

Open Letter of Civil Society to the Indonesian Parliament EFTA-Indonesia Comprehensive Economic Cooperation Agreement (CEPA)

We, the Coalition for Economic Justice Community, consisting of a network of fisherfolks, women, peasants, environmental activists, academics, and other civil society groups have been following the development of the negotiations of the European Free Trade Association (EFTA) with Indonesia from 2011 until when it was signed on December 16, 2018. We have issued a number of analyzes, comments and input to the government through the Ministry of Trade regarding this agreement, which we attach to the annex of this letter.

In the midst of the uncertainty of the global economy due to the pandemic and a trade war that impacts on the national economy, the Government of Indonesia continues the negotiations and the signing of free trade agreements. The Indonesian House of Representatives (DPR RI) has a strategic role in protecting people's rights as mandated by the Indonesian Constitution from the negative impacts of free trade agreements. The Indonesian Constitutional Court Decision No.13 / PUU-XVI / 2018 emphasizes the importance of the role of the Indonesian Parliament to ensure that free trade agreements do not violate the Constitution. Therefore, international agreements, in particular trade and investment agreements, which are considered to have an impact on the implementation of the Constitution should be accompanied with an analysis of their impacts to life and the livelihood of the people, as well as on the financial burden of the state, and / or it requires amendments or the formation of laws, based on article 11 paragraph (2) of the 1945 Indonesian Constitution with the approval of the Indonesian Parliament.

Against this background, we submit this open letter to the Indonesian Parliament to seriously consider not ratifying the Indonesia-EFTA CEPA Agreement. We observe a number of issues in this EFTA - Indonesia agreement which lead us to a conclusion that this is an "empty" agreement that will not provide any concrete economic benefits, while on the other hand it will threaten Indonesia to lose its abundant natural wealth and biodiversity.

1. The Government of Indonesia expects that the EFTA - Indonesia agreement will increase Indonesia's palm oil exports to EFTA member countries: Switzerland, Norway, Iceland, Liechtenstein. This agreement now allows Indonesia to export palm oil at lower rates. However, EFTA requires that only palm oil that has met the standard production methods and processing (process and production method - PPM) set by EFTA countries can get reduced entry tariffs, and only 20–40% of the export quota can be allowed.

With this quota limitation, Indonesia can only export 12,500 tons of palm oil to EFTA countries such as Switzerland, a very small amount compared to Indonesia's palm oil export average of 2.5 - 3 million tons of palm oil per month. With very strict PPM standards; the exported palm oil should not be produced on slash-and-burn land, peatlands, free of water and air pollution, and it should guarantee the protection of the rights of smallholders and indigenous peoples. However, anyone who understands the palm oil industry in Indonesia is certainly aware of the fact that no Indonesian palm oil producer is free from these problems. This means that it is

unlikely that Indonesia can export its palm oil to Switzerland by using the tariff reduction facility.

Why should the Government of Indonesia agree to a complex agreement that is very likely to harm the achievement of the basic rights of the Indonesian people, and exchange it for a ½ percent increase in total palm oil exports?

2. The EFTA-Indonesia agreement commits Indonesia to stricter protection of intellectual property. The provisions on intellectual property are beyond the standards of the WTO Agreement. This concerns in particular access to medicines and plant variety protection. Experience from other Free Trade Agreements shows that it is primarily the pharmaceutical and agrochemical industry that benefits from such provisions. As a result, medicines will become more expensive for the Indonesian population.

Further, IEFTA requires Indonesia to join or implement the 1991 UPOV and other obligations and / or restrictions with respect to the protection of plant varieties. UPOV 1991 is a restrictive and inflexible crop variety protection regime (PVP). Initiated by developed countries and assuming a “one-rule-for-all”, regardless of each country's agricultural systems varying significantly.

The agriculture in Indonesia is dominated by small and medium farmers, with small plots. The farmer seed system is the basis of livelihoods and food security in Indonesia and it is the main way for small and medium scale farmers to access the seeds. Therefore, Olivier De Schutter (2009) mentions that any rules or actions that prevent farmers from relying on their seed systems can violate their right to food.

In short, UPOV 1991 offers an unsuitable legal framework to Indonesia. Joining or complying with the 1991 UPOV is estimated to increase the cost of seeds by more than 4 times based on a study of the impact of joining UPOV 1991 on farmers in the Philippines. Several independent experts support this conclusion, and recommend that developing countries should not join or implement UPOV.

Furthermore, for the reasons already mentioned in particular its impact on Farmers' Rights, Norway, which has a per capita income 21 times higher than Indonesia has refused to join and / or implement the 1991 UPOV. Therefore it needs to be questioned, why should Indonesia agree to join or comply with UPOV 1991?

In addition, there is a precedent in EFTA's trade agreements that do not require Parties to ratify or implement the 1991 UPOV (for example the EFTA-Southern African Customs Union (SACU) Free Trade Agreement signed in 2006.

