



INDONESIA'S PARTICIPATION IN IE-CEPA: AN OBLIGATION OR POLICY?

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ABSTRACT

International agreements made by Indonesia with other countries have helped enrich the provisions of legislation relating to trade and investment in Indonesia. One of them is IE-CEPA, it is hoped that the utilization of market share in each country can be optimized for entry into the European Union market and used as a basis to catch up with other ASEAN countries. The issue that arises here is whether Indonesia's cooperation with the EFTA Group of Countries is an obligation or policy. This research uses a form of normative juridical research and uses a statute approach and a conceptual approach. The purpose of this study is to describe the cooperation carried out by Indonesia with the EFTA group of countries as an obligation of countries to implement economic policies. The results of this study show the cooperation carried out by Indonesia with the EFTA group of countries as part of economic policies to improve the country's development. This cooperation agreement has been officially ratified into Indonesia's national regulation through Article 1 of Law No.1/2021, which indicates the State's approval to comply with and be bound by IE-CEPA. This is in accordance with Article 26 of VCLT and Article 4 paragraph (1) of Law No.24/2000.

Keywords: IE-CEPA; international agreements; economic policy

1. INTRODUCTION

International trade is one of the economic activities that has recently been at a very rapid pace of development. The global economy and digitalization in international trade are growing at a rapid pace, and the digital space is becoming a key area for global trade.¹ These economic activities can be in the form of investment, export-import relations, trade in services, or other business activities related to international trade, such as insurance, banking, and so on. Through trade, each country works together to meet the needs of its nation. This is because each country has different natural resources and human resources. No country is perfect and can stand alone that has all the advantages in terms of natural resources, human resources, technology, market share, economic stability, and legal certainty.² Each country may have only a few advantages. This is what makes the country have to work with other countries to connect these forces. The state can maximize this growth with cooperation in the economic sector.

Countries trade with each other for more economical production purposes. If a country can produce goods more easily and cheaper, it will export to other countries. But if the cost of production is more expensive, then it is better to import from another country than to produce all the goods itself. In addition to fulfilling the provision of goods or services in countries that do not produce these goods or services, cooperation between countries in the economic sector also aims to gain benefits, especially in international trade and foreign investment, and strengthen a bilateral or multilateral international relations. The motive of a company when investing in another country is to seek revenue obtained from various factors:³ 1) cheap wages of laborers; 2) close to the source of raw materials; 3) the breadth of the new market; 4) selling technology (brand, patent, trade secret, industrial design); 5) selling raw materials to be used as finished goods; 6) incentives for investors;

1 Ikrom Ahmedov, "The Impact of Digital Economy on International Trade," *European Journal of Business and Management Research (EJBMR)* 5, no. 4 (2020): 1–7, <https://doi.org/http://dx.doi.org/10.24018/ejbmr.2020.5.4.389>.

2 Wahono Diphayana, *Perdagangan Internasional* (Yogyakarta: Deepublish, 2018). 2.

3 Erman Rajagukguk, *Hukum Penanaman Modal: Penanaman Modal Asing (PMA) dan Penanaman Modal Dalam Negeri (PMDN)* (Depok: Rajawali Pers, 2020), 1-22.

7) and the special status of certain countries in international trade. One example is Indonesia's cooperation with a group of European countries through the Comprehensive Economic Partnership Agreement Between the Republic of Indonesia and the EFTA States (IE-CEPA). Strengthening economic relations between Indonesia and the European Free Trade Association (EFTA) group of countries through the Comprehensive Economic Partnership Agreement with Indonesia and EFTA (IE-CEPA) will enhance and diversify bilateral trade and investment. The increase in investment and trade opens up new opportunities for the business world, both large companies and small business entities, and encourages wider and more privileged access, labor, and consumers, which will have an impact on improving welfare in Indonesia and the EFTA group of countries.

IE-CEPA is a form of cooperation in the economic field between Indonesia and the EFTA group of countries consisting of four countries, namely Iceland, the Kingdom of Liechtenstein, the Kingdom of Norway (except the Svalbard islands), except for trade in goods and the Swiss Confederation. Through Law Number 1 of 2021 concerning ratification of the Comprehensive Economic Partnership Agreement Between The Republic Of Indonesia and The EFTA States (Law No.1/2021), Indonesia ratified the IE-CEPA, which was signed on December 16, 2016, in Jakarta, Indonesia.⁴ IE-CEPA is a means of taking bilateral relations between the countries concerned to a higher level. In accordance with the provisions of article 1.1 of the IE-CEPA, it is listed, "The Parties hereby establish a comprehensive economic partnership, including a free trade area, utilizing this Agreement, which is based on trade relations between market economies, to contribute to the harmonious development and expansion of world trade and to spurring prosperity and sustainable development". This will be the foundation for stronger economic ties and make an important contribution to the sustainable economic growth and long-term prosperity of the people of Indonesia and EFTA countries. IE-CEPA is a partnership agreement between Indonesia and EFTA countries. This agreement includes the economic cooperation needed by both parties. Technically, to implement the vision of increasing economic cooperation, an instrument of agreement is needed.⁵ The existence of IE-CEPA is very important because it is for economic improvement and recovery as well as driving exports and market access for goods and services.

This research is related to previous research by Armen Zulham, which examined the capacity of human resources in Indonesia to be improved to strengthen cooperation with EFTA and prevent unfair trade in fish due to transshipment results, illegal catches, and re-exports to Indonesia.⁶ Judging from previous research, there are differences in this study, namely: this research use normative research that focuses on discussing in detail about Indonesia's cooperation with EFTA as an obligation. Previous authors mostly describe his economics research. While this research is more devoted to the legal aspect. The problems and discussions raised in this study are different from previous research, so this research has innovations and updates that complement the shortcomings of previous research.

Based on the background above, the formulation of the problem in this study is as follows: Is the cooperation carried out by Indonesia with the EFTA group of countries an obligation or a policy ? The purpose of this research is to explain whether Indonesia's participation in the IE-CEPA cooperation agreement is an obligation or policy. In several previous articles, it was explained that countries, including Indonesia, began to build bilateral cooperation, which is considered more efficient and profitable, one of which is IE-CEPA. Next, politically motivated, where Indonesia's political policies encourage Indonesia to boost exports to non-traditional markets, including the EFTA market.⁷ This research will emphasize more on the description of cooperation carried out by Indonesia with the EFTA group of countries, whether it is a state obligation or an implementation of economic policy.

4 Shelly Pasaribu and Ardila Putri, "Faktor Pendorong Indonesia Menandatangani Kerja Sama Indonesia European Free Trade Association-Comprehensive Economic Partnership Agreement (IE-CEPA)," *Jurnal Ekonomi-Qu* 11, no. 2 (2021): 387–405, <https://doi.org/http://dx.doi.org/10.35448/jequ.v11i2.13234>.

5 Dewan Perwakilan Rakyat Republik Indonesia, "Sahkan UU IE-CEPA, DPR Harapkan Peningkatan Ekspor," 2021, <https://www.dpr.go.id/berita/detail/id/32559/t/Sahkan+UU+IE-CEPA%2C+DPR+Harapkan+Peningkatan+Ekspor>.

6 Armen Zulham and Rani Hafsaridewi, "IE – CEPA : Analisis Manfaat Dan Dampak Bagi Perikanan Indonesia," *Kebijakan Sosial Ekonomi Kelautan Dan Perikanan* 1, no. 1 (2011), <https://doi.org/http://dx.doi.org/10.35448/jequ.v11i2.13234>.

7 *Ibid*.

