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**Compliance Analysis of Indonesia's Local Content Requirement Measures: International Trade and Investment Agreement Perspectives****Junianto James Losari***City University of Hong Kong*

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**Abstract:** *The rise in geopolitical tensions and economic nationalism has contributed to a global shift from a relatively liberal economic order toward a more protectionist regime. Amongst the tools increasingly used by governments are local content requirements (LCRs). Indonesia – recently ranked as the most protectionist country in the 2025 International Trade Barrier Index – has relied heavily on LCRs over the past decade to shield domestic industries and advance along global value chains.*

*These measures are becoming more prevalent, particularly in sectors designated as strategic by the Indonesian government, including mining, manufacturing, pharmaceuticals, telecommunications, and, more recently, the automotive sector (especially electric vehicles). However, the proliferation of LCRs raises concerns about Indonesia's compliance with its obligations under international trade and investment agreements, including World Trade Organization (WTO) rules and various bilateral and regional treaties.*

*This discussion paper analyses Indonesia's LCR policies through the lens of international trade and investment law, assessing their consistency with national treatment obligations, prohibitions on performance requirements, and restrictions on subsidies. While certain LCRs may fall under permissible exceptions – such as those related to government procurement – others may be vulnerable to legal challenge.*

*The paper concludes by offering recommendations for the Indonesian government to reassess and recalibrate its LCR policies, with a view to minimising legal risks and avoiding potential trade and investment disputes.*

**Keywords:** local content requirements, LCRs, economic nationalism, WTO law, performance requirements, trade agreement, international investment agreement, Indonesia, trade protectionism, industrial policy

**JEL classifications:** F13, F23, F53, K33, O25

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The world is becoming even more polarised with the ongoing geopolitical tensions in various parts of the world, including the trade war between the United States and China, as well as the various unilateral measures by the United States (US) President Donald Trump on various countries, including Indonesia (Harithas et al., 2025). Many commentators have labelled the current development ‘de-globalisation’ (Bello, 2002), ‘slowbalisation’ (Chaisse and Dimitropoulos, 2023), or economic nationalism. With this development, countries are shifting from a relatively liberal multilateral trade regime under the World Trade Organization (WTO) to a more protectionist regime, including by introducing local content requirements (LCRs) (Limenta and Ing, 2022). Indonesia was recently ranked 122nd out of 122 countries in the 2025 International Trade Barrier Index, making it the most protectionist country amongst those surveyed. (Tholos Foundation, 2025).

An LCR measure may be designed in various ways, but it is essentially a measure that requires firms to procure a minimum percentage of domestic value added or intermediate inputs (OECD, 2019). While an LCR has been one of the economic instruments largely used to protect domestic infant industry, create employment, and encourage domestic innovation (Johnson, 2016), the measure has been perceived negatively and, therefore, regulated in international trade and investment agreements. As a party to several of these agreements, Indonesia is bound to comply with the obligations in the agreements. Despite the restrictions on the government’s policy space, some of these agreements provide certain exceptions.

This discussion paper builds on several Economic Research Institute for ASEAN and East Asia (ERIA) discussion papers and a book chapter (Limenta and Ing, 2022; Ing and Losari, 2022; Fernando and Ing, 2022; Ing and Grossman, 2023). It also provides an updated list of Indonesia’s trade and investment obligations (Annexes 1 and 2), presents a few illustrations of compliance analyses, and considers the obligations in a holistic manner to provide recommendations from a legal perspective for the government of Indonesia.

## **A. General Overview of Indonesia’s LCR Measures**

While the LCR policy can be traced to 1950 with the *Benteng* Program, Indonesia has retained, and later reinvigorated the policy in 2009. The LCR measures were adopted to build up and strengthen domestic industries that are considered strategic to promote domestic value added. As summarised in Annex 3, the sectors include mining, manufacturing, pharmaceuticals, telecommunications, and, lately, automotive (specifically, electric vehicles) (Ing and Grossman, 2023).

In line with such industrial policy, in Law No. 3 of 2014 on Industrial Affairs (Industrial Affairs Law), Indonesia specifically requires the use of domestic products in goods and services procured by government institutions, state-owned enterprises, as well as private enterprises, where the funding of the relevant projects comes from central or regional government budgets, as well as domestic or foreign loans or grants. In addition, under the same law, the Indonesian government is encouraged to incentivise the use of domestic products in government procurement by providing price preferences and administrative flexibilities (Limenta and Ing, 2022). Although the Industrial Affairs Law appears to require LCRs only for government procurement, the laws and implementing regulations in other sectors seem to have a broader scope and require LCRs for commercial activities.

