid-up capital requirements are set out in OJK Regulation No. 67/POJK.05/2016. These are: IDR 150 billion for conventional insurance companies and IDR 100 billion for sharia insurance companies. Under the previous Regulation (GR No. 39 of 2008), the paid-up capital requirement for conventional insurance was IDR 100 billion, and IDR 50 billion for sharia insurance. As indicated by the authorities, the requirements for sharia insurance are more lenient than conventional insurance because the exposure of sharia insurance business is not as big as conventional insurance. Additionally, they aim to help sharia insurance grow rapidly and to attract investment in this area.

4.213. With respect to foreign ownership rules, while, under both the 1992 and the 2014 Insurance Laws, there was/is a requirement for Indonesian shareholders to hold at least 20% of the issued capital of any joint venture insurance business company, the old Law specified that Indonesian shareholders could be Indonesian citizens and/or Indonesian legal entities fully-owned by Indonesian citizens and/or legal entities. The new Law removed the reference to "and/or Indonesian legal entities", which means that an Indonesian corporate shareholder must be fully-owned by Indonesian citizens to qualify; the so-called dual-layer PMA structure which foreign entities had used to ultimately own 100% of an IBC has been made unlawful.<sup>291</sup> Insurance companies were given

<sup>291</sup> As noted by the following source, the dual-layer PMA structure relied on Article 8(1)(a) of the old Insurance Law. The rationale is that (i) being a limited liability company incorporated in Indonesia, a PMA company is recognized as an Indonesian legal entity under Indonesia's Constitution and Company Law; and (ii) a dual-layer PMA (i.e. joint venture) structure satisfies the requirement of an "Indonesian legal entity fully

five years to (i) transfer the foreign-owned shares to Indonesians; or (ii) go public, since publicly owned companies are exempt from the 80% foreign-ownership threshold. Since then, GR No. 3 of 2020 was issued, which stipulates that, if foreign ownership in an insurance company, which is not a public company, exceeded 80% at the time that the Regulation entered into force, the insurance company was excluded from the foreign ownership ceiling but may not increase its foreign ownership share.

4.214. Single presence for the insurance sector, introduced by the 2014 Insurance Law, requires that a person or other legal entity can only be a controlling shareholder at one time in: one life insurance company; one general insurance company; one reinsurance company; one sharia life insurance company; one sharia general insurance company; and/or one sharia reinsurance company. These restrictions do not apply to SOEs. Non-compliant companies had three years to comply.<sup>292</sup>

4.215. As noted by an external source, other key developments from the 2014 Insurance Law are: (i) insurance and reinsurance companies must separate into a stand-alone entity all sharia divisions within 10 years of the enactment of the Law, or when the sharia component exceeds 50%, whichever is earlier; (ii) the insurance for any asset or risk located in Indonesia must be placed with a local insurer, irrespective of ownership of that asset or responsibility for the risk, unless no local insurer is able or willing to underwrite the risk (apparently this removes the previous concession that allowed foreign entities to purchase insurance from offshore insurers); (iii) a new policy assurance programme replaces the existing mandatory guarantee fund, with the aim of providing protection to policyholders if their insurer is liquidated or has its licence revoked; and (iv) insurance and reinsurance companies must optimize domestic capacity (i.e. they must provide local reinsurance coverage "as far as possible"); apparently the idea is to encourage all insurers and reinsurers to assist in the expansion of the local market.<sup>293</sup>

4.216. In 2014, the Government launched a compulsory national health insurance system, which is managed by BPJS Kesehatan, a government public agency. As at May 2020, nearly 85% of the population was covered, with premiums being automatically deducted from salaries of formal workers. Informal workers pay a certain nominal amount according to the class of the health services. However, the system has suffered deficits since its inception, which has led the BPJS to increase premiums and to seek financing from the Government to fill this gap; collection of premiums from informal workers has also been a challenge.<sup>294</sup> It has been suggested that private health insurance will play a role in the system, by providing for excess additional coverage of services not included in the national health insurance system.<sup>295</sup> Statutory tariffs are required for motor vehicles and the property line of business and, since 2014, commissions may not exceed 25% and 15% of premiums, respectively.<sup>296</sup>

#### 4.4.3.4 Securities

4.217. The legal foundation for the capital market is Law No. 8 of 1995 on the Capital Market.<sup>297</sup> The capital market grew steadily over the review period, albeit from a relatively low base, in terms of listed entities, number of investors, and value of trades. The number of equities-listed companies increased by 37%, from 506 companies in 2014 to 691 on 29 May 2020; of these, 17 companies (15 of which are fully or partially state-owned) accounted for around 20% of the total market

owned by an Indonesian legal entity" (i.e. another PMA company). Accordingly, a dual-layer PMA structure was adequate to qualify as an Indonesian shareholder of an insurance company. Mondaq, *Australia: Asia Pacific – focus on insurance: Indonesia*. Viewed at: <https://www.mondaq.com/australia/Insurance/353188/Asia-Pacific--focus-on-insurance-Indonesia>.

<sup>292</sup> Mondaq, *Australia: Asia Pacific – focus on insurance: Indonesia*. Viewed at: <https://www.mondaq.com/australia/Insurance/353188/Asia-Pacific--focus-on-insurance-Indonesia>.

<sup>293</sup> Mondaq, *Australia: Asia Pacific – focus on insurance: Indonesia*. Viewed at: <https://www.mondaq.com/australia/Insurance/353188/Asia-Pacific--focus-on-insurance-Indonesia>.

<sup>294</sup> Nikkei Asian Review, *Indonesia struggles to pay for huge universal health care program*. Viewed at: <https://asia.nikkei.com/Economy/Indonesia-struggles-to-pay-for-huge-universal-health-care-program>.

<sup>295</sup> Economist Intelligence Unit, *Industry Report on Financial Services Q2 2019*. Viewed at: [www.eiu.com](http://www.eiu.com).

<sup>296</sup> Tariff and commissions are regulated by OJK Circular Letter No. 6/SEOJK.05/2017. KPMG (2016), *Insurance in Indonesia: Opportunities in a Dynamic Market*, April. Viewed at: <https://home.kpmg/id/en/home/insights/2016/04/insurance-in-indonesia-opportunities-in-a-dynamic-market.html>.

<sup>297</sup> IDX, *Capital Market Act*. Viewed at: <https://www.idx.co.id/en-us/regulation/capital-market-act/>.

capitalization at May 2020. The number of equity and bond investors increased from 364,645 in 2014 to 1,198,207 at end-May 2020. The period 2013-19 saw a significant increase in trading activities (both average daily trading volume and average daily number of trades) and an increase in market capitalization from IDR 4,219 trillion in 2013 to IDR 7,163 trillion in 2019; due to the impact of COVID-19, market capitalization fell to IDR 5,664 trillion at end-May 2020. Data on IDX listings and values are set out in Table 4.11.

**Table 4.11 Indonesia Stock Exchange (IDX) listed entities, May 2020**

Product	Number of listed companies/entities Number of series/contracts of product instruments	Value
Equities	691 companies	Market capitalization: USD 373 billion
Bonds	117 companies	Outstanding value: Government: USD 207.5 billion Corporate: USD 29.6 billion
Exchange traded funds	43 series	Assets under management: USD 819 million
Asset backed securities	14 series	Outstanding value: USD 623.5 million
Real estate investment trusts	3 series	Assets under management: USD 789 million
Infrastructure investment funds	1 series	Assets under management: USD 71 million
Futures	9 contracts	-

Note: USD as at 29 May 2020 was IDR 14,733.

Source: Information provided by the IDX.

4.218. Since 2013, key developments have included: various technical improvements/adjustments (including an upgraded trading system and new data center; adjustments to lot and tick sizes; and shortened transaction settlement cycles, from three days to two); the launching of the IDX Channel (the official TV of the Indonesia Stock Exchange); margin trading regulatory easing; efforts to assist companies in making their IPOs (including the "go public information center" and the establishment of the IDX Incubator which helps digital-based startups that want to IPO<sup>298</sup>); and the launch of new instruments (LQ45 Index Futures, Indonesia Government Bond Futures, and Real Estate Investment Trust).<sup>299</sup> In response to the COVID-19 pandemic, the IDX took various steps to help slow down the impact on, and maintain stability in, the capital market.<sup>300</sup>

4.219. Foreign corporations and individuals may invest in Indonesian securities on the IDX or the over-the-counter market. Foreign investors own about 50% of the equity market, while, in the bond market, foreign investors own 30.54% of government bonds and 7.41% of corporate bonds. The benchmark Jakarta Composite Index (JCI), which covers all stocks, posted long-term growth over the period 2009-19, with downturns witnessed in 2013, 2015 and 2018; for these years, recovery was achieved within a year. In the wake of the COVID-19 pandemic, as global markets started weakening caused by a high level of uncertainty, the JCI witnessed a steep decline, starting in January 2020, which was followed by a modest recovery from 20 March 2020. Up until end-May 2020, it was down by 24.54%.

#### 4.4.4 Telecommunications

4.220. Over the review period, fixed-line subscriptions saw a steep decline. Mobile cellular subscriptions increased year-on-year, up until 2018, when there was a significant drop; this may be due to the issuance of a government regulation requiring all sim card holders of prepaid mobile phone subscriptions to re-register their cards. The objective of this measure was for reasons of consumer and operator safety and protection, and it led to the blocking of over 120 million SIM cards

<sup>298</sup> IDX Incubator, *Beyond Incubator*. Viewed at: <http://idxincubator.com/>.

<sup>299</sup> IDX, *History & Milestone*. Viewed at: <https://www.idx.co.id/en-us/about-idx/history-milestone/>; and information provided by the authorities.

<sup>300</sup> The IDX removed shortsell-eligible securities; implemented asymmetric auto rejection; implemented a three-level circuit-breaker; removed pre-opening securities, and shortened its trading hours to adjust to the work-from-home policy. The OJK and the IDX also issued relaxation policies related to reporting obligations by listed companies and issuers.

that were not re-registered.<sup>301</sup> Both Internet usage by individuals and fixed broadband subscriptions more than doubled over the period 2013-19, albeit from a very low base with respect to the latter (Table 4.12).

**Table 4.12 Telecommunications indicators, 2013-19**

	2013	2014	2015	2016	2017	2018	2019
Fixed telephone subscriptions per 100 inhabitants	12.20	10.28	4.02	4.11	4.18	3.10	3.55
Mobile-cellular telephone subscriptions per 100 inhabitants	124.39	127.62	131.18	147.42	164.44	119.34	127.3
Percentage of individuals using the Internet	14.94	17.14	21.98	25.45	32.29	39.90	..
Fixed-broadband subscriptions per 100 inhabitants	1.29	1.33	1.54	2.00	2.35	3.32	3.84

.. Not available.

Source: ITU, *Statistics*. Viewed at: <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>; and information provided by the authorities.

4.221. As at May 2020, there were seven cellular operators, compared with eight in 2013; this is due to the merger between PT Axis Telecom and PT XL Axiata Tbk in 2013. The market is dominated by PT Telekomunikasi, a largely domestically owned company (Table 4.13). There has been foreign investment in five cellular operators, with foreign equity shares ranging from 35% to nearly 67%. The State has an ownership share in PT Indosat Tbk (20.71%) and PT XL Axiata, Tbk (33.64%).

4.222. There are four fixed-line operators in Indonesia; the market is overwhelmingly dominated by Telekomunikasi Indonesia (Table 4.14). The State has a minority equity share in two operators, Telekomunikasi Indonesia (36.93%) and PT Indosat Tbk (20.71%). There has been foreign investment (65% of equity) in one company (PT Indosat, Tbk). As at June 2020, there were 429 Internet service providers.

**Table 4.13 Market share of cellular operators, 2013-19**

(%)

Operator	Market share						
	2013	2014	2015	2016	2017	2018	2019
PT Telekomunikasi Selular	41.99	43.18	45.03	45.11	45.11	51.02	50.14
PT Indosat, Tbk	19.02	19.42	20.57	22.21	25.32	18.18	17.41
PT XL Axiata, Tbk	19.33	18.31	12.36	12.05	12.30	16.90	16.60
PT Smartfren Telecom Tbk	1.91	1.40	1.24	0.90	0.97	0.90	2.01
PT Smart Telecom	1.71	2.26	2.02	1.96	1.67	2.93	4.85
PT Hutchison 3 Indonesia	12.10	15.41	18.75	17.75	14.62	10.06	8.94
PT Sampoerna Telekomunikasi Indonesia	0.04	0.02	0.02	0.01	0.01	0.01	0.06
PT Axis Telecom	3.91	-	-	-	-	-	-

Note: PT Axis Telecom was merged with PT XL Axiata Tbk in 2013.

Source: Information provided by the authorities.

**Table 4.14 Market share of fixed-line operators, 2016-19**

(%)

Operator	Market share			
	2016	2017	2018	2019
PT. Telekomunikasi Indonesia	98.43	98.90	98.42	98.49
PT Indosat Tbk	0.83	0.87	1.17	1.15
PT Smartfren Telecom Tbk	0.74	0.23	0.39	0.34
Batam Bintan Telekomunikisi	0.002	0.003	0.014	0.019

Source: Information provided by the authorities.

<sup>301</sup> Minister of Communication and Information Technology Regulation No. 12 of 2016 regarding the Telecommunication Services Customer Registration, as amended by Regulations No. 14 of 2017 and No. 21 of 2017.



4.223. A key development over the review period was the completion of the construction of a high-speed, fibre-optic nationwide Internet network, called the Palapa Ring, in October 2019. It is a strategic national project consisting of two schemes: (i) the PPP Palapa Ring, which was deployed by MCI/BAKTI in 57 regencies and cities; and (ii) the Non-PPP Palapa Ring, which was completed by Telekomunikasi Indonesia in 447 regencies and cities. Telekomunikasi Indonesia holds the right to set the tariff for the Non-PPP Palapa Ring Project, while tariffs for the PPP Palapa Ring Project are regulated by the Government.<sup>302</sup> With respect to Palapa Ring utilization for each region, the "West Package" is operating at 33% of total capacity, the "Central Package" at 15%, and the "East Package" at 23%.

4.224. The telecommunications sector remains governed primarily by Law No. 36/1999 (Telecommunications Law), which sets guidelines for industry reforms, including liberalization, facilitation of new entrants, and enhanced transparency and competition. The Law is implemented through numerous government and ministerial regulations. Proposed amendments to the Law are contained in the Omnibus Law on Job Creation (Section 2). Reportedly, notable provisions under the draft would: allow telecommunications operators to share and transfer spectrum with prior approval of the central Government; encourage telecommunications operators to share passive infrastructure, such as towers, ducting and poles, with other telecommunications operators; authorize the Government to determine upper and lower pricing limits for telecommunications networks and services; and eliminate the existing requirement that telecommunications equipment/devices that are made in, imported into, or used in Indonesia must go through a certification process – the only requirement would be for government technical standards to be fulfilled.<sup>303</sup> Regulatory developments over the review period related to, *inter alia*, telecommunication network licensing processes, certification of telecommunication tools/devices; business licensing; registration of telecommunication service subscribers; and universal service. As indicated by the authorities, consideration is being given to issuing a regulation on mobile-communication airwaves, in order to encourage consolidation in the telecommunications sector.<sup>304</sup>

4.225. The regulator remains the Indonesian Telecommunication Regulatory Body (*Badan Regulasi Telekomunikasi Indonesia* (BRTI)). Its duty is to foster information and communication technology, which includes regulating, supervising and monitoring the operations of telecommunication networks and services, broadcasting infrastructure, resources of telecommunications and broadcasting, digital economy, and the Internet. The BRTI reports directly to the Minister of Communications and Informatics (MCI). As indicated by the authorities, the BRTI developed and implemented strategies over the review period on pricing in telecommunications services, cellular subscription registration using biometrics, and development of regulations on "over the top" services. The Telecommunications and Information Accessibility Agency (BAKATI) is responsible for implementing the universal telecommunications service programme, as regulated by MCI Regulation No. 10/2018.<sup>305</sup> This Regulation replaces MCI Regulation No. 25 of 2015. Changes include: an expanded scope of universal service implementation to include digital economy provisions; changes related to the service area of universal service (this can now be based on a top-down decision, rather than being limited to frontier, outermost and least-developed regions); and procedural issues relating to BAKATI's managerial process and the Strategic Plan. Funding to fulfil universal service requirements is based on contributions of telecommunication networks or service operators. As set out in Law No. 44 of 2016 concerning List of Business Fields that are Closed to and Business Fields that are Open with Conditions to Investment, the following activities are closed to investment: management and operation of radio-frequency spectrum, and satellite orbit monitoring stations

<sup>302</sup> MoF Regulation No. 85/2018 on Service Tariff for Public Service Agency for Office for Telecommunication and Informatics Provider and Funds Management (BP3TI) under MCI and Decision of President Director of BAKTI No. 27 of 2020 concerning Service Tariff for Palapa Ring Fiber Optic Network of BAKTI.

<sup>303</sup> Global Compliance News, *Indonesia: Draft Omnibus Law: Sharing Among Telecommunications Players*. Viewed at: <https://globalcompliancenews.com/indonesia-draft-omnibus-law-sharing-among-telecommunications-players/>.

<sup>304</sup> Bloomberg, *It's Not Just Regulation Hampering Indonesian Telco Deals*. Viewed at: <https://www.bloomberg.com/news/articles/2019-02-26/it-s-not-just-regulation-plenty-hampers-indonesian-telcos-m-a>.

<sup>305</sup> MCI Regulation No. 10 of 2018 governs universal service provision. Viewed (as an unofficial English translation) at: [https://jdih.kominfo.go.id/produk\\_hukum/view/id/616/t/peraturan+menteri+komunikasi+dan+informatika+no+mor+10+tahun+2018+tanggal+30+agustus+2018](https://jdih.kominfo.go.id/produk_hukum/view/id/616/t/peraturan+menteri+komunikasi+dan+informatika+no+mor+10+tahun+2018+tanggal+30+agustus+2018).

(Section 2.4.2). Home and building cable installation are reserved for MSMEs. Limitations on foreign participation in telecom and Internet services are set out in Table 4.15.