2. METHOD

This research uses a form of normative juridical research and also qualitative descriptive research that aims to describe the data collected in order to solve research problems.⁸ The purpose of this study is to examine the true legal answer and perspective of legal solutions for Indonesian problems arising from the implementation of IE-CEPA. Normative juridical research is based on the statute approach, which is carried out by examining all laws and regulations related to the legal issues being handled.⁹ This research also uses a conceptual approach to move from the views and doctrines that develop in legal science, especially international agreements. The data is collected from both primary and secondary legal materials, which are then collected with literature study techniques and presented within the framework of the theory.¹⁰ The primary legal material consists of laws and regulations and treaties in the making of laws and regulations. The primary legal material used in this research is: the Vienna Convention on the Law of Treaties 1969 and the Comprehensive Economic Partnership Agreement Between The Republic Of Indonesia And The EFTA States. The secondary legal material provides an explanation of all primary legal materials such as articles, scientific papers, books, and other scientific literature materials. The benefits obtained through literature study will be obtained from theories and concepts that have a general nature related to research problems.¹¹

3. FINDINGS AND DISCUSSION

3.1 The Relationship between International Cooperation in the Field of Trade and Economic Policy

International cooperation is a form of relationship between a country and another country to meet the needs of society and the interests of all countries in the world. International cooperation, which includes cooperation in the political, social, defense and security, cultural, and economic fields, is guided by the foreign policy of each country.¹² As the definition of international cooperation put forward by Lauri:¹³ “international cooperation designates all “undertakings” allowing international actors to achieve jointly fixed goals by sharing certain resources” According to the aforementioned definition when it is associated with the state that the nature of the cooperation process there is a need to understand each other, that is, the state with the state and even the state with the non-state.

International cooperation aims to support economic growth in each country. The economy is the main basis for the interaction between countries. The interactions that are formed then produce relationships that can develop in various fields. Cooperation carried out in the economic field can also be called international economic cooperation. International economic cooperation is the relationship between countries in the economic sphere. The cooperation¹⁴ is based on the interest in improving economic welfare, economic growth, and improving the structure of national economic activity.

International cooperation is carried out to achieve the following objectives:¹⁵ 1) This cooperation is carried out to meet the needs of domestic goods and services; 2) Increasing the country's foreign exchange and the economic sustainability of countries; 3) The countries involved become encouraged to increase the productivity of production products. For that, it takes a lot of manpower. As a result, employment to meet

8 Jhonny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Malang: Bayu Media, 2013).12.

9 Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2019).135.

10 Kartini Kartono, *Pengantar Metodologi Research* (Bandung: Alumni, 1998), 78.

11 Julaika and Devi Rahayu, *Buku Ajar Metode Penelitian Hukum* (Surabaya: Scopindo Media Pustaka, 2019). 82.

12 Ikbar Yanuar, *Metodologi & Teori Hubungan Internasional* (Bandung: PT. Refika Aditama, 2014), 273.

13 Lauri S., “Political Theories of Development Cooperation: A Study of Theories of International Cooperation,” *Wider Working Papers of World Institute of Development Economics Research of the United Nations University*, 1990. 17.

14 Eka Choirulina and Deky Paryadi, “Strategi Akses Pasar Kerja Sama Perdagangan Indonesia Kanada Dalam Kerangka Comprehensive Economic Partnership Agreement (CEPA),” *Cendekia Niaga Journal of Trade Development and Studies* 6, no. 2 (2022), <https://doi.org/https://doi.org/10.52391/jcn.v6i2.745>.

15 Noegraha Ridlo Sapta, “Peran Indonesian Trade Promotion Center Vancouver Dalam Meningkatkan Hubungan Kerjasama Perdagangan Indonesia - Kanada Tahun 2014 – 2018” (Universitas Komputer Indonesia, 2020), <https://elibrary.unikom.ac.id/id/eprint/3406/>.

production targets has also increased; 4) Economic cooperation is also carried out to expand the market for the production of goods and services; 5) The countries involved can distribute each other the benefits of the resources they have, both natural resources and human resources. This distribution of resources can reduce inequality between developed and developing countries. This equitable distribution of resources can also accelerate world economic development and improve the quality of life of countries in the world.

The benefits of this international cooperation have several benefits, including¹⁶ 1) an increase economic cooperation, trade, and investment between countries; 2) Creating a transparent trading system; 3) an Increase in trade in goods and services; 4) Open opportunities for cooperation in other areas; 5) Facilitate effective economic integration; 6) Develop appropriate policies for economic cooperation between countries; 7) Bridging the economic development gap between countries. To achieve the aforementioned goals and benefits, international economic cooperation can be realized in various forms. Today, many countries cooperate in the economic sphere. In addition to being profitable, economic cooperation is also very effective in its implementation. The cooperative nature of each country is universal and can create situations where various international problems and conflicts can be avoided.¹⁷ International cooperation is different from international trade. The scope of international cooperation is wider than that of international trade. The definition of international trade refers to commercial transactions between parties of more than one country, including: exporting products from one country to another, foreign investment, buying raw materials from abroad, producing part of the product abroad and then assembling it domestically and borrowing funds from banks in one country to finance business operations in another country. Given that no country in the world is able to meet all its needs without trading with other countries, it is necessary to cooperate between countries, especially in the field of trade. Therefore, it is necessary to have an agreement regulating its rights and obligations between countries and/or non-states (in this case, foreign investors) operating on the territory of the country.

Agreements governing the rights and obligations between countries and foreign investors operating on the territory of the country are based on international agreements. International treaties are domiciled as legal instruments of international cooperation.¹⁸ Of course, a treaty relating to international trade will benefit the members who are members of the agreement. One of the benefits of international agreements is that the trade process becomes easier because trust in each country makes a country's economy grow faster.¹⁹ This trust can also open up foreign investment opportunities for a country, which will certainly create new jobs.²⁰ Under such circumstances, Indonesia also continues to carry out cooperation in the form of international trade agreements with various countries in the world. Following these various agreements, certainly helps open the global market for local products originating from Indonesia that are highly marketable. Moreover, Indonesia itself has a variety of certain arts and cultures that can be highlighted to the global community. The form of trade agreements as a form of cooperation schemes between countries is divided into 3 types, namely²¹:

1. Preferential Trade Agreement (PTA)

Unilateral trade preference agreements are given to a group of countries, usually from developed to developing countries.

¹⁶ *Ibid.*

¹⁷ Yusron Avivi and Muhnizar Siagian, "Kepentingan Indonesia Dalam Kerja Sama Bilateral Dengan Jepang Studi Kasus: Indonesia-Japan Economic Partnership Agreement (IJEPA)," *Paradigma Polistaat* 3, no. 1 (2020): 55, <https://doi.org/https://doi.org/10.23969/paradigmapolistaat.v3i1.2967>.

¹⁸ Yacob Rihwanto, "Bilateral Investment Treaties Dan Penyelesaian Arbitrase Internasional (Studi Kasus Pencabutan Izin Kuasa Pertambangan Churchill Mining)," *Lex Renaissance* 1, no. 1 (2016): 107 – 125, <https://doi.org/https://doi.org/10.20885/JLR.vol1.iss1.art7>.

¹⁹ Rasbin, "The Benefit Of International Trade Agreements On Trade And Investment For Indonesia" 25, no. 4 (2020): 301–22, <https://doi.org/http://dx.doi.org/10.22212/kajian.v25i4.3901>.

²⁰ Yu. Hao et al., "The Dynamic Relationship between Energy Consumption, Investment and Economic Growth in China's Rural Area: New Evidence Based on Provincial Panel Data," *Energy* 154 (2018): 374–82, <https://doi.org/10.1016/j.energy.2018.04.142>.