Indonesia has also introduced the Programme to Increase the Use of Domestic Products (P3DN) to support the productivity and competitiveness of domestic industry. In relation to this, the Ministry of Industrial Affairs has introduced the Domestic Component Level (TKDN) certification. The government is pushing for such certification by providing free TKDN certification (Antara, 2021). Such TKDN certification is a condition to obtain licences (e.g. in the telecommunications sector) or incentives (e.g. in the pharmaceuticals sector).

Several authors argue that LCR measures could serve as an opportunity for Indonesia's future. Manggala contends that Indonesia's recently reformed LCR policy is evolving from a protectionist stance to a partnership-oriented framework, enabling the government to filter out opportunistic entrants and attract committed investors – particularly in the digital economy. He uses Apple's iPhone ban as a case study, suggesting that had Apple partnered with a local telecommunications provider to form a joint entity, it could have secured faster regulatory approval while also embedding greater local trust (Manggala, 2025). While the proposal is attractive in theory, it lacks substantive elaboration. Beyond overcoming regulatory barriers and gaining direct access to consumers, a more compelling business case would still need to be articulated to attract foreign investors – especially given the stiff competition Indonesia faces from other FDI destinations, many of which have fewer or no comparable LCR requirements.

In a similar vein, Karlsson et al. argue that Indonesia's LCR regime can function as a market access filter that rewards foreign investors aligning early with national development goals (Karlsson et al., 2025: 14–15). Specifically, they maintain that the LCR framework has 'accelerated the development of downstream manufacturing and supporting industries, embedding industrialisation deeper into the national economy' (Karlsson et al., 2025: 7–8).

While this perspective may appeal to policymakers, a recent CSIS assessment of LCR policy case studies from other countries urges caution. The report finds that: (1) LCRs impose short-term costs on firms and the broader economy, and failing to mitigate these costs can lead to adverse economic consequences; (2) while LCRs may boost output, job creation, and the establishment of new industries, it remains uncertain whether they enhance productivity, spur innovation, or provide a sustainable competitive advantage; and (3) the actual learning gains and spillover effects associated with LCRs are difficult to quantify (Aswicahyono et al., 2023: 7–8). The same report further notes that ‘limits on import-origin inputs will have an effect on business productivity,’ given the heavy reliance of Indonesian industries on imported raw materials (Aswicahyono et al., 2023: 27).

The recent “Liberation Day” tariff announcement by President Trump has prompted a recalibration in Indonesia’s stance on LCRs. Under the new policy, Indonesia’s exports to the US were to be subjected to a 32 percent tariff. However, on 9 April 2025, President Trump announced a 90-day postponement of the tariff’s implementation.

In anticipation of the impending tariffs, President Prabowo announced a plan to eliminate trade barriers – including LCRs and import quotas – and simplify business regulations (Jaknanihan and Singarimbun, 2025). While the details remain vague, he specifically noted the importance of taking a realistic approach by making LCRs more flexible, including the potential to revise them using incentive-based mechanisms (CNN Indonesia, 2025).

Following President Prabowo’s statement, the Ministry of Industry has initiated reforms to some LCR policies. These include the relaxation of LCR requirements in government procurement – specifically allowing a 25% LCR without factoring in a company’s benefit weight, as stipulated in Presidential Regulation Number 46 of 2025, which amends Presidential Regulation Number 18 of 2018 on Government Procurement of Goods and Services – and the acceleration of the TKDN (local content) certification process, reducing the timeline from three months to ten days (Antara, 2025).

## **B. Indonesia’s LCR Measures from an International Trade Law Perspective**

By its nature, an LCR is protectionist, particularly if its application reduces international competition by creating obstacles to international trade and investment. From the perspective of international trade, an LCR may breach the national treatment obligation and restrictions on non-tariff barriers (including quantitative restrictions) and may amount to prohibited subsidies.

## **National treatment obligation**

The national treatment obligation can be found in the 1994 General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS). The same obligation can also be found in Indonesia's free trade agreements (FTAs), which often incorporate the national treatment obligations in the GATT. This obligation essentially prohibits discrimination (less favourable treatment) against 'like' imported products or services. The less favourable treatment is assessed further 'by examining whether a measure modifies the conditions of competition in the relevant market to the detriment of imported products' (Appellate Body Report, 2000: para. 137).

Since LCRs generally provide an advantage for the use of domestic products/services (thereby constituting origin-based discrimination), they often breach the national treatment obligation (Hestermeyer and Nielsen, 2014). Even if a measure is in the form of 'conditions', and 'voluntary' in nature to obtain an 'advantage', it may still breach the national treatment obligation under GATT Article III:4 (Panel Report, 2007: para. 7.241).

In relation to trade in goods and investment, the WTO recognises that discriminatory treatment of products may also affect investment and constitute an investment measure. Therefore, the WTO regulates LCR measures in the Agreement on Trade-Related Investment Measures (TRIMs Agreement).

