Reciprocal Trade under Trump: Economic Access at the Expense of Indonesian Sovereignty?

Overview

The Agreement Between the United States of America and the Republic of Indonesia on Reciprocal Trade ("**ART**") was signed on 19 February 2026. This agreement has successfully reduced the trade tariffs imposed by President Trump last year from 32% to 19%, among other included trade arrangements.

However, not all parties have greeted the signing of the ART as a major success, as Indonesia remains burdened by the relatively high reciprocal tariff, which several business actors have noted may ultimately lead to a decline in orders, while adversely affecting overall business productivity. As well as business actors, academics from Gadjah Mada University (UGM) have also taken a critical stance regarding the signing of the ART, which they consider detrimental and threatening to Indonesia's overall sovereignty. In particular, various provisions that require Indonesia to amend several existing regulatory frameworks are seen as problematic.

Moreover, Prof. Dr. M. Baiquni, M.A., Chair of the UGM Board of Professors, has stated that the ART is asymmetrical, with the greatest benefits accruing to the United States of America ("**US**"), while Indonesia will bear most of the costs due to the numerous obligations that are imposed on the government and the Indonesian people. This sentiment seemingly in line with the opinion of President Trump where he stated that the US is going to have full access to Indonesia and pay nothing.

Against the above backdrop, this edition of Indonesian Law Digest (ILD) offers a discussion of the likely impact of the ART on several sectors, along with its implications for existing regulatory frameworks. Our analysis will also address the ways in which the ART is perceived as having the potential to affect Indonesia's sovereignty. Our discussion has been structured as follows:

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I. Adjusted Tariffs and the Regulation of Import Restrictions

A. The New Tariff Structure and Its Implications

The core of the ART is specifically addressed under Section I, which sets out Tariffs and Quotas. Under this section, Indonesia and the US agree to implement revised tariff rates in order to achieve what is described as, "reciprocal," trade. Prior to the finalization of this agreement, Indonesia faced the prospect of significantly higher US import tariffs, reportedly reaching up to 32%, while Indonesia's average applied tariff previously stood at approximately 8%.

In essence, the US agreed to reduce the reciprocal tariff from 32% to 19% in exchange for the elimination of approximately 99% of tariff barriers for US-based products. In addition, the US also offered tariff exemptions for 1,819 Indonesian products, including several Indonesian export products (including palm oil, coffee and cocoa). In terms of textile products in particular, the US has introduced a scheme that allows for tariffs to be reduced all the way down to zero percent through the rolling out of a Tariff-Rate Quota ("**TRQ**") mechanism.

Further details of the applicable tariff arrangements are set out in the following table:

Tariff List	Category/Product Group	Remarks
Indonesian Tariff Schedule for Goods Originating from the US	Category EIF	Eliminated entirely (0%) upon the entry into force of the agreement
	Category A	Remains at 0%
	Category Z	Remains subject to Indonesia's Most Favored Nation ("**MFN**") tariff
US Tariff Schedule for Goods Originating from Indonesia	Schedule 2A	No additional ad-valorem tariff imposed
	Schedule 2B	0% tariff
	Other Products	Additional ad valorem tariff of up to a maximum of 19%
	Textiles and Apparel	Potential 0% tariff for certain volumes

In addition to tariff arrangements, the Agreement also limits Indonesia's ability to impose non-tariff barriers (e.g. quantitative restrictions and import licensing measures). Indonesia has also committed to not applying any restrictive import licensing regimes during its trade with the US. Specifically, Indonesia has agreed to exempt US food and agricultural products from the Commodity Balance policy, as well as from the horticultural product licensing regime. In terms of these products, Indonesia will apply only automatic import licensing mechanisms. Furthermore, Indonesia has undertaken to eliminate local content requirements for US companies and goods.

In terms of the limited prohibition clause introduced under the ART, Indonesia currently has Regulation of the Minister of Trade No. 47 of 2025 ("**Regulation 47/2025**") in place, which sets out a list of goods that are prohibited from being imported. Regulation 47/2025 specifically designates 12 Prohibited Import Goods (e.g. sugar, rice and used clothing), subject to certain conditions (e.g. Basmati rice with a broken rate > 25%). The key question is whether the ART will introduce a special regime that effectively overrides or eliminates the Prohibited Import Goods as regulated under Regulation 47/2025.

B. Exceptions and the TRQ Mechanism

Under the ART, Category EIF classifies goods originating from the US as enjoying the full elimination of import duties, ultimately resulting in a 0% tariff rate. This duty-free status applies from the date that the agreement enters into force, without any gradual tariff reduction phase being applied. The ART also classifies goods listed under the 2022 Indonesian Customs Tariff Book (*Buku Tarif Kepabeanan Indonesia* – "**BTKI**") within the EIF staging category, which has been further streamlined into several subcategories, as reflected in the table below:

Category	Subcategory
Live Animals and Animal Products	Live Animals (e.g. non-breeding horses, cattle, swine, sheep, goats and poultry)
	Meat (e.g. carcasses and cuts of beef, lamb, goats, horses)
	Other Animal Products (e.g. milk, butter, cheese and natural honey)
Vegetable Products	Plants and Flowers (e.g. bulbs, ornamental plants, cut flowers)

	Vegetables (e.g. tomatoes, onions, cabbage, carrots, cucumbers, legumes, mushrooms, sweet corn and cassava)
	Fruits and Spices (e.g coconuts, cashews and bananas)
Prepared Foodstuffs, Beverages and Tobacco	Fats and Oils (e.g. soya-bean oil, olive oil, coconut oil, margarine, and glycerol)
	Food Preparations (e.g. sausages, prepared meat/fish, pasta and biscuits)
	Beverages and Tobacco (e.g. mineral water, energy drinks, non-alcoholic beer, vinegar and various tobacco products including cigars, cigarettes and e-cigarette liquids)
Chemicals, Plastics and Rubber	Chemicals (e.g. salt, sulphur, clays, various inorganic/organic chemicals and medicaments)
	Plastics and Rubber (e.g. polyethylene, polypropylene, plastic pipes and plastic tableware)
Wood, Paper and Textiles	Wood and Paper (e.g. wood wool, wooden furniture, paper pulp, newsprint, writing paper, cartons and paper bags)
	Textiles and Apparel (e.g. silk, wool, cotton, woven fabrics, knitted garments, suits, dresses, trousers, tracksuits, blankets and bed linen)
Footwear, Base Metals and Machinery	Metals (e.g. iron and steel products, copper, nickel, aluminium, tin and hand tools)
	Machinery (e.g. nuclear reactors, boilers, turbines and automotive engines)
Vehicles, Instruments and Miscellaneous	Vehicles (e.g. passenger cars, trucks, buses, motorcycles, bicycles and automotive components)
	Miscellaneous (e.g. lenses, cameras, medical equipment, clocks, musical instruments, firearms, furniture, toys and works of art)

The most critical adjustment that will have to be made once the agreement comes into effect is the alignment of the BTKI, as all import duties on EIF-designated goods must be set to 0%. This includes the updating of various Implementing Regulations issued at the Minister of Finance level in order to ensure full compliance.

Meanwhile, under the TRQ category, import duties on certain goods have not been immediately eliminated but instead will still be applied through a tariff-rate quota scheme. Indonesia is required to administer this quota on a first-come, first-served basis. The government must also publish information regarding quota volumes and eligibility requirements at least 90 days prior to the beginning of the relevant quota year. Furthermore, when assessing applications, Indonesia may not discriminate against any business actors that have not previously imported relevant products. In addition, TRQ administrative procedures must be implemented in a transparent, fair and non-burdensome manner, and must remain responsive to market conditions.

The ART also designates three main product groups originating from the US that will be subject to the TRQ, along with applicable quota limits that are expressed in metric tons ("**MT**") for each respective product, as summarized in the table below:

Product Type	Annual Quota	In-Quota Tariff
Pork Products	3,000 MT	0% (duty-free)
Distilled Spirits	400 MT	5%
Wine and Related Products	1,985 MT	

It should also be noted that if any goods classified under the TRQ category are imported in cumulative quantities that exceed the relevant quota, then the excess volume will be subject to import duties in line with Indonesia's prevailing MFN tariff rate.

II. Facilitation of US Imports and Exports

A. Ease of Licensing

Under the ART, Indonesia has committed itself to not imposing or maintaining any quantitative restrictions on goods that originate from the US (e.g. import licensing requirements or commodity balance programs), unless said measures are consistent with the provisions set out under the GATT 1994 agreement. Indonesia is also prohibited from administering import licensing in a restrictive manner, while non-automatic licenses may only be applied in order to manage base quota volumes and must be implemented in a transparent, non-discriminatory manner that does not undermine the overall competitiveness of US exports.

Furthermore, the ART contains a clause that exempts food and agricultural products originating from the US from Indonesia's Commodity Balance policy, as well as from horticultural licensing regimes and various other import licensing requirements. For such products, Indonesia may only apply automatic import licensing.

At present, pursuant to Regulation of the President No. 58 of 2020 on the Structuring and Simplification of Import Licensing ("**Regulation 58/2020**"), the government has undertaken efforts to streamline import licensing procedures in relation to certain commodities (e.g. staple food products and food ingredients, government food reserves and raw materials/auxiliary materials). However, this simplification of import licensing must still take availability, domestic production, price stability and national interests into consideration.

Regulation of the Minister of Trade No. 16 of 2025 on Import Policy and Regulation, as amended by Regulation of the Minister of Trade No. 37 of 2025 (collectively referred to as "**Regulation 16/2025**"), further requires import business licenses to be secured for certain categories of goods (i.e. Registered Importer, Producer Importer and/or Import Approval) prior to the entry of goods into official customs territory. Applications for said licenses must be submitted through the Indonesia National Single Window (INSW) system.

