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REGULATORY HARMONIZATION AND AGRICULTURAL TRADE BARRIERS UNDER IA-CEPA

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Abstract

The Indonesia–Australia Comprehensive Economic Partnership Agreement (IA-CEPA) establishes a comprehensive legal framework intended to promote bilateral trade liberalization and regulatory cooperation between Indonesia and Australia in the agricultural sector. Despite significant tariff reduction commitments, agricultural trade between Indonesia and Australia continues to encounter substantial barriers arising from differences in domestic legal system including sanitary and phytosanitary (SPS) measures, technical standards, import licensing systems, and biosecurity regulations. While previous studies have predominantly examined IA-CEPA from economic and trade perspectives, limited attention has been addressed to the normative legal harmonization between the domestic legal frameworks of both countries in implementing the Agreement. This study examines the regulation of agricultural tariff barriers under IA-CEPA from the perspective of international trade law principles and analyzes the harmonization of Indonesian and Australian national laws in implementing agricultural trade policies under the agreement. This study addresses that gap by providing a normative legal analysis of the consistency between IA-CEPA obligations and the agricultural trade regulations of Indonesia and Australia. This research employs a normative juridical method using statutory, treaty, conceptual, and comparative approaches through the examination of IA-CEPA provisions, WTO Agreements, Indonesian agricultural trade legislation, and Australian biosecurity laws. The findings reveal that IA-CEPA incorporates the fundamental principles of international trade law, including transparency, non-discrimination, proportionality, regulatory coherence, and market access. However, the implementation of these principles remains constrained by conflicting domestic regulatory priorities. Indonesia maintains protective agricultural policies aimed at preserving food sovereignty, farmer protection, and domestic market stability, whereas Australia emphasizes strict biosecurity governance and SPS compliance requirements to protect public health and environmental security. Consequently, domestic regulatory measures rather than tariff commitments continue to constitute the principal barriers to bilateral agricultural trade. The study further demonstrates that legal harmonization under IA-CEPA remains only partially achieved due to regulatory inconsistencies, overlapping administrative requirements, and differing regulatory philosophies. The novelty of this research lies in its normative assessment of regulatory harmonization between international treaty obligations and domestic agricultural trade laws, offering a legal framework for evaluating the effectiveness of bilateral trade agreements in balancing trade liberalization with state regulatory autonomy. The study contributes to international trade law scholarship by proposing a normative framework for assessing regulatory harmonization between bilateral trade agreements and domestic agricultural regulations.
Keywords: IA-CEPA; Agricultural Trade Barriers; Regulatory Harmonization.

Abstrak

Indonesia–Australia Comprehensive Economic Partnership Agreement (IA-CEPA) membentuk kerangka hukum komprehensif yang dimaksudkan untuk mendorong liberalisasi perdagangan bilateral dan kerja sama regulasi antara Indonesia dan Australia di sektor pertanian. Meskipun terdapat komitmen penurunan tarif yang signifikan, perdagangan pertanian antara Indonesia dengan Australia

tetap menghadapi hambatan substansial yang timbul akibat perbedaan sistem hukum domestik, termasuk tindakan sanitary and phytosanitary (SPS), standar teknis, sistem perizinan impor, dan regulasi biosekuriti. Penelitian-penelitian terdahulu sebagian besar mengkaji IA-CEPA dari perspektif ekonomi dan perdagangan, sementara perhatian terhadap harmonisasi hukum normatif antara kerangka hukum domestik kedua negara dalam mengimplementasikan Perjanjian tersebut masih terbatas. Penelitian ini mengkaji pengaturan hambatan tarif pertanian dalam IA-CEPA dari perspektif prinsip-prinsip hukum perdagangan internasional, serta menganalisis harmonisasi hukum nasional Indonesia dan Australia dalam mengimplementasikan kebijakan perdagangan pertanian berdasarkan perjanjian tersebut. Penelitian ini mengisi kesenjangan tersebut dengan memberikan analisis hukum normatif mengenai konsistensi antara kewajiban-kewajiban IA-CEPA dan regulasi perdagangan pertanian Indonesia serta Australia. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan (statutory approach), pendekatan perjanjian internasional (treaty approach), pendekatan konseptual (conceptual approach), dan pendekatan perbandingan (comparative approach), melalui pengkajian terhadap ketentuan-ketentuan IA-CEPA, Perjanjian-perjanjian WTO, peraturan perundang-undangan perdagangan pertanian Indonesia, dan hukum biosekuriti Australia. Hasil penelitian menunjukkan bahwa IA-CEPA mengakomodasi prinsip-prinsip fundamental hukum perdagangan internasional, termasuk transparansi, non-diskriminasi, proporsionalitas, koherensi regulasi, dan akses pasar. Namun, implementasi prinsip-prinsip tersebut masih terkendala oleh benturan prioritas regulasi domestik. Indonesia menerapkan kebijakan pertanian yang protektif dengan tujuan menjaga kedaulatan pangan, perlindungan petani, dan stabilitas pasar domestik, sementara Australia menekankan tata kelola biosekuriti yang ketat serta persyaratan kepatuhan SPS untuk melindungi kesehatan masyarakat dan keamanan lingkungan. Dengan demikian, tindakan regulasi domestik, bukan komitmen tarif, tetap merupakan hambatan utama dalam perdagangan pertanian bilateral. Penelitian ini lebih lanjut menunjukkan bahwa harmonisasi hukum dalam kerangka IA-CEPA baru tercapai secara parsial akibat inkonsistensi regulasi, tumpang tindih persyaratan administratif, dan perbedaan filosofi regulasi. Kebaruan (novelty) penelitian ini terletak pada penilaian normatif terhadap harmonisasi regulasi antara kewajiban perjanjian internasional dan hukum perdagangan pertanian domestik, dengan menawarkan kerangka hukum untuk mengevaluasi efektivitas perjanjian perdagangan bilateral dalam menyeimbangkan liberalisasi perdagangan dengan otonomi regulasi negara. Penelitian ini memberikan kontribusi bagi kajian hukum perdagangan internasional melalui usulan kerangka normatif untuk menilai harmonisasi regulasi antara perjanjian perdagangan bilateral dan regulasi pertanian domestik.
Kata Kunci: IA-CEPA; Hambatan Perdagangan Pertanian; Harmonisasi Regulasi

