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## Hard-Boiled Wonderland: Between Strategic Opportunities and Economic Anxiety in the U.S.-Indonesia Trade Deal

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The United States of America (“**U.S.**”) – Republic of Indonesia (“**Indonesia**”) Agreement on Reciprocal Trade (“**ART**”) has drawn significant public attention since its signing on 19 February 2026. Much of the discussion surrounding the agreement has focused on political controversy and concerns that certain provisions, particularly those relating to tariff determination and regulatory commitments, may appear uneven and could raise questions regarding economic dependency and state sovereignty.

Under the arrangement, the U.S. will apply a 19% tariff to Indonesian goods (reduced from the initially proposed 32%), while Indonesia has agreed to remove tariffs on more than 99% of U.S. products.<sup>1</sup> One day after the signing of the ART, the U.S. Supreme Court, in Decision No. 24-187, invalidated the use of the International Emergency Economic Powers Act (“**IEEPA**”) which acts as the legal basis for the global tariffs. Currently, a temporary 15% universal tariff is being applied for a period of up to 150 days.<sup>2</sup>

Against this backdrop, Malaysia has publicly stated its intention to withdraw from its corresponding ART with the U.S., taking the position that the agreement is no longer valid following the U.S. Supreme Court ruling.<sup>3</sup>

In a further development, the Trump administration has also initiated an investigation into U.S.-Indonesia tariff arrangements, reportedly focusing on Indonesia’s excess capacity in certain manufacturing sectors.<sup>4</sup> How this investigation will shape the future direction of the trade relationship remains to be seen.

Amid these developments, one angle worth noting is the question of legal certainty and increasingly competitive investment destinations. In that context, the ART may be viewed not only as a trade arrangement but also a potential framework that could influence investor perceptions of Indonesia as both an investment destination and a supply-chain base.

Set out below are several developments under the ART that may be relevant for foreign investors monitoring Indonesia’s investment landscape.

## **1. Market Entry Opportunities and Sectoral Exemptions**

The ART introduces a number of tariff exemptions for Indonesian goods entering the U.S. market. In particular, zero-percent tariff treatment is granted for 1,819 Indonesian products, including commodities such as cocoa and palm oil, as well as certain electronic components, including semiconductors.<sup>5</sup>

At the same time, Indonesia’s investment framework under Presidential Regulation No. 10 of 2021 on Investment Business Field (as amended) or commonly referred to as the Positive List, allows up to 100% foreign ownership in a number of sectors, including the palm oil, cocoa and semiconductor industries.

While the broader implications of the ART for domestic industries remain to be seen, these tariff exemptions may nevertheless intersect with Indonesia’s existing investment regime in ways that are relevant for foreign investors. For instance, with several countries still negotiating tariff arrangements with the U.S.<sup>6</sup> and pending further development, Indonesia may find an opportunity to position itself as a potential production base for certain export-oriented sectors.

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<sup>1</sup> Elisabeth, C. R., Revindo, M. D., Saragih, A. A., Justinus, Y. C., Fathia, A. N., & Massie, A. T. W. (2026). Perjanjian Perdagangan Amerika Serikat-Indonesia: Respon Dan Antisipasi Indonesia Pasca Agreement on Reciprocal Trade Dan Keputusan US Supreme Court, IX (2).

<sup>2</sup> Learning Resources, Inc. v. Trump, No. 24-1287 (U.S. Feb. 20, 2026).

<sup>3</sup> Strangio, S. (2026, March 19). Confusion reigns after Malaysian minister declares US Trade Agreement ‘null and void.’ <https://thediplomat.com/2026/03/confusion-reigns-after-malaysian-minister-declares-us-trade-agreement-null-and-void/>

<sup>4</sup> Hoskins, P. (2026, March 12). *US launches probe into trading partners including the EU, China and India*. BBC News. <https://www.bbc.com/news/articles/c15x1dpx3wpo>

<sup>5</sup> See footnote 1.