Despite the potential of breaching the national treatment obligation under the GATT and the GATS, GATT Article III:8(a) and GATS Article XIII provide that LCRs in the context of government procurement are derogated from the national treatment obligation. This derogation is also applicable to measures falling under Article 2.2 of the TRIMs Agreement (Panel Report, 2019: para. 5.33).

Some of Indonesia's LCR measures mentioned in Annex 3, e.g. development of electricity infrastructure, upstream oil and gas, telecommunications, and pharmaceuticals, are potentially in breach of the national treatment obligation because they appear to provide advantages to domestic products. Nevertheless, some of these LCR measures (e.g. for the development of electricity infrastructure and pharmaceutical sectors) may fall under the GATT Article III:8(a) derogation, provided they fulfil the following conditions: (i) the measures can be characterised as 'laws, regulations or requirements governing procurement'; (ii) the measures involve 'procurement by a governmental agency'; and (iii) the 'products purchased' must be procured for 'governmental' purposes and 'may not be with a view to commercial resale or with a view to use in the production of goods for commercial sale' (Panel Report, 2019: para. 5.39). Besides government procurement, Indonesia's national treatment commitments for trade in services are

also limited to commitments made under Indonesia's GATS schedule. Box 1 provides an illustration of LCR measure compliance analysis with the national treatment obligation.

**Box 1: Compliance Analysis of Indonesia's LCR Measure on  
Electricity Infrastructure Development – National Treatment Obligation**

**Analysed LCR Measure**

Minister of Energy and Mineral Resources Regulation No. 11 of 2024 on the Use of Domestic Products in the Development of Electricity Infrastructure sets a minimum threshold for the use of domestic goods and services in the construction and development of electricity infrastructure. The requirement is applicable to facilities that (i) are developed by a governmental agency or institution, or a state-owned enterprise using government budget, including onshore and offshore loans or grants; or (ii) are developed by a state-owned enterprise or a private company that (a) uses government budget, (b) conducts the work through cooperation between the government and a business entity, or (c) uses an energy resource controlled by the state.

**Compliance Analysis**

The measure may breach the national treatment obligation and the TRIMs Agreement because it provides certain advantages to domestic goods and/or services, i.e. the developer will not be subject to certain sanctions and will obtain certain rewards if using domestic goods and/or services. Para. 1(a) of the Illustrative List of the TRIMs Agreement provides examples of TRIMs which are inconsistent with GATT Article III:4 include measures which are mandatory or enforceable, or require compliance to obtain advantage, and require the purchase or use by an enterprise of domestic products. In this case, the measure is mandatory, and compliance will provide an advantage in the form of non-imposition of sanctions.

**Potential Derogation under GATT Article III:8(a)**

*- Characterisation of the measure as laws governing procurement*

The measure requires domestic equipment and services to be used in the construction and development of electricity generation equipment. The relevant laws pertain to the procurement of goods and services for the development of electricity infrastructure. Hence, there is a connection between the measure and laws governing procurement. The laws do not regulate anything pertaining to the purchase of electricity; hence, the first condition appears to be fulfilled.

*- Procurement by a governmental agency*

'Governmental agencies' refers to entities acting for or on behalf of government.<sup>1</sup> To fulfil this element, Indonesia will have to demonstrate that if private entities conducting the development of electricity infrastructure are involved, they are acting for or on behalf of the government. Even if the purchase transaction is not entered into by a non-governmental entity, as long as the products are procured by a government agency and are purchased for governmental purposes, it can fulfil the conditions of this derogation.<sup>2</sup> If the procuring entity is a private entity, this element will not be fulfilled.

- *Products must be procured for ‘governmental purposes’ and ‘may not be with a view to commercial sale or with a view to using in the production of goods for commercial sale’*

The two conditions are cumulative.<sup>3</sup> According to the relevant laws, the development of electricity infrastructure is done for public purposes – for acceleration purposes. One can argue that such a goal constitutes ‘governmental purposes’ of providing access to electricity to all Indonesians. Nothing in the relevant laws suggest that the electricity infrastructure would be sold commercially. Nevertheless, the electricity produced by the infrastructure may be sold commercially. Accordingly, the third condition may not be fulfilled.

Based on the analysis above (including the analysis that the conditions of GATT Article III:8(a) may not be fulfilled), this LCR measure may be inconsistent with GATT Article III:4 and the TRIMs Agreement.

GATT = General Agreement on Tariffs and Trade, LCR = local content requirement, TRIMs = Agreement on Trade-Related Investment Measures.

<sup>1</sup> Appellate Body Report (2013), *Canada – Renewable Energy* (DS412), para. 5.61.