²¹ Muhammad Iqbal Hasan, *Hukum Investasi Internasional - Teori Dan Implementasi* (Bandung: PT. Refika Aditama, 2021). 58.

2. Free Trade Area (FTA)

Economic agreements between two countries or to establish a free trade area in the field of trade in goods or services between them to be able to pass through the borders of their respective countries without being subject to tariff or non-tariff barriers.

3. Comprehensive Economic Partnership Agreement (CEPA)

In general, CEPA has a mix of agreements consisting of market access, capacity building, and facilitation of trade and investment (this cooperation can be done bilaterally or multilaterally) or in cooperation with trade blocs. The word “comprehensive” here can be interpreted as having a broad insight into something and looking at it from various aspects to understand a problem thoroughly and solve it well. The aspects referred to in this case include trade in goods, services, investment, competition policy, intellectual property protection, economic cooperation, and institutional cooperation. A comprehensive partnership has the most favourable principles and is expected to strengthen the trade relations of the stakeholders in the agreement.

International trade has the main purpose of meeting the needs of a country that is not available in the country. There are also several other destinations of international trade, namely: 1) Expansion of trade areas and increasing state production; 2) Increasing the country’s foreign exchange through exports; 3) Improvement of the economic sector, stabilization of the price of goods and increase in the number and utilization of labour; 4) Protection of trade activities for the economic development of the country; 5) The achievement of stable international trade; 6) Eliminate adverse national trade policies and practices; 7) Increase in the intensity of world trade; 8) The creation of trade that provides benefits for each country; 9) Improvement of human living standards; 10) Development of a multilateral trading system and the creation of fair trade policies for all countries; 11) An increase in the utilization of world sources of wealth that can increase buying and selling activities.

According to Sadono Sukirno, international trade has benefits, including:²² 1) Acquisition of goods from other countries that cannot be produced by themselves. There are factors such as climate, geographical conditions, mastery of technology, and knowledge, which cause differences in production yields in each country; 2) The acquisition of profit from the specificity of the state. The acquisition of profits is realized by the presence of specificity in a country. Suppose one country has the same product, but there is a possibility that the country imports the product from another country; 3) Market expansion for increased profits. There are concerns from entrepreneurs about carrying out their production tools optimally because of the possibility of overproduction which can result in a decrease in product prices. In terms of international trade, entrepreneurs carry out activities to the maximum and can sell their excess production to other countries; 4) Technology exchange between countries. There is a possibility of a country studying more useful production technologies or techniques and profitable and modern ways of management.

In general, trade agreements have 2 large groups, namely: 1) Agreements governing protection only. This agreement is often known as the Bilateral Investment Treaty (BIT). This agreement is an agreement that sets out the terms and conditions for private investment by citizens and companies of a country in another country with an investment type (foreign direct investment).²³; 2) Agreements that have elements of protection and liberalization (market access). These agreements are often referred to as FTAs or CEPAs. The difference is that CEPA has a wider scope than the FTA system in that it includes a comprehensive Economic cooperation scheme more than the trade issues outlined in major agreements and consists of many chapters/charters that regulate related such as trade in services and trade in goods. In the context of the difference in scope between CEPA and FTA, here are some concrete examples that can help understand the difference: The first is seen from the inclusion of the Service Sector, CEPA tends to include the service sector, such as financial services, consulting services, transportation services, tourism, or other service sectors. While FTAs focus more on trade in goods and pay less attention to the service sector in detail. Second, regarding Investment Protection, CEPA generally has more comprehensive provisions in investment protection and promotion, including investor-state dispute

22 Serlika Aprita and Rio Adhitya, *Hukum Perdagangan Internasional* (Depok: Rajawali Press PT Raja Grafindo Persada, 2020), 4.

23 Fries Melia Salviana, “Kepastian Hukum Penerapan Bilateral Investment Treaty Dalam Pelaksanaan Investasi Di Indonesia,” *Perspektif* 23, no. 3 (2018), <https://doi.org/https://dx.doi.org/10.30742/perspektif.v23i3.710>.

settlement mechanisms. FTAs provide more limited investment protection. Third, regarding Competition Policy and Monopoly Regulation, CEPA often includes these provisions to promote fair competition and prevent anti-competitive practices. Meanwhile, the FTA does not pay special attention to this aspect. Fourth, CEPA often regulates cooperation and protection of intellectual property, such as copyrights, patents, trademarks, industrial designs, or trade secrets. FTAs provide more limited intellectual property protection. Fifth, CEPAs often have a broader focus on economic cooperation and capacity building, including technology transfer, workforce training, productivity improvement, or sector-specific development. FTAs are more limited to the trade aspect of goods.

In addition to the large group model of international trade agreements, there are also variations of other investment agreements, such as CEPA, which focuses on liberalization without substantive obligations on protections, and Investor-State Dispute Settlement (ISDS), such as IE-CEPA. In addition, some BITs have liberalization elements, for example, such as the Canada-Mongolian BIT. Trade agreements must be in line with the parent international treaty of the 1969 Vienna Convention on the Law of Treaties (VCLT). The 1969 VCLT is considered the parent of international treaties because it was the convention that first contained various²⁴ provisions regarding international treaties. It is through this invention that there are legal arrangements, both material and practical, in making, implementing, and canceling international treaties.²⁵

International trade practices are based on international agreements. The practice of international trade should be based on rules that are set and binding on each country involved in the hope of supporting the fulfillment of the interests of each country. International law is present in order to regulate legal relations that pass across national borders also, including in terms of arrangements regarding international trade, making international law a reference in the implementation of international trade activities. International trade agreements made by countries can only be applied by a country if the country is willing to submit and bind itself to the provisions of an international treaty. Article 38 of the Statute of the International Court of Justice (SMI) states that international treaties are one of the sources of international law, making them also the foundation of an international legal relationship. Furthermore, Article 2.1.a of the VCLT 1969 lists the following provisions: "Treaty means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."

According to Article 2.1.a of VCLT 1969 that any international treaty shall be concluded with an agreement made in writing that is based on international law either in one or more interconnected instruments. In line with article 2.1.a of VCLT 1969 that the implementation of international treaties must contain the principles of general law that must be possessed by each country as stipulated in Article 24 paragraphs (1) and 26 of VCLT 1969, which states that: Article 24 as follows: "A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree." Article 26 is as follows: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." The birth of a treaty is based on the mutual consent of each country entering into the treaty, and the entry into force of a treaty, both bilateral and multilateral, is generally determined by the concluding clause of the treaty. Therefore, it is up to the countries participating in the treaty to decide when the treaty is effective. According to I Wayan Perthiana, international treaties produce generally accepted legal principles (law-making treaty), in addition to the principles set out in Article 24 of the VCLT 1969. The effective time is also determined by a certain formula, which provides for the temporary implementation of international agreements. It is the main basis of contract law and is generally recognized as part of common law principles.

According to article 26 of the VCLT 1969 that any applicable treaty is binding on state parties (in line with the meaning of the Pacta Sunt Servanda principle) and must be executed in good faith (in line with the meaning of the Good Faith principle). It is the fundamental basis of treaty law and has been universally

24 Gerald E. Songko, "Kekuatan Mengikat Perjanjian Internasional Menurut Konvensi Wina Tahun 1969," *Lex Privatum* 4, no. 4 (2016), <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/11992>.

