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If '*sticks*' work, so do '*carrots*': Is the EU's new approach to trade and sustainable development striking the right balance?

On 22 June 2022, the European Commission (hereinafter, Commission) published its *Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions* on *The power of trade partnerships: together for green and just economic growth*, which sets out the Commission's revised approach to the provisions on trade and sustainable development (hereinafter, TSD) in the EU's preferential trade agreements (hereinafter, PTAs). The *Commission Communication* follows a larger debate having taken place over the past years regarding the enforceability of commitments under the TSD Chapters of such PTAs. The issue of trade and sustainability and the linkage of sustainability requirements to economic benefits is a highly sensitive one. As the Commission will start putting forth this new approach in the EU's negotiations with trading partners, it is key that a balance be struck between '*sticks*', namely the punishment of trading partners in violation of TSD commitments, and '*carrots*', encouraging third countries to meet ambitious sustainability standards by providing preferential market access in exchange.

A recap of a long debate

The issue of sustainability and the TSD Chapters in the EU's PTAs have become increasingly relevant and an important element of the EU's efforts to regain public support for its trade negotiations. Since the EU-Korea Free Trade Agreement, all PTAs concluded by the EU include a Chapter on TSD or provisions to that effect. Such chapters generally focus on two key areas: labour and social issues, as well as the environment. More specifically, the current TSD Chapters in the EU's PTAs call for the effective implementation of fundamental labour conventions and multilateral environmental agreements (MEAs), and for the sustainable management of natural resources, by the Parties to the Agreement.

On 11 July 2017, the Commission published a '*non-paper*' on the *Trade and Sustainable Development (TSD) chapters in EU Free Trade Agreements (FTAs)*, which was intended to stimulate discussion on the topic with the European Parliament and the Council of the EU (see *Trade Perspectives*, Issue No. 15 of 28 July 2017). The '*non-paper*' provided an overview of the EU's current approach and presented two options for discussion, further developing and refining said approach: 1) "*A more assertive partnership on TSD*" and 2) "*A model with sanctions*". In February 2018, the debate on trade and sustainability reached the level of the

EU Trade Ministers, who discussed this issue for the first time (see *Trade Perspectives*, Issue No. 4 of 23 February 2018). In May 2020, the Ministers of Trade from France and the Netherlands reignited the debate on the approach in the EU's TSD Chapters by sharing a proposal aimed at allowing parties to a trade agreement to withdraw tariff reductions *vis-à-vis* trading partners that fail to meet their commitments on sustainable development (see *Trade Perspectives*, Issue No. 10 of 22 May 2020). In 2021, the Commission finally launched an in-depth review with the objective of "*strengthening the ability of trade agreements as a whole* (…) *to champion sustainable trade, in cooperation with trade partners and in concert with other relevant EU policy instruments*". As part of this review, the Commission had requested an independent comparative study on TSD practices in third countries. The study, together with a public consultation, form part of the background of the recently presented new EU approach on TSD.

The EU's new approach on trade and sustainable development

On 22 June 2022, the Commission presented its new approach on TSD in the above-mentioned *Commission Communication*, which identifies "*a set of policy priorities and key action points*" to further enhance the effectiveness of the current engagement-based approach to trade and sustainable development. Notably, the *Commission Communication* states that the new approach would include the use of trade sanctions for breaches of core trade and sustainable development provisions. This sanctions-based approach would be introduced in future trade negotiations and added to ongoing trade negotiations, as appropriate.

The *Commission Communication* recognises the cooperative approach of the EU's TSD model but recognises that there is room for improvement. Particularly, the *Commission Communication* identifies scope for improvement in six policy priority areas: 1) The need to be more proactive in the cooperation with partners; 2) Stepping up the country-specific approach; 3) Mainstreaming sustainability beyond the TSD Chapter of trade agreements; 4) Increasing the monitoring of the implementation of TSD commitments; 5) Reinforcing the role of civil society; and 6) Enhancing enforcement by means of trade sanctions as a measure of last resort.