**Table 4.15 Limitations on foreign participation in telecom and Internet services, 2020**

Services	Ownership
Network operation:	
Provider, operator (operation and renting) and construction service provider for telecommunication tower	Domestic capital 100%
Fixed telecommunication network services	Maximum foreign ownership 67%
Mobile telecommunication network services	
Telecommunication network provider integrated with telecommunication services	
Content telecommunication services (ringtone, premium short message services, etc.)	
Call centres and other added-value telephony services	
Internet service providers	
Data communication system services	
Public Internet telephony services	
Internet interconnection services (Network Access Point), and other multimedia services	
Electronic commerce transaction providers (platform-based marketplace, daily deals, price-grabbers, online classified advertising) with an investment value of less than IDR 100,000,000,000	Maximum foreign ownership 49%

Source: Law No. 44 of 2016 concerning List of Business Fields that are Closed to and Business Fields that are Open with Conditions to Investment. Viewed at: [https://www2.bkpm.go.id/images/uploads/prosedur\\_investasi/file\\_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf](https://www2.bkpm.go.id/images/uploads/prosedur_investasi/file_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf).

4.226. Changes introduced by the 2016 negative investment list are as follows: (i) the FDI limitation on telecommunication equipment certification was increased to 100% (from 95% in 2014); (ii) 100% FDI is permitted in certain e-commerce activities involving investments of more than IDR 100 billion and, for these activities under the IDR 100 billion threshold, FDI is capped at 49% (these thresholds were not stipulated in the 2014 list); (iii) there was a slight increase in the FDI threshold (from 65% in 2014 to 67% in 2018) for fixed and mobile telecommunication networks and telecommunication networks integrated with telecommunication services; and (iv) there was an increase in the FDI threshold, from 49% in 2014 to 67% in 2016, for telecommunication services (e.g. Internet services providers).<sup>306</sup> Ongoing discussions to revise the negative investment list to open certain activities to 100% foreign investment are, *inter alia*, considering provision of fixed and mobile telecommunications networks and Internet access services (Section 2.4.2).

4.227. Mobile number portability is not permitted, because each telecommunications operator is granted its own unique network access code that cannot be shared between operators.<sup>307</sup> Fixed number portability is not permitted either. Certain local-content requirements are in place (Section 3.1.7).

4.228. As indicated by the ITU, the price of mobile data in Indonesia appears to be particularly affordable; in 2019, the price of a mobile-data basket cost 0.7 % of GNI per capita, putting Indonesia among the 40 economies with the lowest prices for this segment.<sup>308</sup> Tariffs for telecommunications services are set by the telecommunications operators, based on a formula set by the Government. The intense competition in this area has generated calls by some parties for the Government to implement a tariff restriction policy (floor price) on data communications services.<sup>309</sup>

4.229. As reported in the previous Review, despite the termination of exclusive rights, the Government does not prohibit or discourage operators from attaining a dominant position in telecommunications services. However, it does prohibit operators from abusing a dominant

<sup>306</sup> White and Case, *Indonesia's New 2016 Negative List*. Viewed at: <https://www.whitecase.com/sites/whitecase/files/files/download/publications/indonesias-new-2016-negative-list.pdf>.

<sup>307</sup> Lexology, *Telecoms and Media 2019*. Viewed at: <https://files.simmons-simmons.com/api/get-asset/LexGTDTelecomsMedia2019AuthorPDF.pdf?id=blte70d57efad22fbc8>.

<sup>308</sup> ITU (2019), *Measuring digital development – ICT Price Trends – 2019*. Viewed at: [https://www.itu.int/en/ITU-D/Statistics/Documents/publications/prices2019/ITU\\_ICTpriceTrends\\_2019.pdf](https://www.itu.int/en/ITU-D/Statistics/Documents/publications/prices2019/ITU_ICTpriceTrends_2019.pdf).

<sup>309</sup> KPPU, *Anticipating floor price in data communication service*. Viewed at: <http://eng.kppu.go.id/anticipating-floor-price-in-data-communication-service/>.

position.<sup>310</sup> MCI Decree No. 33/2004 sets forth measures to prohibit the abuse of dominant position by network and service providers. Specifically, the Decree prohibits a dominant provider from engaging in practices such as dumping, predatory pricing, cross-subsidies, compelling consumers to use that provider's services (to the exclusion of competitors), and hampering mandatory interconnection.<sup>311</sup> Competition cases involving the telecommunications sector fall solely within the Indonesia Competition Commission's remit. Over the review period, two telecommunications-related competition cases were addressed by the KPPU. One related to suspected violation by Telekomunikasi Indonesia regarding rules on tying agreements, monopoly and abuse of dominance provisions in the Competition Law (No. 5 of 1999); in this instance, the KPPU found no such violation, and the case was closed.<sup>312</sup> The other related to exclusive dealing between PT Angkasa Pura II and Telekomunikasi Indonesia in administering telecommunications and implementing the electronic payment online system at Soekarno-Hatta Airport. The reported parties were found guilty, and sanctioned to pay administrative fines amounting to IDR 3.4 billion (PT Angkasa Pura II) and IDR 2.1 billion (Telekomunikasi Indonesia).

#### 4.4.5 Transport

4.230. The Ministry of Transport (MoT) has overall responsibility for the transportation sector in Indonesia. As at the time of the previous Review, the MoT's main strategy being implemented is the Sistranas Plan (as set out in MoT Regulation No. KM49/2005 on the National Transport System). The MoT is also implementing its five-year strategic plan for the period 2015-19, which covers air, sea, land and railway transport<sup>313</sup>; this is in the process of being updated. Improving maritime and marine management is one of seven development agendas contained in the National Medium-term Development Plan 2020-24, and improvements to transport infrastructure are identified as national priority projects (Section 2.2.2).

4.231. In 2019, 307.8 million tonnes of cargo was loaded onto, and 97.7 million tonnes unloaded from, vessels on international voyages in Indonesia's ports.<sup>314</sup> With respect to international visitor arrivals, over the period 2014-19, most entered Indonesia through airports (Table 4.16). According to the authorities, over the period January to mid-June 2020, covering the initial period of the COVID-19 pandemic, 3.3 million people arrived in Indonesia on international flights.

**Table 4.16 International visitor arrivals to Indonesia, by port of entry, 2014-19**

	2014	2015	2016	2017	2018	2019
Airports	6,944,587	7,165,033	8,545,300	9,657,816	10,088,781	9,834,706
Seaports	2,435,534	3,022,519	2,389,138	2,869,821	3,214,420	4,160,632
Landports	55,290	43,223	584,837	1,512,162	2,507,104	2,111,616

Source: Statistics Indonesia, *Statistical Yearbook of Indonesia 2020*. Viewed at: <https://www.bps.go.id/publication/2020/04/29/e9011b3155d45d70823c141f/statistik-indonesia-2020.html>.

4.232. The main laws governing the transportation sector are the Road and Toll Road Law No. 38 of 2004; the Railway Law No. 23 of 2007; the Law No. 17 of 2008 on Shipping; the Civil Aviation Law No. 1 of 2009; and the Land Transport Law No. 22 of 2009. There were no amendments to these Laws over the review period. As indicated by the authorities in the context of this Review, there were efforts to reform and simplify the licensing and permit requirements set out in Indonesia's transport laws and implementing regulations; permits and licences may now be applied for and delivered online.

<sup>310</sup> The definition of "dominant operators" is referred to in MCI Regulation No. 8 of 2006 concerning Interconnection. Its common regulation is regulated in Law No. 5 of 1999 concerning Anti-Monopoly Practices and Unfair Business Competition.

<sup>311</sup> WTO document WT/TPR/S/278/Rev.1, 16 July 2013.

<sup>312</sup> KPPU, *PT Telkom free from the suspected tying agreement in Indihome case*. Viewed at: <http://eng.kppu.go.id/pt-telkom-free-from-the-suspected-tying-agreement-in-indihome-case/>.

<sup>313</sup> MoT Decree No. KP 881 of 2018. Viewed at: [http://jdih.dephub.go.id/produk\\_hukum/view/UzFBZ09EZ3hJRlJCtU0ZWt0IESXdNVGc9](http://jdih.dephub.go.id/produk_hukum/view/UzFBZ09EZ3hJRlJCtU0ZWt0IESXdNVGc9).

<sup>314</sup> Statistics Indonesia, *Statistical Yearbook of Indonesia 2020*. Viewed at: <https://www.bps.go.id/publication/2020/04/29/e9011b3155d45d70823c141f/statistik-indonesia-2020.html>.

4.233. Investment restrictions in the transportation sector are set out in Law No. 44 of 2016 concerning List of Business Fields Closed to and Business Fields Open with Conditions to Investment (Section 2.4.2). Under this Law, the following activities are closed to investment: organization and operation of terminals for passenger land transport; organization and operation of weigh stations; telecommunication/aids to shipping navigation and vessel traffic information; provision of air navigation services; and administration and testing of types of motor vehicles. Investment in various transport-related activities are subject to conditions, largely consisting of FDI restrictions (Table 4.17).

**Table 4.17 Transport-related activities open to investment, with conditions, 2020**

Services	Ownership
Cargo land transportation; special cargo land transportation; passenger land transportation on scheduled routes (intercity and inter-provincial transport, suburban/rural transport, in-province intercity transport, urban/suburban/rural transport, and cross-border transport); passenger land transportation on non-scheduled routes (taxi transport, tourism transport, specific destination transport, specific area transport); domestic sea transportation; international sea transportation; inter-provincial general inland water transportation; inter-provincial pioneering inland water transportation; inter-district/intercity general inland water transportation; inter-district/intercity pioneering inland water transportation; inner district/city general inland water transportation; river and lake transportation for passengers with fixed schedules and regular routes; river and lake transportation for passengers with non-fixed schedules and irregular routes; river and lake transportation for tourism with non-fixed schedules and irregular routes; river and lake transportation for general freight and/or animals; river and lake transportation for special freight; river and lake transportation for hazardous freight; provision of harbour facilities i.e. waste reception facilities; airport services; provision and operation of transportation for crossing harbours; provision and operation for transportation on rivers and lake harbours; performance of periodic testing of motor vehicles; operation of passenger land transport terminal facilities (public facilities and general cargo terminals only); and multimode transportation	Foreign capital ownership: max. 49%
Provision of harbour facilities (jetties, buildings, tugs at cargo container terminals, at liquid-bulk terminals, at dry-bulk terminals, and at Roll-on Roll-off (Ro-Ro) terminals	(i) Foreign capital ownership: max. 49%; (ii) subject to a special permit from the MoT for the minimum capital requirement
Domestic scheduled commercial air transportation; international scheduled commercial air transportation; non-scheduled commercial air transportation; non-commercial air transportation	(i) Foreign capital ownership: max. 49% (ii) National capital must outnumber the whole foreign capital (single majority)
Supporting transport business in terminals; air transportation support services (computer-based reservation system, passenger and cargo ground handling, and aircraft leasing); airport-related services; freight-forwarding services; air freight-forwarding services; airline general sales agents	Foreign capital ownership: max 67%
Loading and unloading of goods services (maritime cargo handling services)	(i) Foreign capital ownership: max 67% (ii) Foreign capital ownership by ASEAN countries' investors: max. 70% (iii) Applicable only for ASEAN countries in 4 ports (Bitung Seaport; Ambon Seaport; Kupang Seaport; and Sorong Seaport)
International passenger transportation (excluding cabotage); international freight overseas transportation (excluding cabotage)	Foreign capital ownership by ASEAN countries' investors: max. 70%
Public shipping	Domestic capital 100%
Salvage and/or underwater works service	Subject to a special permit from the MoT

Source: Law No. 44 of 2016 concerning List of Business Fields that are Closed to and Business Fields that are Open with Conditions to Investment. Viewed at: [https://www2.bkpm.go.id/images/uploads/prosedur\\_investasi/file\\_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf](https://www2.bkpm.go.id/images/uploads/prosedur_investasi/file_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf).

4.234. The 2016 amendments to the negative investment list introduced various changes to investment conditions and FDI thresholds. Permitted FDI was increased for various transport services. Under the 2014 list, (i) passenger land transportation (inter-city and inter-province transport, rural transport, urban transport, in-province intercity transport, and cross-border transport) and non-scheduled land transportation (taxis, tourism transport, and certain area/destination transport) were previously closed to FDI but, under the 2016 list, they are now capped at 49%; (ii) certain air transport services for which FDI was capped at 49% under the 2014 list are now capped at 67%; these are: supporting services for transport terminals; air transport supporting services (computer reservation systems, ground handling, and aircraft leasing); services activities related to airports; freight-forwarding services; air cargo expedition services; and general sales agencies for foreign airlines); and (iii) FDI in maritime cargo handling services was previously capped at 49% (or up to 60% for ASEAN investors); however, under the 2014 list, the limit was increased to 67% (or up to 70% for ASEAN investors in specific ports).

#### 4.4.5.1 Maritime transport

4.235. In 2019, Indonesia was the world's 20<sup>th</sup> biggest ship-owning country. It had a fleet of 2,145 vessels (of which 2,063 were nationally flagged and 82 were foreign flagged). The total dead-weight tonnage (DWT) of these vessels was 22.3 million DWT (with foreign-flagged vessels accounting for nearly 7% of the DWT total). This represents a significant increase in the fleet size since 2012, as well as a decrease in the share of foreign-flagged vessels in the fleet.<sup>315</sup> In 2012, Indonesia ranked as the world's 13<sup>th</sup> biggest flag of registration by DWT.<sup>316</sup> In 2018, it ranked 7<sup>th</sup> in the world in terms of the highest number of port calls.<sup>317</sup>

4.236. The MoT's Directorate General of Sea Transport continues to have overall responsibility for sea transportation, which includes: (i) issuance of licences for ships and maritime services; (ii) management and operation of navigation equipment; and (iii) responsibility for maritime safety and training of seafarers. It is also the regulator of port activities, whether publicly or privately operated.

4.237. Vessels of at least 7 GT may be registered under the Indonesian flag (this includes offshore drilling rigs and mobile offshore drilling units). Vessels may be registered by an Indonesian individual, a wholly Indonesian-owned company, or a joint venture company, with at least 51% of the shares owned by wholly Indonesian-owned companies or Indonesian individuals (or both). Joint venture companies must own at least one vessel of at least 5,000 GT. Indonesia does not have a separate international shipping registry.<sup>318</sup>

4.238. Under the Law on Shipping<sup>319</sup>, domestic sea transportation is to be carried out by national shipping companies, using Indonesian-flagged vessels manned by an Indonesian crew. Exemptions to the cabotage restriction are set out in MoT Regulation No. 92 of 2018, as amended by MoT Regulation No. 46 of 2019.<sup>320</sup> Under this Regulation, certain types of foreign-flagged vessels for specific activities (not passenger or cargo vessels) may be exempt from cabotage rules. In such cases, vessels must be operated in Indonesia by a holder of a Shipping Company Business Licence that also meets the stipulated requirements. In 2018, the value of domestic maritime freight was

<sup>315</sup> In 2012, Indonesia had a fleet of 1,042 vessels, comprising 951 nationally flagged and 91 foreign-flagged vessels. The total DWT of these vessels was 11.6 million DWT (national fleet: 9.3 million DWT and foreign fleet 2.3 million DWT, the latter representing nearly 20% of the DWT total). UNCTAD, *Review of Maritime Transport 2012*. Viewed at: [https://unctad.org/en/PublicationsLibrary/rmt2012\\_en.pdf](https://unctad.org/en/PublicationsLibrary/rmt2012_en.pdf).

<sup>316</sup> UNCTAD, *Review of Maritime Transport 2019*. Viewed at: [https://unctad.org/en/PublicationsLibrary/rmt2019\\_en.pdf](https://unctad.org/en/PublicationsLibrary/rmt2019_en.pdf).

<sup>317</sup> UNCTAD, *Review of Maritime Transport 2019*. Viewed at: [https://unctad.org/en/PublicationsLibrary/rmt2019\\_en.pdf](https://unctad.org/en/PublicationsLibrary/rmt2019_en.pdf).

<sup>318</sup> Global Business Guide, *Registration of Vessels in Indonesia*. Viewed at: [http://www.gbgindonesia.com/en/main/legal\\_updates/registration\\_of\\_vessels\\_in\\_indonesia.php](http://www.gbgindonesia.com/en/main/legal_updates/registration_of_vessels_in_indonesia.php).

<sup>319</sup> ILO, *Law on Shipping*. Viewed at: [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=80281](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=80281).

<sup>320</sup> MoT Regulation No. 92/2018 replaces MoT Regulation No. 100/2016. Viewed at: [http://jdih.dephub.go.id/assets/uudocs/permen/2018/PM\\_92\\_TAHUN\\_2018.pdf](http://jdih.dephub.go.id/assets/uudocs/permen/2018/PM_92_TAHUN_2018.pdf). MOT Regulation No. 92/2018 provides a further extension on the use of foreign-flagged vessels until 31 December 2020; it also exempts a wider range of vessel types.



228.6 million tonnes. Since May 2020, coal exporters have been required to use Indonesian-owned sea transportation companies, with certain exceptions (Section 4.2.1)

4.239. Geographically, Indonesia is situated in one of the busiest shipping routes (Straits of Malacca), connecting global shipping traffic with four sea lines of communication. Indonesia aims to be a "global maritime fulcrum", and maritime connectivity development remains a long-term priority. Currently, most container and bulk cargo is transhipped in Singapore and loaded onto vessels destined for Indonesia. As indicated by the authorities, a key objective is to have direct shipments to Indonesia, to achieve cost savings through eliminating double-handlings. Direct ship calls were made between Jakarta's Tanjung Priok Port and the United States (from 2017 until April 2020); and ports in the Republic of Korea (since 2018) and China (since 2019).