25 Justin Malbon, Charles Lawson, and Mark Davison, "Vienna Convention On The Law Of Treaties," in *The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights* (Edward Elgar Publishing, 2014), 23–46, <https://doi.org/10.4337/9781781006047.00014>.

recognized, and it is part of the principles of common law.²⁶ Based on Article 38 of the SMI, article 2.1.a and article 26 of the 1969 VCLT clearly illustrate that there is a legal relationship that indicates the existence of general legal harmony and harmony contained and derived in international trade agreements. Consent is bound by an agreement declared by ratification. Indonesia stated that it is bound by the EFTA cooperation agreement by ratifying IE-CEPA through Law No. 1/2021; this is in line with Article 14 paragraph (1) of VCLT 1969 as follows: “The consent of State to be bound by a treaty is expressed by ratification when: a) The treaty provides for such consent to be expressed utilizing ratifications; b) It is otherwise established that the negotiating States were agreed that ratification should be required; c) The representative of the State has signed the treaty subject to ratification; or d) The intention of the State to sign the treaty subject to ratification appears from the full powers of its representatives or was expressed during the negotiation.”

International trade activities are inseparable from international economic policies carried out to protect national economic interests from the adverse or negative influence of an unfavorable international trade situation. The definition of the term “policy” or wisdom is deep thoughts or considerations to form the basis for the formulation of policies, in this case, public policy. Thomas R. Dye mentioned that policy is the government’s choice to determine steps to take or not take.²⁷ In the opinion of Carl J. Friedrich, A policy is a set of concepts proposed by a group of people or a person or government in one particular environment by indicating obstacles and opportunities to the implementation of the proposal in order to achieve certain objectives.²⁸ Thus, economic policy is all measures and regulations that the government of a country implements in the economic sphere, which includes fiscal policy and monetary policy, production policy, foreign trade policy, and employment policy.²⁹

Economic policy is a way or action taken by the government to regulate national economic life in order to achieve certain goals. This is done to increase state revenues through import and export activities.³⁰ In general, developing countries prefer an open economy policy, which is to open economic relations with foreign countries. The policy will open up export markets for their products and open up sources of capital goods and industrial raw materials from other countries. In theory, open economy policies can accelerate economic development if managed properly and transparently. There are several international economic policy instruments, namely: 1) International trade policy, which includes government actions on foreign trade, especially related to the import and export of goods/services, for example, the imposition of tariffs on imported goods, bilateral trade agreements, the imposition of import and export quotas, and others; 2) International payment policies include government actions towards international payments such as supervision of foreign exchange traffic, long-term capital traffic regulation; 3) Foreign aid policy covers government actions related to grants, loans, assistance for rehabilitation and development, and so on. In general, it can be mentioned that the objectives of international economic policy are:

1. Autarki

This goal is actually contrary to the principle of international trade. The purpose of autarki is to avoid the influence of other countries, whether economic, political, or military influence.

2. National Welfare

This goal is contrary to the purpose of autarki. By holding international trade, a country will benefit from the existence of specialization. To encourage international trade, obstacles in international trade (tariffs, quotas, etc.) are eliminated or at least reduced. This means there must be free trade.

3. Protection

This goal is to protect national industries from competition for imported goods. This can be done with tariffs, quotas, etc.

26 I Wayan Parthiana, *Hukum Perjanjian Internasional* (Bandung: Penerbit Mandar Maju, 2002), 1.

27 Halimatul Maryani and Adawiyah Nasution, “Aspek Hukum Kebijakan Pemerintah Melindungi Industri Dalam Negeri Pasca Kesepakatan Perdagangan Regional Afta-China,” *Jurnal Penelitian Hukum De Jure* 19, no. 2 (2019): 137–49, <https://doi.org/http://dx.doi.org/10.30641/dejure.2019.V19.137-149>.

28 Solly Lubis, *Kebijakan Publik*. Mandar Maju (Bandung: Mandar Maju, 2007).

29 Erny Amriani Asmin, *Ekonomi Internasional (Konsep Dan Teori)* (Bandung: Media Sains Indonesia, 2022). 49.

30 *Ibid.*

4. Balance of payments

If a country has excess foreign exchange reserves, then the government's policy of stabilizing the domestic economy does not cause many problems in its international balance of payments. But very few countries have such a position, especially developing countries whose foreign exchange reserve positions are weak, forcing the governments of these countries to take international economic policies to balance their international balance of payments. This policy is generally in the form of exchange control. Foreign exchange supervision is not only regulating/supervising the traffic of goods but also the capital.

5. Economic development

To achieve this goal, the government can take policy by a) Protection of domestic industry (infant industries); b) Encouraging exports and reduce imports, c) Increasing national income.

Salvatore states that trade is an engine of growth. If international trade activities are imports and exports, then one or both can be the driving force for growth. The achievement of the planned economic growth of a nation or country, its success in reducing unemployment, and creating stabilization of its inflation is a measure of the success of a country's economic policy. Therefore, the state strives to achieve an optimal level of economic growth by implementing various policies in the economy. To achieve the desired level of economic growth, of course, there will be sectors that will be the driving force for economic growth.³¹

3.2 Indonesia's Participation in IE-CEPA Manifests the State's Obligation to Implement Economic Policy

In order to increase economic growth, Indonesia establishes international cooperation with many countries both bilaterally, multilaterally, and regionally. Indonesia has established economic cooperation through several schemes such as PFTA (Preferential Free Trade Agreement), FTA (Free Trade Agreement), and CEPA (Comprehensive Free Trade Agreement). Among them are IPPTA, ACFTA, AKFTA, AIFTA, IJEP, ATIGA, AANZFTA, IA-CEPA, IC-CEPA and IE-CEPA.³² CEPA is a scheme of economic cooperation that is broader than just a matter of trade. The CEPA structure generally has a design that is connected between market access, capacity building, and trade and investment facilitation. Cooperation in the CEPA can be bilateral or within the framework of economic cooperation blocs. IE-CEPA started in 2005 and then continued with the formation of the Joint Study Group (JSG), which concluded that the agreement would benefit both parties due to complementary cooperation. EFTA is an economic organization of the European Region, which includes Iceland, Liechtenstein, Norway, and Switzerland. EFTA countries play an important role in global trade in services. EFTA countries have advantages in the service sector and are based on high technology, especially in the fields of educational services, energy, transportation, financial services, and technology.

The agreement with EFTA countries is Indonesia's first bilateral trade agreement with countries in the European region. The signing of the IE-CEPA is a milestone in the history of the cooperation of the parties and the implementation of the President's directive to settle the negotiations as soon as possible with respect to the national interests of the country. The EFTA group of countries consists of four countries, namely Iceland, the Kingdom of Liechtenstein, and the Kingdom of Norway (excluding the Svalbard archipelago), except for trade in goods and the Swiss Confederation. The EFTA group of countries are important investors because they are among the third largest sources of Foreign Direct Investment (FDI) in the world after the European Union and the United States. The FDI group of EFTA countries is known to be strong, especially in the field of telecommunications (Norway); finance and banking (Switzerland and Liechtenstein); geothermal energy (Iceland); chemical, pharmaceutical, and plastics (Switzerland and Iceland); mining and oil and gas exclusion (Norway); and logistics and manufacturing services (Switzerland and Norway). For Indonesia, EFTA is the 23rd group of non-oil and gas export destination countries and the 25th largest country of origin for non-oil and gas imports.

31 Aam Slamet Rusydiana, "Hubungan Antara Perdagangan Internasional, Pertumbuhan Ekonomi Dan Perkembangan Industri Keuangan Syariah Di Indonesia," *TAZKIA Islamic Finance & Business Review* 4, no. 1 (2009), <https://doi.org/https://doi.org/10.30993/tifbr.v4i1.30>.