I. Introduction

The Indonesia-Australia Comprehensive Economic Partnership Agreement (IACEPA) represents a significant development in bilateral trade relations between Indonesia and Australia, particularly in the agricultural sector, which remains one of the most sensitive areas within international trade law. Entering into force on 5 July 2020, IA-CEPA was designed not merely as a tariff reduction agreement, but as a comprehensive legal framework aimed at facilitating market access, promoting economic integration, and enhancing regulatory cooperation between the two states. Within the framework of international trade law, IA-CEPA reflects the evolution of modern trade agreements that extend beyond traditional tariff liberalization toward broader regulatory harmonization involving customs procedures, sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT), and non-tariff measures.[1] Nevertheless, progressive tariff commitments contained within IA-CEPA, agricultural trade between Indonesia and Australia continues to encounter substantial trade barriers arising from differences in domestic legal systems, national protection policies, and regulatory standards governing agricultural imports and exports.

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[1] Indonesia–Australia Comprehensive Economic Partnership Agreement, "IA-CEPA Text Agreement," accessed May 24, 2026, https://igj.or.id/wp-content/uploads/2019/09/IA-CEPA-TEXT-AGREEMENT-2019.pdf

In practice, market access continues to be constrained by domestic regulatory measures, including sanitary and phytosanitary (SPS) requirements, technical barriers to trade (TBT), biosecurity regulations, import licensing systems, and conformity assessment procedures. These regulatory measures give rise to an important legal question regarding whether domestic agricultural regulations adopted by Indonesia and Australia remain consistent with their obligations under IA-CEPA and the multilateral framework of the World Trade Organization (WTO).[2]

From the perspective of international trade law, the relationship between trade liberalization and domestic regulatory autonomy has generated an ongoing academic debate. One perspective argues that modern free trade agreements should promote regulatory harmonization to ensure legal certainty, transparency, and predictable market access for international traders. Conversely, another perspective maintains that states retain sovereign authority to adopt domestic measures necessary to protect legitimate public interests, including food security, public health, environmental protection, and agricultural sustainability, provided that such measures are not applied in a discriminatory or unnecessarily trade-restrictive. C.[3]onsequently, the principal legal challenge is not merely whether domestic regulations exist, but whether they remain proportionate, scientifically justified, transparent, and compatible with international trade obligations.

Agricultural tariff barriers remain a critical legal instrument regulated by both Indonesia and Australia to protect domestic economic interests and strategic agricultural sectors. Indonesia continues to maintain various import tariffs, quota systems, import licensing mechanisms, and restrictions on certain agricultural commodities to safeguard food security, domestic farmers, and market stability. These measures are integrated into Indonesia’s regulatory framework, trade, agricultural, and food security regulations. In contrast, Australia maintains relatively low trade tariff measures while enforcing incredibly strict biosecurity laws under Biosecurity Act 2015, SPS requirements, and technical standards on imported agricultural products.[4] Consequently, agricultural trade barriers between the two countries are no longer confined to customs duties alone but increasingly manifest through domestic regulatory instruments that potentially limit market access. In the perspective of international trade law, such regulatory measures often raise legal questions concerning the distinction between legitimate domestic regulation and disguised restrictions on international trade as governed under the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and The World Trade Organization The Technical Barriers to Trade (TBT Agreement).[5]

The IA-CEPA Text Agreement specifically regulates market access commitments, tariff schedules, customs procedures, rules of origin, SPS measures, and technical barriers to trade as mechanisms intended to reduce unnecessary trade restrictions and create greater legal certainty in bilateral agricultural trade. Australia has granted preferential tariff access to a broad

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[2] World Trade Organization, Agreement on the Application of Sanitary and Phytosanitary Measures, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 493.

[3] Simon Lester, Bryan Mercurio, and Arwel Davies, World Trade Law: Text, Materials and Commentary, 3rd ed. (Oxford: Hart Publishing, 2018), 453–489.

[4] Australian Government Department of Foreign Affairs and Trade, “Using IA-CEPA to Do Business with Indonesia,” accessed May 24, 2026, https://www.dfat.gov.au/trade/agreements/in-force/iacepa/using-ia-cepa-do-business-indonesia.

[5] World Trade Organization, *Agreement on the Application of Sanitary and Phytosanitary Measures*, accessed May 24, 2026, https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm

range of Indonesian products, while Indonesia has progressively reduced tariffs on Australian imports according to its schedule of commitments under IA-CEPA.[6]

However, the effectiveness of tariff liberalization remains heavily influenced by the lack of harmonization between Indonesian and Australian domestic legal frameworks. Indonesian agricultural exports benefiting from preferential tariffs in Australia must still comply with complex Australian biosecurity regulations, food safety standards, and technical certification requirements. Similarly, Australian agricultural products entering Indonesia remain subject to Indonesian import licensing systems, halal certification requirements, food security policies, and domestic commodity protection measures. This condition demonstrates that tariff liberalization under IA-CEPA has not been fully accompanied by effective legal harmonization between the national legal systems of both states.

The practical significance of this legal tension is illustrated by the WTO dispute Indonesia—Importation of Horticultural Products, Animals and Animal Products (DS477/DS478). In this dispute, the WTO Panel and Appellate Body concluded that several Indonesian import licensing measures governing horticultural and animal products were inconsistent with WTO obligations because they imposed unnecessary restrictions on market access beyond what was permitted under the General Agreement on Tariffs and Trade (GATT) 1994 and the Agreement on Agriculture.[7] The dispute demonstrates that domestic agricultural regulations designed to achieve legitimate policy objectives may nevertheless constitute unlawful trade restrictions when they exceed the requirements of international trade law. It also illustrates the continuing difficulty faced by WTO Members in reconciling domestic regulatory objectives with international commitments to trade liberalization, a challenge that remains highly relevant to the implementation of IA-CEPA.