4.240. Subsidies continue to be provided to support "pioneer" shipping companies whose objective is to provide access to remote regions; routes are determined by the Government, based on various criteria, and the total amount of the subsidy is the difference between gross income and total expenses including profits (10% of total expenses). Apparently, pioneer shipping handles around 250,000 passengers and 120,000 tonnes of freight per year (around 2% of all domestic shipping passengers and 0.1% of domestic freight).<sup>321</sup> Similarly, the Government provides financial support to private-sector owners of vessels (such as sea toll vessels and cattle ships) who support other government activities.

4.241. In 2015, additional support to the maritime, air and rail subsectors was provided by the Government. This was given by changing the VAT treatment of imports and deliveries of certain transport-related goods and related services from "VAT-exempted" to "VAT not-collected", allowing importers/producers to credit their input VAT and thereby reduce production costs.<sup>322</sup> With respect to maritime transport, the measures relate to imports and deliveries of various types of vessels and their spare parts, as well as navigational or personal safety equipment used, *inter alia*, by national commercial shipping companies, national seaport operators or national river, lake and ferry operators in accordance with their activities. It also applies to the following deliveries of taxable services received, *inter alia*, by national commercial shipping companies, seaport operators and river, lake crossing and ferry operators covering vessel leasing services, port services, including tugboat, piloting, berthing and anchoring services, and vessel maintenance or docking services.

4.242. There are approximately 2,391 ports in Indonesia, of which 693 are under government jurisdiction and 1,698 are private special-purpose ports, several of which service the coal industry. Of the government ports, 111 are commercial ports, operated by the Indonesia Port Corporation (IPC), an SOE under concession and cooperation on utilization agreements with the MoT. Over the review period, IPCs also expanded their roles into logistics and trade facilitation-related services, and light manufacturing. The IPC has four different branches, which cover different geographical areas. In 2018, the four branches handled over 16 million twenty-feet equivalent units of cargo. As indicated by the authorities, due to limited government funding and to increased competition in port services, the Government initiated PPP in the construction, financing and operation of selected ports (Patimban Port, Anggrek Port, and Baubau Port). The largest port in terms of volume of traffic is Tanjung Priok Port. Port infrastructure works underway or completed include: the construction of a deep-sea port at Kijing in West Borneo and Patimban Port at West Java (planned to be in operation in late 2020); and the ongoing development of Labuan Bajo Port in East Nusa Tenggara.

4.243. Port tariffs vary between different ports, with the MoT defining pricing in consultation with stakeholders. The basis and procedures for the determination of port fees are set out in MoT Regulation No. 121 of 2018.<sup>323</sup> As noted in Section 3.1.4, harbour dues and lift-on, lift-off charges have been reported to be significantly higher for international routes than for domestic routes.

<sup>321</sup> Japan International Cooperation Agency, *Study on the Development of Domestic Sea Transportation and Maritime Industry in the Republic of Indonesia*. Viewed at: [https://openjicareport.jica.go.jp/pdf/11761459\\_02.pdf](https://openjicareport.jica.go.jp/pdf/11761459_02.pdf).

<sup>322</sup> PWC, *Tax Indonesia – October 2015 – No. 26*. Viewed at: <https://www.pwc.com/id/en/taxflash/assets/english/2015/taxflash-2015-26.pdf>.

<sup>323</sup> MoT Regulation No. 121 of 2018. Viewed at: <https://www.indonesia.travel/content/dam/indtravelrevamp/cruise/Transportation%20Regulation%20-%20121%20-%202018%20-%20Port%20Tariff%20-%20English-pdf.pdf>.

4.244. There appears to be scope for port efficiency improvements, indicated by the above-average times spent by vessels in Indonesian ports compared with the average world total (Table 4.18).

**Table 4.18 Median time spent by vessels in Indonesia's ports, by market segment, 2018**

(number of days)

	Liquid bulk carriers	Dry bulk carriers	Container ships	Break bulk carriers	LNG carriers	LPG carriers
World average	0.94	2.05	0.70	1.11	1.11	1.02
Indonesia	1.28	3.55	1.09	1.26	1.38	1.13

Source: UNCTAD, *Review of Maritime Transport 2019*. Viewed at: [https://unctad.org/en/PublicationsLibrary/rmt2019\\_en.pdf](https://unctad.org/en/PublicationsLibrary/rmt2019_en.pdf).

#### 4.4.5.2 Air transport

4.245. As at mid-2020, 15 Indonesian airlines were operating scheduled services (8 operated international, and 12 operated domestic services). Additionally, 8 airlines were providing cargo services (3 of which provided exclusively cargo services). Several Indonesian airlines have foreign-equity participation (Table 4.19).

**Table 4.19 Indonesian airline routes, service and ownership, July 2020**

Airline	Route	Service	Ownership
PT Garuda Indonesia	Domestic & international	Pax & cargo	State/private
PT Citilink Indonesia	Domestic & international	Pax & cargo	State/private
PT Lion Mentari Airlines	Domestic & international	Pax	Private
PT Batik Air Indonesia	Domestic & international	Pax	Private
PT Wings Abadi	Domestic & international	Pax	Private
PT Sriwijaya Air	Domestic & international	Pax	Private
PT Indonesia Airasia	Domestic & international	Pax	Foreign/domestic
PT Transnusa Aviation Mandiri	Domestic & international	Pax & cargo	Foreign/domestic
PT Nam Air	Domestic	Pax	Private
PT Trigana Air Service	Domestic	Pax & cargo	Private
PT Travel Express Aviation	Domestic	Pax & cargo	Private
PT Asi Pudjiastuti Aviation	Domestic	Pax	Private
PT Tri MG Intra Asia	Domestic & international	Cargo only	Foreign/domestic
PT Myindo Airlines	Domestic & international	Cargo only	Foreign/domestic
PT Cardig Air	Domestic	Cargo only	Foreign/domestic

Source: Information provided by the authorities.

4.246. In 2018, 102.0 million passengers and 651,174 tonnes of cargo were carried on domestic scheduled flights.<sup>324</sup> The market is dominated by two operators: Garuda Indonesia (19.6% market share in 2019) and Lion Air (29.9%). As at June 2020, there was an ongoing competition case concerning price-fixing by these airlines.

4.247. Since 2013, there were three bankruptcies in the airline sector (PT Mandala Air, PT Batavia Air, and PT Kalstar Aviation), and privatizations of PT Garuda Indonesia (Persero) Tbk, which operated scheduled and non-scheduled services, and PT Indonesia Transport and Infrastructure Tbk (which operated non-scheduled services). The Government retains a 60.54% share in Garuda Indonesia. There are two other SOE airlines, PT Citilink Indonesia, and Pelita Air Service.<sup>325</sup>

4.248. Aviation policy and administration remains the responsibility of the Directorate-General of Civil Aviation (DGCA) in the MoT. In 2020, in response to the COVID-19 pandemic, regulations were put in place to limit the number of passengers and seating capacity, by applying physical distancing and adjusting airport slot times.<sup>326</sup> The number departures and arrivals per day at Jakarta airport over the period 15 March to 30 April decreased by 69% and 67.3%, respectively.

<sup>324</sup> Statistics Indonesia, *Statistical Yearbook of Indonesia 2019*. Viewed at: <https://www.bps.go.id/publication/2020/04/29/e9011b3155d45d70823c141f/statistik-indonesia-2020.html>.

<sup>325</sup> Pelita Air Service is 90% owned by the SOE Pertamina (the state oil company) and 10% owned by one of its subsidiaries (Patra Jasa). It, *inter alia*, provides charter services, including VIP transport.

<sup>326</sup> MoT Regulation No. 41 of 2020 on Amendment to MoT Regulation No. 18 of 2020 on Transportation Control for the Purpose of Preventing the Spread of Corona Disease 2019 (COVID-2019), and Circular Letter No. 13 of 2020.

4.249. Air tickets for both domestic and international flights comprise: basic fares; insurance; VAT; and a passenger service charge for airports operated by the DGCA.<sup>327</sup> Maximum tariffs for economy class domestic air transport services are regulated by MoT Regulations No. 20 of 2019 and No. 106/2019; the tariff takes into account the direct and indirect operating costs of the aircraft.<sup>328</sup>

4.250. Over the review period, various support measures targeted the airline sector and were, *inter alia*, aimed at reducing flight operation costs so as to reduce airfares, and responding to the COVID-19 pandemic. These include:

- modified VAT treatment under GR No. 69 of 2015, as amended by GR No. 50 of 2019.<sup>329</sup> This applies to the following imports and deliveries related to air transport: (i) air transport, and spare parts thereof, used by the Ministry of Defence, the Indonesian Armed Forces and the Indonesian Police; and (ii) aircraft, and spare parts thereof, aviation and personal safety equipment, and repair and maintenance equipment used by national commercial airlines. It also applies to the following deliveries of taxable services related to air transport: aircraft leasing services, and aircraft maintenance or repair services received by national commercial airlines;
- reduced import tax (to 0% duty rate) on goods related to aircraft maintenance since 2016<sup>330</sup>; and
- in response to the COVID-19 pandemic, the Government extended various support measures to the airline sector, including flight subsidies; a new airport tax tariff subsidy; and an aviation turbine fuel price subsidy (Box 1.1 and Table A1.1)

4.251. Over the review period, Indonesia signed new bilateral air services agreements (ASAs) with Papua New Guinea, the United Kingdom (both in 2013) and Switzerland (in 2016). Table A4.2 details the characteristics of all bilateral ASAs in force for Indonesia, coded according to the WTO QUASAR methodology<sup>331</sup>, which provides an assessment of their degree of liberalness.

4.252. Since 2013, Indonesia has also ratified various ASEAN air transport instruments: the ASEAN Multilateral Agreement on the Full Liberalization of Air Freight and its accompanying protocols (in 2015); Protocols 5 and 6 to the ASEAN Multilateral Agreement on Air Services (in 2014); the ASEAN Multilateral Agreement on the Full Liberalization of Passenger Air Services and its Protocols 1 and 2 (in 2016); the protocols to implement the seventh (in 2014), eighth and eleventh (in 2019) packages of commitments on air transport services under the AFAS; and the Air Transport Agreement between the Governments of the Member States of ASEAN and the People's Republic of China, and its protocols 1 and 2 (in 2016) and 3 (in 2019).<sup>332</sup> ASEAN negotiations on ASAs are ongoing with the European Union, the Republic of Korea, New Zealand, and Japan.

4.253. There are 251 airports in Indonesia, of which 38 are international. Thirty-three airports are operated by the state-owned Angkasa Pura 1 and Angkasa Pura 2, one airport is owned by the SOE BP Batam, and the rest are operated by the DGCA or by local governments. In 2019, the Government signed its first airport management contract with a foreign company; the development and operation of Komodo Airport on Flores Island will be undertaken by a consortium of PT Cardig Aero Services

<sup>327</sup> Since 2015, the passenger service charge, which is a departure tax, is included in the price of the ticket; previously, it was payable at the airport upon departure. GR No. 15/2016 governs the charge. The charge per passenger varies, depending on the class of airport and whether flights are domestic or international. For domestic flights, it ranges from IDR 15,000 to IDR 40,000, and for international flights, it ranges from IDR 60,000 to IDR 180,000.

<sup>328</sup> MoT Decree No.106/2019. Viewed at: [http://jdih.dephub.go.id/produk\\_hukum/view/UzAwZ01UQTJJRIJCU0ZWT0IESXdNVGs9](http://jdih.dephub.go.id/produk_hukum/view/UzAwZ01UQTJJRIJCU0ZWT0IESXdNVGs9).

<sup>329</sup> GR No. 50 of 2019. Viewed at: <https://www.pajak.go.id/sites/default/files/2019-07/PP-Nomor-50-Tahun-2019-Salinan.pdf>.

<sup>330</sup> This reduced duty rate was first implemented through MoF Regulation No. 35/2016; this Regulation was revoked with the tariff nomenclature change in 2017 but the 0% tariff duty on goods related to aircraft maintenance was maintained.

<sup>331</sup> For more elements on this methodology, see WTO document S/C/W/270/Add.1, 30 November 2006.

<sup>332</sup> ASEAN, *ASEAN Transport Instruments and Status of Ratification (as of 1 July 2019)*. Viewed at: <https://asean.org/storage/2017/05/Ratification-Status-of-Air-Transport-Agreement-as-of-1-July-2019.pdf>; and Tempo.Co, *Indonesia Signs Two International Air Transportation Agreements*. Viewed at: <https://en.tempo.co/read/1273161/indonesia-signs-two-international-air-transportation-agreements>.

and Singapore's Changi Airports International Limited. The contract duration is for 25 years.<sup>333</sup> Over the review period, several airport infrastructure projects were either completed or were ongoing, including the construction of 15 new airports, and rehabilitation and development works on existing airports.<sup>334</sup>

4.254. Ground-handling by private companies is permitted; foreign investment in such companies is permitted up to a maximum of 67% ownership.

#### 4.4.6 Tourism

4.255. According to the OECD, tourism is one of the main sources of foreign-currency earnings.<sup>335</sup> Indonesia also saw its rankings in the WEF Travel and Tourism Competitive Index improve from 70<sup>th</sup> out of 140 economies in 2013 to 40<sup>th</sup> out of 140 in 2019; recent improvements were noted in the areas of health and hygiene, and Indonesia was highly ranked in the areas of price competitiveness and privatization of travel and tourism. Challenges were highlighted in the areas of environmental sustainability and infrastructure.<sup>336</sup>

4.256. Most international visitor arrivals are from the Asia-Pacific region, which has been the fastest-growing source market in recent years. Of a total of 16.1 million visitor arrivals in 2019, around 80% were from the Asia-Pacific region (with most from Malaysia, China, Singapore, and Australia); 4% from the Americas (mainly the United States); 13% from Europe (mainly the United Kingdom, France, Germany, the Netherlands, and the Russian Federation), and 2% from the Middle East and Africa.<sup>337</sup> Over the period 2013-19, there was year-on-year growth in both visitor numbers and revenue from tourism. The number of hotel rooms also significantly increased (Table 4.20). Bali is the main tourist destination. As indicated by the authorities, due to the COVID-19 pandemic, as at end-June 2020, more than 2,000 hotels were closed, and almost all tourism destinations, amenities and facilities had been stopped, affecting the employees therein. From January to April 2020, Indonesia only welcomed 2.8 million international visitors, a more than 45% decline from the same period in 2019.

**Table 4.20 Inbound tourism, 2013-April 2020**

Year	Number of visitors (growth %)	Average length of stay	Average expenditure per day (USD)	Average expen- diture per visit (USD)	Total revenue (USD billion)	Revenue growth (%)	Number of hotel rooms
2013	8,802,129 (9.42)	7.65	149.31	1,142.24	10.05	10.23	430,793
2014	9,435,411 (7.19)	7.66	154.42	1,183.43	11.17	11.06	469,277
2015	10,406,759 (10.29)	8.53	141.65	1,208.79	12.23	9.49	507,201
2016	11,519,275 (10.69)	8.42	142.64	1,201.04	13.46	10.08	527,176
2017	14,039,799 (21.88)	..	..	..	15.24	13.21	..
2018	15,810,305 (12.61)	8.64	141.17	1,220.18	19.29	26.61	712,202
2019	16,106,954 (1.88)	..	..	..	..	..	..
2020 <sup>a</sup>	2,767,055 (-45.01)	..	..	..	..	..	..

.. Data not available.

a Figures are for January to April.

Source: Information provided by the Ministry of Tourism and Creative Economy.

<sup>333</sup> Reuters, *Indonesia to offer more airport management projects to foreign firms in 2020*. Viewed at: <https://www.reuters.com/article/us-indonesia-airport/indonesia-to-offer-more-airport-management-projects-to-foreign-firms-in-2020-idUSKBN1YU0T0>.

<sup>334</sup> The 15 new airports are: Anambas Airport, Namniwel Airport, Miangas Airport, Morowali Airport, Werur Airport, Maratua Airport, Koroway Batu Airport, Kertajati Airport, Samarinda Baru Airport, Tebelian Airport, Bandar Udara Siau Airport, Bandar Udara Tambelan Airport, Bandar Udara Muara Teweh Airport, Bandar Udara Buntukunik Airport, and Bandar Udara Pantar Airport.

<sup>335</sup> OECD, *Economics Department Working Paper No. 1535 (2019), Making the Most of Tourism in Indonesia to Promote Sustainable Regional Development*. Viewed at: [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ECO/WKP\(2019\)4&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ECO/WKP(2019)4&docLanguage=En).

<sup>336</sup> WEF, *The Travel and Tourism Competitiveness Report 2019*. Viewed at: [http://www3.weforum.org/docs/WEF\\_TTCR\\_2019.pdf](http://www3.weforum.org/docs/WEF_TTCR_2019.pdf). WEF, *The Travel and Tourism Competitiveness Report 2013*. Viewed at: [http://www3.weforum.org/docs/WEF\\_TT\\_Competitiveness\\_Report\\_2013.pdf](http://www3.weforum.org/docs/WEF_TT_Competitiveness_Report_2013.pdf).

<sup>337</sup> Statistics Indonesia. Viewed at: [www.bps.go.id](http://www.bps.go.id).