32 "Tarif Preferensi Free Trade Agreement (FTA)," 2019, <https://indonesia.go.id/layanan/perdagangan/ekonomi/tarif-preferensi-free-trade-agreement-fta>.

The IE-CEPA was negotiated in 2010, then the negotiations were held in 2011. After going through nine complex stages that took almost 8 years, starting in January 2011 to November 23, 2018, it finally came to an end. The IE-CEPA negotiations were finally declared substantively completed by the negotiators through a joint announcement at a meeting in Denpasar, Bali, from October 29 to November 1, 2018. On December 16, 2018, EFTA signed a CEPA with Indonesia. All countries involved in the process of making international agreements have entered the treaty (entry into force).³³ Post-signing, it comes into effect on November 1, 2021, after the ratification of all parties. This treaty has been officially ratified into national regulation.³⁴ The signing of the Indonesia-EFTA CEPA on Sunday marks a new milestone in the bilateral relations between Indonesia, Iceland, Liechtenstein, Norway, and Switzerland. The IE-CEPA is expected to expand the market access of goods from Indonesia and EFTA and increase economic cooperation and investments. The IE-CEPA agreement opens up opportunities for Indonesia to increase exports to the wider European market. IE-CEPA also has a symbolic meaning in raising the profile of Indonesian palm oil products globally. The positive impact of this agreement on the Indonesian national industry will get an additional choice of sources of raw materials/capital goods at a tariff of 0 percent. Meanwhile, on the trade side of services, IE CEPA provides access to a more open and competitive professional labor market to work in EFTA countries. This is in line with the development of small and medium enterprises. There are specific formulations to enhance the roles and opportunities for cooperation, capacity building, promotion, and partnership at the local level. Other facilities for business actors can also consult directly with the FTA Center at the Ministry of Trade.

IE-CEPA is Indonesia's first trade agreement with an EFTA country. This shows the international recognition of Indonesia's consistency and commitment to implementing the principles of sustainable development. This improvement of economic relations through IE-CEPA opens up opportunities and further growth in areas of common interest; opening foreign investment in the EFTA group of countries; promoting the economic development of EFTA and Indonesia through technology transfer; job creation; improving Indonesia's competitiveness in ASEAN; encouraging trade flows between the two sides with one of them lowering tariffs from both sides. The reduction in tariffs is expected to increase the flow of trade in goods and services, including investment will increase the economic development of both parties.

Referring to the content of this agreement, it consists of 12 chapters, 17 annexes, and 17 additional information attachments covering various key sectors, namely: trade in goods; trade in services; Investment; intellectual property protection; public procurement; competition; trade and sustainable development; Cooperation and capacity building; institutional provisions; and dispute resolution.³⁵ The ratification of IE-CEPA is part of the commitment of the Government of the Republic of Indonesia to implement the IE-CEPA Agreement signed on December 16, 2018, in Jakarta by the Minister of Trade of the Republic of Indonesia and the Ministers of EFTA. This signing is in line with the objectives of the 1945 Constitution of the Republic of Indonesia to advance the general welfare, in this case, through the establishment of international trade agreements. This agreement is a milestone for Indonesia because it is the first bilateral agreement between Indonesia and countries in the European region. Regarding the country's compliance with international treaties, the following principles relate to the development of regulatory norms for the ratification of IE-CEPA³⁶:

1. Reputation

Reputation is related to how much influence a country's non-compliance with international agreements

33 Daniel Aditia Situngkir, "Terikatnya Negara Dalam Perjanjian Internasional," *Refleksi Hukum* 2, no. 2 (2018): 167–80, <https://ejournal.uksw.edu/refleksihukum/article/view/1596/960>.

34 Kementerian Perdagangan, "Indonesia-EFTA CEPA Mulai Berlaku, Membuka Akses Pasar Ke Benua Eropa Sebagai Pendorong Pemulihan Ekonomi," fta center kemendag, 2021, <https://ftacenter.kemendag.go.id/news-indonesia-efta-cepa-mulai-berlaku-membuka-akses-pasar-ke-benua-eropa-sebagai-pendorong-pemulihan-ekonomi>.

35 "Comprehensive Economic Partnership Agreement Between The Republic Of Indonesia and The EFTA States," n.d.

36 Kementerian Hukum Dan Hak Asasi Manusia Badan Pembinaan Hukum Nasional, "Hasil Penyelarasan Naskah Akademik Rancangan Undang-Undang Tentang Pengesahan Persetujuan Kemitraan Ekonomi Komprehensif Antara Indonesia Dan Negara-Negara EFTA," 2020, <https://www.bing.com/ck/a?!&&p=cfd994bc5c14f149JmItdHM9MTY4NjA5NjAwMCZpZ3VpZD0wMDk4NjRhMy1lNzM5LTY4NTAtMzRkYi03NmI1ZTY2ZjY5M2UmaW5zaWQ9NTE3Ng&ptn=3&hsh=3&fclid=009864a3-e739-6850-34db-76b5e66f693e&psq=kementerian+hukum+dan+ham+hasil+penyelarasan+naskah+ak>.

has on future prospects for cooperation. A country's compliance with international treaties is also based on considerations to avoid reputational loss as a result of violations of the agreed agreement. In IE-CEPA there are compliance arrangements that the parties reaffirm their commitment to implement effectively and their compliance with environmental principles. Indonesia-EFTA CEPA can increase two-way trade and investment, considering EFTA has a reputation as a trusted long-term trading and investment partner. Indonesia's position in EFTA is a strategic market and investment area.³⁷ Based on the development of Indonesia-EFTA export and import value in 2016-2020 (see Figure 1), through EFTA, governments and parties are further strengthening their reputation as free trade partners focused on practical solutions as a form of realizing the widest economic partnership network in the world. Consumers in EFTA countries also have the highest purchasing power in the world.³⁸

2. Retaliation

The principle that can be used to analyze a country's compliance with international treaties is retaliation. According to Guzman, direct retaliation measures can be taken by a country that is already compliant with international agreements to unilaterally cancel its compliance.³⁹ The greater a country's consideration of retaliation actions from other countries, the more likely it is to abide by the rules of the game at the international level. As stipulated in the WTO agreement, the IE-CEPA is equipped with a dispute resolution mechanism that is legally binding on all its member states to comply with the agreement. In IE-CEPA, if Indonesia withdraws from IE-CEPA, then since the withdrawal of IECEPA ends, it is different from if one of the EFTA countries withdraws from IE-CEPA, then IE-CEPA does not end. In the continuity of international agreements, even if there is an agreement and treaty binding on the parties, if an event occurs later or because of the enactment of another legal principle, it can result in the agreement being postponed or even canceled. This is in line with the application of the *rebus sic stantibus* principle, which is also regulated in VCLT 1969 in Section 3 concerning the Termination and Postponement of the work of international agreements, especially Article 62. The regulation of the *rebus sic stantibus* principle coincides with the expiration or postponement of the entry into force of the agreement because, indeed, the *rebus sic stantibus* principle is one of the reasons that can be used to terminate or delay the entry into force of an agreement. In Indonesian legislation, the existence of the principle of *rebus sic stantibus* received recognition in Article 18 of Law Number 24 of 2000 concerning International Treaties. Article 18 states that "an international treaty terminates when fundamental changes are affecting the implementation of the treaty".⁴⁰

3. Reciprocity

According to reciprocity, a country's compliance with an international treaty also depends on the mutual side expected of the partner country. IE-CEPA applies the principle of reciprocity; since IE-CEPA involves forms of request and offer, a country will have a preference for compliance with international agreements if the country also implements something from its partner countries. The principle of reciprocity is a principle that establishes good relations in the form of reciprocity. This principle develops in the development of international law because no authority can impose the will in international treaty-making initiatives so agreements made must have balance (reciprocity). In the 1969 VCLT on International Treaty Law, the principle of reciprocity is reflected in Article 60 regarding the termination of international agreements due to treaty violations. The use of the principle of reciprocity is common, for example, in agreements on tariffs.⁴¹

37 Agung Prakoso, "Swiss National Interest Regarding Protection Of Intellectual Property In Indonesia-EFTA Comprehensive Economic Partnership Agreement" (Sriwijaya Indralaya University, 2020).