3. The EFTA - Indonesia Agreement also provides exclusivity data protection for the agricultural inputs such as fertilizers and pesticides for 10 years. This regulation has never existed before in Indonesia. If an agrochemical company wants fertilizer and pesticide products to be sold in Indonesia, it is required for the company to submit data on the safety and efficacy of new products to the authorities, in this case the Indonesian Ministry of Agriculture. If there is a 10-year data exclusivity setting, this

will block competition because producers of generic versions of fertilizers and pesticides will not be allowed to demonstrate that their product is equivalent to that of the original. This rule will prevent the supply of generic chemical inputs, even though the price of generic agricultural materials can be two or three times cheaper than the same product that has data exclusivity. Currently, it cannot be denied that the use of chemical inputs such as fertilizers and pesticides is still needed by farmers in Indonesia.

4. The EFTA-Indonesia agreement will increase Indonesia's fish imports from EFTA countries such as Norway. Currently, about 60 percent of total salmon imports to Indonesia come from Norway. Norwegian marine fishery food exports to Indonesia in 2017 reached US \$ 250 million. If this agreement comes into force, more than 80% of Norwegian exports to Indonesia will be free of import duty, including fishery products.

The EFTA-Indonesia agreement will cause an influx of imported fish, while the 2.7 million fishermen who depend on their livelihoods will worsen amid the uncertainty of fishing businesses. If imports are carried out for the reason of improving public nutrition, Indonesia has many other types of fish which have very diverse nutritional quality and even better than salmon and cod fish from Norway.

Therefore, through this open letter, we - the civil society who are members of the organizations below - encourage a serious consideration of the Indonesian Parliament not to ratify Indonesia's participation in the EFTA - Indonesia Free Trade Agreement which does not provide economic benefits. This agreement will in fact harm the majority of the Indonesian people, especially farmers and fisherfolks, and threaten to lose food and agricultural biodiversity in Indonesia.

Sincerely (the undersigned organizations below):

1. **Indonesia for Global Justice (IGJ - Formerly Institute for Global Justice)** was formed on 7th August 2001 to address the global trade liberalization issues. Its establishment was facilitated by INFID and by some individual members of the Indonesian NGO Coalition on WTO (KOP-WTO). The Vision of IGJ is "A Global Justice Order through Social Movements". The mission of IGJ is "Changes toward a just trade system through developing critical awareness and empowering strategic groups of civil society". IGJ works on global trade liberalization issues, particularly on monitoring and responding to trade-related priority issues, they are: WTO (World Trade Organization), national trade policy (investment, trade facility, and competition policy), Free Trade Agreements, ASEAN, and the G20. IGJ has been working and networking with both national and international civil society organizations. See <https://igj.or.id/tentang-kami/?lang=en>
2. **Solidaritas Perempuan (Women's Solidarity of Human Rights)** is a feminist organization established in 1990 based in Jakarta, Indonesia, which consistently fighting for gender justice and defending women's rights of the grassroots women

on the issues of conflict over natural resources and climate change, food sovereignty, migration and trafficking, and pluralism and religion politicization. SP is an individual based membership organization, with 720 members spread all over Indonesia in 10 communities/branches in Aceh, Palembang (South Sumatera), Yogyakarta, Jabotabek, Sumbawa and Mataram (West Nusa Tenggara), Makassar (South Sulawesi), Palu and Poso (Central Sulawesi) and Kendari (South East Sulawesi). See www.solidaritasperempuan.org

3. **The People's Coalition for Fisheries Justice (KIARA):** is a non-governmental organization established in 2003. This non-profit organization was initiated by WALHI, Bina Desa, JALA (Fishermen's Advocacy Network for North Sumatra), Federation of Fishermen Archipelago (FSNN), and individuals. Since its establishment, KIARA has been committed to strengthening fishers' groups and people living in coastal regions and small islands, in order to obtain protection and welfare of their communities, which are duties supposed to be fulfilled by the Government of the Republic of Indonesia. Since the IV General Assembly in Jakarta, January 2011, KIARA has been focusing on: (1) Increasing the capacity of fisher organizations in voicing their basic rights to be heard and implemented by the government; (2) Recognition of the role of fisher women in the national fisheries policy; (3) Replication of cooperative institutions and joint business groups managed by traditional fishers. See <https://www.forestpeoples.org/en/partner/kiara-peoples-coalition-fisheries-justice>
4. **Federasi Perjuangan Buruh Indonesia (FPBI) Kabupaten Asahan (Federation of Indonesian Worker's Struggle):**
5. **FIAN Indonesia:** as a member of FIAN International, FIAN Indonesia was founded in 2016. It strives to become one of the organizations that fights for the Right to Food and Nutrition in Indonesia by raising awareness on the Right to Food and Nutrition to social movements, civil society groups and policy makers. FIAN Indonesia builds and strengthens advocacy networks for the Right to Food and Nutrition with civil society organisations in Indonesia in order to hold the state accountable for fulfilling the Right to Food and Nutrition. See <http://fian-indonesia.org/>
6. **GRAIN:** is a small international non-profit organisation that works to support small farmers and social movements in their struggles for community-controlled and biodiversity-based food systems. The support takes the form of independent research and analysis, networking at local, regional and international levels, and fostering new forms of cooperation and alliance-building. Most of our work is oriented towards, and carried out in, Africa, Asia and Latin America. See <https://www.grain.org/en/pages/organisation>
7. **Serikat Petani Indonesia (Indonesian Peasant Union - SPI):** Formerly or Federation of Indonesian Peasant Union or Federasi Serikat Petani Indonesia, it was declared on 8 July 1998 in Kampong Dolok Maraja, Lobu Ropa Village, Bandar Pulau Sub district, Asahan District, North Sumatra by a number of Indonesian struggling peasants. The