4.257. The Ministry of Tourism and Creative Economy (MoTCE) remains responsible for the tourism sector. It continues to implement the National Tourism Development Master Plan 2010-25. In implementing this Plan, the MoTCE issued MoTCE Regulation No. 10 of 2016 on guidelines for developing regional tourism master plans.<sup>338</sup>

4.258. A new initiative to develop international medical tourism in Indonesia was launched through an MOU between the ministries of tourism and creative economy and of health, in 2017. This reportedly involves policy and programme coordination and harmonization, medical tourism improvement and development, information and data exchange, and monitoring and evaluation. It was later followed up by the issuance of a health tourism catalogue and a fitness travel book.<sup>339</sup> To boost international tourist arrivals, in 2015, the MoT issued MoT Regulation No. 121, which includes a cabotage waiver so that foreign cruise ships may embark and disembark passengers at appointed seaports (Tanjung Priok in Jakarta; Tanjung Perak in Surabaya; Tanjung Benoa in Bali; Belawan in Medan; and the Makassar Sea Port in Makassar); previously, they were only allowed to anchor. Additionally, the number of countries from which citizens can travel visa-free for 30 days to Indonesia was increased from 45 in 2015 to 169.<sup>340</sup>

4.259. The principal law regulating national tourism development remains Tourism Law No. 10 of 2009; there were no amendments to this Law over the review period.<sup>341</sup> Regulatory initiatives aimed at increasing the sustainability and quality of tourism businesses included: the launch of a certification scheme in 2014<sup>342</sup>; the setting of business standards for a range of tourism travel-related services, and recreational, cultural and sporting activities in 2015<sup>343</sup>; the issuance of "guidelines for sustainable tourism destinations" in 2016<sup>344</sup>; and the implementation of National Working Competency Standards in 2015, which aim to be the reference for implementing tourism professionals' training and certification.<sup>345</sup>

4.260. As set out in Law No. 44 of 2016 concerning List of Business Fields that are Closed to and Business Fields that are Open with Conditions to Investment, the following activities are closed to investment: public museums; historical and archaeological remains (temples, Sultan's palaces, inscriptions, ruins, ancient buildings, etc.); and gambling/casinos. Certain activities are open to investment on condition that they are reserved for domestic MSMEs and cooperatives: tourism travel agents; homestays; tour guides; and Internet cafés. Various activities are open to investment, with conditions (Table 4.21).

4.261. The 2016 amendments to the negative investment list introduced various changes to investment conditions and FDI thresholds (Section 2.4.2). The business lines in which 100% foreign ownership is now permitted are: bars, cafes and the operation of sports facilities (e.g. bowling alleys and gyms) (under the 2014 negative list, FDI was capped at 49% (or up to 51% if in partnership with domestic MSMEs)); and restaurants, which were previously capped at 51% under the 2014 list. Increases in FDI thresholds were introduced for (i) golf courses and travel bureaux (under the 2014 list, FDI was capped at 49%, or 51% if in partnership with a domestic SME; and under the 2016 list, it was raised to a cap of 67%, or up to 70% for ASEAN investors); (ii) motels, which were previously capped at 49% (or 51% if in partnership with a domestic SME, or up to 70% for ASEAN investors), are now capped at 67% (or up to 70% for ASEAN investors); (iii) private museums, which were

<sup>338</sup> MoTCE, *MoTCE Regulation No. 10 of 2016*. Viewed at: <https://jdih.kemenparekraf.go.id/regulation/1136102#1>.

<sup>339</sup> The Jakarta Post, *Tourism and health ministries to develop medical tourism in Indonesia*. Viewed at: <https://www.thejakartapost.com/travel/2017/09/27/tourism-and-health-ministries-to-develop-medical-tourism-in-indonesia.html>; and Jakarta Globe, *Medical Tourism a New Target for Gov't*. Viewed at: <https://jakartaglobe.id/business/medical-tourism-a-new-target-for-govt/>.

<sup>340</sup> PR No. 21 of 2016 regarding Visa-Free Visit Embassy of Indonesia in Spain. Embajada de Indonesia, *169 countries are exempted from visa for a visit to Indonesia*. Viewed at: <http://embajadaindonesia.es/169-countries-are-exempted-from-visa-for-a-visit-to-indonesia/>.

<sup>341</sup> Law No. 20 of 2009. Viewed at: <http://balitourismboard.or.id/uploads/file/reg2.pdf>.

<sup>342</sup> Indonesia Company Law, *Implementation of Certification of Tourism Businesses*. Viewed at: <http://www.indonesiacompanylaw.com/tourism-business/implementation-of-certification-of-tourism-businesses/>.

<sup>343</sup> APEC (2017), *Reference Material to Discuss IAP Template for 2018 Review*, document 2017/SOM2/CTI/006, Agenda Item: 6.1, Submitted by: CTI Chair, Forum Doc. No.: 2015/SOM3/021anx02b.

<sup>344</sup> *Minister of Tourism Regulation No. 14/2016 on Guidelines for Sustainable Tourism Destination*. Viewed at: <http://ditjenpp.kemenkumham.go.id/arsip/terjemahan/21.pdf>.

<sup>345</sup> MoTCE. Viewed at: <https://kemenparekraf.go.id/index.php/post/peraturan-menteri-pariwisata-nomor-11-tahun-2015>.



previously capped at 51%, are now capped at 67%; and (iv) meetings, incentives, conferences, and exhibitions (MICE) operations, which were capped at 51% in 2014, are now capped at 67% (or up to 70% for ASEAN investors).<sup>346</sup>

**Table 4.21 Investment conditions applied to tourism services**

Services	Ownership
Museum management; tourism travel bureaux; catering; motels; billiards; bowling; golf courses; organization of meetings, incentives, conventions and exhibitions	Foreign capital ownership: max. 67% Foreign capital ownership by ASEAN countries' investors: max. 70%
Management of historical and archaeological remains, such as temples, Sultan's palace, inscriptions, ruins, ancient buildings; two-star hotels; one-star hotels; non-star hotels; singing rooms/karaoke; natural tourism business outside conservation areas	Foreign capital ownership: max. 67%
Spa services	Foreign capital ownership: max. 51%

Source: PR No. 44 of 2016 concerning List of Business Fields that are Closed to and Business Fields that are Open with Conditions to Investment. Viewed at: [https://www2.bkpm.go.id/images/uploads/prosedur\\_investasi/file\\_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf](https://www2.bkpm.go.id/images/uploads/prosedur_investasi/file_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf).

4.262. According to the authorities, in 2018, the Government extended subsidized loans to MSMEs in the tourism sector under the KUR programme, in order to increase revenues from tourism and boost foreign exchange reserves (Section 3.3.1.2). Loans, up to a maximum of IDR 500 million, are distributed by banks and non-bank institutions, at an interest rate of 7%.<sup>347</sup>

4.263. In February 2020, the Government announced a first package of stimulus measures, *inter alia*, to mitigate decreased tourist arrivals in Bali, Riau Islands and North Sulawesi due to COVID-19 cases in the Republic of Korea, Australia, Singapore and China. MSMEs operating in the tourism sector may also have access to tax reductions and interest rate subsidies for their loans through the second and third packages of government support measures introduced in March 2020 in the wake of the COVID-19 pandemic (Box 1.1). The Government also committed to accelerating social support to employees and practitioners in several regions (Bali, Yogyakarta, South Sumatera, and West and East Java).<sup>348</sup>

#### 4.4.7 Distribution services with a specific focus on e-commerce

4.264. Data was not available on the size of the distribution sector in Indonesia, nor on foreign presence in this sector. Reportedly, the country has witnessed a rapid growth of online commerce in recent years, with the share of online sales in total retail sales increasing from less than 1% in 2014 to around 3% in 2017.<sup>349</sup> There are five main domestic online buying and selling providers operating in Indonesia.

4.265. The MoT has overall responsibility for the distribution sector, with certain enabling aspects of electronic commerce falling under the responsibilities of several ministries: the MoT has responsibility for business ethics in e-commerce; the MoF for tax and customs issues; the Ministry of Communication and Information Technology for the ICT and data transactions aspects of

<sup>346</sup> White and Case, *Indonesia's New 2016 Negative List*. Viewed at: <https://www.whitecase.com/sites/whitecase/files/files/download/publications/indonesias-new-2016-negative-list.pdf>.

<sup>347</sup> Jakarta Globe, *Gov't to Offer Microloans to Tourism Sector SMEs*. Viewed at: <https://jakartaglobe.id/business/govt-to-offer-microloans-to-tourism-sector-smes/>; and Global Trade Alert, *Indonesia: Expansion of MSME loans to tourism sector*. Viewed at: <https://www.globaltradealert.org/intervention/62555/state-loan/indonesia-expansion-of-msme-loans-to-tourism-sector>.

<sup>348</sup> Global Trade Alert, *Indonesia: Tourism stimulus package announced in preparation for COVID-19 impact*. Viewed at: <https://www.globaltradealert.org/intervention/78574/state-aid-nes/indonesia-tourism-stimulus-package-announced-in-preparation-for-covid-19-impact>.

<sup>349</sup> IMF (2019), *Indonesia: 2019 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Indonesia*, 31 July. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/07/30/Indonesia-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48535>.

e-commerce; and the BI and the Financial Services Authority for payments systems. Indonesia is a participant in the WTO E-Commerce Joint Statement Initiative.

4.266. Law No. 7 of 2014 on Trade is the main law governing distribution services (retail and wholesale trade); it also contains general rules (Article 66) regarding e-commerce, including relating to the business actor's obligation to sell goods and/or services, and to the operation of a dispute settlement mechanism.

4.267. In 2019, the Government issued GR No. 80 of 2019 on Trading Through Electronic Systems, to govern e-commerce, including marketplace and e-retail practices. As indicated by an external source, it contains various provisions specific to e-commerce practice, including: elaboration of business actors involved in an e-commerce practice; compliance checklist for e-commerce operators; electronic contracts and evidence; personal data protection; and trade practices (e.g. taxation, payment, trading contracts, consumer protection, and shipping and logistics). The Regulation applies to both local and foreign business actors, with the latter including foreign individuals or business entities incorporated and located outside of Indonesia that conduct e-commerce business activities in Indonesia. All business actors (domestic and foreign) must obtain a business licence in order to carry out e-commerce business activities in Indonesia.<sup>350</sup>

4.268. Other regulations on retail and wholesale trade are: MoT Regulation No. 70/2013 on Guidelines for Structuring and Guidance of the Traditional Market, Shopping Center and Modern Shop (amended by MoT Regulation No. 56/2014); and MoT Regulation No. 22/2016 on General Provisions on the Distribution of Goods (amended by MoT Regulation No. 66/2019).

4.269. As set out in Law No. 44 of 2016 concerning List of Business Fields that are Closed and Business Fields that are Open with Conditions to Investment, retail sale through mail order and Internet is reserved for domestic partnerships. Various activities are open to investment, with conditions (Table 4.22).

**Table 4.22 Investment conditions applied to distribution services**

Business field	Conditions
Retail business of cars, motorcycles, and commercial vehicles; retail business of spare-parts and accessories of cars, motorcycles and commercial vehicles; supermarkets with retail space of less than 1,200 m <sup>2</sup> ; minimarkets with retail space of less than 400 m <sup>2</sup> , including convenience stores and community stores; antique retail business; retail business in non-supermarket or non-minimarket; retail business in non-department store; textile retail business; games and toys in stores retail business; cosmetics retail business; footwear retail business; electronics retail business; food and beverage retail business; and retail business for any kind of product via electronic system (e.g. liquor)	Domestic capital 100%
Department stores with retail space of 400 m <sup>2</sup> -2,000 m <sup>2</sup>	Foreign capital ownership: max 67%; and specific licence from the MoT only if: (i) located in a mall and not stand-alone; and (ii) the addition of outlet stores shall be based on export performance (pay performance)
Distributor's business, not affiliated to production	Foreign capital ownership: 67%
Liquor wholesale trade (importer, distributor or sub-distributor); liquor retail business; sidewalk vendor, liquor business	Must have: (i) business licence certificate for liquor; and (ii) distribution network and specific place of sale

Source: Law No. 44 of 2016 concerning List of Business Fields that are Closed and Business Fields that are Open with Conditions to Investment. Viewed at: [https://www2.bkpm.go.id/images/uploads/prosedur\\_investasi/file\\_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf](https://www2.bkpm.go.id/images/uploads/prosedur_investasi/file_upload/REGULATION-OF-THE-PRESIDENT-OF-THE-REPUBLIC-OF-INDONESIA-NUMBER-44-YEAR-2016.pdf).

4.270. The 2016 amendments to the negative list introduced various changes to investment conditions and FDI thresholds. The business lines in which 100% foreign ownership is now permitted are: distribution affiliated with production (previously capped at 33%) and direct selling through

<sup>350</sup> Baker McKenzie, *Indonesia Now Has Specific E-commerce Regulation*. Viewed at: <https://www.bakermckenzie.com/en/insight/publications/2019/12/indonesia-specific-e-commerce-regulation>.

marketing networks (previously capped at 95%). Business lines in which the permitted level of foreign ownership was increased are: (i) department stores (with a retail space of between 400 m<sup>2</sup> and 2,000 m<sup>2</sup>; previously, this was closed with respect to department stores of less than 2,000 m<sup>2</sup>, and now FDI is capped at 67% and subject to licensing and other requirements); and (ii) distribution (non-affiliated with production) and warehousing was capped at 33% under the 2014 negative list, and this was increased to 67% under the 2016 list. Finally, retail trading via mail or Internet order (for goods under the categories of food, beverages, tobacco, pharmaceutical products, cosmetics, laboratory devices, textiles, apparel and footwear, and household and kitchen goods) was previously closed to foreign investment; under the 2016 negative list, it is permitted, subject to partnership with SMEs.<sup>351</sup> Ongoing discussions to revise the negative list to open certain activities to 100% foreign investment are, *inter alia*, considering Internet and postal-based retailing (Section 2.4.2).

4.271. Many of the necessary supporting elements for e-commerce development were set out in the Government's E-Commerce Roadmap 2017-19. This establishes actions to be taken to accelerate e-commerce through various components.<sup>352</sup> In pursuit of the objectives of this Roadmap, Indonesia launched the National Movement of SMEs Go Online, in April 2018. This Movement includes 9.4 million SMEs who sell their products via e-commerce platforms. In addition to focusing on digital marketing in the marketplace, Indonesia plans to encourage the business production and operational processes to adopt the most recent technology in the next five years. The Movement aims to scale up 44,000 industries from the micro and small levels to medium industries by 2024. Additionally, in 2018, the authorities also introduced the Nexticorn programme, to promote Indonesia's most investable digital start-ups with global investors.

4.272. Since 2018, Indonesia drastically reduced the *de minimis* value for import duty exemptions for consignments and e-commerce traded goods on a B2C basis (Section 3.1.3.6). As indicated by the authorities, the majority of goods purchased through e-commerce platforms are shipped to Indonesia using postal services. These postal shipment services are processed through "consignment note clearance type", which is regulated under MoF Regulation No. 199/PMK.010/2019 regarding Procedures of Custom Excise, and Tax for Import Parcels. Under this Regulation, import shipments with a f.o.b. value under the *de minimis* USD 3 are exempted from import duty. Shipments with an f.o.b. value of between USD 3 and USD 1,500 are subject to a flat tariff import duty rate of 7.5% of the shipment f.o.b. value (exceptions apply to bags, shoes, and textiles and textile products, for which MFN rates apply). Shipments with a f.o.b. value above USD 1,500 are subject to the MFN tariff rate.

4.273. Under GR in Lieu of Law No. 1 of 2020, the Government may charge VAT on taxable intangible goods and/or services sold through e-commerce platforms, and charge income tax on e-commerce done by foreign individuals or digital companies that have a significant economic presence.<sup>353</sup>

<sup>351</sup> White and Case, *Indonesia's New 2016 Negative List*. Viewed at: <https://www.whitecase.com/sites/whitecase/files/files/download/publications/indonesias-new-2016-negative-list.pdf>.

<sup>352</sup> PR 74 of 2017 on Roadmap for National Electronic Commerce System for 2017-2019. Viewed at: <https://www.amcham.or.id/images/Roadmap.pdf>. The eight components to the Roadmap are: funding, taxation, consumer protection, education and human resources, communication infrastructure, logistics, cyber security, and the implementing organization.

<sup>353</sup> KPMG, *Indonesia: Tax developments in response to COVID-19*. Viewed at: <https://home.kpmg/xx/en/home/insights/2020/04/indonesia-tax-developments-in-response-to-covid-19.html>.

## 5 APPENDIX TABLES

**Table A1.1 Government Fiscal Stimulus Package I, 24 February 2020**

Stimulus programme	Nominal (IDR trillion)	Period	% budget
Consumption of Basic Needs (Sembako) Card incentives	4.6	March-September 2020 (7 months)	0.18
Additional housing subsidy	1.5	2020	0.06
Flight subsidies	0.4	March-May 2020 (3 months)	0.02
New airport tax PJP2U tariff subsidy	0.3	March-May 2020 (3 months)	0.01
Aviation turbine fuel (Avtur) price subsidy	0.3	March-May 2020 (3 months)	0.01
Budget reallocation to 10 tourism destinations	0.1	2020	0.00
Hotel and restaurant tax exemption for 10 tourism destinations	3.3	March-May 2020 (3 months)	0.13
<b>Total incentives</b>	<b>10.4</b>		<b>0.41</b>

Source: Ministry of Finance; and BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).

**Table A1.2 Fiscal Stimulus Package II, 13 March 2020**

<b>Fiscal</b>	<b>Non-fiscal</b>	<b>Financial sector</b>	<b>Food policy</b>
<b>Income Tax Law (PPh) Article 21 Tax Exemption (IDR 8.6 trillion)</b>  Exemption paid fully (100%) by the Government for the income of workers from all industrial sectors in the Directorate General of Taxes classification of business field, including those in category C (processing industry). Valid April-September 2020 (6 months)	<b>Reduction of exports ban &amp; restriction</b>  Health Certificate and V-Legal document are no longer required. Consequently, there is a reduction of ban & a restriction for 749 HS codes, including 443 fish commodities and products, and 306 forestry industry products	<b>Ease of financing</b>  Assessment of credit/financing/provision of funds only based on punctuality of principal payment and/or interest, for credit up to IDR 10 billion, also applied to MSMEs	Government guarantees the availability of main and strategic supplies to residents, at affordable prices
<b>Income Tax Law (PPh) Article 22 Imports Withholding Tax Exemption (IDR 8.15 trillion)</b>  Exemption of Income Tax Law (PPh) Article 22 regarding imports is given to 19 subsectors in manufacturing. Valid April-September 2020 (6 months)	<b>Reduction of imports ban &amp; restriction</b>  Reduction of imports ban & restriction, primarily on raw materials, for producers with producer status, of steel, alloy steel, and its derivative products (early stage). Next, it will also be implemented on strategic food products (industrial salt, sugar, and flour)	<b>Restructuring</b>  Banks could perform restructuring for the whole credit/financing without considering credit limit or debtor type, especially MSME debtors	Main and strategic food supplies are rice, corn, shallots, garlic, bird's eye pepper, cayenne chili, beef, chicken meat, chicken eggs, sugar, and cooking oil
<b>PPh 25 Organization Tax Exemption (IDR 4.2 trillion)</b>  Reduction of PPh 25 organization instalment tax by 30% to 19 subsectors in the processing industry. Valid April-September 2020 (6 months)	<b>Exports &amp; imports process acceleration</b>  For reputable traders, the exports & imports process is to be accelerated through the auto-response and auto-approval systems. There are 735 traders considered as reputable	<b>BPJAMSOSTEK social security programme relaxation</b>  A stimulus injection will be formulated, so it will not affect benefits to recipients or interfere with the continuity and security of employment or the social security programme fund	During March-August 2020, the availability projection of 11 strategic commodities is confirmed to be adequate. Most of the supply is from domestic production; only garlic, beef, and sugar are imported
<b>Value Added Tax Restitution (IDR 1.97 trillion)</b>  Acceleration of VAT (PPN) restitution, valid April-September (6 months), for exporters without a nominal limit and for non-exporters with a nominal limit up to IDR 5 billion	<b>Exports &amp; imports service acceleration</b>  Development of the National Logistics Ecosystem to simplify and synchronize information flow and export & import documents		Accelerating the imports recommendation process for several commodities that need to be imported, as a result of COVID-19

Source: BI (2020), *2019 Economic Report on Indonesia*, 22 May. Viewed at: [https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI\\_2019.aspx](https://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Pages/LPI_2019.aspx).



