



EUROPEAN UNION – AMENDMENTS TO THE DIRECTIVE 2009/28/EC, RENEWABLE ENERGY DIRECTIVE

STATEMENT BY INDONESIA TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE
26 – 27 FEBRUARY 2020

The following communication, dated 5 March 2020, is being circulated at the request of the delegation of the Indonesia.

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1. Indonesia remains deeply concerned about the European Union's decision to discriminate against Indonesia's palm oil and palm oil-based biofuels and to eventually phase out the use of those products.
 2. Indonesia has previously expressed, in this Committee and in the Council for Trade in Goods, why it considers EU RED II and Delegated Regulation 2019/807 to disregard the European Union's obligations under the TBT Agreement. Indonesia has also repeatedly asked the European Union for a justification of these measures, including under Article 2.1, 2.2, 2.8, and article 5 of the TBT Agreement, as envisaged by Article 2.5 of the TBT Agreement and to comply with the notification obligations under the TBT Agreement.
 3. Those requests have been to no avail. The European Union continues to refuse offering a justification of these measures. Its responses have been limited to denying, without any further explanation, the application of the TBT Agreement and emphasising that its measures do not ban the use of palm oil and palm oil-based biofuels.
 4. Indonesia regrets that the European Union continues to fail to engage, in a constructive manner, with the concerns expressed by Indonesia in this committee, despite many requests for justification and further explanation.
 5. Faced with this lack of cooperation, Indonesia initiated, on 9 December 2019, dispute settlement proceedings against the European Union by filing a request for consultations in DS593 *European Union – Certain Measures Concerning Palm Oil and Oil Palm Crop-Based Biofuels*.
 6. Indonesia will not repeat today all of the WTO obligations which the European Union has failed to respect. It refers the European Union and all other WTO Members to its consultations request in DS593.
 7. At today's meeting, Indonesia would like to underscore that EU RED II and Delegated Regulation 2019/807 impose measures that treat differently biofuels depending on whether they are made from oil palm and other feed or food crops. Such measures squarely fall within the scope of the TBT Agreement.
 8. Under the disguise of environmental protection and through the use of the ILUC concept for which there is not satisfactory and accepted scientific basis, the European Union is seeking to exclude palm oil and palm oil-based biofuels from its market to the benefit from the EU biofuel industry. Such measures are not authorised under the TBT Agreement because they discriminate, create unnecessary obstacles to trade and ignore the relevant international standards that exist.

9. In essence, EU RED II and Delegated Regulation 2019/807 put the burden on developing countries such as Indonesia for concerns that the European Union should address at home. Furthermore, if the European Union wishes to address the environmental impact of biofuels based on the feed and food crops from which they are made, it must respect, apart from international standards and its WTO obligations, also the fact that Indonesia, like many other countries, has made pledges to achieve certain GHG emissions reduction targets under the Paris Agreement. Indonesia is also firmly committed to achieving the UN Sustainable Development Goals 2030. It falls within the sovereignty of Indonesia to decide on how to reach those targets. The European Union may not put itself in the place of Indonesia in making those decisions.

10. Indonesia thanks you for your attention and expresses its hope that the European Union will finally offer the justifications called for by Article 2.5 of the TBT Agreement.