The principal legal issue in this research therefore lies in the incomplete harmonization of Indonesian and Australian national laws concerning agricultural tariff barriers under IA-CEPA. Normatively, both states are obligated to implement IA-CEPA consistently with the principles of international trade law, including transparency, non-discrimination, national treatment, proportionality, and regulatory.[8]

However, in practice, both countries continue to utilize domestic legal instruments to protect national economic interests. Indonesia relies on tariff policies and import controls to preserve food sovereignty and protect local farmers, whereas Australia maintains strict biosecurity and SPS regimes to safeguard national environmental and health interests. As a result, the harmonization envisioned under IA-CEPA frequently encounters tensions between trade liberalization obligations and the sovereign right of states to regulate domestic agricultural markets. This issue becomes particularly relevant within the context of normative legal analysis because it concerns the consistency between international treaty obligations and domestic regulatory frameworks governing agricultural trade.

Previous studies concerning IA-CEPA have predominantly focused on economic impacts, bilateral investment opportunities, export growth, and diplomatic cooperation between Indonesia and Australia. Several studies argue that IA-CEPA has contributed positively to

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[6] Indonesia–Australia Comprehensive Economic Partnership Agreement, "Chapter on Trade in Goods and Tariff Commitments.

[7] World Trade Organization, *Indonesia—Importation of Horticultural Products, Animals and Animal Products*, WT/DS477/R and WT/DS478/R (22 December 2016); WT/DS477/AB/R and WT/DS478/AB/R (9 November 2017).

[8] Peter Van den Bossche and Werner Zdouc, *The Law and Policy of the World Trade Organization* (Cambridge: Cambridge University Press, 2021), 745–768.

World Trade Organization, *Agreement on the Application of Sanitary and Phytosanitary Measures*, accessed May 24, 2026, https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm increased bilateral trade and economic integration.[9] Nevertheless, legal scholarship specifically examining agricultural tariff barriers from the perspective of harmonization between Indonesian and Australian national law remains limited. Existing research has generally adopted economic or international relations approaches rather than normative juridical analysis centered on legal harmonization, regulatory consistency, and the implementation of international trade law principles within domestic legal systems. Moreover, prior studies have not comprehensively analyzed the relationship between IA-CEPA provisions and domestic agricultural trade regulations, particularly regarding tariffs, SPS measures, technical standards, import licensing systems, and domestic market protection policies. Therefore, a significant research gap remains concerning the normative legal assessment of agricultural tariff barriers and regulatory harmonization under IA-CEPA.

This research seeks to address that gap through a normative juridical approach by analyzing the IA-CEPA Text Agreement, WTO Agreements, Indonesian agricultural trade regulations, Australian biosecurity and trade regulations, and the fundamental principles of international trade law as the primary objects of legal examination. The novelty of this research lies in its focus on the harmonization of Indonesian and Australian national legal systems in implementing agricultural tariff barrier policies under IA-CEPA. Unlike previous studies that primarily emphasize economic consequences, this research evaluates the normative consistency between international legal obligations and domestic regulatory measures adopted by both countries. Accordingly, this study aims to (1) analyse the regulation of agricultural trade barriers under IA-CEPA from the perspective of international trade law principles and (2) evaluate the extent to which Indonesian and Australian domestic laws have been harmonized with IA-CEPA obligations. Practically, this research is expected to provide recommendations for policymakers in designing agricultural trade regulations that are more transparent, balanced, and consistent with international trade obligations while still protecting domestic agricultural interests.

II. Formulation of the Problem

Based on these considerations, this study addresses the following research questions: To what extent do the provisions governing agricultural trade barriers under IA-CEPA reflect the fundamental principles of international trade law? And How effective is the legal harmonization between Indonesian and Australian domestic laws in implementing IA-CEPA obligations concerning agricultural trade?

III. Methodology

This study employs normative juridical legal research, which conceptualizes law as a system of norms governing the rights and obligations of States in international trade relations.[10]The research focuses on examining the consistency between the regulatory framework established under the Indonesia–Australia Comprehensive Economic Partnership Agreement (IA-CEPA) and the domestic legal systems of Indonesia and Australia governing agricultural trade. A normative approach is considered appropriate because the study does not examine the empirical implementation of the Agreement but instead evaluates the compatibility of legal norms, treaty obligations, and domestic legislation from the perspective of international trade law.

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[9] Arianto Patunru, *Indonesia-Australia Trade Relations and IA-CEPA*, Centre for Indonesian Policy Studies Working Paper, 2020, https://www.econstor.eu/bitstream/10419/249413/1/CIPS-PP33.pdf

[10]Terry Hutchinson, Researching and Writing in Law, 4th ed. (Pyrmont: Lawbook Co., 2018), 7–15.

To achieve the research objectives, this study applies four complementary legal approaches, namely the statutory approach, treaty approach, conceptual approach, and comparative approach. The statutory approach is employed to examine national legislation governing agricultural trade, including Indonesian laws on trade, standardization, quarantine, import licensing, and food security, as well as Australia's Biosecurity Act 2015 and related regulations. The treaty approach is used to analyse the legal obligations arising from IA-CEPA and the relevant WTO Agreements, particularly the General Agreement on Tariffs and Trade (GATT) 1994, the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), and the Agreement on Technical Barriers to Trade (TBT Agreement). These two approaches provide the normative basis for assessing whether domestic regulatory measures are consistent with international trade obligations.