birth of FSPI is part of the long history of Indonesian peasants' struggle to gain the freedom to speak, to assemble, and to be organized in order to struggle for their rights, which had been repressed and absorbed since the start of the new order when Suharto came to power in 1966-67. Federation of Indonesian Peasant Union (Federasi Serikat Petani Indonesia) is now based in Jakarta, with over 12 unions all across Indonesia. Federasi Serikat Petani Indonesia (Federasi Serikat Petani Indonesia) is a member of La Via Campesina, The International Peasants Movement.

8. **Koalisi Rakyat untuk Hak Atas Air (People's Coalition for the Right to Water KRUHA):** It was established in 2002 as a response by civil society groups in Indonesia to a World Bank loan in the water resources sector called Water Resources Sector Structural Adjustment Loans (WATSAL). KRuHA membership is open to various social movements, non-governmental organizations and individuals who have concern and concern for Human Rights to Water, reject the privatization and commercialization of water resources. More than 30 NGOs have joined KRuHA. Fight for the management of water resources based on Human Rights, by the State in accordance with the state constitution and refuse interference from private businesses and individuals See <https://kruha.org/profil/>
9. **The Institute for Policy Research and Advocacy (ELSAM):** It is a human rights organisation, based in Jakarta, established since August 1993. To actively participate in the efforts to develop, promote and protect civil and political rights and other human rights, as mandated by the 1945 Constitution and Universal Declaration of Human Rights (UDHR), has become ELSAM's driving objective. At the outset, ELSAM's spiritual commitment was to develop a democratic political order in Indonesia by empowering civil societies through advocacy and promotion of human rights. See <https://elsam.or.id/about-elsam/>
10. **Universitas Indonesia (Universitas Indonesia - UI)** is a modern, comprehensive, open-minded, multi-culture, and humanism campus that covers wide arrays of scientific disciplines. UI simultaneously strives to be one of the leading research universities and the most outstanding academic institution in the world. As a world class research university, UI seeks to achieve the highest level of distinction in the discovery, developing and diffusion of advance knowledge regionally and globally. In the meanwhile, UI is distinctive among research universities in its commitment to the academic invention and research activities through various scientific programs. See <https://www.ui.ac.id/en/about-us/about-ui.html>
11. **Kajian Wilayah Eropa - Universitas Indonesia (Center for European Studies – University of Indonesia) :** The center is part of the research centers of the University of Indonesia, in Jakarta.
12. **Palangkaraya Ecological and Human Rights Studies (Progress)** is a non-profitorganisation which focuses on research, campaign, and advocacy about ecological and human rights issues. PROGRESS aims to uphold the culture and wisdom of indigenous peoples as well as local communities and gender issues in Central

Kalimantan, Indonesia. PROGRESS led a Feminist Participatory Action Research (FPAR) from November 2017 – March 2019 in Central Kalimantan of Indonesia to investigate the social economic situation of women workers in the palm oil plantations in Parenggean village, East Kotawaringin regency. In order to gather evidence of labour rights violations of women workers in the palm oil plantations, PROGRESS partnered with a local palm oil workers trade union, Serikat Pekerja Kelapa Sawit (SEPASI), and worked with women workers from the supplier factory of Wilmar Group (the biggest palm oil plantation company in Central Kalimantan).

- 13. IndoWater CoP** is a network of Indonesian CSOs that stands for involving communities in Integrated Water Resources Management. IndoWater CoP empowers the voice of local communities and proposes joint solutions in negotiation with local governments and companies.

- 14. Forum Benih Lokal Berdaulat (Organic Heirloom Seed Forum)** is an open forum as a forum for collecting and exchanging local native seeds (heirloom seed), and a means of communicating and networking for activists, activists and observers of local native seeds throughout Indonesia. It supports the development of seeds carried out by farmers themselves and which can be used by farmers independently and sustainably. The Forum rejects the seeds of Genetically Modified Organisms (GMO), which not only doubt their impact on the environment and health, but also have the opportunity for the spread of disease across types.

- 15. Perkumpulan Kediri Bersama Rakyat (The Association of Kediri together with the People - KIBAR).** It is a non-governmental organization that focuses on rural community assistance activities, empowering women and children, and advocating for paralegals in the Kediri Raya area since 2005. See <http://kibar-kediri.blogspot.com/>

- 16. Komisi Justice Peace and Integrity of Creation GKPT.**