The EU's new approach on TSD then focuses on three main aspects:

1) "*Results-oriented and priority-based engagement with partner countries*": The *Commission Communication* stresses the importance of continued cooperation with thirds countries and the use of PTAs as platforms to step up engagement with trading partners to foster international labour and environmental standards. It notes the importance to provide "*incentives and support to trade partners for reform processes and capacity building through technical and financial assistance*".

2) *"More participation and support for Civil Society"*: Under the new approach, the EU intends to reinforce the role of civil society and the involvement of the European Parliament in the implementation of TSD commitments. In this context, the Commission refers to new guidelines that would facilitate the use of the EU's Single Entry Point, referring to the EU's complaint mechanism through which EU and non-EU stakeholders can, *inter alia*, submit complaints on non-compliance with TSD commitments to the Commission (see *Trade Perspectives*, Issue No. 22 of 27 November 2020).

3) "*Stronger focus on implementation and enforcement*": The new approach aims at combining trade sanctions for core TSD commitments with a cooperation-based approach in order to strengthen compliance with TSD commitments. The new approach provides three main changes to the enforcement mechanism related to TSD provisions: 1) Extending the general State-to-State dispute settlement compliance stage to the TSD Chapter, which means that a party found in violation of its TSD commitments would have to inform the other party of how it plans to comply with a panel report and

to carry out such plan over a certain period of time; 2) Involving the *Domestic Advisory Groups* in monitoring the compliance stage, which means that civil society and *Domestic Advisory Groups* would be allowed to submit observations to the review panel; and 3) Extending the possibility to apply trade sanctions in cases of failure to comply with obligations that materially defeats the object and purpose of the Paris Agreement on Climate Change or in cases of serious instances of non-compliance with the ILO fundamental principles and rights at work. Regarding the application of sanctions, the *Commission Communication* notes that the application of trade sanctions for violations of TSD provisions would follow the general dispute settlement rules, which means that trade sanctions must be "*temporary and proportionate and may take the form of suspension of trade concessions*". Sanctions would only be used "*in the event that a panel finds a party in breach of its TSD commitments, and the latter does not bring itself into compliance within the arranged time period*".

On 30 June 2022, the EU and New Zealand reached a political '*agreement in principle*' for the EU-New Zealand Free Trade Agreement. The agreement is the first EU trade agreement that includes a TSD Chapter that follows the EU's new approach, including enforcement through sanctions as a last resort "*in instances of serious violations of core TSD commitments, namely the ILO fundamental principles and rights at work, and of the Paris Agreement on Climate Change*".

The delicate balance of linking trade with trade-related issues and concerns

The withdrawal of tariff preferences to motivate compliance or to punish incompliance with sustainability commitments can be considered as an economic sanction. The issue is delicate, as it connects trade with non-trade, but trade-related, issues and concerns. However, it should be noted that the EU's own Generalised System of Preferences (GSP), which provides unilateral preferences to developing countries, already provides in its GSP+ iteration for the temporary suspension of preferences or even their withdrawal if the beneficiary country does not comply with certain provisions linked to environmental, labour and human rights protection (see *Trade Perspectives*, Issue No. 8 of 24 April 2020). The connection between trade (*i.e.*, economic and commercial commitments or concessions) and sustainability (*i.e.*, environmental, social and/or labour commitments) is clear. The trade-offs within preferential trade agreements are and must be, first and foremost, economic in nature. Any equation that does not recognise this simple premise, will likely not work or either discourage the conclusion of preferential trade agreements or trigger pushback from some of the EU's trading partners, especially developing countries.

On the one hand, it appears absolutely natural that, if a country, or group of countries like the EU, wanted to link some of its preferential market access concessions to its trading partners' commitments on sustainability, it should be allowed to take action (*e.g.*, withdraw the preferential market access concessions) in case its trading partners do not comply with their sustainability commitments. On the other hand, the opposite must also be considered. Trading partners within a preferential trading arrangement, which have committed to comply with often costly and legally, economically, and commercially challenging obligations on sustainability, should be rewarded with stable, effective and non-discriminatory preferential market access conditions to the other party's market, provided of course that they comply with the sustainability obligations that they have committed to. Should their market access then be unilaterally distorted or restricted, such trading partners should be allowed to address this trade imbalance either by withdrawing some of their own commercial concessions or be given compensation.