B. Local Content Requirement Exemption

This provision also extends to the exemption of Local Content Requirements (*Tingkat Komponen Dalam Negeri* – "**TKDN**") for companies and goods that originate from the US. In this regard, under the ART framework, Indonesia is explicitly required to eliminate mandatory local content obligations, compulsory domestic specification requirements and domestic processing requirements for industrial products of US origin.

Regulation of the Government No. 29 of 2018 on Industrial Empowerment ("**Regulation 29/2018**") requires the prioritized use of domestic products during procurements of goods/services, meaning that domestic product users (e.g. state institutions and ministries) should give preferential treatment to locally produced goods where available, provided that such products have a combined

TKDN value and Company Benefit Weight of at least 40%, on the condition that the relevant Domestic Products that are mandatorily used have a TKDN value of at least 25%.

Once this clause comes into effect, it will have a significant impact on Indonesia's procurement Regulations and domestic industry practices. In particular, Regulation 29/2018 and other related rules that govern TKDN calculations will need to be updated in order to accommodate the provisions set out under the ART.

The TKDN values of goods are calculated based on various production factors, specifically direct materials, direct labor and factory overhead costs. These components are further quantified as measurable weightings under Regulation of the Minister of Industry No. 35 of 2025 on Procedures and Requirements for the Certification of TKDN and Company Benefit Weights ("**Regulation 35/2025**"), which stipulates a composition of 75% for direct materials, 10% for direct labor and 15% for factory overhead costs.

It should be noted that neither Regulation 29/2018 nor Regulation 47/2025 contains any specific provisions that allow procurement entities to be fully exempted from TKDN obligations. Instead, a priority scheme for the use of Domestic Products applies, along with strict conditions on when imports are permitted. The enforcement of the TKDN framework reflects the Indonesian Government's commitment to economic sovereignty and sustainable development.

C. Customs Procedures and Border Administration

The ART regulates the digitalization and acceleration of customs procedures in order to ensure smooth flows of goods and requires Indonesia to implement a pre-arrival processing system. Specifically, this means the electronic collection and processing of declaration data before goods arrive at ports. All border agencies must complete this processing prior to the arrival of goods, which will allow low-risk items to be released immediately without being moved to any temporary storage or customs warehouses.

Under Regulation of the Minister of Finance No. 34/PMK.04/2021 on the Import and Export of Goods to and from Areas Designated as Free Trade Zones and Free Ports ("**Regulation 34/2021**"), customs declarations and supporting documents must be submitted electronically through the Customs Electronic Data Interchange (*Pertukaran Data Elektronik*/PDE). Accordingly, Indonesia already has a legal framework in place that supports the digitalization of customs procedures.

Furthermore, the Minister of Finance has issued Regulation No. 74/PMK.04/2021 on Releases of Imported Goods for Use Through Immediate Services ("**Rush Handling**"), as amended by Regulation of the Minister of Finance No. 26 of 2024 (collectively referred to as "**Regulation 74/2021**"), which allowed for imported goods to be released from customs areas or temporary storage locations (*Tempat Penimbunan Sementara* – "**TPS**") prior to the submission of Imported Goods Notifications (*Pemberitahuan Impor Barang* – "**PIB**") or Special PIB (PIB *Khusus*/PIBK) through the Rush Handling mechanism.

However, there is no specific provision that allows for the accelerated processing of customs data prior to the arrival of goods so that low-risk items can be released immediately without being moved to temporary storage or customs warehouses, as stipulated under the ART clause. In this regard, Regulation 74/2021 only provides that Rush Handling may only be carried out after goods have arrived at a customs area or at other locations that are treated as equivalent to TPS.

In addition, the ART also mandates that Indonesia must ensure that any compensation or bonuses that are paid to customs officers are not based on or calculated as a percentage of administrative penalties or proceeds from auctions of goods resulting from legal violations. At the same time, Law No. 10 of 1995 on Customs, as amended by Law No. 17 of 2006 (collectively referred to as "**Law 10/1995**") provides that individuals, groups or work units that contribute to the handling of customs violations are entitled to enjoy a bonus of 50% of any administrative penalties in the form of fines and/or the proceeds from auctions of goods relating to customs offenses.

Regulation of the Minister of Finance No. 243/PMK.04/2011 on the Granting of Bonuses, as amended several times and most recently by Regulation of the Minister of Finance No. 21 of 2024 (collectively referred to as "**Regulation 243/2011**") specifies the criteria that must be met in order to be considered meritorious during the handling of violations as follows:

1. Administrative violations (i.e. providing information, detecting violations either administratively or physically, maintaining findings through legal proceedings, and completing the collection of penalties); and
2. Criminal violations (i.e. providing information, making arrests, conducting investigations and carrying out prosecutions).

In response to the ART clause on compensation or bonuses for customs officers, amendments will be have to be made to Law 10/1995 and its various Implementing Regulations, which include Regulation 243/2011, as the ART specifically states that Indonesia, "*shall ensure that rewards or premiums offered to customs and excise officers are not based on, or calculated as, a percentage or portion of administrative sanctions*."

D. Conformity Assessments and the Recognition of US Standards

Under the ART, Indonesia is obliged to permit any entries of goods originating from the US that comply with US standards or international standards, US technical regulations and US conformity assessment procedures, without imposing any additional requirements. For example, within the field of information communications technologies specifically, Indonesia has agreed to accept conformity assessment results from US accreditation bodies and not to impose duplicative retesting, including per-shipment testing and certification, particularly in terms of heavy metal testing for cosmetics products.

Within the medical devices sector, marketing approval from US authorities is considered sufficient evidence to meet Indonesia's marketing authorization requirements. Meanwhile, within the automotive sector, vehicles that comply with US safety and emissions standards must be accepted without the need for any additional testing.

Under Law No. 7 of 2014 on Trade, as amended by Regulation of the Government in Lieu of Law No. 2 of 2022 on Job Creation (collectively referred to as "**Law 7/2014**"), any standards or technical requirements that are established by other countries may be recognized by the Indonesian Government, provided that they are based on mutual recognition agreements between countries.

III. Impacted Sectors and Existing Standards

A. Halal Certification for Food and Manufactured Goods

One of the key issues to be highlighted in the ART is that of halal certification. Under the ART, US products, including cosmetic products, medical devices and other manufactured goods, must be exempted from mandatory halal certification and labeling requirements. Moreover, the same exemption also applies to containers and transportation materials, with the exception of items that are used for food, beverages, cosmetics and pharmaceutical products. Furthermore, the ART stipulates that no halal certification or labeling requirements can be imposed on non-halal products.

Furthermore, it should be noted that the ART also provides that any products that have been certified by any US halal certifier recognized by the Indonesian halal authority must be accepted for import without additional conditions, while the recognition process should be streamlined and expedited. In relation to this clause, one of the frameworks potentially affected is Law No. 33 of 2014 on Halal Product Guarantees, as amended several times, most recently by Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 33/2014**"), along with its implementing framework of Regulation of the Government No. 42 of 2024 on the Organization of Halal Product Guarantees ("**Regulation 42/2024**").

In essence, Law 33/2014 stipulates that any goods and/or services that specifically relate to food, beverages, medicines, cosmetics, chemical products, biological products, genetically engineered products and consumer goods that are utilized or benefited from by the public, and which enter, circulate and are traded within Indonesia, must be halal-certified. This obligation also applies to all foreign products that enter Indonesia.

Broadly speaking, in order to secure halal certification for foreign products, the business actors may submit applications through an importer or official representative domiciled in Indonesia in the following situations:

1. There is no foreign halal institution in the country of origin;
2. The foreign halal institution that has entered into cooperation does not have the scope of competence for product certification;
3. There is no mutual recognition arrangement regarding halal certification; or
4. In line with the voluntary requirements of the business actor.

Furthermore, both Regulation 42/2024 and Law 33/2014 allow the Indonesian Government to engage in international cooperation within the field of halal product assurance in the form of halal assurance development, conformity assessments and/or the recognition of halal certification. In addition, Law 33/2014 affirms that all foreign halal products that enter Indonesia must comply with all provisions set out under Law 33/2014.

In this regard, said products may be exempted from the obligation to apply for halal certification, provided that the relevant halal certification is issued by a foreign halal institution that has entered into a mutual recognition arrangement. However, said exemptions do not eliminate the obligation for all halal certification to be registered with BPJPH prior to a product being circulated within Indonesia.

If a foreign halal certificate is registered through the Halal Product Guarantee Agency (*Badan Penyelenggara Jaminan Produk Halal* – "**BPJPH**"), then the party who secures this registration will be required to include the registration number adjacent to the halal label on the relevant product packaging, certain parts of the product and/or specific locations on the product. Moreover, it should be noted that foreign halal certification will remain valid in accordance with the validity period determined by the foreign halal institution, and must be renewed by the relevant party through the submission of a renewal application, which should be submitted at least 60 days prior to the relevant expiration date.

