

EU-Indonesia FTA needs to reduce barriers to courier and express delivery services

Recommendations of the European Express Association for the negotiations on the EU-Indonesia Comprehensive Economic Partnership Agreement

1. Issue and background

Since the launch of the negotiations for a Free Trade Agreement (FTA) between the EU and Indonesia in July 2016, three negotiation rounds have taken place. Following the 4th round of negotiations in Indonesia between 19 and 23 February 2018, the European Express Association (EEA) would like to highlight a number of issues relevant to express and postal services which should be addressed in the next rounds of negotiations.

2. EEA position

The EEA supports the negotiations for a comprehensive EU-Indonesia Free Trade Agreement. At present, there are a number of barriers significantly impairing the ability of private companies to provide courier and Express Delivery Services (EDS) in Indonesia, which can be addressed in the FTA. This document lists a number of barriers as well as some recommendations under each point which can contribute to overcoming them. Furthermore, as the express industry has faced some challenges in the past, it is important that the FTA contains commitments that guarantee existing market access and conditions.

3. Barriers currently faced by EDS

Postal

The Postal Law, passed in September 2009, dismantled the monopoly enjoyed by state-owned Pos Indonesia and opened the market to other players. However, the Law contains a number of provisions that restrict the level-playing field. In particular:

Overly broad definition of postal services: The definition of ‘postal services’ provided in the Law is overly broad, going beyond what normally constitutes postal services under international definitions and best practices. It includes among other things electronic mail, financial transactions, and package delivery and logistics services, creating an overlap with freight forwarding services regulated by the Ministry of Transportation.

Recommendations

1. The FTA should include a mutual agreed definition of ‘postal services’, based on the United Nations International Standard Industrial Classification (ISIC), Central Product Classification (CPC), and the Universal Postal Union (UPU) Conventions to ensure consistency with international standards.
2. The definition should clearly distinguish EDS and logistics from postal services, which complement each other to serve different market segments and demands, based on a ‘price-weight multiple’ to ensure that value-added services are excluded from the postal monopoly.

Final Mile Delivery Restrictions: The Law allows foreign firms to offer services in collaboration with domestic partners in ‘province[s] or capital[s] with an international airport and/or harbour only’ and restricts foreign owned express service providers from conducting domestic last leg delivery unless they outsource to a domestic third-party service provider. The express delivery services business model relies on the use of advanced proprietary technologies, and custodial control throughout the entire supply chain

to deliver the fastest, most reliable delivery service for businesses. Dividing this complex, integrated service into a 'domestic' and an 'international' component increases complexity which increases costs and degrades services levels.

Recommendations

3. The FTA should include provisions to ensure a level-playing field with domestic service providers, allowing foreign EDS providers to conduct the continuous domestic leg of international shipments, regardless of the destination within Indonesian territory, under fully owned legal entities.

Contribution to financing of postal services: The broad definition has also resulted in an obligation for private couriers to contribute to the financing of Universal Postal Services. Under the Postal Law, all delivery service providers must contribute to the financing of universal postal service operations. The Ministry of Communication and Information Regulation No. 7 Year 2017 specifies a yearly contribution of 0.25% of net profit earned from the provision of delivery services.

Recommendations

4. The FTA should include provisions that do not allow to cross-subsidise the supply of express mail services from the supply of the universal service.
5. The FTA should ensure financial transparency by applying the same requirements for financial disclosure that apply to other delivery services providers to the Universal Postal Services provider, including compliance with normal accounting conventions.

Customs

The Minister of Finance Regulation No. 182/PMK.04/2016 introduced new customs clearance thresholds for import. The *de minimis* was raised from US\$50 to US\$100, while the threshold for Category 3 imports was changed from being based on weight previously (100kg) to being based on value (US\$1,500). While the new thresholds better align with WCO Immediate Release guidelines, clearance channels are complicated by the need to differentiate between personal and commercial shipments (when processing Cat 3 and 4 shipments), as well as the availability of a new additional channel allowing faster clearance at a flat duty rate of 7.5%. The availability of multiple clearance channels for each value threshold complicates the customs process for traders. It is also operationally difficult to sort packages based on type of product or mode of distribution.

Recommendations

6. In order to keep trade simple – in particular for small and medium enterprises to participate in trade – we recommend that risk management and clearance should be based on value per WCO Immediate Release guidelines, and not based on the type of product or mode of distribution.
7. With the adoption and ratification of the Trade Facilitation Agreement (TFA), Indonesia should be encouraged to introduce procedures based on the Chapter on Expedited Shipments the TFA.

Regulated Agents

In 2015, Ministry of Transportation issued Ministerial Regulation 32/2015 (PM32/2015) and 153/2015 on air cargo and supply chain safety, requiring an additional stage of cargo inspections at international airports. Logistics companies are required to use the services Regulated Agents (RAs) to screen cargoes in Line 2 (unrestricted) areas at airports before being moved to the secure Line 1 areas. This regulation raised concerns since most RA companies lack screening expertise. Logistics firms and airlines also sees that the

additional layers of cargo inspections rather pose bigger security risk (during the move from Line 2 to Line 1) and eventually create extra costs as well as handling times.

In 2017 the Ministry of Transportation revised the RA regime system through Minister Regulation 53/2017. The revision was part of the 15th Economic Policy Package.

Recommendations

8. The FTA should encourage the Indonesian Government to align its aviation security regulations with international standards and best practices and confirm that screening can take place at any facility of a Regulated Agent, including within the airport area.

General FDI restrictions

In 2016 the government revised the Negative Investment List (DNI), which revised the foreign ownership ceiling for many transportation services. The foreign ownership caps for airport services (i.e., ground handling, reservation systems and aircraft leasing), maritime cargo handling, freight forwarding, air expedition freight services, were raised from 49 percent to 67 percent. Foreign ownership of distribution and warehousing facilities was increased from 33 percent to 67 percent, while cold storage was removed from the list completely allowing for complete foreign ownership. However, foreign participation in express delivery services remains limited to 49% minority ownership. This conflicts with Indonesia's past ASEAN commitments to allow up to 60% foreign ownership in logistics services in 2010 and up to 70% in 2013.

Recommendations

9. To facilitate trade and improve connectivity in Indonesia, Indonesia should allow foreign logistics service providers to own their operations, thereby encouraging investments in the sector, leading to improved quality of services and technology transfers.

4. Next steps – conclusions

The European Express Association urges the Commission to address the barriers faced by express delivery providers in Indonesia, as identified above, in the next rounds of negotiations. We would also urge negotiators to finalise the negotiations before the end of the mandate of the Juncker Commission, in May 2019.

The European Express Association (EEA) is the representative organisation for the express industry in Europe. The express industry is a fast-growing business sector which not only provides vital services for the European economy, but which also plays a large role in making the global marketplace a reality. Integrators, such as DHL, FedEx, TNT and UPS connect over 90% of the world in 72 hours. Express delivery services are used to deliver around €4 trillion worth of goods, equivalent to 16% of European business' sales revenue, projected to increase to over 20% by 2020. The industry specialises in time-definite, reliable transportation services for documents, parcels, and freight. It allows European business to rely on predictable, expeditious delivery of supplies, thereby enabling them to attain and maintain global competitiveness. The express industry directly employs over 250,000 people across the EU and supports a further 579,000 indirect jobs in Europe through the supply-chain (Oxford Economics, 2011).