38 Hidatul Jannah, "Diplomasi Ekonomi Indonesia Dalam Meningkatkan Ekspor Sepatu Di Pasar EFTA (European Free Trade Association) Periode 2017-2021" (UPN Veteran Jakarta, 2022), <https://repository.upnvj.ac.id/15791/>.

39 Andrew T. Guzman, "The Design of International Agreements," *European Journal of International Law* 16, no. 4 (2005): 579–612, <https://doi.org/https://dx.doi.org/10.2139/ssrn.487662>.

40 Harry Purwanto, "The Existence Of The Rebus Sic Stantibus Principle In International Treaties," *Pulpit Law special ed* (2011), <https://media.neliti.com/media/publications/40570-none-183d14a3.pdf>.

41 Francesco Parisi and Nita Ghei, "The Role of Reciprocity in International Law," *Cornell International Law Journal* 36, no. 1 (2003): 93–123, <https://doi.org/https://dx.doi.org/10.2139/ssrn.307141>.

4. Equality (equality rights)

This principle states that the parties to international treaties have the same position. IE-CEPA has a common position between countries. Equality is meant both as a subject of international law and in the fulfillment of its rights and obligations. In the context of international treaties, this principle is realized through the granting of equal rights to all states that are parties to the treaty. This means that every state has an equal right to determine its national interests and to be recognized as a subject of international law on an equal footing. The realization of the principle of equality of rights of Indonesia and EFTA countries is regulated in provisions related to the rights and obligations of states in IE CEPA. It also shows the importance of cooperation between countries in order to achieve common goals. In IE CEPA, equal rights must be balanced with the awareness that each country has a responsibility to fulfill mutually agreed international obligations.

5. Good faith (bonafide)

This principle states that the agreement entered into must be based on the good faith of both parties so that in the agreement, no one feels disadvantaged. IE-CEPA is based on good faith, which will ultimately bring benefits to Indonesia and EFTA countries. One form of goodwill carried out by Indonesia is to ratify the IE-CEPA. The context of IE-CEPA must begin with the good faith of each country involved. The goodwill of each country is manifested from the initial stage (negotiations) to the implementation stage of IE-CEPA.

6. Mutual respect (courtesy)

These principal mandates that the parties to the agreement must respect each other and maintain honour. This also applies to the agreed IE-CEPA. It is incumbent upon Indonesia to continue to respect EFTA countries as parties to the treaty. Similarly, EFTA countries are obliged to respect Indonesia as a sovereign state.

7. Change due to very fundamental circumstances (*rebus sic stantibus*)

This principle can be used to unilaterally terminate a treaty if there is a fundamental change in the circumstances relating to an international treaty that has been agreed upon. In IE-CEPA, any party may withdraw from IE-CEPA by written notice to the Depositary. Withdrawals must be effective six months from the date the notice is received by the Depositary. If Indonesia withdraws, the IE-CEPA must expire from the moment the withdrawal takes effect. Any EFTA countries that withdraw from the Convention on the establishment of the EFTA on the same day cease to be parties to the IE-CEPA.

8. Consensualism (*pacta sunt servanda*)

Each agreement becomes legally binding on the parties to the agreement. Under this principle, both parties are bound to exercise and fulfill the rights and obligations arising from the agreement. Based on this principle, the Republic of Indonesia and EFTA promise to bind themselves and submit to the rights and obligations arising from IE-CEPA. The principle of *Pacta Sunt Servanda* is the fundamental principle that underlies all sides of IE CEPA.

9. The spirit of building each other

The parties in the implementation of IE-CEPA are based on the spirit of mutual development. The spirit of development Together, the parties must also support economic development in their respective countries. This shows a sense of community in order to implement the objectives of IE CEPA Together.

10. General benefit the ratification of IE-CEPA should provide the greatest benefit to the Government of Indonesia, especially in the economic field. IE CEPA, which is a trade agreement has general benefits in the economic field, especially in investment, opening market opportunities, and building partnerships with other EFTA countries.

11. In entering into cooperation agreements with other countries, the territorial sovereignty of the state must always be respected to maintain the territorial integrity of the Unitary State of the Republic of Indonesia. By ratifying the IE-CEPA, the national sovereignty and territorial integrity of the Unitary State of the Republic of Indonesia must be considered and maintained. The exercise of sovereignty must not be imposed and interfered with by other countries.

Indonesia, as one of the emerging countries in the world, has established cooperation with many countries in the world, both at the level of bilateral relations, as well as participation in regional and international cooperation forums. It should be realized that from the various cooperations that have been carried out, Indonesia has reaped many benefits, which are not only based on economic but also non-economic motives. Indonesia can certainly learn a lot from the experience and knowledge that has been developed in other countries.⁴² Indonesia's agreement with EFTA countries in the form of a Comprehensive Economic Partnership Agreement between the Republic of Indonesia and the EFTA States, hereinafter abbreviated as IE-CEPA, was signed on December 16, 2018, in Jakarta, Indonesia. IE-CEPA is the legal umbrella of Indonesia's economic cooperation with EFTA, which includes trade in goods, trade in services, investment, and other areas agreed upon by the parties. In this study, there are several Indonesian laws and regulations related to IE-CEPA that we limit to two laws and regulations, namely Law Number 24 of 2000 concerning International Agreements and Law Number 7 of 2014 concerning Trade. In terms of trade, Indonesia carries out its obligations as a country to develop cooperation and the capacity to increase mutual benefits is stated in Article 9.2 paragraph (2) of IE-CEPA: "Cooperation under this Chapter shall pursue the following objectives: a) Facilitate the implementation of the overall objectives of this Agreement, in particular, to enhance mutually beneficial trade and investment opportunities arising from this Agreement; b) support Indonesia's efforts to achieve sustainable economic and social development, including by strengthening human and institutional capacities."

According to Article 9.2 of the IE-CEPA, the cooperation must certainly pay attention to the level of social and economic development of the parties, especially to support Indonesia's efforts in sustainable economic and social development based on the principles of national interests, legal certainty, fair and healthy, business security, accountability and transparency, independence, partnership, expediency, simplicity, togetherness, and environmental insight with the scope of domestic and foreign trade. According to the General Explanation of Law Number 7 of 2014 concerning Trade (Trade Law). Article 12.5 is as follows: "This Agreement shall be subject to ratification, acceptance or approval in accordance with the respective legal and constitutional requirements of the Parties. The instruments of ratification, acceptance, or approval shall be deposited with the Depositary."

Article 12.5 number 1 of the IE-CEPA stipulates that the consent must be subject to the procedure of ratification, acceptance, or approval in accordance with the legal and constitutional requirements of each party and then must be kept on the depositary. In this regard, Article 84 of the Trade Law stipulates that any international agreement must be submitted to the House of Representatives (DPR) no later than 90 (ninety) working days after the signing of the agreement to obtain a decision of the DPR will need or not the approval of the DPR. Decisions on international trade agreements are delivered provided that in the event an international trade agreement has far-reaching and fundamental consequences for the lives of the people related to the financial burden of the state and/or requires the amendment/formation of laws, their ratification is carried out by law. Whereas in the case of international trade agreements that do not cause broad and fundamental impacts on the lives of the people related to the financial burden of the country and/or require changes/formation of laws, their ratification is carried out by Presidential Regulation.