Accordingly, Law 33/2014 expressly states that any violation of the obligation to register halal certification may result in the imposition of administrative sanctions. For ease of reference, the following table summarizes the more detailed provisions that specifically relate to the halal certification clause that features under the ART:

Exemption for the US	**Potentially Impacted Regulation on** **Mandatory Halal Certification**
Manufactured Goods	Through Circular of the Head of BPJPH No. P-550/KB/HK.00.1/7/2025 on the Notification of the Implementation of Phased Halal Certification Requirements for Foreign Products ("**Circular 550/2025**"), any materials and products other than food, beverages and slaughter products must be registered in line with their halal status before being imported, circulated and traded within Indonesia. For foreign halal institutions that have not yet entered into any halal certification recognition cooperation, business actors may attach supporting documents in order to apply for the registration of materials subject to mandatory halal certification and may only affix the logo/label of any foreign halal institution prior to 17 October 2025. Meanwhile, materials and products for which halal certification has not yet been secured may still be imported into, circulated and traded within Indonesia before the mandatory halal certification requirement becomes effective, specifically on 17 October 2026.
Food and Agricultural Products	Regulation 42/2024 stipulates that any materials deriving from slaughtered animals must be slaughtered in accordance with Sharia principles, comply with animal welfare standards and veterinary public health requirements, and be slaughtered by a halal slaughterer at a slaughterhouse for animals/poultry or other designated slaughter facilities. It should be noted that Regulation 42/2024 clarifies that the Minister will determine the mandatory halal certification requirement for food products, beverages, slaughter products and slaughtering services originating from abroad by no later than 17 October 2026.

In addition, generally speaking, the mechanism for the registration of foreign halal certification is specifically governed under Decree of the Head of BPJPH No. 221 of 2025 on Procedures for the Implementation of the Registration of Foreign Halal Certificates ("**Decree 221/2025**"). Moreover, pursuant to Circular 550/2025, business actors that produce products made from prohibited materials and/or through production processes that do not comply with the halal product assurance system standards are required to include a non-halal statement in the form of an image, mark and/or written statement that constitutes an inseparable part of the product. Ultimately, then, the halal certification clause under the ART marks a significant shift from the existing mandatory halal framework set out under Law 33/2014 and its Implementing Regulations.

By exempting certain US products from halal certification and labeling requirements and mandating the acceptance of certification issued by recognized US halal certifiers without any additional conditions, the ART potentially limits the scope of Indonesia's current registration, labeling and administrative sanction regime, including the obligation to register foreign halal certificates with BPJPH and to comply with domestic procedural requirements. As such, harmonization or regulatory adjustment will likely be required in order to ensure consistency between the ART and the prevailing halal assurance framework.

It should also be noted that Indonesia's halal certification regime was originally designed not merely as a trade instrument but as a constitutional and statutory manifestation of the state's obligation to guarantee freedom of religion and to ensure that Muslim consumers are protected while practicing their religious teachings, as explicitly addressed under Recitals, Law 33/2014. The mandatory certification and registration system set out under Law 33/2014 reflects the state's duty to provide legal certainty and assurance regarding the halal status of products that are consumed and used by the public.

Within this context, the ART exemptions raise broader policy considerations concerning the balance between trade facilitation commitments and the state's responsibility to safeguard religious compliance within the domestic marketplace. In contrast, for business actors, the ART may reduce compliance burdens for US exporters, particularly within sectors previously subject to mandatory certification or registration requirements prior to market entry. Streamlined recognition and the removal of additional conditions should therefore accelerate market access and reduce administrative costs.

Conversely, domestic importers, halal certification bodies and related service providers may face regulatory realignment and competitive implications, especially if existing certification, registration, labeling and renewal obligations are modified or partially set aside for US products.

B. Testing and Other Certification Procedures

As per the ART, Indonesia will allow the testing and certification of ICT (Information and Communications Technology) goods to be conducted by accredited US conformity assessment bodies, which will address duplication and excessive compliance costs, as well as eliminate any duplicated requirements, including shipment-specific testing and certification requirements, particularly for heavy metal testing of cosmetics products. In this regard, one of the Regulations potentially affected is Regulation of the Minister of Communication and Informatics No. 3 of 2024 on the Certification of Telecommunications Equipment and/or Telecommunications Devices ("**Regulation 3/2024**").

As its title suggests, Regulation 3/2024 outlines the obligation to comply with technical standards for all telecommunications equipment and/or telecommunications devices that are manufactured, assembled or imported for trading and/or use in Indonesia. These standards have been established for various reasons, primarily the protection of the general public from potential losses that may arise as a result of the use of telecommunications equipment and/or telecommunications devices. In addition, Regulation 3/2024 clarifies the various methods that may be used in order to establish technical standards, which break down as follows:

1. Adoption of international or regional standards;
2. Adaptation of international or regional standards; and/or
3. Results of industrial development, innovation and international telecommunications technology engineering.

However, Regulation 3/2024 also allows the relevant Minister to approve the use of international standards for devices that do not yet have established technical standards under certain conditions, namely the implementation of new technology, considerations of national interest and/or use with limited service coverage and/or a limited number of devices. Furthermore, compliance with technical standards for devices is carried out through testing by domestic testing laboratories and foreign testing laboratories, which ultimately results in the issuance of certification. In this regard, any parties that fail to comply with the obligation to meet technical standards may be subject to the imposition of administrative sanctions ranging from administrative fines to the suspension of certification services for up to one year.

In addition to telecommunications equipment and/or telecommunications devices, Indonesia also has various frameworks in place that govern safety and quality requirements that address contaminants in cosmetic products, including microbial, heavy metal and/or chemical contaminants. The goal here is to ensure that cosmetic products that are produced and/or imported for

distribution within Indonesia meet safety and quality standards, as stipulated under Regulation of the National Agency of the Food and Drug Control No. 16 of 2024 on Contaminant Limits in Cosmetics ("**Regulation 16/2024**").

In essence, these safety and quality requirements have been established in order to protect the public from cosmetic products that do not meet safety and quality standards and that pose health risks. Regulation 16/2024 further clarifies that the scope of heavy metal contaminants includes metallic and metalloid chemical elements with high atomic weights and densities that are considered toxic and harmful to human health.

As with Regulation 3/2024, Regulation 16/2024 also sets various administrative sanctions that may be imposed upon any business actors that fail to meet the relevant safety and quality requirements in the form of written reprimands up to the temporary suspension of online access for notification application submissions for a maximum period of one year. In accommodating the ART clause, Indonesia would need to ensure that the implementation of both Regulation 3/2024 and Regulation 16/2024 remains consistent with the commitment to recognizing accredited US conformity assessment bodies and eliminating duplicative testing and certification requirements.

While both Regulations are fundamentally aimed at safeguarding the public interest, safety and product quality, adjustments may be required at the technical or procedural level, particularly in relation to the acceptance of foreign test reports, the avoidance of shipment-specific re-testing and the reduction of overlapping compliance stages. This realignment will likely be focused on procedural streamlining as opposed to the removal of substantive safety standards.

For business actors working within the ICT and cosmetics product sectors, regulatory harmonization in line with the ART may reduce time to market, compliance costs and administrative burdens, particularly for US exporters and their Indonesian partners. At the same time, domestic testing laboratories and certification bodies may experience increased competitive pressure as the recognition of foreign conformity assessment results expands. Overall, the impact will reflect a shift towards greater mutual recognition and trade facilitation, while maintaining core consumer protection objectives, as set under Indonesian law.

C. Medical Devices and Pharmaceuticals

One of the strategic sectors affected by the ART is that of medical devices and pharmaceuticals. Under the ART, Indonesia must recognize prior US Food and Drug Administration ("**FDA**") marketing authorizations or clearances as sufficient in terms of satisfying its own approval requirements for US-manufactured medical devices and pharmaceutical products, and must not require approvals for low-risk devices in situations where the FDA does not impose such a requirement.

Indonesia must also accept MDSAP audits and certificates without setting any additional requirements, recognize FDA electronic certification such as Electronic Certificates to Foreign Governments (eCFGs) and Electronic Certificates of Pharmaceutical Products (eCPPs) without imposing any physical legalization requirements, refrain from imposing periodic reauthorizations unless there are significant issues related to safety, efficacy or quality, and accept the results of FDA GMP inspections for facilities in the United States where the outcomes are, "no action indicated".

In response to this clause, BPOM (Indonesia's National Agency of Drug and Food Control) has issued an official clarification affirming that Indonesia has implemented a reliance mechanism by designating the US FDA as a reference authority, whereby FDA technical evaluation results may be used as supporting documents during the Indonesian evaluation process. BPOM will also now accept the results of FDA GMP inspections without the need to conduct any re-inspections, in line with international cooperation frameworks, including membership in PIC/S.

However, BPOM has retained the full authority to issue final marketing authorization decisions, while all products remain subject to the national licensing process under BPOM supervision. Within the context of national law, Law No. 17 of 2023 on Health, as amended by Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 17/2023**"), and its implementing framework of Regulation of the Government No. 28 of 2024 ("**Regulation 28/2024**"), affirms the obligation for all pharmaceutical preparations and medical devices that are produced and/or distributed in Indonesia to comply with safety standards.

Regulation 28/2024 further clarifies that, in addition to the four categories of standards recognized therein, which range from the Indonesian Pharmacopoeia and/or other recognized standards for pharmaceutical preparations in the form of medicines and medicinal raw materials to the Indonesian Cosmetic Codex and/or other recognized standards; other internationally applicable standards, analytical methods, monographs, as well as other standards and/or requirements will also apply.

Moreover, Regulation 28/2024 stipulates that pharmaceutical preparations, medical devices and household health supplies that are in circulation but that do not meet safety requirements will be subject to pharmacovigilance and vigilance measures, which must be reported to the relevant Minister. In addition to the aforementioned frameworks, the following Regulations also govern this sector and may potentially be affected by the ART:

1. Regulation of BPOM No. 20 of 2025 on Good Distribution Practices for Medicinal Products;
2. Regulation of BPOM No. 26 of 2026 on Risk Assessments on the Use of Raw Materials in Natural Medicines, Health Supplements, Quasi-Drugs and Certain Cosmetic Preparations;
3. Regulation of BPOM No. 25 of 2025 on Technical Requirements for Cosmetic Ingredients;
4. Regulation of BPOM No. 18 of 2024 on the Labeling, Promotion and Advertising of Cosmetic Products;
5. Regulation of the Head of BPOM No. 24 of 2017 on Criteria and Procedures for Drug Registrations, as amended by Regulation of BPOM No. 23 of 2025; and
6. Various other frameworks.