***No* '**sticks**'* without* '**carrots**'**

The issue is political, as much as it is legal and economic in nature. Developing countries often find it burdensome to comply with strict sustainability schemes that they sometimes consider not to be the priority, that are costly to implement, and/or that are unilaterally imposed by

importing countries. Some countries also find it difficult to accept that, while they are asked to make such efforts to comply, they then find their products competing on markets, such as the EU market, with products of third countries that allegedly are not subject to or that violate the same sustainability obligations. Therefore, the EU's new approach must ensure that a balance between sanctions and economic benefits be struck. Tying sustainability commitments with specific trade concessions should work to the benefit of both parties to a PTA and, ultimately, to the overriding sustainability objectives being pursued.

Importantly, the Party committing to certain sustainability requirements, technical regulations and conformity assessment procedures that make integral part of the PTA, will know that, '*in exchange*' for actual and measurable compliance with such requirements, it will enjoy preferential and lucrative access to the EU market. Too often, sustainability commitments are not implemented because the economic incentive is not there, especially when it is expected from small-holders, micro-, small- or medium-sized enterprises and developing countries' producers. Therefore, the EU's recourse to '*sticks*' (*i.e.*, sanctions), should be accompanied by '*carrots*' to encourage third countries to meet ambitious sustainability objectives.

WTO Members agree to extend the *moratorium* on customs duties on electronic transmissions: A short lived win for the digital economy?

On 16 June 2022, following a divisive and years-long debate, the Members of the World Trade Organization (hereinafter, WTO), gathered at the 12th Ministerial Conference (MC12), adopted a Ministerial Decision in which they agreed to "*maintain the current practice of not imposing customs duties on electronic transmissions*", known as the '*e-commerce moratorium'*, until the next Ministerial Conference. While this is welcome news to many, a lack of a definitive decision means that the debate, which pits businesses and countries interested in maintaining the liberalised *status quo*, against those countries wishing to enhance revenues through the levying of tariffs on this rapidly burgeoning sector of digital goods, will continue unabated.

The WTO e-commerce work programme

Given that most WTO rules were negotiated in the early 1990s and, thus, before the global expansion of digital technologies, they are not always entirely adequate in addressing the situations presented by the current digital era. This was true even by the late 1990s, when WTO Members initiated efforts to close the gap between digital technologies and international trade rules. In May 1998, WTO Members adopted the *Declaration on global electronic commerce*, which required the WTO's General Council to *"establish a comprehensive work programme to examine all trade-related issues relating to global electronic commerce including those issues identified by Members*". The Declaration noted the WTO Members' decision to continue the "*practice of not imposing custom duties on electronic transmissions".* That decision was to be reviewed by the General Council and the extension of the Declaration decided by consensus "*taking into account the progress of the work programme*".

In September 1998, the WTO General Council established the *Work programme on electronic commerce*, (hereinafter, *Work Programme*) with the objective to "*examine all trade-related issues relating to global electronic commerce, taking into account the economic, financial, and development needs of developing countries*". Essentially, the *Work Programme* consists of an outline of programmes for the relevant WTO bodies to investigate and report on: 1) The treatment of electronic commerce in the legal framework of the General Agreement on Trade in Services (GATS); 2) Aspects of electronic commerce relevant to the provisions of the General Agreement on Tariffs and Trade 1994 (hereinafter, GATT); 3) The intellectual property issues arising in connection with electronic commerce; and 4) The development implications of electronic commerce, taking into account the economic, financial and development needs of developing countries. Over the years, the activities of the *Work Programme* have been fraught with political and economic development differences among WTO Members. These political and economic development differences have led to diverging positions on key

deliverables of the *Work Programme*, including regarding the scope, definition, and impact of the *e-commerce moratorium*.

