080761/EU XXVIII. GP
Eingelangt am 29/06/26

Council of the European Union

Brussels, 29 June 2026
(OR. en)

11292/26

Interinstitutional File:
2026/0184 (NLE)

POLCOM 243
SERVICES 30
FDI 25
COASI 117

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2026) 342 final
Subject:	Proposal for a COUNCIL DECISION on the signing of the Investment Protection Agreement between the European Union and Indonesia

Delegations will find attached document COM(2026) 342 final.

Encl.: COM(2026) 342 final

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EUROPEAN
COMMISSION

Brussels, 29.6.2026
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Proposal for a

COUNCIL DECISION

on the signing of the Investment Protection Agreement between the European Union and Indonesia

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Indonesia is the EU's 30th largest trading partner for goods globally and the EU's fifth trading partner in the Association of Southeast Asian Nations (ASEAN) in 2025, while the EU is Indonesia's fourth largest trading partner, accounting for 6% of its total trade. Bilateral trade between the two partners amounted to EUR 28.9 billion in 2025, with EU exports worth EUR 10.2 billion and EU imports worth EUR 18.7 billion. Bilateral trade in services between the EU and Indonesia amounted to EUR 9.3 billion in 2024, with EU exports amounting to EUR 5.8 billion and imports amounting to EUR 3.5 billion. In 2024, the EU's foreign direct investment (FDI) stock in Indonesia amounted to EUR 24.7 billion, while Indonesia's FDI stock in the EU was EUR 1.3 billion.

On 23 April 2007, the Council authorised the Commission to negotiate a free trade agreement with Member States of ASEAN, of which Indonesia is a member. That authorisation provided for the possibility of bilateral negotiations with members of ASEAN.

On 15 October 2013, based on a new EU competence under the Lisbon Treaty, the Council authorised the Commission to extend the on-going bilateral negotiations with ASEAN countries to cover also investment protection.

On 13 July 2016, the Council authorised the Commission to negotiate a Comprehensive Economic Partnership Agreement with Indonesia ("CEPA").

The CEPA negotiations were officially launched on 19 July 2016 by Indonesian Trade Minister Thomas Lembong and EU ambassador to Indonesia Vincent Guérend. The negotiations covered investment protection. However, following Opinion 2/15 of 16 May 2017 of the Court of Justice, it was decided that the investment protection part would form the basis of a stand-alone agreement (the Investment Protection Agreement, hereinafter referred to as the "IPA"). The Commission informed the Trade Policy Committee of its decision to split the CEPA and the IPA in 2021 after the resumption of the negotiations following the COVID-19 pandemic.

The negotiations for a CEPA and an IPA between the European Union and Indonesia were successfully concluded on 23 September 2025, with a view to creating new opportunities and legal certainty for trade and investment between both partners.

The legally reviewed texts of the IPA have been made public and can be found at the following link:

Text of the agreements - Trade and Economic Security - European Commission

The Commission is putting forward the following proposals for Council decisions:

– Proposal for a Council Decision on the signing of the Comprehensive Economic Partnership Agreement between the European Union and Indonesia;

– Proposal for a Council Decision on the conclusion of the Comprehensive Economic Partnership Agreement between the European Union and Indonesia;

– Proposal for a Council Decision on the signing of the Investment Protection Agreement between the European Union and Indonesia;

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– Proposal for a Council Decision on the conclusion of the Investment Protection Agreement between the European Union and Indonesia.

The attached proposal for a Council Decision constitutes the legal instrument authorising the signing of the IPA between the European Union and Indonesia.

- **Consistency with existing policy provisions in the policy area**

Prior to concluding the negotiations for the IPA, the EU and Indonesia had negotiated a Partnership Cooperation Agreement (PCA), which was signed in Jakarta on 9 November 2009 and entered into force on 1 May 2014. The Agreement provides the basis for cooperating across a wide spectrum of policy fields, including human rights and trade, and for holding regular political dialogue and sectoral cooperation.

Once the IPA enters into force, it will coexist with the PCA as a specific agreement and an integral part of the overall bilateral relations between the EU and Indonesia. The two agreements have no conflicting provisions.