Generally speaking, the ART clause is relatively in line with current practices and policies, as are already being implemented by BPOM, particularly with respect to the reliance mechanism, recognition of FDA Good Manufacturing Practice (GMP) inspection results, and the use of international standards. Accordingly, the implementation of the ART is likely to constitute a reinforcement and formalization of existing commitments rather than a fundamental change to the national licensing system.

Nevertheless, aspects such as the elimination of periodic reauthorizations and the obligation not to impose additional requirements beyond the Medical Device Single Audit Program may require further adjustments to be introduced if administrative provisions remain that exceed the scope of such commitments. For business actors, particularly US manufacturers and exporters, as well as Indonesian importers, the ART clause may accelerate licensing processes, reduce compliance costs and enhance predictability in terms of time-to-market considerations.

On the other hand, for domestic business actors, expanded market access for products based on FDA approvals may intensify competition, particularly within segments that encompass innovative and high-technology medical devices. Nevertheless, given that BPOM has retained final decision-making authority and will maintain post-market surveillance mechanisms, the balance between

trade facilitation and public health protection has, in principle, been preserved under the national regulatory framework.

D. Motor Vehicles

Under the ART, Indonesia is required to accept vehicles and automotive parts that originate from the United States and that comply with US Federal Motor Vehicle Safety Standards (FMVSS) and US emissions standards. Furthermore, Indonesia must also recognize the applicable US compliance procedures without requiring the completion of any additional processes in order for such products to be marketed within Indonesia. Indonesia is also prohibited from imposing any other standards or requirements that are deemed discriminatory upon vehicles and automotive parts originating from the United States.

In order to comply with these obligations, several domestic frameworks may potentially be affected, including Regulation of the Minister of Industry No. 23 of 2021 on the Four-or-More-Wheeled Motor Vehicle Industry, as amended by Regulation of the Minister of Industry No. 37 of 2021 (collectively referred to as "**Regulation 23/2021**"), and Regulation of the Minister of Transportation No. PM 33 of 2018 on Motor Vehicle Type Approval Testing, as amended several times, most recently by Regulation of the Minister of Transportation No. PM 23 of 2021 (collectively referred to as "**Regulation 33/2018**").

Regulation 33/2018 stipulates that type approval testing is mandatory for all motor vehicles, trailers and semi-trailers that will be operated on the road before they can be approved for mass production, assembly and/or importation, as well as for modified motor vehicles. Such type approval testing consists of physical testing that is conducted in order to ensure compliance with technical and roadworthiness requirements that apply to motor vehicle chassis and fully assembled motor vehicles, as well as design and engineering assessments of motor vehicles. Moreover, Regulation 33/2018 mandates that relevant company representatives responsible for these processes must register the types of motor vehicles for each unit that is manufactured, assembled, imported and/or modified.

Differing slightly from Regulation 33/2018, Regulation 23/2021 clarifies that imports may be carried out for Completely Knocked Down (CKD) motor vehicles, Incompletely Knocked Down (IKD) motor vehicles and/or motor vehicle components. Generally speaking, the various requirements and/or obligations set under Regulation 23/2021 that specifically relate to the importation of motor vehicles include the following:

1. Must engage in domestic manufacturing processes;
2. Must ensure that all engines that are used within the territory of Indonesia comply with provisions regarding the use of Motor Vehicle Identification Numbers;
3. Must conduct CO_2 emissions testing or fuel consumption testing; and

4. Must comply with minimum disassembly requirements, including the requirement for bodies not to have been assembled or painted.

Broadly speaking, the provisions set under the frameworks of Regulation 33/2018 and Regulation 23/2021 are aimed at increasing the added value of products produced by the four-or-more-wheeled motor vehicle assembly industry in accordance with industrial development needs, and also address requirements relating to manufacturing processes, carbon dioxide emissions and fuel consumption testing, as well as procurements of domestic components. From the perspective of compliance with the ART, the obligation to recognize US standards and compliance procedures may require adjustments to be made to the existing type approval testing mechanism, as well as to additional technical requirements that are currently in force.

If domestic testing or requirements are considered duplicative or constitute discriminatory non-tariff barriers, then harmonization will ultimately be necessary in order to ensure alignment with Art. 2.6 of ART, without disregarding any safety and environmental protection aspects. Accordingly, these adjustments may take the form of recognizing certification or testing results issued by US authorities as part of the approval process in Indonesia.

For business actors, the ART provisions may facilitate market access for importers of vehicles and automotive parts originating from the United States due to the reduced need for re-testing or compliance with additional requirements. On the other hand, domestic manufacturers that have been subject to local content obligations, specific manufacturing process requirements and additional technical standards may face increased competition. As a result, the implementation of the ART clause may not only affect regulatory adjustments but will also influence production strategies, cost structures and business models within Indonesia's automotive industry.

E. Data Privacy and Data Transfers

When the ART was announced as having been signed, one of the issues widely discussed by the public was its provisions on data transfers and/or data privacy. The public interpreted the agreement as implying that the government would exchange the data of 280 million Indonesians. However, this claim was refuted by the Minister of Communication and Digital Affairs, Meutya Hafid, who stated that the ART upholds the recognition of equivalent data security standards between Indonesia and the US. In this regard, the ART explicitly stipulates that Indonesia must ensure legal certainty regarding all transfers of personal data to the United States by recognizing the United States as a jurisdiction that provides adequate data protection in accordance with Indonesian law.

In this regard, it is important to note that Indonesia already has a Personal Data Protection framework in place, as set out under Law No. 27 of 2022 on Personal Data Protection ("**Law 27/2022**"). Under Law 27/2022, data transfers may be conducted to personal data controllers and/or personal data processors located outside the jurisdiction of Indonesia, provided that the relevant recipient country offers a level of personal data protection that is equivalent to or higher than that provided under Law 27/2022. However, if this requirement is not satisfied, then the personal data controller will be required to secure the consent of the personal data subject.

Based on these provisions, and in line with the statement issued by the Minister of Communication and Digital Affairs, the context of data transfers under the ART is limited to the choices of members of the public who utilize digital platforms originating from the US. Furthermore, Law 27/2022 allows the Indonesian Government to cooperate with foreign governments or international organizations in relation to personal data protection, which must be carried out in accordance with applicable Laws and principles of international law.

Accordingly, the ART clause should essentially be seen as a form of recognition of data protection adequacy that has conceptually been accommodated under the national legal framework. From a regulatory alignment perspective, however, the implementation of Art. 3.2, ART may require a formal step in order to affirm that the United States satisfies adequate standards of data protection, as are required under Law 27/2022. This affirmation is important to maintaining overall consistency between international commitments and the national data protection framework, while ensuring that all data transfers remain within the boundaries of protecting the rights of data subjects.

As a result, recognition of adequacy does not override the principles of prudence and accountability, as stipulated under Indonesian law. For business actors, particularly technology companies and entities that engage in cross-border data processing, this arrangement may enhance legal certainty and operational efficiency, as the mechanism for data transfers to the United States becomes clearer.

Nevertheless, the obligation to ensure a lawful basis for processing, transparency regarding data subjects and the implementation of security standards remains within the realm of data controllers and data processors. Accordingly, the ART clause is more appropriately understood as an effort to harmonize data protection standards and facilitate secure data flows, rather than as an unrestricted liberalization of personal data.

F. Financial Services

Within the financial services sector, the ART stipulates that Indonesia must continue to allow international payment networks operated by US companies to process domestic credit-card and e-commerce transactions on a cross-border basis in accordance with existing regulatory exemptions. Indonesia must also refrain from requiring financial data to be processed within its territory, provided that its authorities retain immediate, direct, full and continuous access to all data that are processed or stored outside Indonesia for regulatory and supervisory purposes. One of the frameworks that may potentially be affected is Regulation of the Financial Services Authority (*Otoritas Jasa Keuangan* – "**OJK**") No. 11/POJK.03/2022 on the Implementation of Information Technology by Commercial Banks ("**Regulation 11/2022**").

In essence, Regulation 11/2022 requires banks to place electronic systems in data centers and disaster recovery centers that are located within Indonesia. However, Regulation 11/2022 also affirms that electronic systems may be placed outside Indonesia, subject to the securing of prior approval from the OJK and the fulfillment of the following criteria and requirements:

Criteria	Requirements
Include: 1. Systems used to support integrated analysis when complying with provisions issued by the bank's home country authority that are global in nature, including cross-border requirements; 2. Systems used for integrated risk management in conjunction with a head office, parent company or principal entity office located outside Indonesia; and 3. Systems used for the implementation of anti-money laundering and counter-terrorism financing measures that are integrated into a head office or parent company located outside Indonesia.	Include: 1. Submission of risk analysis results; 2. Ensuring that the placement of electronic systems outside Indonesia does not reduce the effectiveness of OJK supervision, as evidenced by a statement letter; and 3. Ensuring that bank secrecy is disclosed only in accordance with applicable Indonesian law, as evidenced by a cooperation agreement between the bank and the information technology service provider.

In addition to the aforementioned criteria, electronic systems may also be temporarily located outside Indonesia in the event that conditions that significantly disrupt bank operations occur. Placements of electronic systems outside Indonesia may be conducted based on applications, while the OJK has

the authority to grant or reject said applications based on certain considerations, including any potential negative impacts on a bank's performance.

It should also be noted that if the OJK grants approval for the placement of electronic systems outside Indonesia, then said placements must be implemented within six months from the date that the relevant approval is obtained. Consequently, if a placement is not carried out within the stipulated period, then the relevant granted approval will be considered invalid. Furthermore, Regulation 11/2022 requires any banks that locate electronic systems outside Indonesia to submit implementation realization reports within three months of implementation.