<sup>2</sup> Award of the Arbitrators (2022), *Turkey – Pharmaceutical Products (EU)* (DS583), para. 6.49.

<sup>3</sup> Appellate Body Report (2013), *Canada – Renewable Energy* (DS412), para. 5.68

Source: Author.

## **Restriction on non-tariff barriers**

WTO agreements contain many rules regarding non-tariff barriers, including quantitative restrictions under GATT Article XI and market access restrictions under GATS Article XVI:2 (provided the relevant member made ‘specific market access commitments’ in its schedule (Appellate Body Report, 2005: para. 214).

Indonesia’s LCR measure in the telecommunications sector sets out minimum thresholds for domestic goods and services in consumer communication devices and base stations. Non-compliance may result in the non-issuance of certificates required for the distribution or sales of the devices in Indonesia. This measure does not prohibit or restrict the importation of components to make telecommunications devices into Indonesia. Accordingly, the measure does not fall under the ambit of GATT Article XI but GATT Article III:4 and GATS Article XII due to the preference given to domestic goods and services.

## **Prohibited subsidies**

LCR measures that are exempted under GATT Article III:8(a) may still breach Articles 3.1(a) or 3.1(b) of the WTO Agreement on Subsidies and Countervailing Measures (SCMA) if it can be shown that the measures constitute a prohibited subsidy. Box 2 illustrates a compliance analysis of Indonesia’s LCR measure in the pharmaceutical sector with the SCMA.

## **Box 2: Compliance Analysis of Indonesia's LCR Measure in the Pharmaceutical Sector – SCMA**

### **Analysed LCR Measure**

- *Presidential Instruction No. 6 of 2016*: The minister of health must prioritise the use of domestic PPMD.
- *Minister of Health Regulation No. 17 of 2017*: The pharmaceutical and medical devices industry must prioritise the use of domestically produced raw materials. Further, the supply of medicines and medical devices by the government and/or the private sector for the community will prioritise PPMD which utilise raw materials produced by the domestic pharmaceutical and medical devices industry.
- *Law No. 17 of 2023*: The central government grants either fiscal or non-fiscal incentives to each PPMD company that utilises domestic raw materials in its production.

### **SCMA Compliance**

The LCR measure in the pharmaceutical sector may breach the national treatment obligation and fall under the Illustrative List of the TRIMs given its discriminatory treatment based on origin against imported raw materials. While the measure that applies only to government procurement may be derogated under GATT Article III:8, such measure may still breach the SCMA depending on the type of incentives the government provides as set out in the table.

<i>Type of incentive</i>	<i>Subsidy Category</i>	<i>Potential inconsistency with SCMA</i>
Price preference, bonus, or tax incentives for producers using domestic goods in the production of PPMD intended for export	Export subsidy	Article 3.1(a)
Price preference or tax incentives for producers of PPMD that use domestic raw materials or components	Import substitution subsidy	Article 3.1(b)

LCR = local content requirement, GATT = General Agreement on Tariffs and Trade, PPMD = pharmaceutical products and medical devices, SCMA = Agreement on Subsidies and Countervailing Measures.

Source: Author.

## **C. Indonesia's LCRs from the International Investment Law Perspective**

Besides commitments under its trade agreements, Indonesia has made commitments under its investment treaties and investment chapters of its FTAs (these instruments are all referred to as international investment agreements (IIAs)). The relevant obligations that may be breached under Indonesia's IIAs are national treatment and performance requirements.



## **National treatment obligation**

To prove a national treatment breach, a foreign investor must demonstrate that domestic investors who are in ‘like circumstances’ are treated more favourably. Given its nature, LCR measures are normally targeted towards raw or intermediate materials. For example, Indonesia’s LCR measure in the pharmaceutical sector provides incentives for pharmaceutical products and medical devices (PPMD) that use domestic raw materials in their production. The measure does not prevent foreign manufacturers of PPMD or foreign manufacturers of raw materials for PPMD that operate in Indonesia from obtaining the incentives, provided they use domestically produced raw materials. Accordingly, the LCR measure itself may not breach Indonesia’s national treatment obligation towards foreign PPMD manufacturers, but it may breach such obligation towards foreign investors who import the relevant raw materials (if there is any). Indeed, in most investor-state treaty arbitration cases, tribunals have rarely found an LCR measure to be in breach of the national treatment obligation in an IIA (*Merrill & Ring Forestry LP vs Canada*, 2010; *ADF Group Inc. vs United States of America*, 2003).