The conceptual approach is applied to examine the legal doctrines and principles underlying international trade law, including transparency, non-discrimination, proportionality, regulatory coherence, market access, and state regulatory autonomy. These concepts serve as analytical benchmarks for evaluating the legality of domestic agricultural trade measures adopted by Indonesia and Australia. Meanwhile, the comparative approach is used to identify similarities and differences between the domestic legal frameworks of both countries, particularly regarding sanitary and phytosanitary measures, technical regulations, import licensing systems, biosecurity governance, and other regulatory mechanisms affecting agricultural trade under IA-CEPA.

The legal materials used in this study consist of primary, secondary, and tertiary legal sources. Primary legal materials include IA-CEPA, the WTO Agreements, Indonesian legislation, Australian legislation, and relevant WTO dispute settlement reports. Secondary legal materials comprise books, peer-reviewed journal articles, and scholarly commentaries on international trade law and regulatory harmonization. Tertiary legal materials, including legal dictionaries and official explanatory documents, are used to clarify legal terminology and support doctrinal interpretation. Legal sources were selected based on their normative relevance to the research questions, legal authority, and direct relationship to the regulation of agricultural trade under IA-CEPA.

The legal analysis is conducted using qualitative doctrinal analysis through three sequential stages. [11]First, relevant legal norms contained in international agreements and domestic legislation are identified and systematically interpreted. Second, these legal norms are compared to assess their consistency and compatibility with the principles of international trade law. Third, the analysis evaluates the extent to which the domestic legal frameworks of Indonesia and Australia have achieved regulatory harmonization in implementing IA-CEPA, while identifying the principal legal challenges arising from differences in regulatory philosophy, institutional arrangements, and domestic policy objectives. This analytical framework enables the study to answer the research questions by providing a normative assessment of the relationship between international treaty obligations and domestic agricultural trade regulations.

IV. Result and Discussion

1. Regulation of Agricultural Tariff Barriers under IA-CEPA from the Perspective of International Trade Law Principles

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[11] Terry Hutchinson, "Doctrinal Research: Researching the Jury," in Research Methods in Law, ed. Dawn Watkins and Mandy Burton, 2nd ed. (London: Routledge, 2018), 9–36.

The regulation of agricultural tariff barriers under IA-CEPA reflects the transformation of modern bilateral trade agreements from conventional tariff reduction instruments into broader legal frameworks for trade governance. IA-CEPA not only regulates tariff liberalization but also incorporates provisions concerning customs procedures, sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT), and market access commitments. Within international trade law, this evolution demonstrates the increasing role of bilateral agreements in harmonizing domestic trade regulations while simultaneously promoting economic integration between participating states. Agricultural trade becomes a central issue because the sector is closely connected with food security, domestic economic protection, environmental sustainability, and state sovereignty over strategic commodities.

From the perspective of international trade law, tariff barriers constitute lawful instruments provided they are implemented consistently with WTO principles and treaty obligations. The General Agreement on Tariffs and Trade (GATT) allows states to impose tariffs as part of national trade policy, but such measures must comply with the principles of non-discrimination, transparency, and proportionality.[12] IA-CEPA adopts these principles by requiring both Indonesia and Australia to progressively reduce tariff barriers and facilitate agricultural trade through tariff commitments and preferential market access arrangements. However, the agreement also recognizes the sovereign authority of states to maintain domestic regulations necessary to protect legitimate national interests, including food security, public health, and environmental protection.

Indonesia's import licensing regime represents one of the most significant regulatory instruments affecting agricultural trade. Import approvals, Importer Identification Numbers (API), and Recommendations for the Importation of Horticultural Products (RIPH) serve important administrative functions by ensuring the orderly entry of agricultural products into the domestic market. Nevertheless, the compatibility of these measures with international trade law has been questioned where licensing procedures become excessively restrictive or create unnecessary barriers to market access.

Indonesia—Importation of Horticultural Products, Animals and Animal Products (DS477/DS478), the Panel and Appellate Body concluded that several Indonesian import licensing requirements constituted unnecessary restrictions on trade and were inconsistent with Articles XI:1 and X:3(a) of the GATT 1994 because they limited market access beyond what was necessary to achieve legitimate regulatory objectives. The jurisprudence confirms that WTO Members retain the sovereign authority to regulate agricultural trade; however, such authority must be exercised consistently with the principles of transparency, necessity, and non-discrimination. Consequently, the Indonesian regulatory framework illustrates the continuing legal tension between domestic policy objectives and international trade commitments, a challenge that remains equally relevant to the implementation of IA-CEPA.

Agricultural quarantine measures constitute another essential component of Indonesia's regulatory framework. Law Number 21 of 2019 on Animal, Fish, and Plant Quarantine authorizes quarantine authorities to prevent the entry of pests, diseases, and other biological risks that may threaten national agricultural resources.[13] Normatively, these measures are consistent with both Chapter 7 of IA-CEPA concerning Sanitary and Phytosanitary Measures and the WTO SPS Agreement, which expressly recognizes the right of Members to adopt measures necessary to protect human, animal, and plant life or health. However, WTO law requires that SPS measures be supported by scientific evidence and risk assessment, applied

[12] Peter Van den Bossche and Werner Zdouc, The Law and Policy of the World Trade Organization (Cambridge: Cambridge University Press, 2021).

[13] Indonesia, Law Number 21 of 2019 concerning Animal, Fish, and Plant Quarantine.

only to the extent necessary to achieve their protective objectives, and implemented in a non-discriminatory manner.

Accordingly, the legal consistency of Indonesia's quarantine system depends not only on its statutory basis but also on whether individual quarantine measures satisfy the disciplines establishedIndonesia continues to utilize agricultural tariff policies as instruments for protecting domestic farmers and maintaining national food resilience. Tariff measures are accompanied by import licensing systems, quota mechanisms, and commodity-specific restrictions designed to stabilize domestic agricultural markets. Such policies are legally justified under the concept of state sovereignty in international economic law, particularly for developing countries seeking to protect vulnerable agricultural sectors from excessive foreign competition.[14] Nevertheless, these measures frequently raise legal concerns when they potentially restrict market access beyond what is necessary to achieve legitimate domestic objectives. Within the framework of IA-CEPA, Indonesia therefore faces the challenge of balancing domestic agricultural protection with its international obligation to liberalize trade.