Accordingly, any violation of these provisions may result in the imposition of administrative sanctions ranging from written reprimands to a downgrade in the governance factor rating in the bank soundness assessment. In essence, all provisions relating to the placement of electronic systems in data centers, which are primarily required to be located in Indonesia, are intended to mitigate risks faced by banks.

From an alignment perspective, the ART provisions are generally consistent with the approach adopted under Regulation 11/2022, which does not absolutely prohibit the placement of electronic systems abroad but conditions it upon various supervisory and risk mitigation considerations. However, the ART clause may strengthen the argument that data localization policies should not be applied rigidly, particularly within the context of cross-border payment transactions and the involvement of global payment networks.

As a result, the implementation of the ART may ultimately encourage adjustments to be made to various licensing and supervisory aspects in order to ensure continued access for the authorities without creating any unnecessary barriers to flows of financial data. For business actors, particularly banks and payment service providers, this provision may offer greater flexibility in terms of the utilization of global technology infrastructure and the enhancement of operational efficiency and systems integration with head offices or international partners.

On the other hand, the obligation to ensure full access for Indonesian authorities continues to require adequate governance, data security and compliance documentation readiness. Therefore, the impact of the ART extends beyond the issue of data center location and also reflects the making of adjustments to information technology strategies, risk management and cross-jurisdictional coordination by business actors operating within the financial services sector.

G. Delivery Services

The ART obliges Indonesia to eliminate restrictions on providers of foreign delivery services that prohibit them from operating between locations lying outside provincial capitals and international airports and seaports. This obligation essentially requires the opening up of geographic market access for foreign delivery service providers without subjecting them to any discriminatory operational area limitations.

Meanwhile, the requirements that apply to foreign postal operations are regulated under Law No. 38 of 2009 on Postal Services, which has been amended several times, most recently through Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 38/2009**"), which, among other things, requires cooperation with domestic postal operators through the initiation of joint-venture schemes, with majority shares being owned by domestic parties. This framework also prohibits foreign affiliates from owning shares in local partners, limits cooperation to only one domestic partner and restricts operational areas to provincial capitals that have international airports and/or seaports.

Furthermore, Law 38/2009 also stipulates that intercity deliveries should be carried out by domestic postal operators and not by any joint venture entities. These restrictions reflect the legislative objectives of Law 38/2009, which encompass the creation of business opportunities while facilitating the national economy, continuing to offer protections and legal certainty, and ultimately strengthening the competitiveness of the national postal industry in the face of increased global competition. As a result, the implementation of geographic restrictions under Law 38/2009 may be understood as a protective policy under the framework of the gradual liberalization of the postal sector.

However, from a normative perspective, such operational area restrictions are not in line with the obligation to eliminate geographic limitations, as set out under the ART. Furthermore, given that this framework is stipulated at the statutory level, any adjustments that will be required in order to comply with the ART commitments will mean the amendment of Law 38/2009, i.e. they cannot be sufficiently carried out through the issuance of Implementing Regulations. In addition, it is also necessary to analyze whether restrictions on shareholding structures and the single-partner requirement may be qualified as market access limitations or limitations on forms of commercial presence that also potentially contradict the spirit of liberalization embodied by the ART.

From the perspective of business actors, the elimination of operational area restrictions has the potential to increase direct competition between foreign and domestic operators, particularly within the intercity delivery market and in areas lying outside provincial capitals. This may exert pressure on the margins of national business actors who previously enjoyed geographic protections.

On the other hand, market access liberalization may encourage increased investment, technology transfers, increased distribution network efficiency, improved service quality and a reduction in logistics costs at the national level. Thus, the implications of the new framework are not only competitive in nature

but also structural in terms of the configuration of the postal and delivery industry within Indonesia.

H. Fisheries

Under the ART, Indonesia is obliged to pursue acceptance of the WTO Agreement on Fisheries Subsidies (AFS) and to fully implement all of its obligations. Indonesia must also ensure that fisheries subsidy policies do not contribute to any overcapacity or overfishing through subsidy reform and the strengthening of fisheries governance. In addition, the ART requires Indonesia to operate a sustainable fisheries management system that regulates marine capture fisheries and to ensure the long-term conservation of living resources.

Strengthening law enforcement against illegal, unreported and unregulated (IUU) fishing is also mandated, including through the implementation of port state measures, as well as the supervision of Indonesian-flagged vessels and the prevention of at-sea transshipments of IUU catches. Normatively, the national legal framework regulates the principle of sustainability through Law No. 31 of 2004 on Fisheries, as amended several times, most recently by Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 31/2004**"), which affirms that fisheries management aims to ensure the sustainability of fish resources and the welfare of fisheries communities.

This principle was further reinforced through the introduction of Regulation of the Government No. 11 of 2023 on Measured Fishing ("**Regulation 11/2023**"), which emphasizes the sustainable optimization of benefits and the preservation of fish resources. Regulation 11/2023 introduces a zoning and quota system as an instrument that should be used in order to control the exploitation of fish resources. Quotas are allocated among the fishing industry, local fishers and parties that engage in non-commercial activities. This mechanism reflects capacity control in line with the principle of preventing overcapacity under the ART. The mandatory use of the Fisheries Vessel Monitoring System further strengthens oversight of vessel activities.

Within the context of attempts to combat IUU fishing, Law 31/2004 establishes various prohibitions, as well as criminal and administrative sanctions that can be imposed in response to any party that fishes without a license or that violates the applicable licensing requirements. The obligation to land fish at designated base ports and the integration of the quota system into the business licensing system, as addressed under the framework of Regulation 11/2023, further strengthen state controls over the production and distribution chain for catches.

Overall, the national legal framework is, in principle, in line with the obligations set out under the ART, particularly the implementation of a quota system, vessel monitoring, landing obligations and sanctions against IUU fishing practices. However, the aspect of subsidy reform, as explicitly linked to the prohibition on contributing to overcapacity, may require certain fiscal policy

adjustments if subsidy schemes that encourage excessive fishing capacity remain in place. The commitment to accept and implement the WTO AFS may also necessitate enhanced transparency, as well as the harmonization of subsidy policies at the international level.

For business actors, the strengthening of the quota system and monitoring mechanisms may increase legal certainty, while at the same time limiting opportunities for fleet expansions. Furthermore, subsidy reforms may affect operational cost structures, particularly among operators previously dependent on incentives such as fuel subsidies or vessel procurement support. On the other hand, stronger enforcement against IUU fishing increases compliance risks but may simultaneously enhance the competitiveness and export reputations of Indonesian fisheries products within the global marketplace, as they are deemed to meet sustainability standards.

I. Agriculture

Under the ART, Indonesia is required to provide non-discriminatory market access for agricultural products that originate from the US. In addition, all sanitary and phytosanitary measures must be science-based and grounded in risk analysis, must not operate as disguised restrictions on trade, and must not be discriminatory or inconsistent with US or international standards, including as a result of arrangements with third countries that disadvantage US exports. In connection with these obligations, one of the Indonesian frameworks that will potentially be affected is Law No. 21 of 2019 on Animal, Fish and Plant Quarantine, as amended by Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 21/2019**").

In essence, the quarantine regime introduced under Law 21/2019 aims to prevent the entry, exit and spread of animal diseases, fish diseases and quarantine plant pests and diseases. These obligations also include the supervision and control of the safety and quality of food, feed and genetically engineered products that are imported into, circulated within, or exported from the territory of Indonesia. In this regard, the implementation of quarantine measures is carried out based on the level of national protection through risk analysis of HPHK, HPIK and OPTK.

The implementation of the risk analysis mechanism is also mandatory for the first-time importation of carrier media into Indonesia or where there is a change in the status and situation of HPHK, HPIK and OPTK in the relevant country of origin. The goal in this regard is to ensure adequate risk management based on mutually agreed sanitary and phytosanitary standards between the two relevant countries. Moreover, Law 21/2019 also stipulates that quarantine must be administered based on several principles, including the scientific principle and the principle of non-discrimination, meaning that all quarantine measures

must be science-based in nature and that any actions that are ultimately taken must apply scientific methods equally to all parties.

It should also be noted that, in general, quarantine actions are carried out by quarantine officers through the implementation of the following stages:

Normatively, Indonesia's legal quarantine framework, as specifically set out under the framework of Law 21/2019, is generally in line with the SPS obligations set under the ART, given its risk-based approach, adherence to scientific principles and application of the non-discrimination principle in relation to all countries of origin. The inclusion of the phrase, "*based on mutually agreed sanitary and phytosanitary standards between the two countries,*" further reflects a bilateral mechanism that is not inherently discriminatory.

Therefore, the ART does not necessarily require any structural amendments to be made to Law 21/2019 but instead emphasizes implementation in order to ensure that any quarantine measures that are ultimately imposed on products of US origin are scientifically justified, proportionate and consistently applied so as not to be characterized as disguised restrictions on trade.

In addition to sanitary and phytosanitary obligations, the US also requires Indonesia to exempt food and agricultural products that originate from the US from Indonesia's commodity balance policy, horticultural import licensing regime and other import licensing schemes. In this regard, Indonesia is required to apply only automatic import licensing to such products. Indonesia is also prohibited from granting any special or exclusive import rights that limit US agricultural products or otherwise restricting importers from importing such products into Indonesia.

IV. Investment and US Business in Indonesia

A. Tax Incentives and Investment Treatments

Indonesia has committed under the ART to not imposing any digital services taxes or similar taxes that discriminate against US companies, either in law or in practice. Although the text of the agreement does not mention any specific companies, this provision covers taxes that are generally imposed upon digital services, such as those commonly associated with streaming companies (e.g. Netflix). In this regard, the ART clarifies that this provision does not prevent Indonesia from levying any domestic taxes, fees or other charges on electronic transmissions, provided they are consistent with the principles of the GATT 1994 or GATS agreements.