## **Performance requirement prohibition**

Performance requirement provisions tend to be similar or identical to (especially if they incorporate) the TRIMs Agreement. None of Indonesia’s active (as of the time of writing) bilateral investment treaties contain a performance requirement provision. However, this provision is often found in newer generation IIAs of Indonesia, e.g. the Association of Southeast Asian Nations (ASEAN) Comprehensive Investment Agreement (ACIA), the ASEAN–Korea Investment Agreement, the investment chapter of the Indonesia–Japan Economic Partnership Agreement, and the Regional Comprehensive Economic Partnership. The performance requirements provision, e.g. Article 7 of the ACIA (as amended) prohibits a host state from imposing or enforcing as a condition for the admission, establishment, acquisition, expansion, management, conduct, operation and sale, or other disposition of investments, requirements such as (i) achieving a given threshold of domestic content, and (ii) purchasing, using, or according preference to goods produced domestically. Imposing such requirements on foreign investors as a condition for receiving an advantage is also prohibited (Ing and Losari, 2022).

Indonesia’s LCR measures in the electricity infrastructure, upstream oil and gas, telecommunications, pharmaceutical, and battery electric vehicle sectors appear to breach the performance requirement prohibition under Article 7 of the ACIA as they impose a condition

for the operation of investments or a condition for the receipt of an advantage by foreign investors.

Having said that, certain exceptions are available to justify such breach, amongst others:

- the ‘advantage’ provided is in the form of taxation measures and subsidies or grants provided by the government;
- the measure is included in Indonesia’s schedule (note that this exception may not be available given the absence of the LCR measures in Indonesia’s performance requirements reservation in Indonesia’s schedule);
- government procurement;
- general exceptions (similar to GATT Article XX); or
- security exceptions (similar to GATT Article XXI).

Similar types of exceptions are also available in Indonesia’s new-generation IIAs. While certain exceptions only apply to the performance requirement prohibition, others also apply to the national treatment breach.

## **D. Conclusions and Recommendations**

Indonesia has 18 active trade agreements, including the WTO agreements and the country’s FTAs/comprehensive economic partnership agreements (CEPAs)/plurilateral trade agreement (PTAs). At the same time, it has about 39 active IIAs. An LCR measure may breach trade, investment, or both obligations. Such breach may then be brought to the relevant dispute settlement mechanism(s), and each mechanism offers different remedies if breaches are found.

Regarding trade obligations, only WTO members (not individual investors) can claim a breach of the WTO agreements to the WTO Dispute Settlement Body. As provided under the WTO Dispute Settlement Understanding, the remedy is limited to a recommendation for the breaching state to bring its measures to comply with the WTO agreements. No direct compensation is given to any individuals who may suffer damages from the measures. The same applies to the trade dispute settlement mechanisms in Indonesia’s trade agreements.

In contrast, some IIAs also provide direct access to individual investors to bring an investment treaty claim against the state to arbitration. In this context, most IIAs allow this investor-state arbitration for claims relating to breach of the national treatment obligation, e.g. Article 32(a) of the ACIA. If the tribunal finds that the claimed LCR measure breaches the national treatment obligation, the tribunal may order the state to pay damages directly to the investor. Besides investor-state arbitration, IIAs also include the state-to-state dispute

settlement mechanism to resolve other disputes. For example, any breach of the performance requirement provision under the ACIA should be resolved according to the ASEAN Protocol on Enhanced Dispute Settlement Mechanism (Article 27 of the ACIA). This mechanism has never been used, but the mechanism and its remedy are similar to the WTO dispute settlement mechanism.

Regarding its LCR policy, Indonesia should consider that while some countries have succeeded in building domestic industries with LCR measures, these countries often focus on capacity building and increasing value added instead of just local ownership (Silva, 2014; Fernando and Ing, 2022). While numerous policy recommendations have been proposed in relation to Indonesia's LCR policy, one practical recommendation is that Indonesia should first assess the capabilities of existing domestic players in supporting the implementation of LCR measures – for instance, by evaluating the availability of domestic raw material supplies and the competitiveness of domestic raw material producers. If domestic players are not adequately equipped to meet these demands, the government should avoid imposing restrictions on the use of imported raw materials. Otherwise, Indonesia's LCR policy risks becoming counterproductive to the government's broader industrial development goals. This aligns with findings from a CSIS study, which concludes that excessive restrictions on imported inputs can adversely affect a company's industrial performance – particularly in sectors that rely heavily on such imports. In turn, stringent LCR measures would raise input costs for local firms and ultimately reduce the output of final goods (Aswicahyono et al., 2023: 41).

Further, Indonesia should be ready for potential claims against its LCR measures based on its existing international trade and investment obligations. To minimise any potential liability, the government should carefully review its LCR measures' compliance with Indonesia's international obligations. Subsequently, if the government decides to proceed with the LCR measure, it should design the LCR measure in a robust manner, including carefully setting out the object and purpose, as well as the scope of application of the measure.