The controversy around electronic transmissions

While WTO Members continue to extend the *moratorium*, there is no agreed definition nor common understanding on the scope of '*electronic transmissions*' and, therefore, on the scope of the *moratorium*. Electronic transmissions are generally considered to encompass anything from software, e-mails, video games, films that can be delivered through electronic means. The WTO General Council defined electronic commerce as "*the production, distribution, marketing, sale or delivery of goods and services by electronic means*". Notably, that definition applies "*exclusively for the purposes of the work programme, and without prejudice to its outcome*". According to the Organisation for Economic Cooperation and Development (OECD), trade in electronic transmissions excludes products that are ordered online, but delivered physically. However, the OECD's definition of electronic transmissions is not binding on WTO Members. Therefore, it does not resolve the issue of the scope of the *moratorium*. Questions have been raised on whether the *moratorium* applies only to the '*electronic transmissions*' themselves (*i.e.*, the delivery of the digital products or services) or also to the '*content*' of the electronic transmissions. This debate is closely related to another dispute, which revolves around whether electronic transmissions should be treated as '*goods*' under the GATT or as '*services*' in accordance with the GATS. For the past 25 years, these issues have remained unresolved under the *Work Programme*.

In recent years, the growth of this sector and its increasing economic relevance have made it an enticing potential source of government revenue. As a result, some countries, including India, Indonesia, and South Africa, have indicated their intention to end the *moratorium* and to begin imposing tariffs on cross-border digital trade (see *Trade Perspectives*, Issue No. 7 of 10 April 2020). Conversely, many countries have resisted this urge. In parallel to the continued extension of the *moratorium* at the multilateral level, individual WTO Members have made binding commitments prohibiting the imposition of customs duties on electronic transmissions in their respective preferential trade agreements, reaffirming the WTO *moratorium*.

Uncertainties surrounding the extension of the moratorium

As the voices advocating for an end of the *moratorium* have grown louder since the most recent extension at the 11th WTO Ministerial Conference in 2017, it was uncertain whether the *moratorium* would again be extended at the following Ministerial Conference, which had been postponed twice due to delays caused by the *Covid-19* pandemic.

On 9 June 2022, in the run up to the 12th WTO Ministerial Conference, 51 WTO Members including Australia, Brazil, Canada, the EU, Japan, Mexico, Nigeria, Singapore, the UK, and the US, issued a *Communication* advocating for continuity of the *moratorium* until the next Ministerial Conference, in order to *maintain "certainty and predictability for business and consumers"* and to support economic recovery. On the same day, India, Indonesia, and South Africa, issued a *Communication* in which they, *inter alia*, expressed their concern over "*the deep digital and technological divide afflicting developing and least developed countries*" and underlined "*the need to address the same*". These three WTO Members also referred to "*the uneven spread of global electronic commerce and inequitable gains arising from the digital economy*".

Acknowledging the importance of the *Work Programme* and, without referring to the *moratorium*, the three WTO Members also proposed to *"re-invigorate"* the *Work Programme, "including the development-related issues under it".* India, Indonesia, and South Africa consider that the continued extension of the *moratorium* forestalls the resolution of issues pending in the *Work Programme*, particularly as regards the development implications of electronic commerce. The three WTO Members argue that, if the *moratorium* is to apply only to '*electronic transmissions'*, the implication of that interpretation would be that WTO Members can impose customs duties on the transmitted content. The prohibition of customs duties

would, therefore, only refer to the '*transmission*' as such and any possible revenue implications would be limited in nature, given the scope of the *moratorium*. In that regard, India, Indonesia, and South Africa maintain that the *moratorium* limits the right to regulate the digital economy, thereby leading to loss of revenues that would otherwise accrue to developing countries.

The proponents of the *moratorium* argue that the intention to impose customs duties on electronic transmissions is purely motivated by protectionism, which would be counterproductive to the trade facilitation objective of the WTO. Interestingly, the OECD finds that tariff losses due to the *moratorium* are *"likely to be relatively small"*, yet that *"its discontinuation would cause wider economic losses*". Prior to the WTO Ministerial Conference, 89 global business associations had issued a *Global Industry Statement on the WTO Moratorium on Customs Duties on Electronic Transmissions* and argued that "*customs restrictions that interrupt cross-border access to knowledge and digital tools would harm smaller business, the global supply chain, and COVID-19 recovery*", therefore increasing business costs as well as licensing digital fragmentation.