Indonesia does not currently have any stand-alone Digital Services Tax (DST) in place, meaning that there is no specific law available that imposes a direct tax on foreign digital service revenues (such as those generated by Netflix) based on the global DST concept. However, even in the absence of any specific DST, Indonesia levies taxes on digital transactions through Value-Added Tax (*Pajak Pertambahan Nilai* – "**PPN**") on Electronic System-Based Trade (PMSE) in accordance with Law No. 2 of 2020, as amended by Law No. 7 of 2021 on the Harmonization of Tax Regulations (collectively referred to as "**Law 2/2020**"). Therefore, as PPN may be imposed upon any US companies that provide digital services, it remains to be seen how Indonesia may implement the tax commitment stipulated under the ART. Potentially, Indonesia has the option of imposing a DST upon all foreign-based companies that operate within its territory in order to avoid any discriminatory practice against a certain country.

Aside from the aforementioned taxation commitment, Indonesia has also committed to strengthening supply chain connectivity between the two countries by removing export restrictions on industrial commodities (e.g. critical minerals) that are exported to the US. In this regard, Indonesia and the US have agreed to enhance cooperation in an effort to accelerate the availability of critical minerals such as rare earth metals, which will involve US companies in mining, processing and downstream production based on commercial considerations.

However, it should be noted that Indonesia will impose limits on overproduction at foreign-owned processing facilities by ensuring that such production is in line with applicable mining quotas. In addition, Indonesia guarantees that industrial zones and foreign-owned processing facilities will be subject to the same legal requirements that apply to domestic companies, including various obligations

relating to taxation, environmental protection, labor, quotas and other applicable Laws and Regulations.

The agreement emphasizes the principle of National Treatment through the clarifying phrase, “to its own investors,” which requires Indonesia to provide treatment no less favorable than that accorded to domestic investors. Additionally, the additional clarifying phrase, “in like circumstances,” should ensure that US investors in similar situations to local investors receive equivalent benefits and treatments without any discrimination. These principles are designed to create a fair, transparent and competitive investment climate for US companies operating within Indonesia.

B. BUMN Regulations and Foreign Investment Restrictions

The ART emphasizes that Indonesian BUMN (state-owned enterprises) must conduct their commercial activities in a fair and transparent manner. In this regard, during all procurements of goods or services, BUMN are required to act based on commercial considerations, ultimately ensuring that purchasing decisions are not influenced by any non-economic factors. In addition, BUMN are prohibited from discriminating against any goods or services that originate from the US, thereby ensuring that US investors have equal access to the marketplace.

Indonesia is also required to refrain from providing any subsidies or non-commercial assistance to BUMN goods producers, except in situations where said support is related to the fulfillment of specific public service mandates. Additionally, Indonesia must ensure a level playing field for US companies within the domestic marketplace, particularly with respect to the BUMN of non-party countries.

It should be noted that Law No. 19 of 2003 on BUMN, as amended several times, most recently by Law No. 16 of 2025 (collectively referred to as “**Law 19/2023**”), defines BUMN as business entities for which the entirety or majority of the relevant capital is owned by the state through direct participation from separated state assets. This allows the government to provide funds from the state budget (*Anggaran Pendapatan dan Belanja Negara*/APBN) as capital or as other forms of support.

One of the objectives that underlies the establishment of BUMN is the generation of profits. As a result, the ART clause on BUMN subsidies requires Indonesia to exercise caution in terms of the provision of subsidies or assistance to producers of BUMN goods, as such support may be perceived by the US as market distortion. In addition, at the request of the US, Indonesia must provide information on all forms of non-commercial assistance or

subsidies that are granted to manufacturing companies that operate within its territory. Indonesia should also take measures aimed at addressing the distortionary effects of such subsidies and support mechanisms that apply at the central level regarding trade and investment with the US.

The ART clause requires Indonesia to provide information on, "*all forms of non-commercial assistance or subsidies that it provides to a manufacturing enterprise.*" Essentially, Law No. 14 of 2008 on Public Information Disclosure ("**Law 14/2008**") allows access to public information in line with the ART mandate. However, it should be noted that such information may only be disclosed to the extent that it does not undermine any notions of national economic resilience.

Meanwhile, the ART also addresses restrictions that are placed on foreign investment. In this regard, Indonesia must allow US investors to pursue investment opportunities that are not characterized by any ownership limitations within certain sectors, including mining (e.g. divestment provisions), fish processing, nature-based development projects, ecosystem services, resource efficiency solutions, publishing, delivery services, land transportation, broadcasting and financial services. Under these provisions, US investors can fully participate in these sectors without being hampered by any specific ownership restrictions.

This clause is likely to have a direct impact on several Laws and Regulations that explicitly limit foreign ownership within their respective sectors. For example, within the mining sector, Law No. 4 of 2009 on Mineral and Coal Mining, as amended most recently by Law No. 2 of 2025 (collectively referred to as "**Law 4/2009**"), requires business entities that have secured Mining Business Licenses (*Izin Usaha Pertambangan* – "**IUP**") or Special IUP (*Izin Usaha Pertambangan Khusus* – "**IUPK**") for the Production Operation stage with foreign-owned shares to gradually divest 51% of their shares to the central government, regional governments, BUMN, regionally owned enterprises (*Badan Usaha Milik Daerah*/BUMD) and/or national private companies.

Another example is the restriction on foreign ownership that applies to private broadcasting institutions, which is limited to a maximum of 20% of total capital and that must be held by at least two shareholders, as regulated under Law No. 32 of 2002 on Broadcasting ("**Law 32/2002**"). If this ART clause is implemented, then not only will significant amendments be required to several sectoral Laws and Regulations, but Indonesian legal principles will shift from, "open with restrictions," to, "fully open without conditions," specifically for US investors, potentially creating various issues, including the loss of strategic control over critical sectors such as broadcasting.

C. Sectoral Provisions: Natural Resources and Minerals

The ART also addresses obligations regarding the onshoring of natural resource exports. In this regard, Indonesia has agreed to review onshoring requirements for US investors, allowing prior policies that mandated domestic processing or use of export outputs to be adjusted. Furthermore, within 12 months of the agreement's entry into force, Indonesia must grant US investors the ability to freely and without delay transfer export proceeds from natural resource investments using the market exchange rates for both inbound and outbound fund flows from Indonesia in order to ensure the smooth movement of capital and investment returns.

Currently, provisions that specifically address the onshoring of natural resource export proceeds are regulated under Regulation of the Government No. 36 of 2023, as amended by Regulation of the Government No. 8 of 2025 (collectively referred to as "**Regulation 36/2023**"). This framework requires foreign export proceeds (*Devisa Hasil Ekspor* – "**DHE**") to be deposited and placed by exporters into a Special DHE Account for Natural Resources and to remain fully (100%) within the Indonesian financial system for a minimum of 12 months from the date of placement in said account.

However, an exception is available for DHE that are generated through the oil-and-gas mining sector, where the minimum placement percentage is only 30% with a minimum placement period of three months from deposit into the Special Account. The onshoring clause featured under the ART directly affects the provisions of Regulation 36/2023, limiting Indonesia's ability to manage its natural resource proceeds once they are converted into foreign currency, with implications for long-term monetary sovereignty and national economic resilience.

Indonesia has also committed to removing all export restrictions on industrial commodities, including critical minerals, to the US. In addition, Indonesia will cooperate with US companies in relation to the mining, processing, and downstream production of critical minerals, while continuing to prioritize commercial considerations.

This commitment also includes ensuring greater certainty for companies that extract critical minerals, enabling them to expand their production capacities and support operational growth. In addition, all industrial zones and processing facilities, including those owned by foreign investors, must comply with the same legal requirements regarding taxation, the environment, labor and quotas, thereby ensuring equal access and treatment within this vital, strategic sector.

The phrase, "*remove restrictions on exports to the US of industrial commodities, including critical minerals,*" can be interpreted as requiring Indonesia to allow critical minerals and other industrial commodities to be exported to the US market without the imposition of any quota limits or export

restrictions. This may potentially conflict with provisions set out under Law 4/2009, which requires holders of IUP or IUPK at the Production Operation stage to process and/or refine mined minerals domestically.

V. Labor

In addition to regulating business activities, the ART also contains various provisions that specifically relate to labor. In this regard, ART affirms that Indonesia is obliged to protect internationally recognized workers' rights, including those set out in the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022. This obligation includes a prohibition on the worst forms of child labor and the guarantee of decent working conditions, particularly with respect to minimum wages and working hours.

Although not directly related, according to the Kementerian Luar Negeri, Indonesia has ratified 20 ILO Conventions, including the following:

1. ILO Convention No. 105 on the Abolition of Forced Labour, which was ratified by Law No. 19 of 1999 (ILO 105);
2. ILO Convention No. 138 on Minimum Age for Admission to Employment, which was ratified by Law No. 20 of 1999 (ILO 138); and
3. ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which was ratified by Law No. 1 of 2000 (ILO 182).

Moreover, the ART also affirms that Indonesia must adopt and maintain these protections in its laws and practices, effectively enforce its labor regulations, establish the institutions necessary to safeguard labor rights and impose appropriate legal sanctions in response to any violations. Furthermore, Indonesia must not weaken labor protections in order to attract trade or investment, including within special economic zones or sector-specific regimes with lower standards, and must address any labor-related issues that contribute to non-reciprocal trade. In addition, the US also requires Indonesia to prohibit the charging of workers in relation to any recruitment fees and related costs, including prior to their migration to Indonesia, and may ultimately require employers to bear such costs.