## Annex 1

### Indonesia's International Trade Commitments Relating to Local Content Requirements

No.	Agreement (in force)	Trade in goods		Trade in services		Subsidies	Others
		National treatment	QR/ NTM	National treatment	Market access		
1	WTO	GATT Art. III	GATT Art. XI	GATS Art. XVII	GATS XVI:2 Art.	SCMA Art. 3	TRIMs Arts. 2.1 and 2.2
2	ATIGA/ATISA	Art. 6 (incorp. GATT)	Arts. 41–43	Art. 6	Art. 8	ATIGA Art. 87 (incorp. SCMA)/ATISA Art. 24	-
3	AANZFTA (2nd Protocol signed 21 Aug 2023)	Ch. 2, Art. 1	Ch. 2 Arts. 10 and 11 (incorp. GATT)	Ch. 8, Art. 4	Ch. 8, Art. 5	Ch. 8, Art. 22 (subsidies to trade in services)	-
4	ASEAN–Hong Kong, China FTA	Ch. 2, Art. 5 (incorp. GATT)	Ch. 2, Art. 9 (incorp. GATT)	Ch. 8, Art. 17	Ch. 8, Art. 16	Ch. 7, Art. 1 (incorp. SCMA)	-
5	ASEAN–China FTA	Art. 2	Arts. 7 and 8 (both incorp. GATT)	Art. 19	Art. 18	Art. 7 (incorp. SCMA)	-
6	ASEAN–India FTA	Art. 3	Art. 8	Art. 18	Art. 17	Art. 16 of TIG (reaffirms WTO); Art. 14 of TIS	-
7	ASEAN–Japan CEP	Art. 15 (incorp. GATT)	Art. 18.1	1st Protocol – Art. 50.18	1st Protocol – Art. 50.17	-	-
8	ASEAN–Korea FTA	Art. 2 (incorp. GATT)	Art. 8	Art. 20	Art. 19	Art. 7 of TIG (reaffirms WTO disciplines); Art. 15 of TIS	-
9	Indonesia– Australia CEPA	Art. 2.4 (incorp. GATT)	Ch. 3 (Arts. 3.1 and 3.3)	Art. 9.3	Art. 9.5	Art. 2.7 (prohibition of export subsidies);	-

No.	Agreement (in force)	Trade in goods		Trade in services		Subsidies	Others
		National treatment	QR/ NTM	National treatment	Market access		
						Art. 2.14 (incorp. SCMA)	
10	Indonesia–Japan EPA	Art. 19 (incorp. GATT)	Art. 23 (incorp. WTO agreements)	Art. 79	Art. 78	-	-
11	Indonesia–Korea CEPA	Art. 2.3 (incorp. GATT)	Arts. 2.8 and 2.9 (incorp. GATT)	Art. 6.3	Art. 6.5	Art. 5.7 (incorp. SCMA)	-
12	RCEP Agreement	Art. 2.3 (incorp. GATT)	Arts. 2.16 and 2.17 (incorp. GATT)	Art. 8.4	Art. 8.5	Art. 7.11 (incorp. SCMA for trade in goods); Art. 8.22 (subsidies incorp. GATS)	-
13	Indonesia–UAE CEPA	Art. 2.3 (incorp. GATT)	Arts. 2.9 (incorp. GATT) and 2.17	Art. 8.4	Art. 8.5	Art. 7.2 (incorp. SCMA)	-
14	Indonesia – Mozambique PTA	Art. 7	-	-	-	Art. 9 (incorp. SCMA)	-
15	Indonesia–EFTA CEPA	Art. 2.9 (incorp. GATT)	Art. 2.7 (incorp. GATT)	Art. 3.5	Art. 3.4	Art. 2.14 (incorp. SCMA)	-
16	Indonesia–Chile CEPA	Art. 3.3 (incorp. GATT)	Art. 3.6 (incorp. GATT)	-	-	Art. 8.2 (incorp. SCMA)	-
17	Indonesia– Pakistan PTA	See GATT	See GATT	See GATS	See GATS	Art. 5 (incorp. WTO agreements)	-
18	Preferential Tariff Arrangement of D8	Art. 8	Art. 10	-	-	Art. 13, but no specific rules	

AANZFTA = Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area, Art. = Article, ASEAN = Association of Southeast Asian Nations, ATIGA = ASEAN Trade in Goods Agreement, ATISA = ASEAN Trade in Services Agreement, CEP = comprehensive economic partnership, CEPA = comprehensive economic partnership agreement, Ch. = Chapter, D8 = Developing Eight Organization for Economic Cooperation, EFTA = European Free Trade Association, FTA = free trade agreement, GATT = General Agreement on Tariffs and Trade, GATS = General Agreement on Trade in Services, incorp. = incorporates, LCR = local content requirement, PTA = preferential trade agreement, QR = Quantitative Restriction, RCEP = Regional Comprehensive Economic Partnership, SCMA = Agreement on Subsidies and Countervailing Measures, TIG = Trade in Goods Agreement, TIS = Trade in Services Agreement, TRIMs = Agreement on Trade-Related Investment Measures, UAE = United Arab Emirates, WTO = World Trade Organization.