Article 12.5 of IE-CEPA is also related to Law No.24/2000, which is the basis of Indonesian law in regulating matters, including the definition of international treaties, how to bind oneself, making, ratifying, enforcing, and terminating international agreements. Article 7 paragraph (1) of Law No.24/2000 states that "a person representing the Government of the Republic of Indonesia, to receive or sign the text of a treaty or binding himself to an international treaty, requires a Power of Attorney." This article became the basis for the Minister of Foreign Affairs in granting a full power of attorney to the Ministry of Trade as the ministry of "permrakarsa" to sign the IE-CEPA. In connection with Article 12.5 number 1, IE-CEPA regulates the mandatory deposit period, in accordance with Article 9 paragraph (1) of Law No.24/2000, which stipulates that the ratification of international agreements by the Government of Indonesia is carried out as long as required by the international agreement. Then Article 9 paragraph (2) of Law No.24/2000 states that the ratification of the international treaty is carried out by law or presidential decree. Furthermore, Article 10 of

⁴² Sigit Setiawan, *Paradigma Kebijakan Ekonomi Internasional Menuju Kemandirian Dan Kesejahteraan Indonesia* (Jakarta: Naga Media, 2015).

Law No.24/2000 stipulates that the ratification of international agreements is carried out by law when it comes to: “1) political, peace, defense, and security issues of the state; 2) change of territory or placement of state territorial boundaries; 3) sovereignty or sovereign rights of the state; 4) human rights and the environment; 5) the formation of new legal rules; 6) foreign loans and/or grants”.

The interpretation of Article 10 of Law No.24/2000 is expanded by Constitutional Court Decision No. 13/PUU-XVI/2018, which states that Article 10 of Law No.24/2000 is contrary to the Constitution of the Republic of Indonesia of 1945 and has no conditionally binding legal force as long as it is interpreted that only the types of international agreements as mentioned in Article 10 letter a to letter f of Law No.24/2000 require the approval of the DPR so that its ratification done by statute. Based on a letter from the Leader of the House of Representatives Number PW/20934/DPRI/XII/2019 dated December 13, 2019, Commission VI of the House of Representatives of the Republic of Indonesia decided that the ratification of IE-CEPA was carried out by law. Article 12.5 no. 2: “This Agreement shall enter into force on the first day of the third month after at least two EFTA States and Indonesia have deposited their instrument of ratification, acceptance, or approval.”

The provisions of Article 12.5 number 2 of the IE-CEPA provide that the IE-CEPA shall come into force on the first day of the third month after at least two EFTA countries and Indonesia have deposited their instruments of ratification, acceptance, or approval. This is in accordance with Article 15 paragraph (2) of Law No.24/2000 that an international treaty enters into force and binds the parties after fulfilling the provisions referred to in the agreement. The existence of IE-CEPA can provide benefits to Indonesia in the form of: “The use of EFTA as an entrance for Indonesian products to the European Union and other European countries.; increase market access to goods/services, investment. Complementary Indonesian goods, services, and investment-EFTA; increase economic cooperation and capacity building, including for MSMEs; assisting Indonesia’s economic recovery after the Covid-19 pandemic; raising the profile of Indonesian CPO products globally; Not lagging behind other countries.”⁴³

Figure 1. Trade between EFTA and Indonesia



Source: <https://trade.efta.int/#/country-graph/EFTA/ID/2021/HS2> (2023)

Based on Figure 1, it can be explained that the comparison of Indonesia’s trade conditions with EFTA has developed. It can be proven that from 2002 to 2009, there was no significant increase in the import and export sector.⁴⁴ Many things became inhibiting factors in the realization of export-import in that year, such as production and distribution disruptions caused by increasing uncertainty factors in connection with the rampant labor strikes, security disturbances, and still not recovering the bank intermediation function and a decrease in the value of exports in the mining sector occurred due to the decline in prices of certain merry-go-rounds in the international market. Meanwhile, the decline in imports was due to the weakening performance of the domestic economy, the development of the depreciating rupiah exchange rate, and sharp fluctuations that caused import prices to become more expensive. The depreciation of the rupiah exchange rate, which has an impact on increasing the cost of production factors, will reduce the competitiveness of Indonesian export products, some of which have high import content.

Moreover, with the IE-CEPA negotiations on July 7, 2010, launched by then President Susilo Bambang Yudhoyono and Swiss President Doris Leuthard representing EFTA, there was a rapid increase in export value from 2010 to 2015. Negotiations were halted in 2014 due to a change of government in Indonesia. In

43 DPB Kemendag, “Ie-Cepa Glance 2020,” 2020.

44 Adrian D.Lubis, “Analisis Faktor Yang Mempengaruhi Kinerja Ekspor Indonesia,” *Buletin Ilmiah Litbang Perdagangan*, 2010, <https://doi.org/10.30908/bilp.v4i1>.

2016, Indonesia and EFTA agreed to resume the negotiation process, which was finally resolved substantially at the last meeting in Bali on 29 October-1 November 2018.⁴⁵ When compared to Indonesia's trade picture—EFTA in 2020 was recorded at USD 3.34 billion. Indonesia's main export commodities to EFTA countries are gold, jewelry, precious metal scrap, optical fiber, and bulldozers. Meanwhile, Indonesia's imports from EFTA include explosives and ammunition, ink, precious metal watches, and fish.⁴⁶

In general, Indonesia's trade picture with EFTA has increased, especially in 2015, and repeated in 2020. This shows that Indonesia, within 5 years, has made great efforts to increase its exports in the context of implementing sound economic policies. Indonesia recorded a January-August 2021 non-oil and gas trade surplus with EFTA of 609.8 million US dollars, resulting from Indonesia's exports to EFTA which reached 1.11 billion US dollars, and Indonesia's imports from EFTA which amounted to 504.5 million US dollars. Meanwhile, Indonesia's trade to EFTA is dominated by Switzerland, with exports amounting to 96% of Indonesia's total exports to EFTA or worth 1.07 billion US dollars, and imports amounting to 71% of Indonesia's total imports or worth 358.9 million US dollars.⁴⁷ Export activities can spur domestic economic growth, so it has an important role in increasing a country's income. Goods that become export commodities can be in the form of electronic goods, automotive products, minerals and coal, and services.⁴⁸ Indonesia's largest non-oil and gas export commodities to EFTA countries in 2020 include gold, jewelry, metal waste, optical fiber, and bulldozers. The main commodities of Indonesia's exports to Switzerland are dominated by gold, precious metals, and jewelry. Meanwhile, Indonesia's largest imports from EFTA include bombs and grenades, printing ink, and watches.⁴⁹

Indonesia's trade performance strengthened and showed a surplus in the January to December 2022 period.⁵⁰ With the implementation of the IE-CEPA Agreement, Indonesia's steps to utilize the agreement include the trade and investment sectors so that an increase in Indonesia's trade surplus can realize the objectives of the IE-CEPA Agreement.⁵¹ In 2023, Indonesia signed an MoU with the Swiss government in cooperation to promote trade. This is aimed at business actors and ensures the sustainability of the IE-CEPA Agreement and digitalization in its implementation. Advantages in the field of trade in goods, IE-CEPA abolished import duty tariffs on each member of the EFTA country (0% tariff) and facilitated trade. With the 0% import duty tariff agreement, Indonesia received the removal of 8,100 tariff posts from Iceland, 6,338 tariff posts from Norway, and 7,042 tariff posts from Switzerland and Liechtenstein. Of course, for consumers, the elimination of these tariffs will make the price of goods cheaper and of higher quality and the choice of products more diverse. Domestic business actors also benefit from the elimination of import duties on imports because, with the low price of raw materials, production costs can be optimally reduced so that the competitiveness of Indonesian products abroad will increase. Indonesian products that get attendance rates: coffee, gold, textiles, fish, palm oil, footwear, toys, tires, machinery, bicycles, furniture, and electrical appliances.⁵²

45 “Indonesia-EFTA Jalin Kemitraan Ekonomi Komprehensif,” BPDP.or.id, 2018, <https://www.bdp.or.id/Indonesia-EFTA-Jalin-Kemitraan-Ekonomi-Komprehensif>.