It should also be noted that the US has requested that Indonesia amend its labor law, including with respect to prohibiting the outsourcing of core business functions. Generally speaking, Indonesia's current legal framework on labor, specifically Law No. 13 of 2003 on Manpower, as amended several times, most recently by Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 13/2003**"), as well as several sectoral Regulations, specifically address these issues, as summarized in the table below:

Obligation Placed on Indonesia	Potentially Impacted Regulations
Prohibition on the outsourcing of core business functions	Under Law 13/2003, outsourcing is limited to work that is separate from core business activities, supportive in nature and does not directly interfere with the production process, and requires the contractor company to be a legal entity. Under Law 13/2003, workers from service provider companies may not be employed in any core activities or activities that directly relate to the production process. Moreover, Law 13/2003 sets out various structural consequences. Specifically, if outsourcing requirements are not fulfilled, then an employment relationship may shift and become an employment relationship with the principal employer.
Restriction of fixed-term employment to genuinely temporary work, with a maximum total duration of one year	Under Regulation of the Government No. 35 of 2021 on Temporary Employment Agreements, Outsourcing, Working Hours and Breaks and the Termination of Employment Relationships ("**Regulation 35/2021**"), as well as Law 13/2003, fixed-term employment agreements (*Perjanjian Kerja Waktu Tertentu*/PKWT) may only apply to certain types of work that are classified as: 1) Work of a short estimated period; 2) Seasonal work; or 3) Work relating to new products, new activities or additional products that are still in the experimental or testing phase. Moreover, the maximum duration of PKWT has been set at five years (with a possible extension of five years) or until the relevant work is completed. By contrast, indefinite-term employment agreements (*Perjanjian Kerja Waktu Tidak Tertentu*/PKWTT) are not limited by any specified working period. In essence, business actors may currently employ workers under either mechanism.
Elimination of exceptions to sectoral and regional minimum wage requirements	Currently, the wage mechanism is regulated under Regulation of the Government No. 36 of 2021 on Wages, as amended by

	Regulation of the Government No. 49 of 2025 (collectively referred to as "**Regulation 36/2021**"). Under Regulation 36/2021, employers are prohibited from paying wages lower than the minimum wage, specifically wages without allowances or basic wages plus fixed allowances. The minimum wage applies to workers with less than one year of service at the relevant company. Moreover, Regulation 36/2021 clarifies that minimum wages may consist of provincial minimum wages, regency/city minimum wages under certain conditions, provincial sectoral minimum wages and regency/city sectoral minimum wages under certain conditions. In general, sectoral minimum wages apply to specific sectors that meet certain criteria, including having distinct characteristics and work risks in comparison with other sectors.
Repealing of any provisions that limit workers and trade unions from fully exercising their rights to freedom of association and collective bargaining	In essence, this area is reflected in Indonesia by Law No. 21 of 2000 on Labor Unions, as amended by Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 21/2000**"), which guarantees the freedom of workers to establish and join trade unions, federations and confederations. Moreover, Law 21/2000 strictly prohibits any act that obstructs or coerces workers to form or not form unions, join or not join unions, serve or not serve as union officials, or carry out or not carry out union activities. Such acts include the termination of employment, suspensions, demotions and transfers, withholding or reducing wages, intimidation in any form, and anti-union campaigns.

Overall, the labor provisions that feature under the ART are already in line with Indonesia's national legal framework, which has adopted and ratified various international labor standards, particularly the core ILO conventions. The prevailing regulations, including Law 13/2003 and its amendments, Regulation 35/2021, Regulation 36/2021 and Law 21/2000, regulate the protection of fundamental workers' rights, place limitations on outsourcing, regulate fixed-

term employment, set wage mechanisms, and also guarantee the freedom of association and collective bargaining rights. Accordingly, from a normative perspective, most ART obligations already have a solid foundation under Indonesia's labor law system.

Nevertheless, several clauses that feature under the ART may require further adjustments to be made, particularly in terms of stricter limitations being placed on the outsourcing of core business functions, restrictions on the duration of fixed-term employment to a maximum of one year, the elimination of sectoral or regional minimum wage exceptions, and more explicitly prohibitions on the imposition of any recruitment fees on workers. Ultimately, then, although there is general principled alignment between national law and the ART clauses, full implementation of these commitments may still require regulatory harmonization and policy strengthening at the technical level in order to ensure comprehensive compliance.

VI. Intellectual Property

The US has highlighted Indonesia's intellectual property ("**IP**") laws by stating that "Indonesia shall provide a robust standard of protection for IP". The US has suggested that the country achieve this through the ratification of or accession to numerous international IP legal instruments, as well as through the implementation of appropriate domestic measures aimed at compliance with these international standards. As a result, the US has obliged Indonesia to resolve various domestic law issues while fully implementing the following treaties domestically:

Treaty	Status	Remarks
Berne Convention for the Protection of Literary and Artistic Works	Accession: 5 June 1997 Entry into force: 5 September 1997	Article 33 (1) states that any dispute involving two or more countries of the Union regarding issues within the treaty can be brought to the ICJ by any party concerned. Indonesia declared that cases may only be brought to the ICJ if agreed upon by all the parties in individual cases.
Budapest Treaty on the International Recognition of the Deposit of	Accession: July 13, 2022	No remarks

Microorganisms for the Purposes of Patent Procedure	Entry into force: 13 October 2022	
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	Accession: October 2, 2017 Entry into force: 2 January 2018	Indonesia has declared: 1. That the time limit for providing notification of any refusal of protection has been set at 18 months as per Article 5 (2)(b) of the Protocol; and that, 2. In connection with each request for the territorial extension of the protection of an international registration and the renewal of any such international registration, it wants to receive an individual fee, instead of a share in the revenue produced by the supplementary and complementary fee as per Article 8 (7)(a) of the Protocol.
Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled	Signature: 24 September 2013 Ratification: 28 January 2020 Entry into force: 28 April 2020	No remarks

Paris Convention for the Protection of Industrial Property	Declaration of Continued Application: 15 August 1950 Entry into force: 24 December 1950	Indonesia declared that: 1. Ratification should not apply to Articles 1 - 12; and that 2. Indonesia has declared a reservation in relation to Article 28, specifically that, in terms of any disputes that will be referred to the International Court of Justice for decisions, the agreement of all the parties to the disputes should be necessary in each individual case.
Patent Cooperation Treaty	Accession: 5 June 1997 Entry into force: 5 September 1997	Article 64 (5) states that any dispute involving two or more contracting states regarding issues within the treaty can be brought before the ICJ by any party concerned. However, Indonesia declared that cases may only be brought before the ICJ if agreed upon by all parties in each individual case.
World Intellectual Property Organization (WIPO) Copyright Treaty	Signature: 20 December 1996 Ratification: 5 June 1997 Entry into force: 6 March 2002	No remarks

WIPO Performances and Phonograms Treaty	Signature: 20 December 1996 Ratification: 15 November 2004 Entry into force: 15 February 2005	No remarks

Alongside the various conventions which the US has obliged Indonesia to fully implement, the US has also obliged Indonesia to ratify or accede to and fully implement each of the following agreements within two years of the date of entry into force of the ART, as the country has yet to become a party to them:

International Treaty	Existing Domestic Regulations	Legal Implications
Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite	Regulation of the Minister of Communication and Digital Affairs No. 3 of 2025 on the Use of the Radiofrequency Spectrum for Satellite Services and Satellite Orbits ("**Regulation 3/2025**")	1. Extension of legal scope from technical requirements to obligations to prevent distributors from using satellite signals they were not authorized to receive. Adoption of specific "fair practice" provisions on the use of satellite signals. 2. Extension of legal scope to accommodate international organizations that utilize signals.
Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs	Law No. 31 of 2000 on Industrial Designs, as amended by Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 31/2000**")	1. Extension of the duration of protection from 10 to 15 years. 2. Recognition and application of international applications through WIPO.

		3. Clarity on application refusals and remedies.
Patent Law Treaty	Law No. 13 of 2016 on Patents, which has been amended several times, most recently through Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 13/2016**")	1. Extension of the scope to accommodate international actors. 2. Loosening of Regulations on the reinstatement of rights to acknowledge unintentional delays. 3. Explicitly defines the grounds for the revocation of the validity of patents so that they meet international standards.
International Convention for the Protection of New Varieties of Plants	Law No. 29 of 2000 on Plant Variety Protection, which has been amended several times, most recently through Law No. 1 of 2026 on Penal Adjustment (collectively referred to as "**Law 29/2000**")	1. Removal of the mandatory local consultant requirement for foreign applicants in order to ensure procedural parity with domestic breeders. 2. Regulation of products made directly from harvested materials obtained through unauthorized use. 3. General re-evaluation of legal rights and the obligation to accommodate international breeders.
Singapore Treaty on the Law of Trademarks	Regulation of the Minister of Law No. 5 of 2026 on Trademark Registrations ("**Regulation 5/2026**")	1. Provision of mechanisms for relief measures such as extensions, continued processing and reinstatement of rights. 2. Alignment of bureaucratic requirements, such as

		formal requirements to meet international standards.

Domestically, the US has identified numerous issues relating to existing IP Regulations. As a result, the Indonesia-United States Intellectual Property Rights Work Plan was formulated and ultimately signed on 14 May 2018. The US also placed Indonesia on the Priority Watch List in the 2025 Special 301 Report, which addresses the prevailing lack of protections and enforcement of IP laws within Indonesia. Through the ART, Indonesia has been obliged to, "expeditiously," take the following steps in order to fully resolve the various issues that have been discussed:

1. Significantly increase and improve enforcement in relation to IP infringements across all sectors;
2. Review the timeframe and security of existing IP rights;
3. Ensure transparency and accountability during all IP processing; and
4. Review domestic Laws such as Indonesia's Patent and Copyright Law in order to meet the international standards, as set out under existing international treaties.