Australia, on the other hand, adopts a relatively liberal tariff regime but maintains stringent regulatory standards through biosecurity laws and SPS measures. The Australian Biosecurity Act 2015 serves as a legal instrument aimed at preventing biological risks, invasive species, and food contamination entering Australian territory.[15] Although these measures are formally non-tariff barriers, in practice they function as substantial restrictions on agricultural imports because exporting countries must comply with complex certification, inspection, and technical standards. From the perspective of international trade law, such measures are permissible provided they are based on scientific evidence, applied non-discriminatorily, and not obviously as protectionist trade restrictions.[16]

The relationship between tariff barriers and SPS measures under IA-CEPA demonstrates that modern agricultural trade barriers increasingly operate through domestic regulatory systems rather than customs duties alone. Indonesian agricultural exports benefiting from preferential tariffs under IA-CEPA remain subject to Australian technical standards and biosecurity requirements. Consequently, tariff reductions do not automatically guarantee effective market access. This condition reflects the legal complexity of contemporary trade agreements where liberalization commitments coexist with domestic regulatory autonomy. In legal terms, IA-CEPA illustrates the tension between trade liberalization obligations and the sovereign right of states to regulate domestic economic and environmental interests.

The principle of transparency constitutes another important legal aspect governing agricultural tariff barriers under IA-CEPA. Both parties are required to publish and administer trade regulations transparently to avoid uncertainty and discriminatory treatment.[17] Transparency obligations are essential that hidden regulatory measures or inconsistent administrative procedures may effectively function as indirect trade barriers. In practice, concerns remain regarding the complexity of Indonesian import licensing systems and the technical nature of Australian SPS compliance requirements. These regulatory complexities often create additional costs for exporters and reduce the practical effectiveness of preferential tariff schemes established under IA-CEPA. Such measures have frequently been criticized within the WTO framework because excessive licensing requirements may restrict agricultural

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[14] Michael J. Trebilcock, Robert Howse, and Antonia Eliason, The Regulation of International Trade (New York: Routledge, 2013).

[15] Australian Government, Biosecurity Act 2015 (Canberra: Commonwealth of Australia, 2015).

[16] World Trade Organization, *Agreement on the, Application of Sanitary and Phytosanitary Measures*, accessed May 25, 2026, https://www.wto.org

[17] Indonesia–Australia Comprehensive Economic Partnership Agreement, *IA-CEPA Text Agreement*, accessed May 25, 2026, https://igj.or.id/wp-content/uploads/2019/09/IA-CEPA-TEXT-AGREEMENT-2019.pdf

imports beyond what is necessary for legitimate domestic objectives. WTO rules on Import Licensing Procedures require that licensing mechanisms must be transparent, predictable, and not create unnecessary barriers to trade. In response to these requirements, Indonesia has designated several key agencies responsible for various aspects of trade compliance. For instance, the TBT (Technical Barriers to Trade) Notification Authority and the Enquiry Point fall under the purview of the National Standardisation Agency. Additionally, the Ministry of Agriculture, the Ministry of Fisheries and Marine Affairs, and the Food and Drugs Agency handle responses to Sanitary and Phytosanitary (SPS) enquiries.[18]

Within IA-CEPA itself, SPS compliance obligations are specifically regulated in Chapter 7 concerning Sanitary and Phytosanitary Measures. Article 7.4 paragraph (2) of the IA-CEPA Text Agreement provides that both parties "commit to apply the principles of the SPS Agreement in the development, application or recognition of any sanitary or phytosanitary measures with the intent to facilitate trade between them, while protecting human, animal or plant life or health." Furthermore, the same provision emphasizes that SPS measures must be "based on scientific evidence in accordance with the SPS Agreement.[19]

On the Australian side, SPS compliance requirements constitute one of the most significant regulatory barriers affecting Indonesian agricultural exports. Australia applies strict biosecurity regulations under the Biosecurity Act 2015, which authorizes the government to impose sanitary and phytosanitary controls on imported agricultural products in order to prevent pests, diseases, and contamination risks as mentioned Section 5 explains that the purpose of the Act is to manage biosecurity risk associated with goods, conveyances, and diseases entering Australian territory.[20] The Act authorizes the Australian government to control imported goods that may pose risks to human, animal, or plant health. The legal basis for these measures is reinforced through Australia's implementation of the WTO SPS Agreement, particularly Article 2.2 and Article 5, which require SPS measures to be based on scientific evidence and risk assessment.[21]

Within IA-CEPA itself, SPS compliance obligations are specifically regulated in Chapter 7 concerning Sanitary and Phytosanitary Measures. Article 7.4 paragraph (2) of the IA-CEPA Text Agreement provides that both parties "commit to apply the principles of the SPS Agreement in the development, application or recognition of any sanitary or phytosanitary measures with the intent to facilitate trade between them, while protecting human, animal or plant life or health." Furthermore, the same provision emphasizes that SPS measures must be "based on scientific evidence in accordance with the SPS Agreement. A practical example of SPS compliance barriers affecting Indonesia can be seen in Indonesian horticultural and animal-based exports entering Australia. Indonesian exporters are required to comply with strict Australian import conditions concerning pest-free certification, traceability systems, quarantine inspections, food safety documentation, and biosecurity risk assessments. Failure to satisfy these requirements may result in delays, additional inspection costs, rejection of shipments, or denial of market access. Although these measures are formally justified as

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[18] ARISE+ Indonesia*, Strengthening Indonesia's Compliance with WTO Import Licensing Requirements* https://ariseplus-indonesia.org/en/activities/strengthening-indonesia-compliance-with-wto-import-licensing-requirements.html?utm_source

[19] Indonesia–Australia Comprehensive Economic Partnership Agreement, *IA-CEPA Text Agreement*, accessed May 25, 2026, https://igj.or.id/wp-content/uploads/2019/09/IA-CEPA-TEXT-AGREEMENT-2019.pdf

[20] Section 5 Biosecurity Act 2015.