<sup>6</sup> Lawder, D. (2026, February 13). US, Taiwan finalize deal to cut tariffs, boost purchases of US goods. Reuters.

<https://www.reuters.com/business/aerospace-defense/us-taiwan-finalize-deal-cut-tariffs-boost-purchases-us-goods-2026-02-12/>

## **2. Cross Border Data Transfers**

Article 3.2 of Annex III (Specific Commitments) of the ART provides that Indonesia will ensure legal certainty for the transfer of personal data to the U.S., including by recognizing the U.S. as a jurisdiction that provides an adequate level of data protection under Indonesian law.

Transfer of personal data, including transfers outside of the territory of Indonesia would principally require a lawful basis. Cross border transfers are generally permitted under Law No. 27 of 2022 on Personal Data Protection (as amended) only where the receiving country has an equal or higher level of protection, or otherwise where there is adequate and binding protection, and failing that, the data subject's consent.

These obligations primarily fall upon data controllers responsible for processing personal data. The determination of whether another jurisdiction provides an adequate level of protection is expected to be made through a formal adequacy assessment conducted by the Data Protection Authority, which is currently expected to be established under the Presidential Regulation draft on the Data Protection Authority.

In anticipation of this, companies should take steps in ensuring that each data processing activity has a clear lawful basis and that the purposes of processing, including any cross-border data transfers, are aligned with their actual business operations and compliance obligations.

## **3. Enforcement of Intellectual Property Law**

Indonesia has long been placed by the U.S. on the Priority Watch List, reflecting persistent concerns regarding the level of protection and enforcement of intellectual property rights within the country.<sup>7</sup>

The ART requires Indonesia to adopt a more robust standard of intellectual property protection, including by strengthening civil, criminal, and border enforcement mechanisms.

In recent years, Indonesia has undertaken several regulatory developments in this area. These include the enactment of Law No. 65 of 2024 on Patents and Minister of Law Regulation No. 47 of 2025 on the Handling of Reports of Intellectual Property Infringement in Electronic Systems.

While these developments indicate progress in the legal framework, practical challenges in enforcement remain significant. Rights holders often face difficulties in pursuing effective remedies, including lengthy enforcement procedures and uncertainty in the application of legal standards. In addition, concerns have been raised regarding the limited level of specialization and familiarity with intellectual property issues within certain judicial and commercial court settings, which may affect the consistency and predictability of decisions in intellectual property disputes.

In this context, the ART may serve as a momentum for Indonesia to strengthen the implementation and enforcement of its intellectual property regime. Nevertheless, the practical impact of such commitments will ultimately depend on how they are translated into consistent regulatory practices and enforcement on the ground.

In general, if implemented, the ART highlights several areas of potential regulatory evolution in Indonesia. However, the legal landscape surrounding the agreement remains in flux. The recent decision of the U.S. Supreme Court and ongoing investigation, coupled with developments in other jurisdictions such as Malaysia, introduce additional layers of uncertainty regarding the broader tariff framework and do not preclude the possibility that Indonesia may adopt a similar approach.

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<sup>7</sup> Office of the United States Trade Representative. (2025). *2025 Special 301 report*. United States Trade Representative. [https://ustr.gov/sites/default/files/files/Issue\\_Areas/Enforcement/2025%20Special%20301%20Report%20\(final\).pdf](https://ustr.gov/sites/default/files/files/Issue_Areas/Enforcement/2025%20Special%20301%20Report%20(final).pdf)

On the other side, the ART does not yet have immediate legal effect under Indonesian law. According to Article 84 of Law No. 7 of 2014 on Trade (as amended), international trade agreements must undergo a ratification process following their signing. The ART must be submitted to the House of Representatives within the prescribed timeframe. The House of Representative will then determine whether parliamentary approval is required and, if so, whether ratification should be carried out through a Law or through a Presidential Regulation.

At this point, the ART may be viewed less as a settled endpoint and more as a possible momentum for further regulatory and policy adjustments. Whether certain sectors' momentum translates into meaningful and lasting improvements will depend on several factors that continue to reshape the agreement's future.

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