**Table A1.3 Merchandise exports by group of products, 2012-19**

	2012	2013	2014	2015	2016	2017	2018	2019
<b>Total exports (USD billion)</b>	<b>190.0</b>	<b>182.6</b>	<b>176.0</b>	<b>150.4</b>	<b>144.5</b>	<b>168.8</b>	<b>180.2</b>	<b>167.0</b>
	(% of total)							
Total primary products	63.3	61.8	58.8	55.0	52.1	57.0	55.7	52.0
Agriculture	23.7	23.4	25.0	26.5	27.1	29.2	25.5	25.7
Food	17.7	17.5	20.1	21.5	22.3	23.2	20.4	20.2
4222 - Palm oil and its fractions	9.3	8.7	9.9	10.2	9.9	11.0	9.2	8.8
4313 - Fatty acids, acid oils from refining, and residues resulting from the treatment of fatty substances or animal or vegetable waxes; degreas	0.8	0.8	1.1	1.0	1.3	1.3	1.2	1.2
Agricultural raw material	6.0	5.9	4.9	5.0	4.8	6.0	5.1	5.5
2312 - Natural rubber (other than latex)	4.1	3.8	2.7	2.5	2.3	3.0	2.2	2.1
2515 - Chemical wood pulp, soda or sulphate, other than dissolving grades, semi-bleached or bleached	0.8	1.0	1.0	1.1	1.1	1.4	1.4	1.4
Mining	39.6	38.5	33.8	28.5	25.0	27.8	30.2	26.3
Ores and other minerals	3.7	4.7	2.4	3.5	3.7	3.6	4.6	3.4
Non-ferrous metals	2.5	2.3	2.3	2.0	2.0	2.3	2.2	2.1
Fuels	33.3	31.4	29.0	23.0	19.3	21.8	23.3	20.8
3212 - Other coal	12.8	12.5	10.6	9.8	8.9	10.6	11.4	11.2
3431 - Natural gas, liquefied	7.9	7.1	6.6	4.9	3.6	3.7	3.9	3.1
3432 - Natural gas, in the gaseous state	2.9	2.8	3.1	2.0	1.3	1.5	2.0	2.2
3222 - Lignite, whether or not pulverized (excluding jet)	1.0	1.0	1.2	0.9	1.1	1.5	1.8	1.7
3330 - Petroleum oils and oils obtained from bituminous minerals, crude	6.5	5.6	5.3	4.3	3.6	3.1	2.8	1.0
Manufactures	35.6	37.2	40.3	44.1	46.9	41.9	43.1	45.8
Iron and steel	0.9	0.9	1.1	1.6	1.5	2.2	3.5	4.7
6715 - Other ferro-alloys (excluding radioactive ferro-alloys)	0.2	0.1	0.2	0.2	0.4	0.8	0.8	1.6
6753 - Flat-rolled products of stainless steel, not further worked than hot-rolled	0.0	0.0	0.0	0.0	0.0	0.3	1.1	1.5
Chemicals	5.6	6.0	6.4	5.7	6.4	5.8	6.2	6.2
Other semi-manufactures	6.1	6.3	6.8	7.2	7.5	6.3	6.6	6.8
6412 - Paper and paperboard, uncoated, of a kind used for writing, printing or other graphic purposes, and punch card stock and punch tape paper, in rolls or sheets (other than paper of heading 641.1 or 641.63); handmade paper and paperboard	1.1	1.0	1.1	1.2	1.2	1.2	1.3	1.3
Machinery and transport equipment	12.0	12.1	12.4	13.2	14.0	12.8	12.6	13.4
Power-generating machines	0.3	0.3	0.3	0.3	0.3	0.2	0.2	0.2
Other non-electrical machinery	1.4	1.6	1.7	1.6	1.9	1.6	1.4	1.5
Agricultural machinery and tractors	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1
Office machines and telecommunication equipment	4.1	3.7	3.6	3.7	3.4	3.1	3.0	2.9
Other electrical machines	2.7	2.9	2.9	3.2	3.2	3.0	2.9	2.9
7731 - Insulated (including enamelled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables made up of individually sheathed fibres, whether or not assembled	0.6	0.6	0.7	0.7	0.8	0.7	0.8	0.8
Automotive products	2.3	2.3	2.8	3.2	3.7	3.6	3.5	3.9
7812 - Motor vehicles for the transport of persons, n.e.s.	1.2	1.2	1.5	1.6	1.8	1.8	1.8	2.4
7843 - Other parts and accessories of the motor vehicles of groups 722, 781, 782 and 783	0.8	0.8	0.9	1.2	1.4	0.8	0.8	0.9

	2012	2013	2014	2015	2016	2017	2018	2019
Other transport equipment	1.2	1.3	1.1	1.2	1.5	1.3	1.5	2.0
7851 - Motor cycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars	0.1	0.1	0.1	0.3	0.3	0.4	0.6	0.9
Textiles	2.4	2.5	2.7	2.9	2.8	2.4	2.2	2.2
Clothing	4.0	4.2	4.4	5.0	5.2	4.9	5.0	5.1
Other consumer goods	4.7	5.1	6.6	8.5	9.4	7.5	7.0	7.4
8512 - Sports footwear	1.1	1.2	1.3	1.6	1.7	1.6	1.6	1.5
8973 - Jewellery of gold, silver or platinum group metals (except watches and watch-cases) and goldsmiths' or silversmiths' wares (including set gems)	0.1	0.1	1.2	2.2	2.8	1.6	1.1	1.2
Other	1.1	1.0	0.9	1.0	1.0	1.1	1.2	2.2
9710 - Gold, non-monetary (excluding gold ores and concentrates)	1.1	1.0	0.9	0.9	1.0	1.1	1.1	2.1

Source: UNSD, Comtrade database (SITC Rev.3).

**Table A1.4 Merchandise imports by group of products, 2012-19**

	2012	2013	2014	2015	2016	2017	2018	2019
<b>Total imports (USD billion)</b>	<b>191.7</b>	<b>186.6</b>	<b>178.2</b>	<b>142.7</b>	<b>135.7</b>	<b>156.9</b>	<b>188.7</b>	<b>170.7</b>
	(% of total)							
Total primary products	36.4	39.1	40.4	33.8	32.2	34.1	33.5	30.7
Agriculture	10.9	11.5	12.5	12.9	14.7	14.2	13.1	13.4
Food	8.3	8.8	9.6	10.0	11.6	11.0	10.2	10.6
0412 - Other wheat (including spelt) and meslin, unmilled	1.1	1.3	1.3	1.4	1.7	1.7	1.4	1.6
0813 - Oilcake and other solid residues (except dregs), whether or not ground or in the form of pellets, resulting from the extraction of fats or oils from oil-seeds, oleaginous fruits and germs of cereals	1.0	1.1	1.3	1.3	1.2	1.1	1.1	1.0
0611 - Sugar, beet or cane, raw, in solid form, not containing added flavouring or colouring matter	0.8	0.9	0.7	0.9	1.5	1.3	0.9	0.8
2222 - Soya beans	0.6	0.6	0.7	0.7	0.7	0.7	0.6	0.6
Agricultural raw material	2.6	2.7	2.9	2.9	3.1	3.2	2.9	2.8
2631 - Cotton (other than linters), not carded or combed	0.7	0.7	0.8	0.8	0.8	0.8	0.8	0.7
Mining	25.5	27.6	27.9	20.9	17.5	19.9	20.4	17.3
Ores and other minerals	1.3	1.4	1.4	1.4	1.3	1.4	1.6	1.7
Non-ferrous metals	1.9	1.8	1.9	2.0	2.0	2.3	2.1	1.9
Fuels	22.3	24.4	24.7	17.5	14.2	16.2	16.7	13.8
334 - Petroleum oils, other than crude	14.6	14.9	15.0	9.8	7.3	9.0	9.1	7.7
3330 - Petroleum oils and oils obtained from bituminous minerals, crude	5.6	7.3	7.3	5.7	5.0	4.5	4.9	3.3
3425 - Butane, liquefied	0.9	0.9	0.9	0.7	0.7	0.9	0.8	0.7
3421 - Propane, liquefied	0.7	0.7	0.8	0.7	0.6	0.8	0.8	0.7
Manufactures	62.3	59.9	58.8	65.1	66.4	64.5	64.8	67.6
Iron and steel	6.2	5.9	5.3	5.3	5.1	5.3	5.8	6.4
6726 - Semi-finished products of iron or non-alloy steel, containing by weight less than 0.25% carbon	1.1	1.0	0.8	0.8	0.9	0.9	0.8	0.8
6732 - Flat-rolled products of iron or non-alloy steel, not clad, plated or coated, not further worked than hot-rolled (other than those of subgroup 673.1)	0.5	0.4	0.2	0.2	0.1	0.5	0.5	0.6
Chemicals	12.3	12.6	13.3	14.8	14.7	14.3	14.0	14.0
5751 - Polymers of propylene or of other olefins	0.7	0.8	0.9	0.8	0.9	0.9	0.8	0.9
5711 - Polyethylene	0.5	0.6	0.6	0.8	0.8	0.7	0.7	0.6
Other semi-manufactures	4.5	4.5	4.7	5.3	5.2	4.9	5.0	5.3
Machinery and transport equipment	33.1	30.3	28.7	31.6	32.2	31.1	31.4	32.3
Power-generating machines	1.6	1.6	1.7	1.9	1.8	1.6	2.2	2.3
Other non-electrical machinery	11.1	10.8	11.0	11.8	11.6	10.3	10.5	11.7
7284 - Machinery and mechanical appliances specialized for particular industries, n.e.s.	0.8	0.8	0.8	1.0	0.8	0.8	0.7	0.8
Agricultural machinery and tractors	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Office machines and telecommunication equipment	6.9	7.0	6.9	7.6	7.9	8.0	7.7	8.0
7643 - Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound-recording or reproducing apparatus	1.4	1.5	1.6	1.3	0.5	0.9	0.9	0.9

	2012	2013	2014	2015	2016	2017	2018	2019
7522 - Digital automatic data-processing machines, containing in the same housing at least a central processing unit and an input and output unit, whether or not combined	0.7	0.8	0.7	0.8	0.6	0.6	0.6	0.6
Other electrical machines	3.7	3.7	3.5	4.2	4.7	4.4	4.3	4.2
Automotive products	5.0	4.1	3.5	3.5	3.8	4.2	4.2	4.0
7843 - Other parts and accessories of the motor vehicles of groups 722, 781, 782 and 783	1.6	1.7	1.6	1.7	1.9	1.6	1.5	1.4
7812 - Motor vehicles for the transport of persons, n.e.s.	1.4	1.2	0.8	0.8	0.9	0.7	0.6	0.7
Other transport equipment	4.8	3.0	2.3	2.6	2.4	2.6	2.5	2.1
Textiles	2.9	3.1	3.3	4.0	4.3	3.9	3.6	3.9
6552 - Other knitted or crocheted fabrics, not impregnated, coated, covered or laminated	0.6	0.7	0.7	0.9	0.9	0.8	0.8	0.8
Clothing	0.3	0.3	0.3	0.3	0.4	0.5	0.5	0.6
Other consumer goods	2.9	3.2	3.1	3.7	4.4	4.5	4.5	5.1
Other	1.3	1.0	0.8	1.1	1.4	1.4	1.7	1.7
9710 - Gold, non-monetary (excluding gold ores and concentrates)	0.0	0.0	0.0	0.5	0.6	0.7	1.1	1.0

Source: UNSD, Comtrade database (SITC Rev.3).

**Table A1.5 Merchandise exports by destination, 2012-19**

	2012	2013	2014	2015	2016	2017	2018	2019
<b>Total exports (USD billion)</b>	<b>190.0</b>	<b>182.6</b>	<b>176.0</b>	<b>150.4</b>	<b>144.5</b>	<b>168.8</b>	<b>180.2</b>	<b>167.0</b>
	(% of total)							
Americas	10.1	11.0	11.9	13.4	13.9	13.1	12.7	13.0
United States	7.8	8.6	9.4	10.8	11.2	10.6	10.2	10.6
Other America	2.3	2.4	2.5	2.6	2.7	2.6	2.5	2.4
Europe	10.3	10.1	10.6	11.4	12.3	11.2	10.6	9.8
EU-28	9.5	9.2	9.6	9.9	10.0	9.7	9.5	8.6
Netherlands	2.5	2.2	2.3	2.3	2.3	2.4	2.2	1.9
Germany	1.6	1.6	1.6	1.8	1.8	1.6	1.5	1.4
Italy	1.2	1.2	1.3	1.2	1.1	1.1	1.1	1.0
Spain	1.1	1.0	1.1	1.0	1.1	1.2	1.2	0.9
United Kingdom	0.9	0.9	0.9	1.0	1.1	0.8	0.8	0.8
EFTA	0.1	0.1	0.1	0.8	1.6	0.8	0.4	0.5
Other Europe	0.7	0.9	0.8	0.8	0.7	0.7	0.7	0.7
Turkey	0.7	0.8	0.8	0.8	0.7	0.7	0.7	0.7
Commonwealth of Independent States (CIS)	0.8	0.9	0.9	0.9	1.1	1.0	0.8	0.8
Africa	3.0	3.1	3.5	3.2	2.9	2.9	2.6	2.7
Middle East	2.7	2.7	3.6	3.5	2.9	2.6	2.3	2.7
Saudi Arabia, Kingdom of	0.9	0.9	1.2	1.4	0.9	0.8	0.7	0.9
United Arab Emirates	0.9	0.9	1.4	1.3	1.1	1.0	0.8	0.9
Asia	73.1	72.1	69.5	67.6	66.9	69.2	70.9	70.9
China	11.4	12.4	10.0	10.0	11.6	13.7	15.1	16.7
Japan	15.9	14.8	13.1	12.0	11.1	10.5	10.8	9.5
Other Asia	45.8	44.9	46.4	45.6	44.1	45.0	45.1	44.7
Singapore	9.0	9.1	9.5	8.4	7.8	7.6	7.2	7.7
India	6.6	7.1	7.0	7.8	7.0	8.3	7.6	7.1
Malaysia	5.9	5.8	5.5	5.1	4.9	5.0	5.2	5.4
Korea, Republic of	7.9	6.3	6.0	5.1	4.8	4.8	5.3	4.3
Philippines	2.0	2.1	2.2	2.6	3.6	3.9	3.8	4.0
Thailand	3.5	3.3	3.3	3.7	3.7	3.8	3.8	3.7
Viet Nam	1.2	1.3	1.4	1.8	2.1	2.1	2.5	3.1
Chinese Taipei	3.3	3.2	3.6	3.4	2.5	2.5	2.6	2.4
Hong Kong, China	1.4	1.5	1.6	1.4	1.5	1.4	1.4	1.5
Australia	2.6	2.4	2.8	2.5	2.2	1.5	1.6	1.4
Pakistan	0.7	0.8	1.2	1.3	1.4	1.4	1.4	1.2
Bangladesh	0.6	0.6	0.8	0.9	0.9	0.9	1.0	1.1
<i>Memorandum:</i>								
ASEAN	22.0	22.3	22.5	22.3	23.0	23.3	23.4	24.9

Source: UNSD Comtrade database.