Source: Author's compilation.

## Annex 2

### Indonesia's International Investment Commitments Relating to LCRs

No.	Agreement	National treatment	Performance requirements
1.	BITs	Only 8 of 27 active (as of the date of writing) BITs contain this provision.	None
2.	ACIA	Article 6	Article 7 (as amended by the Fourth Protocol)
3.	AANZFTA	Chapter 11, Article 4	Chapter 11, Article 5
4.	Investment Agreement of the ASEAN–Hong Kong, China	Article 3	None
5.	Investment Agreement of the ASEAN–China FTA	Article 4	None
6.	Investment Agreement of the ASEAN–India FTA	Article 3	None
7.	ASEAN–Japan CEP (investment chapter is incorporated by the First Protocol Amendment)	Article 51.3	Article 51.5
8.	ASEAN–Korea Investment Agreement	Article 3	Article 6
9.	Indonesia–Australia CEPA	Article 14.4	Article 14.6
10.	Indonesia–Japan Economic Partnership Agreement	Article 59	Article 63
11.	Indonesia–Korea CEPA	Article 7.4	Article 7.8
12.	RCEP Agreement	Article 10.3	Article 10.6
13.	Indonesia–EFTA CEPA	Article 4.4	None

AANZFTA = Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area, ACIA = ASEAN Comprehensive Investment Agreement, ASEAN = Association of Southeast Asian Nations, BIT = bilateral investment treaty, CEP = comprehensive economic partnership, CEPA = comprehensive economic partnership agreement, EFTA = European Free Trade Association, FTA = free trade area, LCR = local content requirement, RCEP = Regional Comprehensive Economic Partnership  
Source: Author's compilation.

### Annex 3

#### Examples of Indonesia's Local Content Requirements Measures

Sector	Sample relevant regulation (non-exhaustive)	LCR measure	Sanction/reward
Development of electricity infrastructure	<ul style="list-style-type: none"> <li>Industrial Affairs Law</li> <li>GR 29/2018</li> <li>MEMR Regulation No. 11 of 2024 on the Use of Domestic Products in the Development of Electricity Infrastructure (MEMR 11/2024)</li> <li>MEMR Decree No. 191.K/EK.01/MEM/E/2024 on the Minimum Local Component Threshold for Combined Goods and Services in the Scope of Development Projects of Electricity Infrastructure (MEMR 191/2024)</li> </ul>	<p><b>Subject</b> Development of electricity infrastructure for public use done by:</p> <ol style="list-style-type: none"> <li>a government agency or institution (central or regional) in their procurement of goods and services if the funds come from the central or regional government budget, including onshore and offshore loans or grants; or</li> <li>a state-owned enterprise (central or regional government) or a private company in their procurement of goods and services where one of the following conditions is present: <ol style="list-style-type: none"> <li>the funds come from the central or regional government budget;</li> <li>the work is conducted by way of cooperation between the central/regional government and a business entity;</li> <li>the project utilises an energy resource controlled by the state.</li> </ol> </li> </ol> <p><b>Obligation</b> Meet the minimum threshold of domestic goods and services determined by the MEMR. The threshold is different based on the (i) power sources (e.g. steam, hydro, geothermal, gas, and solar) and (ii) power plant capacity.</p>	<p><b>Sanctions</b> for non-compliance with the minimum LCR for Goods and Services threshold:</p> <ul style="list-style-type: none"> <li>written warning;</li> <li>temporary suspension;</li> <li>administrative penalty; and/or</li> <li>revocation of business licence for procurement of electricity for public use.</li> </ul> <p><b>Rewards</b> for compliance:</p> <ul style="list-style-type: none"> <li>certificate of appreciation;</li> <li>announcement in mass media; and/or</li> <li>other awards.</li> </ul>
Upstream oil and gas	<ul style="list-style-type: none"> <li>Law No 22 of 2001 on Oil and Natural Gas (Oil and Gas Law)</li> <li>MEMR Regulation No. 15 of 2013 on Utilisation of Domestic</li> </ul>	Each contractor, domestic producer, and goods/services supplier must use and maximise the use of domestic goods and services, as well as domestic engineering and design	<p><b>Sanctions:</b></p> <ul style="list-style-type: none"> <li>For contractors – determined by the working unit</li> </ul>