[21] WTO SPS Agreement.

legitimate biosecurity protections, in practice they often increase transaction costs and reduce the effectiveness of preferential tariff treatment provided under IA-CEPA.[22]

Failure to satisfy these requirements may result in delays, additional inspection costs, rejection of shipments, or denial of market access. Although these measures are formally justified as legitimate biosecurity protections under Article 2.2 and Article 5 of the WTO SPS Agreement, in practice they often increase transaction costs and reduce the effectiveness of preferential tariff treatment provided under IA-CEPA. Australia itself recognizes that tariff elimination is insufficient to improve bilateral agricultural trade because technical requirements, SPS measures, and non-tariff barriers continue to affect market access.[23]

The principle of transparency constitutes another important legal aspect governing agricultural tariff barriers under IA-CEPA. Both parties are required to publish and administer trade regulations transparently to avoid uncertainty and discriminatory treatment. Transparency obligations are essential because hidden regulatory measures or inconsistent administrative procedures may effectively function as indirect trade barriers. In practice, concerns remain regarding the complexity of Indonesian import licensing systems and the technical nature of Australian SPS compliance requirements. These regulatory complexities often create additional costs for exporters and reduce the practical effectiveness of preferential tariff schemes established under IA-CEPA. Another important principle relevant to agricultural tariff barriers under IA-CEPA is the principle of proportionality. International trade law requires that domestic regulatory measures should not exceed what is necessary to achieve legitimate policy objectives.[24]

he principle of non-discrimination also plays a crucial role in evaluating the legality of agricultural tariff barriers under IA-CEPA. Under WTO law and IA-CEPA obligations, both states are prohibited from treating imported products less favorably than domestic products or products originating from third countries.[25] In practice, however, agricultural regulations may indirectly create discriminatory effects through technical standards, certification procedures, or administrative burdens disproportionately affecting foreign exporters. Such situations raise significant legal questions concerning whether domestic regulatory measures genuinely pursue legitimate objectives or operate as restrictions on trade.

The regulation of agricultural tariff barriers under IA-CEPA also reflects the broader concept of regulatory coherence in international trade governance. Regulatory coherence requires states to align domestic trade regulations with international commitments to create predictability and legal certainty in cross-border commerce.[26] Nevertheless, differences in legal traditions, economic structures, and agricultural priorities between Indonesia and Australia complicate the harmonization process. Indonesia prioritizes food sovereignty and domestic farmer protection, whereas Australia emphasizes market efficiency, export competitiveness,

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[22] Australian Government Department of Agriculture, Fisheries and Forestry. "2024-64: Plant Exports – Changes to Indonesia's Importing Country Requirements." Published October 3, 2024. https://www.agriculture.gov.au/biosecurity-trade/export/controlled-goods/plants-plant-products/ian/2024/2024-64?utm_source

[23] Australian Parliament. *Inquiry into the Growth Potential in Australia's Trade and Investment Relationship with Indonesia.* Canberra: Parliament of Australia, 2017.

[24] Mitsuo Matsushita, Thomas J. Schoenbaum, and Petros C. Mavroidis, *The World Trade Organization: Law, Practice and Polic*y (Oxford: Oxford University Press, 2015).

[25] John H. Jackson, *The World Trading System: Law and Policy of International Economic Relations* (Cambridge: MIT Press, 1997).

[26] Ernst-Ulrich Petersmann, *International Economic Law in the 21st Century* (Oxford: Hart Publishing, 2012).

and strict biosecurity protection. These differing priorities frequently influence the formulation and implementation of domestic agricultural trade regulations.

In conclusion, the regulation of agricultural tariff barriers under IA-CEPA demonstrates that trade liberalization within international trade law cannot be understood solely as the elimination of tariffs. Instead, it involves a broader process of legal harmonization between international obligations and domestic regulatory systems. IA-CEPA therefore represents not only a trade agreement but also a legal instrument aimed at balancing economic integration, domestic sovereignty, agricultural protection, and fair trade principles. The effectiveness of IA-CEPA depends significantly on the extent to which Indonesia and Australia can harmonize their domestic agricultural trade laws while remaining consistent with the principles of international trade law.

The foregoing analysis contributes to the existing scholarship by demonstrating that the principal challenge under IA-CEPA lies not in tariff liberalization itself but in the normative compatibility between international trade obligations and domestic regulatory frameworks. Unlike previous studies that predominantly evaluate IA-CEPA from economic or commercial perspectives, this research establishes that regulatory harmonization constitutes the central legal determinant of effective agricultural market access. Accordingly, the findings extend the discourse on international trade law by proposing regulatory coherence as the principal analytical framework for assessing bilateral trade agreements involving extensive domestic regulatory autonomy.

2. Harmonization of Indonesian and Australian National Laws in Implementing Agricultural Trade Policies under IA-CEPA.

The harmonization of Indonesian and Australian national laws under IA-CEPA constitutes a central legal issue in the implementation of bilateral agricultural trade policies. Harmonization in international trade law refers to the process through which states align domestic legal regulations with international treaty obligations in order to reduce regulatory conflicts and facilitate cross-border economic activities.