Importantly, as the *moratorium* on electronic transmissions is restricted to customs duties and fees or other charges levied on or in connection with the importation or exportation of digital products, WTO Members do have the option to resort to internal taxation of electronic transmissions. In this context, some WTO Members, such as Indonesia, Nigeria, and Singapore, have, in recent years, introduced laws taxing foreign companies on their sales of digital products and services. However, if such taxes were to, *de facto,* operate as a system of customs duties on the imports of intangible goods and services, they could be considered as inconsistent with the *moratorium* and the GATT/GATS principles of national treatment and non-discrimination (see *Trade Perspectives*, Issue No. 7 of 10 April 2020).

A win for the digital economy?

Despite the strong opposition from India, Indonesia, and South Africa to extending the *moratorium*, WTO Members ultimately agreed to maintain the current practice of not imposing customs duties on electronic transmissions until the next Ministerial Conference, which *"should ordinarily be held by 31 December 2023".* WTO Members further agreed that "*should MC13 be delayed beyond 31 March 2024",* the *moratorium* would expire on that date unless WTO Members or the General Council take another decision to extend it. While businesses and trade associations lauded WTO Members for extending the *moratorium*, they maintain their call for a permanent *moratorium* and resolution of the outstanding issues in the *Work Programme.*

The extension of the *moratorium* fits with the remit of the WTO as an avenue to reduce tariffs and trade barriers. However, while the limited period for which the *moratorium* was extended buys time, it does not yield long-term legal certainty and commercial predictability for businesses, especially in the face of growing interest by certain WTO Members to impose tariffs on electronic transmissions. The benefits associated with the *moratorium* could be short lived if WTO Members do not finally find a permanent solution to the issue.

Indonesia's Bill on *New and Renewable Energy*: One step forward towards Indonesia's green energy transition?

In furtherance of the country's commitment to shift towards green energy, the Government of Indonesia is currently in the process of discussing the *New Energy and Renewable Energy Bill* (hereinafter, NRE Bill). On 14 June 2022, Indonesia's House of Representatives finished the harmonisation of the NRE Bill and voted to adopt the Bill for further discussion and approval by Indonesia's President *Joko Widodo*. The Government of Indonesia plans to pass the NRE Bill into law before the G20 Summit that will be held in November in Bali, Indonesia. The NRE Bill provides fiscal and non-fiscal incentives to support the development of new and renewable energy projects in Indonesia. Despite the intention to address the impacts of climate change,

the Bill has drawn criticism from the public for including coal-based energy and nuclear power as "*new energy*". These same concerns, coupled with some potentially trade-restrictive decisions relating to the export of renewables, may ultimately restrain the trade-related advances that Indonesia might otherwise be able to achieve with a more forward-looking policy.

Honouring international obligations?

In 2016, Indonesia ratified the *Paris Agreement*, an international treaty on global climate change. The Paris Agreement builds on the United Nations Framework Convention on Climate Change (UNFCCC), which provides commitments for countries to decrease greenhouse gas (hereinafter, GHG) emissions. By ratifying the *Paris Agreement*, parties are required to submit Nationally Determined Contributions (*i.e.,* the parties' plans for climate action). Indonesia's Nationally Determined Contribution commitment, which was submitted to the UNFCC on 22 July 2021, pledged to decrease GHG emissions by 29% by 2030 and to reach net-zero carbon emissions by 2060. In addition, during the 2021 United Nations Climate Change Conference (COP26), a yearly conference to assess progress by United Nations members in tackling climate change, Indonesia pledged to phase out the use of coal by 2040. Notably, Indonesia contributed 2% of global GHG emissions in 2020, with approximately 27% of them originating from the power sector. The shift towards green energy could be accomplished by phasing out coal and utilising renewable energy for power.

Overview of the New and Renewable Energy Bill

The overall aim of the NRE Bill, as articulated in Article 6 thereof, is to transition to new and renewable energy sources – and to ultimately achieve carbon neutrality – by developing and fostering said sources in Indonesia. The transition to these sources is not an easy process, however, and can only be effectively achieved by carefully considering Indonesia's energy supply and electricity needs and the '*readiness*' of Indonesia's electric power system. As such, Indonesia's NRE Bill attempts to respond to these challenges and to facilitate the energy transition by providing, *inter alia*: 1) A definition and examples of new energy and renewable energy; 2) Provisions on research and development; and 3) Incentives for new and renewable energy projects.