- **Consistency with other Union policies**

The IPA is fully consistent with Union policies and will not require the EU to amend its rules, regulations or standards in any regulated area. Furthermore, the IPA fully safeguards the EU's and Indonesia's right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public morals, social or consumer protection, privacy and data protection, sustainable development or promotion and protection of cultural diversity.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Substantive legal basis**

Article 207 of the Treaty on the Functioning of the European Union (TFEU) provides for the negotiation and conclusion of trade agreements as part of the Union's common commercial policy, which covers foreign direct investment.

Given that the main objective of the IPA is to create a better climate for the development of foreign direct investments between the EU and Indonesia, and to lay down the necessary arrangements for the protection of such investments, the substantive legal basis is Article 207 TFEU.

Given the subject matter of the envisaged agreement, it is appropriate for the Commission to submit the proposal to the Council.

- **Procedural legal basis**

Article 218(5) TFEU provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit a proposal to the Council. The Council shall adopt a decision authorising the signing of the agreement.

The Commission proposes to authorise the signing of the IPA between the European Union and Indonesia, subject to its conclusion at a later date.

The procedural legal basis for the proposed decision to authorise the signing of the envisaged agreement is Article 218(5) TFEU.

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- **Union competence**

In accordance with Opinion 2/15 on the EU-Singapore FTA of the Court of Justice of 16 May 2017, all the areas covered by the IPA would fall within the exclusive competence of the EU and, more particularly, within the scope of Article 207 TFEU. The Court confirmed the EU's exclusive competence under the Common Commercial Policy pursuant to Article 207(1) TFEU and Article 3(2) TFEU.

As a result, the IPA is to be signed by the Union pursuant to a decision of the Council based on Article 218(5) TFEU and concluded by the Union pursuant to a decision of the Council based on Article 218(6) TFEU, following the European Parliament's consent.

- **Subsidiarity (for non-exclusive competence)**

The IPA as presented to the Council does not cover any matters that fall outside the EU's exclusive competence.

- **Proportionality**

Investment protection agreements are the appropriate means to create a better climate for the development of foreign direct investments and to lay down the necessary arrangements for the protection of such investments between the EU and a third country. No alternative exists to render such protection efforts legally binding.

This initiative pursues directly the Union's objective in external action and contributes to the political priority of the 'EU as a stronger global actor'. It is in line with the EU Global Strategy's orientations to engage with others and revamp its external partnerships in a responsible way, in order to attain the EU's external priorities. It contributes to the EU's trade and development objectives.

- **Choice of the instrument**

This proposal is in accordance with Article 218(5) TFEU, which envisages the adoption by the Council of decisions on the signature of international agreements. No other legal instrument exists that could be used in order to achieve the objective expressed in this proposal.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

Prior to and during the negotiations, the EU Member States were regularly informed and consulted orally and in writing on the different aspects of the negotiation via the Council's Trade Policy Committee, including in its subgroup on services and investment. The European Parliament was also regularly informed and consulted via its Committee on International Trade ("INTA"). The texts progressively resulting from the negotiations were circulated throughout the process to both institutions.

In parallel to the negotiations, the Commission commissioned a Sustainability Impact Assessment ("SIA") of the CEPA between the EU and Indonesia.

The SIA, which was completed in September 2019 to support the negotiations for a free trade and investment protection agreement, examined how the trade and investment provisions of the CEPA under negotiation could affect economic, social, human rights and environmental

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issues in the EU and in Indonesia. It built on the analysis presented in the SIA carried out in 2009 in support of the region-to-region negotiations for an EU-ASEAN trade agreement, providing more up-to-date information and a clear focus on the specific features and potential impacts of bilateral negotiations with Indonesia only.

Overall, the SIA concluded that the agreement was expected to have positive impacts for both Parties and their societies, across all the key economic indicators (GDP, welfare, global and bilateral trade), with their comparative magnitude being larger in Indonesia than in the EU, due to the differences in the relative sizes of the two economies.

In the context of the SIA and throughout the negotiations, the Commission provided the possibility for civil society organisations to have their voice heard, ask questions, and contribute to a sound, evidence-based and transparent societal debate, including through dedicated civil society dialogues, a workshop with local stakeholders in Indonesia, bilateral meetings, interviews and web-based surveys.

Furthermore, during the negotiations and in line with its transparency policy, the Commission has published on its website and regularly updated reports of the negotiating rounds, the text proposals, press releases, facts sheets and background information materials.