Indonesia's legal framework governing agricultural trade is fundamentally shaped by the constitutional principles of economic sovereignty, food security, and state control over strategic sectors. The constitutional basis for this framework derives primarily from Constitution of the Republic of Indonesia 1945, particularly Article 33 paragraph (2) and paragraph (3), which provide that branches of production important to the state and affecting the livelihood of the people shall be controlled by the state, and that natural resources must be utilized for the greatest prosperity of the people. These constitutional principles form the normative foundation for Indonesia's agricultural trade policies, including import regulation, commodity control, food security protection, and domestic market stabilization.[27]

Agricultural quarantine and SPS-related measures are governed under Law Number 21 of 2019 on Animal, Fish, and Plant Quarantine. This law authorizes quarantine authorities to inspect imported agricultural products and prevent the entry of pests, diseases, and harmful organisms into Indonesian territory. [28]Similar to Australia's Biosecurity Act 2015, Indonesia's quarantine framework is legally justified under the WTO SPS Agreement because it seeks to protect human, animal, and plant health. However, the implementation of quarantine procedures and SPS requirements may also function as indirect trade barriers when administrative requirements become excessively burdensome or inconsistent.

[27] Indonesia, *The 1945 Constitution of the Republic of Indonesia*.
[28] Indonesia, *Law Number 21 of 2019 on Animal, Fish, and Plant Quarantine*.

Indonesia's import licensing regime for agricultural commodities is additionally regulated through ministerial regulations issued by the Ministry of Trade and the Ministry of Agriculture. For example, importation of horticultural products often requires Import Approval Letters (Persetujuan Impor), Importer Identification Numbers (API), and Recommendations for Import of Horticultural Products (RIPH). These measures have previously become the subject of dispute within the WTO dispute settlement system in the case Indonesia — Importation of Horticultural Products, Animals and Animal Products (DS477/DS478), where Indonesia's import licensing restrictions were challenged by New Zealand and the United States for being inconsistent with WTO obligations.[29]

From the perspective of international trade law, Indonesia's agricultural legal framework reflects a dual legal orientation. On one hand, Indonesia is committed to international trade liberalization under WTO Agreements and IA-CEPA. On the other hand, Indonesia maintains strong domestic legal commitments to food sovereignty, farmer protection, and national economic stability. This duality often creates tensions between domestic regulatory autonomy and international trade obligations. Import restrictions, licensing requirements, and commodity controls designed to protect domestic interests may potentially conflict with principles of non-discrimination, transparency, and market access under WTO law and IA-CEPA commitments.

Australia's legal framework, by contrast, places significant emphasis on biosecurity governance, scientific risk assessment, and technical compliance standards. Australian agricultural import regulations are primarily administered under the Biosecurity Act 2015 and related SPS regulations. These legal measures aim to protect Australia's agricultural ecosystem from pests, diseases, and contamination risks associated with imported products. While such regulations are recognized under international trade law as legitimate protective measures, they may also create practical trade barriers when compliance standards become excessively complex or burdensome for exporters.[30] Thus, legal harmonization under IA-CEPA requires balancing Australia's regulatory autonomy with Indonesia's interest in obtaining meaningful agricultural market access.

One major challenge in harmonizing Indonesian and Australian agricultural trade laws lies in the difference between regulatory philosophies adopted by both states. Indonesia generally adopts protective agricultural policies aimed at supporting domestic food resilience and safeguarding small-scale farmers. Australia, meanwhile, follows a market-oriented trade model emphasizing liberalization and export competitiveness combined with strict technical regulation. These differing legal and economic priorities frequently affect the implementation of tariff reductions and market access commitments under IA-CEPA. As a result, harmonization becomes not merely a technical legal exercise but also a political and economic negotiation concerning national interests.

The principle of regulatory coherence under international trade law requires both states to ensure consistency between domestic regulations and treaty commitments.[31] Regulatory coherence is particularly important because inconsistent or overlapping regulations may create uncertainty for exporters and undermine the effectiveness of tariff liberalization. In Indonesia, overlapping regulations involving customs authorities, agricultural ministries, halal certification bodies, and trade licensing institutions often create administrative complexities

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[29] World Trade Organization, *Indonesia — Importation of Horticultural Products, Animals and Animal Products (DS477/DS478)*, https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds477_e.htm?utm_source= accessed May 25, 2026.

[30] Simon Lester, Bryan Mercurio, and Arwel Davies, *World Trade Law: Text, Materials and Commentary* (Oxford: Hart Publishing, 2018).

[31] Peter Van den Bossche and Werner Zdouc, *The Law and Policy of the World Trade Organization: Text, Cases and Materials, 5th ed*. (Cambridge: Cambridge University Press, 2021), 745–768.

affecting agricultural imports and exports. Similarly, Australia's highly technical SPS compliance procedures may increase transaction costs and reduce the practical accessibility of preferential tariff schemes for Indonesian exporters.

Harmonization under IA-CEPA also involves the alignment of customs procedures and rules of origin requirements. Rules of origin are crucial because they determine whether agricultural products qualify for preferential tariff treatment under IA-CEPA. Both Indonesia and Australia must therefore ensure that domestic customs regulations are implemented transparently and consistently to avoid unnecessary barriers to trade.[32] Complex customs procedures or inconsistent verification mechanisms may undermine the effectiveness of tariff preferences by increasing compliance burdens for exporters and importers.

Another important aspect of legal harmonization concerns SPS and TBT measures. Under international trade law, SPS regulations must be scientifically justified and should not create unnecessary restrictions on trade.[33] IA-CEPA reinforces these obligations by encouraging regulatory cooperation and information exchange between Indonesia and Australia. However, practical implementation remains challenging because differences in institutional capacity, technological infrastructure, and certification systems continue to affect compliance processes. Indonesian agricultural exporters often face difficulties in meeting Australia's strict SPS standards, particularly regarding traceability systems, product testing, and biosecurity certification.

The harmonization of national laws under IA-CEPA has important questions regarding the balance between trade liberalization and domestic regulatory sovereignty. International trade agreements generally require states to reduce barriers to trade, yet they also recognize the sovereign right of governments to protect public health, food security, and environmental interests. Consequently, legal harmonization should not be interpreted as the elimination of domestic regulatory authority but rather as the alignment of domestic regulations with internationally accepted legal principles. Both Indonesia and Australia therefore retain the right to regulate agricultural trade provided such measures are implemented transparently, proportionately, and non-discrimination.