46 Kementerian Perdagangan, *Loc.Cit.*

47 Erwin Haryono, “Surplus Neraca Perdagangan Berlanjut,” Departemen Komunikasi Bank Indonesia, 2022, https://www.bi.go.id/id/publikasi/ruang-media/news-release/Pages/sp_2434422.aspx.

48 Doan Mauli Tua Siahaan, Ibrahim Sagio, and Evi Purwanti, "Restriction of Indonesian Nickel Ore Export Based on the Perspective of Quantitative Restriction Principle in General Agreement on Tariffs and Trade," *Jurnal Penelitian Hukum De Jure* 21, no. 3 (2021), <https://doi.org/http://dx.doi.org/10.30641/dejure.2021.V21.409-418>.

49 Kementerian Perindustrian Republik Indonesia, "Laporan Informasi Industri," 2020, <https://kemenperin.go.id/download/25641/Laporan-Informasi-Industri-2020>.

50 Ministry of Trade, “Development of Non-Oil and Gas Exports (Destination Countries),” n.d., <https://satudata.kemendag.go.id/data-informasi/perdagangan-luar-negeri/ekspor-non-migas-negara>.

51 The increase in several commodities that had an impact on the trade surplus was carried out between Indonesia and Switzerland as EFTA Member countries.

[illegible]

Table 1. Product with The Largest Export Potential of Indonesia In The EFTA Market

Export Indonesia to EFTA Countries	Product
Switzerland	Jewelry from precious metals, coffee, sports shoes, and <i>palm oil</i> .
Norway	motor vehicles, sports shoes, fatty acids, industrial, monocarboxylic, acid oils from refining, nickel matte, aluminum oxide.
Iceland	aluminum oxide, shrimp.

Source: Factsheet Indonesia-EFTA. Directorate of Bilateral Negotiations. Directorate General of International Trade Negotiations. Ministry of Trade, Processed by the Author (2023)

The opportunity for Indonesian products in the EFTA market is also promising and challenging. The results of the analysis of Indonesia's export potential with EFTA countries at the International Trade Center highlight several things, such as the products with the largest export potential from Indonesia to Switzerland are in the form of jewelry from precious metals, coffee, and footwear. On the other hand, Indonesia has the highest palm oil supply capacity.⁵³ In addition, the product with the strongest demand potential in Switzerland is immunology. The products with the greatest export potential from Indonesia to Norway are nickel matte, sports footwear, and coffee. Indonesia also has the highest supply capacity for sugarcane chairs, osier, and similar products, while the product with the strongest demand potential in Norway is matte nickel. The products with the greatest export potential from Indonesia to Iceland are shrimp, crude coconut oil, and coffee. Indonesia also has the highest supply capacity for palm oil and fractions, while motor vehicles to transport people are the products with the strongest potential demand in Iceland.

The service sectors that benefit from IE-CEPA include professional services, telecommunications services, distribution services, education services, construction services, environmental services, financial services, tourism services, cultural recreation services, transportation services, and other business services. In the field of investment, IE-CEPA provides market access and promotion. But in IE-CEPA there are no ISDS. Investment protection only uses the bilateral mechanism that exists so far, namely BIT.⁵⁴ The existence of IE-CEPA creates a stable, transparent, predictable business climate for investors and increases the quantity and quality of domestic products with partnership schemes with MSMEs and joint ventures with national business actors. The investment sectors offered by Indonesia to EFTA member countries are agriculture, renewable energy, fisheries, and manufacturing (food products, textiles, chemicals, and pharmaceuticals).

On the advantages in the field of cooperation, in addition to agreements to reduce trade barriers, IE-CEPA covers a wider and more comprehensive area of cooperation, namely: sustainable development; origin of goods, customs and trade facilitation; trading statistics; sanitary and phytosanitary; conformity assessment procedures, technical standards and regulations; aquaculture, fisheries, and seafood; intellectual property rights; trade promotion and development; manufacturing industry, including training, education, and development of MSMEs; tourism; maritime transport; and labor—that way, it is expected to gradually improve the social welfare of the community. IE-CEPA is one of the international trade agreements in which there Indonesia is one of its member countries, where the trade agreement is a derivative of the parent international agreement itself as stated in Article 38 SMI and Article 26 VCLT 1969. According to Article 1.6 IE-CEPA, on the fulfilment of the obligations of the parties, it is mandatory to take general or special measures necessary to fulfill the obligations under the agreement. Each party shall ensure the observance of all obligations and commitments within its territory. In line with Article 11.1 IE-CEPA, if a dispute arises, each party resolves and submits an application through the WTO panel in written form.

53 Deviani Henindar and Dyah Wulan Sari, "Output of Indonesian Crude Palm Oil (Cpo) Industry: A Review - Running Head : Output of Cpo In Indonesia," *International Journal of Management (IJM)* 11, no. 6 (2020): 2011–22, https://repository.unair.ac.id/113958/1/Dyah_WulanS_Artikel206.pdf.

54 Ingo Venzke and Philipp Günther, "International Investment Protection Made in Germany? On the Domestic and Foreign Policy Dynamics behind the First BITs," *European Journal of International Law* 33, no. 4 (2022): 1183–1207, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4212601.

4. CONCLUSION

Cooperation between Indonesia and the EFTA group of countries is a state obligation, which includes international trade policies in the form of government actions on foreign trade, especially related to imports and exports of goods/services through IE-CEPA as stated in Article 1.6 of IE-CEPA. As an obligation, it is based on Indonesia's commitment to promote and facilitate trade and investment cooperation with the European Union (EU). Indonesia, as a member of the World Trade Organization (WTO), is expected to adhere to the principles of non-discrimination and open trade. By participating in IE-CEPA, Indonesia fulfills its obligations under the WTO and demonstrates its commitment to engaging in regional and international trade agreements. The agreement has been officially ratified into Indonesia's national regulation through Law No.1/2021, which shows the approval, confirmation, and willingness of the State to submit (consent to be bound) and is bound by IE-CEPA. This is in accordance with Article 26 of the VCLT and Article 4 paragraph (1) of Law No.24/2000, States that have declared their attachment to international treaties are obliged to carry out the contents of international agreements. In this case, Indonesia and EFTA are willing to be bound by and accept the rights and obligations arising from IE-CEPA. The IE-CEPA approval and ratification aims to provide legal certainty to implement the IE-CEPA, and Indonesia can reap the benefits of this agreement through increased market access to goods, services, and investment, trade facilitation, and economic cooperation for Indonesia. Indonesia, with an open economic system, is expected to actively seek trading partners from both government and private elements that can meet economic needs. In addition, the direct involvement of fellow partners and synergy with the government to facilitate trade is needed. Indonesia and EFTA countries provide mutual guarantees and special treatment to facilitate and maximize trade.

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