The NRE Bill differentiates between '*new energy*' and '*renewable energy*'. According to Article 1(2) of the NRE Bill, "*new energy*" refers to all types of energy originating or generated from new technologies that process energy from non-renewable and renewable energy sources. Article 9 of the NRE Bill further clarifies that new energy includes nuclear energy, hydrogen, coal methane gas, liquefied coal, and gaseous coal. Article 1(3) defines "*renewable energy*" as energy that comes from or is produced from renewable energy sources. According to Article 30 of the NRE Bill, renewable energy includes, *inter alia,* geothermal energy sources, wind, biomass, sunlight, water flows and waterfalls, garbage, agricultural and plantation product waste, and livestock waste or manure.

A key element from the NRE Bill concerns the role of the Central Government and Regional Governments in providing fiscal and non-fiscal incentives to support the development of new and renewable energy. Article 55 of the NRE Bill states that fiscal incentives could be provided in the form of a tax facilities (*e.g.,* tax exemption, tax reduction), while non-fiscal incentives could be granted in the form of the provision of land and infrastructure for the development of new and renewable energy projects. Article 50 of the NRE Bill provides that Central and Regional Governments have the obligation to support the research and development of new and renewable energy in Indonesia. Article 50(4) of the NRE Bill further elaborates that support could be given in the form of, *inter alia,* funding, procurement of facilities and infrastructure, and capacity building of human resources.

There is also an ongoing discussion within the Government of Indonesia on whether to include in the NRE Bill a provision regarding the mandatory domestic market obligation, namely a requirement for producers in certain commodity sectors to prioritise selling a particular share

of their production to the domestic market before exporting the commodity. For coal, the suggestion has been made of increasing the mandatory domestic market obligation from the current 25% to 30%.

The consideration of coal derivatives and nuclear energy as "new energy"

As previously mentioned, the development of the NRE Bill reflects Indonesia's efforts to start transitioning to greener forms of energy, as it will provide incentives for the utilisation and development of renewable energy. Nonetheless, the NRE Bill has been subject to criticism due to the inclusion of coal and nuclear energy as "*new energy*", which might impede Indonesia's shift towards green energy. In addition, the inclusion of increased domestic market obligation requirements for coal is considered to be an effort to perpetuate the use of coal, which would considerably slow down Indonesia's green energy transition.

On this matter, the *Executive Director of the Institute for Essential Services Reform*, a think-tank in the field of energy and environment, *Fabby Tumiwa,* stated that, through the inclusion of coal in the NRE Bill, *"The Government accommodates the interests of the coal industry, who wants to continue to gain market share when the coal market for electricity generation declines. The entry of new energy technologies such as coal downstream will make Indonesia trapped with fossil energy infrastructure."*

Trade-related impacts of the NRE Bill: A complicated story

According to a statement issued by Indonesia's Ministry of Energy and Mineral Resources, the G20 Summit would focus on green energy transitions from fossil fuels to new and renewable energy. By passing the NRE Bill before the G20 Summit of November 2022, Indonesia hopes to show other countries that it is *"ready*" from a regulatory perspective and is willing to work with other G20 countries to decrease emissions and transition to green energy. As such, the NRE Bill would ostensibly provide a point of commonality upon which to negotiate bilateral and multilateral trade agreements and sustainable development commitments with like-minded counterparts.

However, Indonesia's overall approach has not necessarily left it well-positioned to finalise these types of partnerships. For example, and as noted, the continued allegiance to the coal industry might be taken as a less-than-full commitment to a transition to sustainable energy. Perhaps more vexing for potential trading partners, however, is Indonesia's use of trade restrictive measures in connection with certain renewables. During the recent ASEAN-US Summit from 12 to 13 May 2022, the Government of Indonesia announced that it would temporarily halt the export of new and renewable energy to prioritise local demand. The objective of this measure is to fulfil the Government's target to increase the proportion of renewables in Indonesia's energy mix for electricity from the current 11.7% to 23% by 2025.