In practice, effective legal harmonization under IA-CEPA requires institutional cooperation and continuous regulatory dialogue between Indonesia and Australia. Bilateral cooperation mechanisms are essential to address disputes concerning tariff implementation, SPS compliance, and technical trade barriers. Regulatory cooperation also contributes to improving legal certainty, reducing administrative burdens, and enhancing mutual understanding of domestic regulatory systems. Without effective cooperation, legal differences between both countries may continue to function as hidden trade barriers despite formal tariff liberalization commitments under IA-CEPA.

or the purposes of this study, legal harmonization is evaluated through five interrelated normative indicators. First, regulatory consistency examines whether domestic legal instruments conform to the substantive obligations imposed by IA-CEPA and the WTO Agreements. Second, legal compatibility assesses whether the regulatory objectives and legal mechanisms adopted by each Party are capable of coexisting without generating unjustifiable restrictions on agricultural trade. Third, regulatory coherence evaluates the extent to which domestic regulatory frameworks operate in a predictable, coordinated, and legally certain

[32] Indonesia–Australia Comprehensive Economic Partnership Agreement, *IA-CEPA Text Agreement, Chapter 3 on Trade in Goods and Chapter 4 on Rules of Origin*, accessed May 25, 2026.

[33] World Trade Organization, Agreement on the Application of Sanitary and Phytosanitary Measures, arts. 2 and 5.

manner. Fourth, transparency considers whether regulatory measures are publicly accessible, objectively administered, and implemented in accordance with procedural fairness. Finally, regulatory cooperation and mutual recognition examine whether IA-CEPA has established institutional mechanisms capable of reducing unnecessary regulatory divergence while respecting each Party's legitimate regulatory autonomy. Collectively, these indicators constitute the normative framework through which the degree of legal harmonization between Indonesia and Australia is critically evaluated.

The harmonization of Indonesian and Australian national laws under IA-CEPA reflects the broader challenge faced by international trade agreements in reconciling economic integration with state sovereignty. Harmonization is not limited to adjusting tariff schedules but involves comprehensive alignment between domestic legal systems and international trade obligations. IA-CEPA therefore demonstrates that successful agricultural trade liberalization depends not only on reducing tariff rates but also on establishing coherent, transparent, and mutually compatible legal frameworks governing agricultural trade. Through effective legal harmonization, IA-CEPA has the potential to strengthen bilateral agricultural trade while simultaneously protecting legitimate domestic interests in both Indonesia and Australia.

The present study that the effectiveness of legal harmonization under IA-CEPA is more appropriately evaluated through normative legal criteria—including regulatory consistency, legal compatibility, regulatory coherence, transparency, and regulatory cooperation—than through economic performance indicators alone. Unlike previous studies that predominantly examine IA-CEPA from commercial or economic perspectives, this research establishes that the principal legal determinant of effective agricultural trade lies in the normative compatibility between treaty obligations and domestic regulatory frameworks. Accordingly, the study contributes a doctrinal analytical framework capable of assessing the implementation of bilateral trade agreements from the perspective of international trade law and comparative legal harmonization.

V. Conclusion

The regulation of agricultural tariff barriers under IA-CEPA demonstrates that contemporary international trade agreements not only focus solely on tariff reduction but also emphasize broader regulatory harmonization between participating states. From the perspective of international trade law, IA-CEPA incorporates principles of transparency, non-discrimination, proportionality, regulatory coherence, and market access consistent with WTO obligations. Nevertheless, the implementation of agricultural trade liberalization between Indonesia and Australia continues to face significant challenges due to differences in domestic legal systems, national economic priorities, and regulatory approaches. Indonesia maintains tariff policies, import licensing systems, and commodity protection measures aimed at safeguarding food sovereignty, domestic farmers, and national market stability. Conversely, Australia applies relatively low tariff barriers but enforces stringent biosecurity laws, SPS measures, and technical standards under the Biosecurity Act 2015 to protect public health, agricultural ecosystems, and environmental security. Consequently, agricultural trade barriers under IA-CEPA increasingly operate through domestic regulatory frameworks rather than traditional customs tariffs alone.

The findings further indicate that IA-CEPA has primarily strengthened procedural harmonization by promoting transparency, regulatory cooperation, consultation mechanisms, and institutional dialogue. However, the Agreement does not require the substantive convergence or unification of domestic agricultural legislation. Consequently, the effectiveness of IA-CEPA should not be evaluated solely by reference to tariff liberalization or increased bilateral trade flows, but rather by its capacity to enhance regulatory coherence, legal certainty, and normative compatibility between treaty obligations and domestic legal frameworks. WTO jurisprudence further confirms that domestic regulatory autonomy remains legally protected, provided that national regulatory measures comply with the principles of necessity, proportionality, transparency, scientific justification, and non-discrimination.

This study further concludes that the harmonization of Indonesian and Australian national laws under IA-CEPA remains incomplete and continues to encounter legal and practical obstacles. Differences in regulatory philosophies, institutional capacity, customs procedures, SPS compliance mechanisms, and administrative licensing systems frequently create additional compliance burdens for exporters and reduce the practical effectiveness of preferential tariff arrangements. Although IA-CEPA encourages legal harmonization through regulatory cooperation, SPS transparency obligations, and rules of origin provisions, implementation gaps persist due to overlapping domestic regulations and differing interpretations of legitimate trade protection measures. Therefore, effective harmonization under IA-CEPA requires continuous institutional dialogue, greater regulatory transparency, and stronger bilateral cooperation mechanisms to ensure consistency between domestic regulations and international trade obligations. In conclusion, successful agricultural trade liberalization under IA-CEPA depends not only on reducing tariff barriers but also on establishing coherent, transparent, proportionate, and mutually compatible legal frameworks capable of balancing trade liberalization with the sovereign right of states to protect legitimate domestic interests.

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