- **Collection and use of expertise**

The SIA of the CEPA was carried out by a consortium of independent consultancy companies led by Development Solutions and commissioned by the Commission's Directorate-General for Trade.

- **Impact assessment**

The negotiations for bilateral free trade agreements between the EU and Southeast Asian countries were covered by the impact assessment carried out at the time of the Commission proposal for a negotiating mandate for and EU-ASEAN free trade agreement.

- **Regulatory fitness and simplification**

The IPA is not subject to REFIT procedures.

- **Fundamental rights**

The proposal does not affect the protection of fundamental rights in the Union.

4. BUDGETARY IMPLICATIONS

The IPA will not have a financial impact on the EU's budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The IPA includes institutional provisions that lay down the structure for the implementing bodies to continuously monitor the implementation, operation and impact of the IPA.

The institutional chapter of the IPA establishes a Committee that has as its main task to supervise and facilitate the implementation and application of the IPA.

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The Committee will exchange views on topics linked to the implementation of the agreement with civil society representatives participating in a civil society dialogue.

The IPA also establishes domestic advisory groups comprising a balanced representation of independent civil society organisations, based on a multi-stakeholder approach which includes relevant interest groups in economic, social and environmental matters. The domestic advisory groups may submit views and recommendations concerning the functioning and implementation of the IPA and shall meet at least once a year.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The provisions of the IPA establish the legal framework for the protection of investors and their investments within the respective territories of the EU and Indonesia. The IPA ensures an appropriate balance between the protection of investors and their investments, on the one hand, and governments' right to regulate in the public interest, on the other.

The substantive obligations contained in the investment protection section closely reflect the EU's reformed approach, as incorporated in all EU agreements concluded to date. In particular, the relevant provisions reaffirm the Parties' right to regulate and confirm that the regulatory framework applicable to investments may evolve, including in ways that may adversely affect specific investments.

The investment protection provisions are based on clear and precise standards that provide fundamental guarantees to foreign investors when deciding whether to invest in the EU or Indonesia, respectively. In addition to non-discrimination obligations, these guarantees include protection against expropriation without compensation, commitments relating to fair and equitable treatment and physical security, compensation for losses owing to war or other armed conflict, as well as the free transfer of funds. Importantly, the provisions define with precision the circumstances under which a Party may be found to have breached the fair and equitable treatment standard, thereby significantly limiting the scope for discretionary interpretation in the event of disputes.

These protection standards are further subject to specific exceptions designed to preserve additional policy space where necessary, including through prudential carve-outs, security exceptions and general exceptions.

The IPA is further supported by a solid dispute settlement mechanism that consists of a) investor-state mediation and b) state-state dispute settlement (SSDS). The SSDS mechanism ensures that the rights and obligations provided for in the Agreement are enforceable. The EU and Indonesia also undertake to restart negotiations on the settlement of investment disputes between a Party and an investor of the other Party, as well as on an interpretative guidance on taxation measures and expropriation, no later than the date of entry into force of the IPA. In doing so, the two sides agree to take into account the progress on reform of investment dispute settlement in relevant international fora.

- **Signing and text of the Agreement**

The text of the IPA is submitted to the Council together with this proposal.

In accordance with the Treaties, it is for the Commission to ensure the signing of the IPA, subject to its conclusion at a later date.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 23 April 2007, the Council authorised the Commission to negotiate a free trade agreement with Member States of the Association of Southeast Asian Nations (ASEAN), of which Indonesia is a member. That authorisation provided for the possibility of bilateral negotiations.

(2) In October 2013, the Council extended the scope of its negotiating directives to include provisions on investment protection.

(3) On 13 July 2016, the Council authorised the Commission to negotiate a Comprehensive Economic Partnership Agreement with Indonesia, including investment protection. In view of Opinion 2/15 of 16 May 2017 of the Court of Justice of the European Union, it was decided to conclude a separate Investment Protection Agreement.

(4) The negotiations for an Investment Protection Agreement ("the Agreement") between the European Union and Indonesia were successfully concluded on 23 September 2025, together with the negotiations for a Comprehensive Economic Partnership Agreement.

(5) The Agreement should ensure the furtherance of the Union's common commercial policy by putting in place an investment protection agreement with Indonesia.

(6) Therefore, the Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Investment Protection Agreement between the European Union and Indonesia is hereby authorised, subject to the conclusion of that Agreement.

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Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President

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