The law that would regulate the mechanism of renewable energy exports is still being prepared by the Government of Indonesia. Accordingly, Indonesia's *Minister of State-owned Enterprises, Erick Thohir,* stated that the Government would impose a domestic market obligation for the export of new and renewable energy, similar to those already applicable to the exports of coal and cooking oil (see *Trade Perspectives,* Issue No. 3 of 14 February 2022). Ultimately, this type of measure, which could be considered as inconsistent with Article XI:1 of the General Agreement on Tariffs and Trade's (hereinafter, GATT's) prohibition on voluntary export restraints, is apt to have a cooling effect on future international partnerships, despite the stated aim of meeting renewable energy targets.

Challenges and outlook for Indonesia

Even though the NRE Bill could be an important step towards Indonesia's transition to green energy, its effectiveness is still being questioned. The inclusion of nuclear and coal as "*new energy*" is viewed by some as "*defeating*" the main purpose of the NRE Bill, which is to reduce GHG emissions and support the green energy transition by utilising renewable energy. Indeed,

the inclusion of coal in the NRE Bill also indicates Indonesia's challenges in reducing its dependence on coal, as coal is used for 60% of Indonesia's electricity production, which is significantly greater than the current 11.7% of electricity powered by renewable energy.

In order to fulfil Indonesia's commitment to reduce GHG emissions, the Government of Indonesia should aim at advancing a strong and clear policy framework that strictly focuses on the development and use of renewable energy and which avoids the use of trade restrictive tools in connection with said policies. Doing so would deliver both a more coherent strategy and a more sensible basis for would-be trade partners to engage with Indonesia in renewable energy projects.

Recently adopted EU legislation

Trade Law

- *Recommendation No 1/2022 of the EU-Egypt Association Council of 19 June 2022 on the EU-Egypt Partnership Priorities 2021–2027 [2022/1101]*

- *Decision No 1/2022 of the ACP-EU Committee of Ambassadors of 21 June 2022 to amend Decision No 3/2019 of the ACP-EU Committee of Ambassadors to adopt transitional measures pursuant to Article 95(4) of the ACP-EU Partnership Agreement [2022/1102]*

- *Regulation (EU) 2022/1031 of the European Parliament and of the Council of 23 June 2022 on the access of third-country economic operators, goods and services to the Union's public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, goods and services to the public procurement and concession markets of third countries (International Procurement Instrument – IPI) (1)*

- *Commission Implementing Regulation (EU) 2022/1039 of 29 June 2022 laying down rules for the application of Regulation (EU) No 978/2012 of the European Parliament and of the Council as regards the suspension for the year 2023 of certain tariff preferences granted to certain GSP beneficiary countries*

Customs Law

- *Commission Implementing Regulation (EU) 2022/1103 of 28 June 2022 concerning the classification of certain goods in the Combined Nomenclature*

- *Commission Implementing Regulation (EU) 2022/1041 of 29 June 2022 making imports of certain lightweight thermal paper originating in the Republic of Korea subject to registration following the re-opening of the investigation in order to implement the judgment of the General Court of 2 April 2020 in Case T-383/17, as upheld by the Court of Justice in Case C-260/20 P, with regard to Commission Implementing Regulation (EU) 2017/763*

Food Law

- *Council Regulation (EU) 2022/1091 of 30 June 2022 amending Regulation (EU) 2022/109 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters*

- *Commission Implementing Decision (EU) 2022/1094 of 29 June 2022 authorising the placing on the market of products containing, consisting of or produced from genetically modified maize DP4114 × MON 810 × MIR604 × NK603 and genetically modified maize combining two or three of the single events DP4114, MON 810, MIR604 and NK603, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (notified under document C(2022) 4333) (1)*

- *Commission Regulation (EU) 2022/1037 of 29 June 2022 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council and the Annex to Commission Regulation (EU) No 231/2012 as regards the use of glycolipids as a preservative in beverages (1)*

- *Commission Regulation (EU) 2022/1038 of 29 June 2022 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of polyvinylpyrrolidone (E1201) in food for special medical purposes, in tablet and coated tablet forms (1)*

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