VII. Mandatory Purchasing

Under the ART, Indonesia is obliged to support and facilitate purchases of goods that originate from the United States (as listed in Annex IV) that are made by Indonesian companies. Furthermore, Annex IV describes in detail that Indonesia should facilitate commercial arrangements in order to import goods and services of an indicative total value of up to US$ 33 billion within the industrial and agricultural sectors. It should also be noted that the ART also requires Indonesia to facilitate the realization of outbound direct investments in the US with a minimum indicative value of US$ 10 billion, which includes engineering, procurement and construction projects, as well as the development of blue ammonia and other energy initiatives.

A. Industrial Goods

In terms of industrial goods and services, the agreement stipulates that Indonesia should:

1. Facilitate increased imports of US energy products, industrial commodities, manufactured goods (e.g. metallurgical coal, automobiles and auto parts), and aerospace products;
2. Facilitate commercial arrangements in order to increase imports of US metallurgical coal to support steelmaking, local industrialization and energy reliability and security, and also to reduce reliance on imports from market-manipulating actors; and
3. Facilitate commercial arrangements aimed at increasing imports of US advanced coal technologies and partnering in accelerating the development, deployment and commercialization of such technologies, including through the utilization of all available funding mechanisms in order to support the advancement of coal technologies, including using coal and coal byproducts, to produce building materials, battery materials, carbon fiber, synthetic graphite and printing materials, as well as to fuel power generation and other industrial processes.

Furthermore, Indonesia is also obliged to purchase the following listed industrial goods:

Imported Goods of US Origin	Value (in US$)
LPG	3.5 billion
Crude oil	4.5 billion
Refined gasoline	7 billion
Commercial aircraft and aviation-related goods and services	13.5 billion

B. Agricultural Goods

Indonesia must facilitate commercial arrangements for the following listed agricultural goods, which have been valued at US$ 4.5 billion (Table A):

Imported Goods of US origin	Amount (in Metric Tons)	Duration

Cotton (Harmonized System ["**HS**"]: 5201)	163,000	Annually, for five years
Soybeans (HS: 120190)	3.5 million	Annually, for five years
Soybean meal (HS: 120810 and 230400)	3.8 million	Annually, for five years
Wheat (HS: 100119 and 100199)	2 million	Annually, for five years

In addition, Indonesia is obliged to increase imports of the following listed US agricultural products (Table B):

Imported Goods of US origin	**Minimum amount (in Metric Tons)**	**Duration**
Apples (HS: 080810)	26,000	Annually
Beef and beef products (HS: 020110, 020120, 020130, 020210, 020220, 020230, 020610, 020621, 020622, 020629, 021020 and 160250)	50,000	
Citrus fruit (HS: 0805)	3,000	
Corn (HS: 100590)	100,000	
Corn gluten meal (HS: 230310)	150,000	
Ethanol (HS: 220710 and 220720)	1,000	
Fresh grapes (HS: 080610)	5,000	
Rice (HS: 100610, 100620, 100630, and 100640)	1,000	
Cotton (HS: 5201)	150,000	

Soybeans (HS: 120190)	2.5 million	Annually, commencing after the five year stipulated prior.
Soybean meal (HS: 120810 and 230400)	200,000	
Wheat (HS: 100119 and 100199)	1.3 million	

In cases where the annual import volumes of any agricultural commodity of US origin, as listed in Table B, do not meet the specified amounts and the US determines that there was no trade barrier imposed that prevented the imports, then the US will not consider Indonesia to be in breach of its commitments.

VIII. Sovereignty over International Trade

While overall, aspects of the ART focus on trade deals between the US and Indonesia, several of the ART's provisions may also have an impact on Indonesia's trade sovereignty. This section offers a further exploration of this issue.

A. Indonesia's Principle of Non-Alignment

Under Law No. 37 of 1999 on Diplomatic Relations ("**Law 37/1999**"), Indonesia adheres to the principle of non-alignment in its foreign policy. This principle stems from a conception of the national interest. This foreign policy is implemented through creative, active and anticipatory diplomacy, and is therefore not merely routine and reactive. Furthermore, this non-aligned approach is firm in its principles and stance, as well as rational and flexible in its approach. ART, on the other hand, has enacted articles that focus on the alignment of economic and national security between the US and Indonesia.

This alignment entails that upon receiving notification from the US, in accordance with its national interests and domestic Laws and Regulations, Indonesia should adopt and implement restrictive measures in relation to any third country whose unfair practices are seen as negatively affecting imports and exports that are undertaken between the US and Indonesia. Unfair practices are defined as practices that result in exports of goods to the US at below their market prices; increased exports of such goods to the US; or a reduction in US exports to Indonesia or third-country markets.

Moreover, alignment may take the form of the imposition of customs-related duties, quotas, prohibitions, fees, charges or other import restrictions that should be imposed in ways that are equivalent to measures adopted by the US. This clause is supposedly, "guided by principles of goodwill and a shared commitment to enhancing bilateral relations between the US and Indonesia." Clauses like this are permissible under international law in line with the effects doctrine, which claims extraterritorial jurisdiction over illegal effects within its territory in relation to conduct that takes place elsewhere. However, this does ultimately lead to the question of whether this agreement is in accordance with Indonesia's diplomatic principle of non-alignment.

B. Trade Prohibitions

Article 2.3 of the ART regarding agriculture prohibits Indonesia from, "*taking non-scientific, discriminatory or preferential measures that are incompatible with US or international standards or otherwise disadvantage US exports to Indonesia, including as a result of entering into agreements or understandings with third countries*." The application of this provision means that any treaty made between Indonesia and a third country regarding agricultural market access must keep in mind US standards, which contradicts the MFN principle.

The MFN principle does not allow contracting parties, such as Indonesia and the US, to grant advantage, favour, privilege or immunity to any other country and that said privileges must be accorded immediately and unconditionally to like products. The ART's discrepancy regarding this principle has the potential to weaken Indonesia's reliability and possibly place current and future international agreements at risk.

Furthermore, the ART also requires Indonesia to prohibit its nationals from conducting any transactions with individuals and entities that have been included on the US Department of Commerce Bureau of Industry and Security Entity List, as well as the US Department of the Treasury Office of Foreign Assets Control Lists of Specially Designated Nationals and Blocked Persons List (SDN List) and the Non-SDN Consolidated Sanctions List. This provision potentially gives the US discretion to restrict Indonesia's trade partners going forward.

C. Impact of Supreme Court Decisions on ART

One of the important aspects that must be noted in regard to the ART is the ruling issued by the US Supreme Court on 20 February 2026, just one day after the ART with Indonesia was signed. In a 6–3 majority decision, the justices held that the International Emergency Economic Powers Act ("**IEEPA**"), which had been used as the legal basis for the imposition of import duties, does not grant the US President the authority to unilaterally impose tariffs.

In response to the issuance of the ruling by the Supreme Court and following the signing of the agreement, a spokesperson for Indonesia's Coordinating Ministry for Economic Affairs stated that the continuation of the ART largely depends on the decisions of both countries. From Indonesia's perspective, the agreement must still complete the ratification process and therefore cannot yet be directly implemented. The same applies in the US, which is still proceeding with its internal processes against a backdrop of recent developments within the country.

It must be noted that the US Supreme Court decision could act as a basis for Indonesia's termination, revision or suspension of ART. The Vienna Convention on the Law of Treaties ("**VCLT**") allows states to terminate, withdraw or suspend treaties on the basis of a fundamental change of circumstances, as derived from the principle of *rebus sic stantibus*. The VCLT stipulates that a party may invoke this clause if the change was not foreseeable, radically transforms the agreement, and the changed circumstances constitute an essential basis of consent.

However, it is important to highlight that such a fundamental change of circumstances has only been successfully enacted once in a situation in which a state was at war, which resulted in the disintegration of the relevant agreement. Furthermore, the next step of action after the ART is its official entry into force, which is set to take place 90 days after completion of the appropriate domestic legal processes. In this regard, Indonesia will consult with the House of Representatives of the Republic of Indonesia (*Dewan Perwakilan Rakyat* - "**DPR**"). As stated in the Indonesian Constitution of 1945 (*Undang-Undang Dasar Negara Republik Indonesia Tahun* 1945/UUD 1945), the DPR has the power to approve or disapprove international agreements that will have broad and fundamental consequences for the lives of the people, as they relate to the financial burdens of the state. As a result, Indonesia's response regarding the US Supreme Court decision, alongside an assessment of ART in line with existing national laws and interests, is ultimately in its hands.

Conclusion

In conclusion, the ART carries significant strategic implications for Indonesia, both in terms of the revision of domestic policies and its deeper integration into the prevailing global trade and investment architecture. The commitments introduced under the ART have the potential to boost market access and investment between the US and Indonesia. However, this will come at the cost of narrowing certain aspects of Indonesia's policy space, particularly in relation to state support measures, TKDN requirements, export controls, data governance and the role of state-owned enterprises. These impacts will

necessitate careful regulatory alignment in order to ensure compliance with international obligations while hopefully safeguarding Indonesia's national strategic interests.

Furthermore, it is important to note that under the ART, the term "US Companies" has yet to be strictly defined. This may lead to a loose interpretation of this term and create situations in which even a 1% US ownership, either by a state or its citizens, can be regarded as being in line with the ART, thereby mandating full advantages and incentives under the agreement's framework. It is therefore imperative for Indonesia, moving forward, to ensure that strict definitions are put in place regarding some of the more important terms that feature under the ART in order to protect its own national interests.