**Table A1.6 Merchandise imports by origin, 2012-19**

	2012	2013	2014	2015	2016	2017	2018	2019
<b>Total imports (USD billion)</b>	<b>191.7</b>	<b>186.6</b>	<b>178.2</b>	<b>142.7</b>	<b>135.7</b>	<b>156.9</b>	<b>188.7</b>	<b>170.7</b>
	(% of total)							
Americas	9.6	8.8	8.3	9.5	9.7	8.7	8.5	9.2
United States	6.1	4.9	4.6	5.3	5.4	5.2	5.4	5.5
Other America	3.6	3.9	3.7	4.1	4.3	3.5	3.1	3.7
Brazil	1.0	1.2	1.4	1.7	1.8	1.2	1.0	1.1
Canada	0.9	1.1	1.0	1.1	1.0	1.0	1.0	1.1
Argentina	0.9	0.9	0.8	0.9	1.0	0.7	0.8	1.1
Europe	8.0	8.6	8.2	8.7	8.9	9.0	8.4	8.0
EU-28	7.4	7.4	7.1	7.9	7.9	8.0	7.5	7.3
Germany	2.2	2.4	2.3	2.4	2.3	2.3	2.1	2.0
Italy	0.8	0.9	1.0	1.0	1.0	1.0	1.0	1.0
France	1.0	0.9	0.7	0.9	1.0	1.0	0.9	0.8
United Kingdom	0.7	0.6	0.5	0.6	0.7	0.7	0.6	0.6
EFTA	0.4	0.5	0.5	0.6	0.8	0.7	0.6	0.5
Other Europe	0.2	0.7	0.6	0.2	0.2	0.4	0.4	0.2
Commonwealth of Independent States (CIS)	2.4	2.7	2.6	1.9	1.5	1.6	1.7	1.5
Russian Federation	1.3	1.4	0.9	0.7	0.6	0.8	0.8	0.7
Africa	3.0	3.0	3.0	2.6	2.6	2.7	3.4	2.3
Nigeria	1.4	1.7	1.9	0.9	0.9	0.8	1.3	1.1
Middle East	6.3	6.4	6.7	4.7	4.2	4.8	5.1	4.6
Saudi Arabia, Kingdom of	2.7	3.5	3.7	2.4	2.0	2.0	2.6	2.1
United Arab Emirates	0.9	1.0	1.0	1.0	1.0	1.3	1.0	1.3
Asia	70.7	70.5	71.2	72.6	73.1	73.2	72.9	74.2
China	15.3	16.0	17.2	20.6	22.7	22.8	24.1	26.3
Japan	11.9	10.3	9.5	9.3	9.6	9.7	9.5	9.2
Other Asia	43.5	44.2	44.4	42.6	40.8	40.7	39.2	38.8
Singapore	13.6	13.7	14.1	12.6	10.7	10.8	11.4	10.1
Thailand	6.0	5.7	5.5	5.7	6.4	5.9	5.8	5.5
Korea, Republic of	6.2	6.2	6.6	5.9	4.9	5.2	4.8	4.9
Malaysia	6.4	7.1	6.1	6.0	5.3	5.6	4.6	4.5
Australia	2.8	2.7	3.2	3.4	3.9	3.8	3.1	3.2
India	2.2	2.1	2.2	1.9	2.1	2.6	2.7	2.5
Viet Nam	1.4	1.5	1.9	2.2	2.4	2.1	2.0	2.3
Chinese Taipei	2.4	2.4	2.1	2.2	2.1	2.1	1.9	2.2
Hong Kong, China	1.0	1.1	1.0	1.3	1.3	1.2	1.4	1.9
<i>Memorandum:</i>								
ASEAN	28.1	29.0	28.6	27.3	25.7	25.0	24.4	23.2

Source: UNSD Comtrade database.

**Table A2.1 Notifications to the WTO, January 2013-August 2020**

Agreement/ Article	Requirement	Symbol and date of notification
<b>Agreement on Agriculture</b>		
Articles 10 and 18.2	Export subsidies (ES:1)	G/AG/N/IDN/65, 15/10/2019 G/AG/N/IDN/59, 28/09/2018 G/AG/N/IDN/58, 28/09/2018 G/AG/N/IDN/35, 01/09/2016 G/AG/N/IDN/31, 14/02/2013
Articles 10 and 18.2	Export subsidies (ES:2)	G/AG/N/IDN/66, 15/10/2019 G/AG/N/IDN/61, 01/10/2018 G/AG/N/IDN/60, 01/10/2018 G/AG/N/IDN/35, 01/09/2016 G/AG/N/IDN/31, 14/02/2013
Article 16.2	Net food importing decision: food and other assistance (NF:1)	G/AG/N/IDN/62, 15/10/2019 G/AG/N/IDN/51, 21/09/2019 G/AG/N/IDN/50, 21/09/2018 G/AG/N/IDN/49, 21/09/2018 G/AG/N/IDN/48, 21/09/2018
Article 18.2	Domestic support (DS:1)	G/AG/N/IDN/67, 17/10/2019 G/AG/N/IDN/57, 24/09/2018 G/AG/N/IDN/56, 24/09/2018 G/AG/N/IDN/55, 24/09/2018 G/AG/N/IDN/54, 21/09/2018 G/AG/N/IDN/53, 21/09/2018 G/AG/N/IDN/52, 21/09/2018 G/AG/N/IDN/30/Rev.1, 10/04/2013 G/AG/N/IDN/34, 09/04/2013
Article 18.2	Market access, imports under tariff quotas (MA:2)	G/AG/N/IDN/64, 15/10/2019 G/AG/N/IDN/47, 17/09/2018 G/AG/N/IDN/46, 17/09/2018 G/AG/N/IDN/45, 17/09/2018 G/AG/N/IDN/44, 17/09/2018 G/AG/N/IDN/43, 17/09/2018 G/AG/N/IDN/42, 17/09/2018 G/AG/N/IDN/32, 14/02/2013
Articles 5.7 and 18.2	Market access, special safeguard (MA:5)	G/AG/N/IDN/63, 15/10/2019 G/AG/N/IDN/41, 17/09/2018 G/AG/N/IDN/40, 17/09/2018 G/AG/N/IDN/39, 17/09/2018 G/AG/N/IDN/38, 17/09/2018 G/AG/N/IDN/37, 17/09/2018 G/AG/N/IDN/36, 17/09/2018 G/AG/N/IDN/33, 15/02/2013
<b>General Agreement on Trade in Services</b>		
Article V:7(a)	Notification of RTA	S/C/N/822, 24/08/2015
<b>Agreement on the Implementation of Article VI of the GATT 1994 (anti-dumping)</b>		
Articles 16.4 and 16.5	Anti-dumping actions ( <i>ad hoc</i> )	G/ADP/N/327, 29/05/2019 G/ADP/N/323, 25/01/2019 G/ADP/N/319, 18/10/2018 G/ADP/N/295, 30/01/2017
Article 16.4	Anti-dumping actions (taken within the preceding six months)	G/ADP/N/335/IDN, 20/05/2020 G/ADP/N/328/IDN, 28/10/2019 G/ADP/N/322/IDN, 23/04/2019 G/ADP/N/314/IDN, 09/10/2018 G/ADP/N/308/IDN, 20/04/2018 G/ADP/N/300/IDN, 19/10/2017 G/ADP/N/294/IDN, 21/03/2017 G/ADP/N/286/IDN, 20/10/2016 G/ADP/N/280/IDN, 01/03/2016 G/ADP/N/272/IDN, 13/10/2015 G/ADP/N/265/IDN, 23/02/2015 G/ADP/N/259/IDN, 15/10/2014 G/ADP/N/252/IDN, 29/04/2014

Agreement/Article	Requirement	Symbol and date of notification
		G/ADP/N/244/IDN, 25/04/2014 G/ADP/N/237/IDN, 24/04/2014
<b>GATT 1994</b>		
Article XVII:4(a)	State trading activities	G/STR/N/17/IDN, 19/09/2018 G/STR/N/16/IDN, 01/11/2016 G/STR/N/13/IDN, 24/11/2014
Article XXIV:7(a)	Agreement establishing free-trade area	WT/REG403/N/1, 02/04/2020 WT/REG277/N/3, 24/08/2018
<b>Agreement on Import Licensing</b>		
Articles 5.1, 5.2, and 5.3	Notifications under Articles 5.1, 5.2, and 5.3 of the Agreement	G/LIC/N/2/IDN/43, 18/10/2019 to G/LIC/N/2/IDN/13, 08/02/2013
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/IDN/11, 20/05/2020 G/LIC/N/3/IDN/10, 12/02/2016 G/LIC/N/3/IDN/9, 02/11/2015 G/LIC/N/3/IDN/8, 02/11/2015 G/LIC/N/3/IDN/7, 26/09/2014 G/LIC/N/3/IDN/6, 26/09/2014 G/LIC/N/3/IDN/5, 26/09/2014
<b>Agreement on Subsidies and Countervailing Measures</b>		
Article 25.1	Subsidies	G/SCM/N/343/IDN, 02/08/2019 G/SCM/N/253/IDN, 20/05/2019
Article 25.11	Countervailing duty actions (preliminary and final)	G/SCM/N/349, 14/06/2019 G/SCM/N/342, 14/12/2018 G/SCM/N/334, 15/06/2018 G/SCM/N/328, 15/12/2017 G/SCM/N/321, 15/06/2017 G/SCM/N/313, 16/12/2016 G/SCM/N/305, 15/06/2016 G/SCM/N/298, 18/12/2015 G/SCM/N/289, 15/06/2015 G/SCM/N/281, 12/12/2014 G/SCM/N/267, 16/12/2013
<b>Agreement on Sanitary and Phytosanitary Measures</b>		
Article 7, Annex B	Sanitary/phytosanitary regulations	G/SPS/N/IDN/134, 30/04/2020 to G/SPS/N/IDN/60, 13/02/2013
<b>TBT Agreement</b>		
Article 2.9	Technical regulations	G/TBT/N/IDN/124/Rev.1, 17/12/2019 to G/TBT/N/IDN/68, 19/03/2013
Articles 2.9 and 5.6	Proposed amendments to laws and regulations	G/TBT/N/IDN/128, 23/06/2020 to G/TBT/N/IDN/70, 20/03/2013
<b>Agreement on Rules of Origin</b>		
Annex II, paragraph 4	Preferential rules of origin	G/RO/N/199, 21/07/2020
Article 5.1	Non-preferential and preferential rules of origin	G/RO/N/196, 16/04/2020
<b>Trade Facilitation Agreement</b>		
Articles 1.4, 10.4.3, 10.6.2, and 12.2.2	Notification under Article 1.4, 10.4.3, 10.6.2, and 12.2.2	G/TFA/N/IDN/2, 23/07/2019
WT/PCTF	Category A commitments	WT/PCTF/N/IDN/1, 04/08/2014
<b>Agreement on Trade-Related Aspects of Intellectual Property Rights</b>		
Article 69	Members contact points	IP/N/3/IDN/3
<b>Safeguard Measures</b>		
	Termination	G/SG/N/9/IDN/10, 14/06/2016 G/SG/N/9/IDN/9, 10/01/2014 G/SG/N/9/IDN/8, 20/12/2013 G/SG/N/9/IDN/7, 20/12/2013 G/SG/N/9/IDN/6, 29/04/2013
Article 12.1 (a)	Initiation of an investigation, and reasons for it	G/SG/N/6/IDN/35, 12/06/2020 to G/SG/N/6/IDN/11, 16/07/2010
Article 12.1 (b)	Finding serious injury or threat thereof caused by increased imports	G/SG/N/8/IDN/26, 19/05/2020 to G/SG/N/8/IDN/4, 20/11/2011

Agreement/Article	Requirement	Symbol and date of notification
Article 12.1 (c)	Mid-term review	G/SG/N/IDN/25/Suppl.1; G/SG/N/11/19/Suppl.2, 03/06/2020 G/SG/N/IDN/24/Suppl.1; G/SG/N/11/20/Suppl.2, 03/06/2020 G/SG/N/IDN/23/Suppl.1; G/SG/N/11/18/Suppl.2, 03/06/2020
Article 12.4		G/SG/N/11/IDN/18, 06/11/2019 G/SG/N/11/IDN/19, 06/11/2019 G/SG/N/11/IDN/20, 06/11/2019
Article 12.5		G/SG/N/13/IDN/2, 08/08/2015 G/SG/N/13/IDN/1, 28/11/2014
Articles 12.5, and 8.2		G/SG/N/12/IDN/2, 26/05/2015
Article 7.2		G/SG/N/14/IDN/2, 20/01/2017

Source: WTO Secretariat.

Table A3.1 MFN applied tariff summary, 2020

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
<b>Total</b>	<b>10,813</b>	<b>10.1</b>	<b>0-150</b>	<b>13.2</b>	<b>12.0</b>
HS 01-24	1,725	10.2	0-150	21.4	7.0
HS 25-97	9,088	10.1	0-150	11.0	13.0
<b>By WTO category</b>					
WTO agricultural products	1,369	11.2	0-150	23.9	8.4
Animals, and products thereof	152	8.2	0-30	9.2	10.5
Dairy products	45	5.6	5-10	1.6	0.0
Fruit, vegetables, and plants	356	5.5	0-20	3.6	7.0
Coffee and tea	43	13.8	5-20	6.6	0.0
Cereals and preparations	200	13.3	0-150	28.6	5.5
Oil seeds, fats, oil, and their products	222	4.3	0-10	1.8	13.5
Sugars and confectionary	31	8.5	5-20	5.6	0.0
Beverages, spirits and tobacco	122	54.1	5-150	52.2	0.0
Cotton	5	4.0	0-5	2.0	20.0
Other agricultural products, n.e.s.	193	4.2	0-5	1.9	16.6
WTO non-agricultural products	9,444	9.9	0-150	10.8	12.5
Fish and fishery products	437	6.0	0-20	3.1	3.9
Minerals and metals	1,554	8.4	0-30	6.0	13.7
Chemicals and photographic supplies	1,506	6.1	0-150	6.6	11.6
Wood, pulp, paper and furniture	557	4.9	0-25	4.9	29.4
Textiles	855	11.9	0-35	6.4	0.8
Clothing	351	23.5	10-25	2.5	0.0
Leather, rubber, footwear, and travel goods	322	10.5	0-30	7.5	7.5
Non-electric machinery	1,329	5.4	0-30	3.8	17.0
Electric machinery	719	6.2	0-20	4.5	23.6
Transport equipment	1,019	26.6	0-50	20.2	6.1
Non-agricultural products, n.e.s.	751	7.5	0-25	5.2	11.5
Petroleum	44	0.5	0-5	1.4	90.9
<b>By ISIC sector</b>					
ISIC 1 - Agriculture, hunting and fishing	685	4.6	0-20	3.1	16.8
ISIC 2 - Mining	122	3.7	0-10	2.5	28.7
ISIC 3 - Manufacturing	10,005	10.6	0-150	13.6	11.5
Manufacturing, excluding food processing	8,883	10.2	0-150	11.1	12.3
Electrical energy	1	0.0	0	0.0	100.0
<b>By stage of processing</b>					
First stage of processing	1,132	4.8	0-35	3.6	18.0
Semi-processed products	2,855	7.1	0-150	6.2	12.5
Fully processed products	6,826	12.3	0-150	15.7	10.8
<b>By HS section</b>					
01 Live animals and products	589	5.3	0-20	2.1	5.6
02 Vegetable products	491	5.3	0-20	3.8	10.6
03 Fats and oils	175	4.3	0-5	1.7	14.3
04 Prepared food, beverages and tobacco	470	23.9	0-150	37.5	2.1
05 Mineral products	218	3.2	0-10	2.6	38.5
06 Chemicals, and products thereof	1,259	5.0	0-150	6.4	15.4
07 Plastics, rubber, and articles thereof	565	9.3	0-25	4.8	1.4
08 Raw hides and skins, leather, and its products	91	8.6	0-20	7.9	34.1
09 Wood and articles of wood	228	5.1	0-25	7.8	51.3
10 Pulp of wood, paper and paperboard	300	4.5	0-10	2.1	15.0
11 Textiles, and textile articles	1,175	15.3	0-35	7.8	0.5
12 Footwear, headgear, etc.	84	16.4	5-30	9.2	0.0
13 Articles of stone, plaster, cement	250	9.2	0-30	6.6	0.8



	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
14 Precious stones and metals, pearls	86	7.1	0-15	4.9	18.6
15 Base metals, and articles thereof	1,035	9.4	0-20	5.9	12.5
16 Machinery, electrical equipment, etc.	2,133	5.6	0-30	4.1	20.6
17 Transport equipment	1,033	26.3	0-50	20.3	6.9
18 Precision equipment	326	5.6	0-25	3.1	9.2
19 Arms and ammunition	30	6.0	5-15	3.0	0.0
20 Miscellaneous manufactured articles	267	10.7	0-25	5.0	1.9
21 Works of art, etc.	8	4.4	0-10	3.0	25.0

Note: Including AVEs for specific rates, as available (out of 27 specific rates, 24 AVEs are calculated).

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Table A3.2 Non-ad valorem (specific) MFN applied tariffs and AVEs, 2020**

HS code	Description	MFN applied rate	AVE (%)	Bound rate (%)
10061010	Rice in the husk (paddy or rough)	IDR 450/kg	0.7	160.0
10061090	Rice in the husk (paddy or rough)	IDR 450/kg	0.5	160.0
10062010	Husked (brown) rice	IDR 450/kg	0.4	160.0
10062090	Husked (brown) rice	IDR 450/kg	1.2	160.0
10063030	Semi-milled or wholly milled rice	IDR 450/kg	5.6	160.0
10063040	Semi-milled or wholly milled rice	IDR 450/kg	..	160.0
10063091	Semi-milled or wholly milled rice	IDR 450/kg	3.7	160.0
10063099	Semi-milled or wholly milled rice	IDR 450/kg	6.8	160.0
10064010	Broken rice	IDR 450/kg	0.2	160.0
10064090	Broken rice	IDR 450/kg	7.7	160.0
11029010	Rice flour	IDR 450/kg	5.0	9.0
17011200	Beet sugar	IDR 790/kg	15.9	95.0
17011300	Cane sugar	IDR 550/kg	..	95.0
17011400	Cane sugar	IDR 550/kg	10.8	95.0
17019100	Sugar containing added flavouring or colouring matter	IDR 790/kg	..	95.0
17019910	Refined sugar	IDR 790/kg	13.6	95.0
17019990	Other sugar	IDR 790/kg	10.7	95.0
22030011	Beer made from malt	IDR 14,000/litre	107.5	150.0
22030019	Beer made from malt	IDR 14,000/litre	59.7	150.0
22030091	Beer made from malt	IDR 14,000/litre	42.9	150.0
22030099	Beer made from malt	IDR 14,000/litre	54.5	150.0
37061090	Cinematographic film	IDR 21,450/min	2.1	40.0
37069090	Cinematographic film	IDR 21,450/min	14.9	40.0
85232985	Magnetic media	IDR 21,450/min	3.9	40.0
85232989	Magnetic media	IDR 21,450/min	4.9	40.0
85234915	Optical media	IDR 21,450/min	5.2	40.0
85235191	Semiconductor media	IDR 21,450/min	5.0	40.0

.. Not available.

Note: Calculations of AVEs are based on the unit value method. 2018 import data is used, which was provided by the authorities (via IDB).

Source: WTO Secretariat calculations, based on data provided by the authorities.