Sector	Sample relevant regulation (non-exhaustive)	LCR measure	Sanction/reward
	Products in the Upstream Oil and Gas Business Activities	<p>construction that meet the amount, quality, delivery time, and price, as determined by the procurement requirements.</p> <p>Contractors must, amongst others, (i) require the production of goods and/or services to be done domestically as much as possible; and (ii) determine the target LCR that must be achieved in each procurement of goods and/or services, etc.</p> <p>Domestic producers and/or goods and/or services suppliers must, amongst others, (i) fulfil the quality, delivery time, and price as per the procurement requirements; and (ii) fulfil the service LCR commitment as determined in the procurement contract, etc.</p> <p>Domestic producers must also (i) conduct production processes domestically; and (ii) fulfil the goods LCR according to the value mentioned in the LCR certificate, etc.</p>	<ul style="list-style-type: none"> <li>For domestic producers and goods and/or services suppliers – administrative sanctions, i.e. written warning and/or revocation of licence; and possibly certain financial sanctions</li> </ul> <p><b>Rewards:</b></p> <ul style="list-style-type: none"> <li>Price preference as an incentive if the goods LCR reaches 25% or the services LCR reaches 30%</li> <li>Awards (i.e. gold, silver, or bronze ranks depending on the performance)</li> </ul>
<b>Telecommunications</b>	<ul style="list-style-type: none"> <li>MOCI Regulation No. 13 of 2021 on Technical Standards for Telecommunication Tools and/or Mobile Telecommunication Equipment based on Long-Term Evolution Technology and International Mobile Telecommunications – 2020 Technology (MOCI Regulation No. 13/2021)</li> </ul>	<ul style="list-style-type: none"> <li>Subscriber stations (i.e. consumer communication devices such as mobile phones, modems, laptops, and tablets) must meet the minimum LCR threshold of 35%.</li> <li>Base stations (i.e. instruments providing connectivity to subscriber stations such as network and antenna) must meet the minimum LCR threshold (goods and services) of 40%.</li> </ul>	Non-compliance with the TKDN will result in non-issuance of the required certificate to distribute or sell the telecommunications tools and/or equipment in Indonesia.
<b>Pharmaceuticals</b>	<ul style="list-style-type: none"> <li>Presidential Instruction No. 6 of 2016 on the Acceleration of the</li> </ul>	<ul style="list-style-type: none"> <li>Domestic pharmaceuticals and medical devices industry must prioritise the use of domestically produced raw materials.</li> </ul>	<ul style="list-style-type: none"> <li>Prioritisation in government procurement if the relevant company has obtained a</li> </ul>



Sector	Sample relevant regulation (non-exhaustive)	LCR measure	Sanction/reward
	<p>Development of Pharmaceuticals and Medical Devices Industry</p> <ul style="list-style-type: none"> <li>Minister of Health Regulation No. 17 of 2017 on the Action Plan for the Development of the Pharmaceuticals and Medical Devices Industry</li> <li>Minister of Industry No. 16 of 2020 on the Calculation of Local Content Level for Pharmaceutical Products</li> <li>Law No. 17 of 2003 on Health</li> </ul>	<ul style="list-style-type: none"> <li>Procurement of medicines and medical devices by the government and/or the private sector for the public must prioritise pharmaceutical products and medical devices that use raw materials produced by the domestic pharmaceuticals and medical devices industry.</li> </ul>	<p>TKDN certificate for its product.</p> <ul style="list-style-type: none"> <li>Fiscal and non-fiscal incentives for pharmaceuticals and medical devices industry which conduct production using domestic raw materials.</li> </ul>
BEVs	<ul style="list-style-type: none"> <li>Presidential Regulation No. 55 of 2019 on Acceleration of Battery Electric Vehicle for Road Transportation Program (as amended by Presidential Regulation No. 79 of 2023)</li> </ul>	<ul style="list-style-type: none"> <li>The manufacturers of BEVs and BEV components must prioritise the use of domestic raw materials up to certain thresholds that continue to increase over the period (2019–2026, 2027–2029, and beyond 2030) to up to 80%.</li> </ul>	<ul style="list-style-type: none"> <li>Fiscal and non-fiscal incentives, including import duty incentives, incentives for sales tax on luxury goods, and export financing incentives.</li> <li>Further incentives to locally owned companies developing national branded BEVs, i.e. BEVs using signs, pictures, logos, names, and words that have Indonesian characteristics.</li> </ul>

BEV = battery electric vehicle, LCR = local content requirement, MEMR = Minister of Energy and Mineral Resources, MOCI = Minister of Communication and Informatics, TKDN = local content requirement level.

Sources: Author's compilation; Limenta and Ing (2022); and Fernando and Ing (2022).

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