**Table A3.3 Tariff lines where the MFN applied rate exceeds the bound rate, 2020**

HS code	Description	MFN applied	Bound
38180000	Chemical elements, doped for use in electronics	5%	0%
63090000	Worn clothing, and other worn articles	35%	30%
70171010	Quartz reactor tubes and holders	5%	0%
84717091	Automatic data-processing machines, and units thereof	5%	0%
84717099		5%	0%
84718090		5%	0%
84719030		5%	0%
84861010	Machines and apparatus for the manufacture of boules and wafers	5%	0%
84861020		5%	0%
84861030		5%	0%
84861040		5%	0%
84861050		5%	0%
84861060		5%	0%
84861090		5%	0%
84862011	Machines and apparatus for the manufacture of semiconductor devices or electronic integrated circuits	5%	0%
84862012		5%	0%
84862019		5%	0%
84862029		5%	0%
84862031		5%	0%
84862032		5%	0%
84862033		5%	0%
84862039		5%	0%
84862049		5%	0%
84862051		5%	0%
84862059		5%	0%
84862091		5%	0%
84862092		5%	0%
84862093		5%	0%
84862094		5%	0%
84862095		5%	0%
84862099		5%	0%
84863010	Machines and apparatus for the manufacture of flat panel displays	5%	0%
84863020		5%	0%
84863030		5%	0%
84863090		5%	0%
84864010	Machines and apparatus specified in Note 9 (C) to this HS Chapter	5%	0%
84864020		5%	0%
84864030		5%	0%
84864060		5%	0%
84864070		5%	0%
84864090		5%	0%
84869011	Parts and accessories of machines under HS codes 848610 to 848640	5%	0%
84869012		5%	0%
84869013		5%	0%
84869014		5%	0%
84869015		5%	0%
84869016		5%	0%
84869017		5%	0%
84869019		5%	0%
84869021		5%	0%
84869022		5%	0%
84869023		5%	0%
84869024		5%	0%
84869025		5%	0%

HS code	Description	MFN applied	Bound
84869026		5%	0%
84869027		5%	0%
84869028		5%	0%
84869029		5%	0%
84869031		5%	0%
84869032		5%	0%
84869033		5%	0%
84869034		5%	0%
84869035		5%	0%
84869036		5%	0%
84869039		5%	0%
84869041		5%	0%
84869042		5%	0%
84869043		5%	0%
84869049		5%	0%
85044011	Static converters	5%	0%
85044019		5%	0%
85045010	Other inductors	5%	0%
85319020	Parts of electric sound or visual signalling apparatus under HS subheadings 853110-853180	5%	0%
85319030		5%	0%
85319090		5%	0%
85429000	Parts of electronic integrated circuits	5%	0%
85489010		5%	0%
90261010	Instruments and apparatus for measuring or checking the flow or level of liquids	5%	0%
90261020		5%	0%
90261030		5%	0%
90261040		5%	0%
90262010	Instruments and apparatus for measuring or checking pressure	5%	0%
90262020		5%	0%
90262030		5%	0%
90262040		5%	0%
90268010	Other instruments and apparatus for measuring or checking	5%	0%
90268020		5%	0%
90269010	Parts and accessories of instruments and apparatus for measuring and checking	5%	0%
90269020		5%	0%
90272010	Chromatographs and electrophoresis instruments	5%	0%
90272020		5%	0%
90273010	Spectrometers, spectrophotometers and spectrographs using optical radiation (UV, visible IR)	5%	0%
90273020		5%	0%
90275010	Other instruments and apparatus using optical radiation (UV, visible IR)	5%	0%
90275020		5%	0%
90278010	Other instruments and apparatus for physical or chemical analysis	5%	0%
90278030		5%	0%
90278040		5%	0%
90308290	Instruments for measuring or checking semiconductor wafers or devices (excl. wafer probers)	5%	0%

Note: Latest certified bound schedule provided in the HS2002 nomenclature. Concordance to the MFN applied tariff schedule in the HS2017 nomenclature is done to the best possible extent.

Source: WTO Secretariat, based on data provided by the authorities.

Table A3.4 Products subject to import licensing requirements, 2020

Product(s)	Rationale and procedures	Legislative basis
Animals and animal products (including dairy)	<p><b>Rationale:</b> food security and sovereignty (implementation of Law No. 18/2009, which specifies that imports of live animals and animal products may only take place if domestic production and supply is not adequate for public consumption at reasonable prices)</p> <p><b>Procedures:</b> the national allocation for the import of live animals and fresh animal products is stipulated annually, at ministerial level. Only registered importers of animals and animal products may import these goods, with importer allocations stipulated twice per year. Imports of carcass meat, offal (and/or their derivative products) may only be destined for industries, hotels, restaurants and catering services. An import permit, granted by the DGFT, is required for all imports. Importers must first obtain a letter of recommendation from the MoA, and importers of processed animal products must obtain a letter of recommendation from the BPOM.</p>	MoT Reg. No. 24/2011 MoT Reg. No. 95/2014
Dairy products	<p><b>Rationale:</b> increasing Indonesia's self-sufficiency for dairy</p> <p><b>Procedure:</b> requires domestic dairy processors to purchase fresh domestic milk (SSDN) from local producers, and authorizes an inter-ministerial team to determine the exact amount of SSDN each domestic processor must purchase annually.</p>	MoA Reg. No. 26/2017 concerning Milk Supply and Circulation, MoA Regs. No. 30/2018 and 33/2018
Fishery products	Not provided	MoT Reg. No. 66/2018 MoT Reg. No. 03/2019 MoT Reg. No. 64/2019 MoT Reg. No. 21/2018
Feed corn	<p><b>Rationale:</b> Not provided</p> <p><b>Procedure:</b> instructing the state-owned procurement body, the BULOG, prioritizing corn distribution to small-holder poultry farmers. Some imports intended for starch manufacturing are allowed. The import volume is set based on the level of domestic feed production. Other feed millers are obligated to use locally produced feed corn.</p>	
Sugar (raw, refined and plantation white sugar)	<p><b>Rationale:</b> achieve food security and economic growth, and create self-sufficiency and improve the competitiveness and income of sugarcane farmers and the sugar industry</p> <p><b>Procedures:</b> companies wanting to be recognized as importer-producers of sugar (IP Sugar) must apply to the DGFT, enclosing recommendations from the Ministry of Industry. Recognitions granted set out the volume and type of sugar to be imported, and the destination port. Plantation white sugar can only be imported: (i) outside of the milling season (including one month prior, during, and two months after the milling season); (ii) if the price of sugar exceeds IDR 5,000/kg; and/or (iii) local production of sugar is insufficient to meet demand. It may be imported by IP Sugar or by other companies appointed by the Minister of Trade. Companies seeking to be registered as IP sugar must obtain at least 75% of their cane from local cane farmers. Approval for each shipment of plantation white sugar must be obtained from the DGFT. This, <i>inter alia</i>, sets out the volume of sugar and destination port.</p>	MoT Reg. No. 527/2004 (as amended by MoT Reg. No. 19/2008) MoT Reg. No. 117/2015



Product(s)	Rationale and procedures	Legislative basis
Saccharin	Not provided	MoT Reg. No. 29/2018
Horticulture (fresh and processed)	<p><b>Rationale:</b> food security, national economic stability and protection of consumer interests</p> <p><b>Procedures:</b> horticultural products may only be imported by importers recognized by the DGFT as either: (i) importer-producers of horticultural products (IP Horticultural Products) where imports are used as raw or auxiliary materials in the production process; or (ii) IP-Horticultural Products for imports that are traded or transferred to a distributor (not directly to consumers or retailers). IP Horticultural Products require an import approval from the DGFT for each shipment, which involves obtaining a recommendation from the MoA. Permits are only granted if the MoA determines that domestic production is insufficient. Registered importers must import 80% of their total allocation within a six-month period, and chili and shallot imports are subject to a reference price system.</p>	<p>MoT Reg. No. 30/2012 (as amended by MoT Reg. No. 60/2012)</p> <p>MoA Reg. No. 86/2013</p> <p>MoT Reg. No. 47/2013</p> <p>MoT Reg. No. 40/2015</p> <p>MoT Reg. No. 95/2017</p> <p>MoT Reg. No. 44/2019</p>
Cloves	<p><b>Rationale:</b> to protect domestic producers from an anticipated sharp increase in the import of cloves, and a resulting price decline</p> <p><b>Procedures:</b> affects 2 lines at the HS 9-digit level. Cloves may be imported by registered clove importers only for use in the production process. Approval is required for each shipment. This approval specifies the quantity and kind of clove imported, as well as the timing of the import.</p>	<p>MoT Reg. No. 528/2002</p> <p>MoT Reg. No. 75/2015</p>
Alcoholic beverages	<p><b>Rationale:</b> protection of public health, tranquillity, law and order, and morals</p> <p><b>Procedures:</b> annual import volumes are determined by an inter-ministerial committee. Only registered and licensed importers, or certain state- and/or regional-owned companies (BUMN and/or BUMD) may import alcohol. To obtain a licence, the importer must satisfy certain conditions, including having supply contracts with at least 20 manufacturing companies from at least five different countries, and purchase a minimum of 3,000 cartons/brand/year. The importer must also show letters of intent from distributors in at least six provinces of Indonesia, to prove adequate distribution capacity. The Regulation further requires special trade business licences from sellers and retailers of alcoholic beverages. There is an annual quantitative quota, and use of specific ports is stipulated. Distribution is based on past performance. Indonesia applies quantitative limits, with an annual company-specific quota set by the MoT, on the importation of wines and distilled spirits. Imports into the Customs Area (i.e. not including FTZs) may only take place through designated seaports or any international airport.</p>	<p>MoT Reg. No. 43/2009 (as amended by MoT Reg. No. 54/2012)</p> <p>MoT Reg No.20/2014 and its amendments</p>
Forestry products	Not provided	<p>MoT Reg. No. 97/2015</p> <p>MoT Reg. No. 13/2018</p>
Salt	<p><b>Rationale:</b> food security, public health, and the welfare of salt farmers</p> <p><b>Procedures:</b> salt (for consumption and industrial use) may only be imported for use as a raw material in the production process by importer-producers approved by the DGFT, or by the BUMN (an SOE that may import salt to meet the needs of industries that do not import directly). To obtain such approval, importers must, <i>inter alia</i>, provide a plan of their salt requirements for the year, as well as a recommendation from the Ministry of Industry. Imports must enter Indonesia through the port located closest to the factory of the importer. Importers approved to import consumption salt must procure at least 50% of their salt from domestic sources or from companies that cooperate</p>	<p>MoT Reg. No. 58/2012</p> <p>MoT Reg. No. 23/2016</p> <p>MoT Reg. No. 52/2017</p> <p>MoT Reg. No. 63/2019</p>

Product(s)	Rationale and procedures	Legislative basis
	with local salt producers. Consumption salt may not be imported: (i) one month prior to, and two months after, the Indonesian harvest period (this period may be extended or shortened depending on domestic production and the national need); or (ii) if the average price of bulk salt on the truck at collection points is below a certain threshold. The total amount of salt that may be imported each year is determined at ministerial level, taking into consideration domestic production and consumption. Importers are allocated quantities based on the quantity of domestically produced salt that they buy. There is no limit on the amount of industrial salt that may be imported. Importers approved to import industrial salt require an import permit for each shipment, which is based on a recommendation from the Ministry of Industry and, <i>inter alia</i> , sets out the quantity to be imported and the port of destination.	
Pearls	<u>Rationale</u> : generate economic growth, and create a fair, conducive, and certain business environment <u>Procedures</u> : in order to import pearls (6 tariff lines), importers must obtain an import approval from the DGFT, which is contingent upon obtaining a recommendation from the DG Processing and Marketing of Fishery Products (MOMAF). Import approvals are valid for 6 months. Imports must enter through Jakarta Intl. or Surabaya Intl. airports.	MoT Reg. No. 02 /2012 MoT Reg. No. 03/2018
Rough diamonds	<u>Rationale</u> : implementation of Kimberly Process Certification Scheme <u>Procedures</u> : rough diamonds may only be imported by importers certified by the DGFT. Approval is required for each shipment.	MoT Reg. No. 10/2005 (amended by MoT Reg. No. 25/2008)
Cement (and clinker cement)	Not provided	MoT Reg. No. 40/2013 MoT Reg. No. 07/2018
Oil and gas	<u>Rationale</u> : to support domestic production and domestic need <u>Procedures</u> : oil and gas may only be imported by a corporate body (for oil and gas downstream business activities) or by a direct user. Import approval is required for importers. Applications for import approval must be made to the DGFT, <i>inter alia</i> , including a recommendation from the Minister of Energy and Mineral Resources. This recommendation sets out the types and quantities that may be imported, and is based on the Minister's evaluation of domestic supply and need.	MoT Reg. No. 42/2009
Lubricants	Not provided	MOIT Decree No. 233/2001 MoT Reg. No. 19/2018
LPG, and LPG containers	<u>Rationale</u> : security and implementation of the Government's policy on the conversion plan for the use of LPG allocated for home necessities and micro businesses <u>Procedures</u> : the Government is responsible for assigning a company as the importer of LPG and the 3 kg LPG containers specially used in the context of the conversion plan. Imports may only take place if domestic production is insufficient. In order to obtain import approval from the DGFT, the importer must provide a recommendation from the Ministry of Energy and Mineral Resources (for imports of LPG) or from the Ministry of Industry (for imports of 3 kg LPG containers). These recommendations set out the type, number of goods, and the import period.	MoT Reg. No. 01/2008
Plastic	Not provided	MOIT Reg. No. 230/1997 MoT Reg. No. 36/2013 MoT Reg. No. 93/2017 MoT Reg. No. 08/2018

Product(s)	Rationale and procedures	Legislative basis
Fertilizer	<u>Rationale</u> : to improve the efficient procurement and distribution of subsidized fertilizer, to support national food supply <u>Procedures</u> : if domestic production of fertilizer is insufficient, PT Pupuk Sriwidaja (Pereso) may import fertilizer. It needs the approval of the DGFT, which is based on a recommendation from the Ministries of Industry and of Agriculture.	MoT Reg. No. 17/2011
Ethylene	<u>Rationale</u> : waste management, facilitation of the procurement of goods, and reasonable protection for domestic companies <u>Procedures</u> : import of ethylene is only permitted by importers who receive recognition as importer-manufacturers.	MOIT Reg. No. 230/1997
Industrial explosives	<u>Rationale</u> : public safety and security <u>Procedures</u> : explosive materials for industrial purposes may only imported by PT. Dahana, with approval from the Police Department.	Presidential Decree No. 14/1997
Precursors	<u>Rationale</u> : health and safety, prevention of smuggling and illegal circulation, and to ensure precursor supplies for legitimate industries and purposes <u>Procedures</u> : permits are required for the import of precursors. Implementing regulations have yet to be developed.	GR No. 44/2010
Nitro cellulose	<u>Rationale</u> : public safety and security <u>Procedures</u> : importers must be approved by the DGFT, and approval is required for each shipment.	MOIT Reg. No. 418/2003 (as amended by Reg. No. 662/2003) MoT Reg. No. 62/2015
Sodium triopoly-phosphate (STPP)	<u>Rationale</u> : allows businesses to import STPP when domestic production is insufficient to meet business needs <u>Procedures</u> : STPP may only be imported by companies for use in production processes. An importer must be recognized by the DGFT as a producer-importer of STPP. This, <i>inter alia</i> , involves obtaining a recommendation from the Ministry of Industry. Recognition is valid for one year.	MoT Reg. No. 41/2011 MoT Reg. No. 77/2015
Ozone-depleting substances	<u>Rationale</u> : implementation of the Vienna Convention and the Montreal Protocol <u>Procedures</u> : ozone-depleting substances (that are not prohibited) may be imported, subject to a maximum national volume as decided by the Ministry of Environmental Affairs. Imports may only be undertaken by producer-importers (IP-BPO) (i.e. registered importer manufacturers) or approved importers (IT-BPO) (registered trading/distribution companies). To be registered as an IP-BPO or an IT-BPO, requirements include the submission of a production plan for 1 year, and recommendations from the Ministry of Environmental Affairs and the Ministry of Industry. Registration is valid for one year. Imports must take place through one of 7 designated seaports.	MoT Reg. No. 03/2012 MoT Reg. No. 83/2015 MoT Reg. No. 50/2019
Hazardous materials	<u>Rationale</u> : control of hazardous materials <u>Procedures</u> : importers must be approved by the DGFT, which involves obtaining recommendations from certain other government agencies. Imports may only enter Indonesia through 5 designated seaports or through international airports.	MoT Reg. No. 44/2009 (as amended by MoT Reg. No. 23/2011)
Non-hazardous and non-toxic waste	<u>Rationale</u> : Not provided <u>Procedures</u> : waste may only be imported by companies that undertake industrial business activities and are recognized importers. To become a recognized importer, recommendations must be obtained from the Ministry of Industry and the Ministry of Environmental Affairs. Recognition as an importer contains the quantity and kind of waste that may be imported. Recognition is valid for one year (extendable).	MoT Reg. No. 39/2009 MoT Reg. No. 31/2016

Product(s)	Rationale and procedures	Legislative basis
Optical discs (empty or filled) and machines and materials used to produce them	<u>Rationale</u> : protection of IPRs <u>Procedures</u> : goods may only be imported by importers recognized by the DGFT. In order to be recognized, the importer must, <i>inter alia</i> , submit recommendations from the Ministry of Industry and the MLHR, an import and distribution plan, and a copy of the licence from the copyright holder for the import of filled optical discs. Approval must be obtained for each shipment.	MoT Reg. No. 5/2005 MoT Reg. No. 76/2015
Textiles and textile products (TPT)	<u>Rationale</u> : fulfil demand for goods not available from domestic sources for production processes and national consumption, and to maintain domestic production of TPTs <u>Procedures</u> : certain TPTs (12 tariff lines at the HS 4-digit tariff line level) may only be imported by registered importers as raw materials for their production processes. These products may not be traded or transferred. Exceptions relate to imports destined for bonded zones and FTZs, and imports for certain specified purposes.	MoT Reg. No. 15/2008 MoT Reg. No. 52/2015 MoT Reg. No. 85/2015
Textile and batik textile products and batik motifs	Not provided	MoT Reg. No. 53/2015 MoT Reg. No. 86/2015
Food and beverages, traditional and herbal medicines, cosmetics, clothing, footwear, electronic goods, and children's toys	<u>Rationale</u> : to address smuggling, and safeguard health and safety through the development of an effective tracking system <u>Procedures</u> : importers must apply to be registered with the MoT and, <i>inter alia</i> , must provide an import plan for 1 year, covering the goods to be imported (quantity, kinds of goods, and tariff heading), and the port of entry. Imports must enter Indonesia through one of 5 designated seaports, or through any international airport.	MoT Reg. No. 44/2008 (as amended by MoT Reg. No. 56/2008 (extended by MoT Reg. No. 57/2010) MoT Reg. No. 87/2015
Used clothing	Not provided	MoT Reg. No. 51/2015
Iron, steel or alloy and derivative products	Not provided	MoT Reg. No. 28/2014 MoT Reg. No. 113/2015 MoT Reg. No. 110/2018
Hand tools	Not provided	MoT Reg. 30/2018
Cell phones, handheld computers, and tablets	<u>Rationale</u> : Not provided <u>Procedures</u> : importers are not permitted to sell directly to retailers or consumers, and they must use at least three distributors to qualify for a MoT importer licence. Importers are required to obtain an MoI recommendation to establish themselves as registered importers of such devices; a recommendation is only available for local manufacturers, importers in a joint venture with a local manufacturer, or importers of "specialized items". 4G device importers must provide evidence of contributions to the development of the domestic device industry, or cooperation with domestic manufacturing, design, or research firms.	MoT Reg. 82/2012, as amended by MoT Regulations No. 38/2013, No. 68/2015, No. 41/2016, and MoI Regulation 108/2012, in effect since January 2013; MoI Reg. No. 68/2016 MoT Reg. No. 38/2013 MoT Reg. No. 48/2014 MoT Reg. No. 41/2016
Colour multi-functional machines, colour photocopying and printing machines	<u>Rationale</u> : prevention of illegal reproduction of banknotes and security instruments <u>Procedures</u> : may only be imported by registered importers. Each import requires prior approval from the DGFT, which is based on recommendations from the MoT (including information such as quantity, type, destination, and loading ports).	MoT Reg. No. 15/2007 (as amended by MoT Reg. No. 07/2012) MoT Reg. No. 102/2015 MoT Reg. No. 14/2018
Electronic cigarettes	Not provided	MoT Reg. No. 86/2017
Refrigeration-based goods	Not provided	MoT Reg. No. 47/2015
Cooling system-based goods	Not provided	MoT Reg. No. 84/2015 MoT Reg. No. 40/2016 MoT Reg. No. 18/2018
Tyres	Not provided	MoT Reg. No. 78/2015 MoT Reg. No. 77/2016 MoT Reg. No. 06/2018 MoT Reg. No. 05/2019

Product(s)	Rationale and procedures	Legislative basis
Capital goods	Not provided	MoT Reg. No. 17/2018 MoT Reg. No. 118/2018
Used capital goods	<b>Rationale:</b> to increase the capacity, efficiency, and productivity of domestic industry, where the availability of such goods cannot be fulfilled from domestic sources <b>Procedures:</b> used capital goods may only be imported by companies holding specific types of business licence. All imports (except into bonded zones) must be approved by the DGFT. In some cases, applications for approval require a recommendation from another ministry. This Regulation was to expire on 31 December 2013.	MoT Reg. No. 48/2011
Complementary goods, goods for the purposes of market tests, and after-sales services	Not provided	MoT Reg. No. 18/2015

Source: WTO document WT/TPR/S/278/Rev.1, 16 July 2013; USTR, *2019 National Trade Estimate Report on Foreign Trade Barriers*. Viewed at: [https://ustr.gov/sites/default/files/2019\\_National\\_Trade\\_Estimate\\_Report.pdf](https://ustr.gov/sites/default/files/2019_National_Trade_Estimate_Report.pdf); export.gov, *Indonesia Country Commercial Guide*. Viewed at: <https://www.export.gov/apex/article2?id=Indonesia-Prohibited-Restricted-Imports>; US Department of Commerce International Trade Administration, *Export Solutions*. Viewed at: <https://www.export.gov/article?id=Indonesia-Trade-Barriers>; and information provided by the authorities.

**Table A3.5 KPPU competition assessment on industries and policies, 2013-19**

Year	Areas of industry/policy assessment
2019	Upstream oil and gas industry; nickel industry; business safety training institution (LPK3); chain supply (distribution) of pharmaceutical industry; industrial structure of information industry; pharmacy industry data pattern; structure and behaviour in the digital economy sector; digital economy policy review; wheat industry; food flour industry; MSMEs in flour industry; chicken industry; salt industry; two-wheel vehicle policy; anti-dumping (AD) import duty on biaxially orientated polypropylene; AD import duty on hot-rolled coil; AD import duty on aluminum foil; AD import duty on hot-rolled plate; AD import duty on polyester staple; AD import duty on fibre spin drawn yarn; temporary safeguard import duties on evaporators; statutory regulations; regional regulations in business competition perspective; and business competition jurisprudence.
2018	Financial Services Authority's policy with regard to setting premium rates of indemnity insurance; AD import duty on iron or non-alloy steel from China; AD import duty on tinplate products from Republic of Korea, China, and Chinese Taipei; automotive industry; competition barriers in flight school industry; tyre import policy; flight tariff policy; economy class airplane ticket prices during Eid al-Fitr; terminal and special terminal management for own interest; relevant market determination at multi-sided market in special rented transportation; medicine purchase/procurement policy of national health insurance through e-catalogue by private health facilities; SOE synergy; ceramic tile industry; garlic industry policy; refined sugar industry policy; Kharisma Archipelago Collective Marketing (KPNB) business development plan; rattan industry policy; direct distribution policy; general provisions regarding the distribution of goods; draft government regulation regarding film production administrative sanctions; e-tendering policy; interim review of the imposition of AD import duties on biaxially orientated polyethylene terephthalate products from Thailand.
2017	Drug prices; automotive components industry; automotive industry; taxi industry; drug distribution; labour loading and dismantling organizers; biodiesel industry; AD steel ropes and cables (SWR) policy from China; tyre industry policy; national sugar industry; TKI migrant workers visa fee increase in Malaysia; umrah (pilgrimage) travel reference cost; refined sugar trading policy through commodity auctions; Jakarta Province Central One Door (PTSP) licensing policy; safeguards policy for H steel profiles and Section I Tariff Posts 72287010 and 72287090; flight fares, year 2017; Pasar Jaya Raperda policy; Director General of SDPPI RPM Ministry of Communications and Information of the Republic of Indonesia related to the procedure for the selection of 2.1 GHz radio frequency band users and R frequency bands; BJLAS safeguards extension plan 72106111; and government procurement policies.
2016	"Avtur" industry; non-subsidized retail price of fuel oil industry; natural gas industry; corn industry; soybean industry; railway industry; cattle industry; third party administration health industry; government policies in the railroad industry; government policies in the steel industry; and government policies in the rupiah money market.
2015	Salt industry; sugar price policy; and impact of the lower boundary policy in the official agent industry.
2014	Energy sector; education and health; finance and banking; infrastructure and food; cement industry; bank interest rates to MSMEs in South Sulawesi; four-wheeled motor vehicle financing; ground handling service industry; regulatory policies on the use of palm oil solid waste; advertisement industry; and regional sugar imports.
2013	Automotive industry; formula milk; health services; toll-road management; banking; state gas company; beef; insurance; sugar; rice; mining; and broadcasting law.

Source: OECD, *Annual Report on Competition Policy Developments in Indonesia - 2018*. Viewed at: [https://one.oecd.org/document/DAF/COMP/AR\(2019\)46/en/pdf](https://one.oecd.org/document/DAF/COMP/AR(2019)46/en/pdf); and information provided by the authorities.



**Table A4.1 Total allowable catch, 2017**

Fisheries management area		Small pelagics	Big pelagics	Demersal fish	Reef fish	Penaeid shrimp	Lobster	Blue swimming crab	3-spot swimming crab	Squid	Total/average
571	Potential catch	99,865	64,444	145,495	20,030	59,455	673	12,829	13,614	9,038	425,443
	Allowable catch	79,892	51,556	116,396	16,024	47,564	539	10,263	10,891	7,230	340,355
	Utilization rate	0.83	0.52	0.33	0.34	1.59	1.3	1	0.93	0.62	0.83
572	Potential catch	527,029	276,755	362,005	40,570	8,023	1,483	9,543	989	14,579	1,240,976
	Allowable catch	421,623	221,404	289,604	32,456	6,418	1,186	7,634	791	11,663	992,779
	Utilization rate	0.5	0.95	0.57	0.33	1.53	0.93	0.18	0.49	0.39	0.65
573	Potential catch	630,521	586,128	7,902	22,045	7,340	970	526	3,913	8,195	1,267,540
	Allowable catch	504,417	468,902	6,322	17,636	5,872	776	421	3,130	6,556	1,014,032
	Utilization rate	1.5	1.06	0.39	1.09	1.7	0.61	0.28	0.98	1.11	0.97
711	Potential catch	330,284	185,855	131,070	20,625	62,342	1,421	2,318	9,711	23,499	67,125
	Allowable catch	264,227	148,684	104,856	16,500	49,873	1	1,854	7,769	18,799	612,563
	Utilization rate	1.41	0.93	0.61	1.53	0.53	0.54	1.09	1.18	1.84	1.07
712	Potential catch	364,663	72,812	657,525	29,951	57,965	989	7,664	23,508	126,554	1,341,631
	Allowable catch	29,173	58,250	526,020	23,961	46,372	791	6,131	18,806	101,244	810,748
	Utilization rate	0.38	0.63	0.83	1.22	1.11	1.36	0.7	0.65	2.02	0.99
713	Potential catch	208,414	645,058	252,869	19,856	30,404	927	4,347	5,463	10,519	1,177,857
	Allowable catch	166,731	516,046	202,295	15,885	24,324	742	3,477	4,370	8,415	942,285
	Utilization rate	1.23	1.13	0.96	1.27	0.52	1.4	0.83	0.73	1.19	1.03
714	Potential catch	165,944	304,293	98,010	145,530	3,180	724	1,145	1,669	68,444	788,939
	Allowable catch	132,755	243,435	78,408	116,424	2,544	579	916	1,335	54,755	631,151
	Utilization rate	0.44	0.78	0.58	0.76	0.39	1.73	1.55	0.77	1	0.89
715	Potential catch	555,982	31,659	325,080	310,866	6,436	846	891	495	10,272	1,242,527
	Allowable catch	444,786	25,327	260,064	248,693	5,149	677	712	396	8,217	994,021
	Utilization rate	0.88	0.97	0.22	0.34	0.78	1.32	1.19	0.98	1.86	0.95
716	Potential catch	332,635	181,491	36,142	34,440	7,945	894	2,196	294	1,103	597,140
	Allowable catch	266,108	145,193	28,914	27,552	6,356	715	1,756	235	883	477,712
	Utilization rate	0.48	0.63	0.45	1.45	0.5	0.75	0.38	0.5	1.42	0.73
717	Potential catch	829,188	65,935	131,675	15,016	9,150	1,044	489	58	2,140	1,054,695
	Allowable catch	663,350	52,748	105,340	12,013	7,320	835	391	46	1,712	843,755
	Utilization rate	0.7	1	0.39	0.91	0.46	1.04	0.87	1.21	1.09	0.85

Fisheries management area		Small pelagics	Big pelagics	Demersal fish	Reef fish	Penaeid shrimp	Lobster	Blue swimming crab	3-spot swimming crab	Squid	Total/ average
718	Potential catch	836,973	818,870	876,722	29,485	62,842	1,187	1,498	775	9,212	2,637,564
	Allowable catch	669,579	655,096	701,378	23,588	50,274	950	1,198	620	7,370	2,110,053
	Utilization rate	0.51	0.99	0.67	1.07	0.86	0.97	0.85	0.77	1.28	0.89
Total potential catch, above		4,881,498	3,233,300	3,024,495	688,414	315,082	11,158	43,446	60,489	283,555	12,541,437
Total allowable catch, above		3,642,641	2,586,641	2,419,597	550,732	252,066	7,791	34,753	48,389	226,844	9,769,454
Average utilization rate, above		0.81	0.87	0.55	0.94	0.91	1.09	0.81	0.84	1.26	0.90

Note: Potential catch: tonnes.  
 Allowable catch: tonnes.  
 Utilization rate:  $E < 0.5$  = moderate, fishing capacity can be increased;  $0.5 \leq E < 1$  = fully exploited, fishing capacity can be maintained with strict monitoring;  $E \geq 1$  = over-exploited, fishing capacity must be reduced.

Source: Data provided by the authorities.

**Table A4.2 Air transport agreements<sup>a</sup>**

Partner	Date	Entry into force	5 <sup>th</sup> <sup>a</sup>	7 <sup>th</sup> <sup>b</sup>	Cabotage <sup>c</sup>	Coop <sup>d</sup>	Designation <sup>e</sup>	Withholding <sup>f</sup>	Pricing <sup>g</sup>	Capacity <sup>h</sup>	Stat	ALI <sup>i</sup>
Australia	07.02.2013	22.08.2002	Y	N	N	Y	M	SOEC	DA	PD	Y	13.0
Austria	17.04.2003	..	Y	N	N	N	S	SOEC	DA	PD	Y	6.0
Bahrain, Kingdom of	07.06.2007	..	Y	N	N	N	S	SOEC	DA	PD	Y	6.0
Belgium	13.05.1992	13.05.1992	Y	N	N	N	M	SOEC	DA	B1	Y	14.0
Brunei Darussalam	04.12.1998	04.12.1998	Y	N	N	N	S	SOEC	DA	B1	Y	10.0
Cambodia	20.09.2006	20.09.2006	Y	N	N	N	M	SOEC	DA	N/A	Y	10.0
Canada	02.09.2015	02.09.2015					S		DA	PD		
China	17.04.2015	17.04.2015	N	N	N	N	S	SOEC	DA	PD	Y	0.0
Denmark	22.09.1987	22.09.1987	Y	N	N	N	M	SOEC	DA	B1	Y	14.0
France	06.04.2004	06.04.2004	Y	N	N	N	M	SOEC	DA	B1	Y	14.0
Germany	10.06.1994	10.06.1994	Y	N	N	N	M	SOEC	DA	OR	Y	12.0
Hong Kong, China	27.07.2016	27.07.2016	N	N	N	N	M	PPoB	DA	PD	Y	12.0
Japan	26.06.2013	26.06.2013	Y	N	N	Y	M	SOEC	ZP	FD	Y	26.5
Kyrgyz Republic	28.02.2002	28.02.2002	Y	N	N	N	S	SOEC	DA	PD	Y	6.0
Lebanon	26.04.1967	..	N	N	N	N	M	SOEC	DA	PD	Y	4.0
Malaysia	21.06.2013	21.06.2013	Y	N	N	N	M	SOEC	DA	B1	Y	14.0
Myanmar	10.05.1995	10.05.1995	Y	N	N	N	S	SOEC	DA	B1	Y	10.0
Netherlands	19.11.2014	19.11.2014	Y	N	N	N	M	SOEC	DA	B1	Y	14.0
New Zealand	12.11.2015	12.11.2015	Y	N	N	N	M	SOEC	DA	PD	Y	10.0
Papua New Guinea	17.06.2013	..										
Russian Federation	25.03.2011	25.03.2011	Y	N	N	N	S	SOEC	DA	PD	N	7.0
Singapore	26.01.2013	26.01.2013	Y	N	N	N	M	SOEC	DD	PD	Y	16.0
South Africa	13.12.2013	13.12.2013	N	N	N	N	M	SOEC	DA	PD	Y	4.0

Partner	Date	Entry into force	5 <sup>th</sup> <sup>a</sup>	7 <sup>th</sup> <sup>b</sup>	Cabotage <sup>c</sup>	Coop <sup>d</sup>	Designation <sup>e</sup>	Withholding <sup>f</sup>	Pricing <sup>g</sup>	Capacity <sup>h</sup>	Stat	ALI <sup>i</sup>
Sweden	22.09.1987	22.09.1987	Y	N	N	N	M	SOEC	DA	B1	Y	14.0
Switzerland	31.03.2016	..	Y	N	N	N	S	SOEC	DA	PD	Y	6.0
United Kingdom	27.11.2016	..	N	N	N	N	M	SOEC	DD	B1	Y	14.0
United States	26.07.2004	..	Y	N	N	Y	M	SOEC	DD	FD	N	28.0
Uzbekistan	02.08.2018	02.08.2018	N	N	N	N	S	SOEC	DA	PD	Y	0.0

.. Information not available.

a Indicates if fifth freedom rights (even limited ones) are granted (Y- yes; N – no). If fifth freedom rights are subject to approval by the aeronautical authorities, they are coded as not granted.

b Indicates if seventh freedom rights, even limited ones, are granted. If seventh freedom rights are subject to approval by the aeronautical authorities, they are coded as not granted.

c Indicates if cabotage rights, even limited ones, are granted. If cabotage rights are subject to approval by the aeronautical authorities, they are coded as not granted.

d Indicates if there are clauses allowing cooperation between airlines e.g. code-sharing.

e "S"= Single; "M"=Multiple.

f "SOEC"=Substantial Ownership and Effective Control.

g "DA"=Double Approval; "ZP"=Zone Pricing.

h "PD" Pre-Determination; "B1"= Bermuda 1 i.e. *post facto* Determination; "OR"=Country of Origin; "OL": Other Liberal, "FD"=Free Determination.

i "ALI"=Air Liberalization Index (0=no liberalization at all; 50=full liberalization).

Note The term "air transport agreements" is used here to refer to ASAs, MOUs, Exchange of Notes, and other such relevant instruments.

Source: WTO Secretariat; and information provided by the authorities.