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Committee on Technical Barriers to Trade

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INDONESIA — HALAL PRODUCT ASSURANCE LAW NO. 33 OF 2014

**STATEMENT BY THE EUROPEAN UNION TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE
21 AND 22 MARCH 2018**

The following communication, dated 16 April 2018, is being circulated at the request of the delegation of the European Union.

1. The European Union would like to reiterate its serious concerns as regards the Indonesian Halal Product Guarantee Law No 33 of September 2014, which has a very broad scope and affects, among others, food and beverages, pharmaceuticals, chemical and biological products, all consumer goods and cosmetics, as well as related services. The Law, announced to be fully enforced as from 2019, requires mandatory Halal certification and labelling for the products within its scope in order to be placed in the Indonesian market. In particular, Article 4 provides that products entering, circulating and traded in the territory of Indonesia must be Halal certified.

2. According to recent information, two governmental regulations would be under preparation to complement the Halal Product Guarantee Law, namely, (i) a regulation setting tariffs for certification, and (ii) a draft implementing regulation on Halal Product Assurance. This implementing regulation on Halal Product Assurance seems to foresee a two-stage timeline for the certification of different sets of products: between year 1 to year 3 as from the date of enforcement, Halal certification would be required for food and beverages, while products such as medicines, cosmetics, chemicals or biological products would have to be certified from year 1 to year 5.

3. The EU kindly requests that, for transparency purposes and as set out in Article 2.9 of the TBT Agreement, Indonesia notifies to the WTO, via the TBT notification system, the Halal Product Guarantee Law, which was not notified at the time, as well as the draft implementing regulation on Halal Product Assurance, and any other implementing regulations and provides updated information on further measures under preparation and the time frame for their adoption. In accordance with Article 2.9.4 of the TBT Agreement, reasonable time should be allowed, so that eventual comments by Members can be taken into consideration. Furthermore, as foreseen in Article 2.12 of the TBT Agreement, Indonesia should, as a general rule, allow for a reasonable interval of time between the publication and the enforcement of adopted measures, in order to allow time for producers in exporting Members to adapt their products or methods of production to Indonesian requirements.

4. The European Union considers that Halal measures should have the purpose of ensuring reliability of information and facilitating consumer's choice. The EU calls upon Indonesia to reconsider its approach and keep Halal certification and labelling voluntary, as a less trade restrictive measure respectful with the legitimate objective of ensuring reliable information.

5. As regards the draft government implementing regulation on Halal Product Assurance, the European Union would seek confirmation that European companies or exporters would evaluate their products and determine whether they wish to claim that these are Halal or not and therefore whether they require Halal certification or not. The European Union would also seek confirmation that it would be possible to place non-Halal products in the Indonesian market in accordance with the Halal Law without time limitation. The European Union notes that according to the draft

implementing measure there is no obligation for non-Halal products to be certified. The European Union conveys its concerns on the fact that, according to available information, non-Halal products should display specific non-Halal information, such as images, signs or written text, since this would be unnecessary and would create an excessive burden for operators. The European Union considers that, in the absence of a Halal claim from the producer, no labelling obligations are justified.

6. The European Union notes that the provisions included in the draft implementing regulation on Halal Product Assurance in relation to the physical separation of Halal and non-Halal products during processing, storage, or distribution would deviate from the provisions included in the "Codex Alimentarius Guidelines" for the use of the term "Halal". Indeed, Codex guidelines allow for the processing of both (Halal and non-Halal products), within the same premises or processing establishments, provided that appropriate measures are taken to prevent any contact between Halal and non-Halal products. In addition, the same Guidelines provide that Halal food can be transported using facilities which have been previously used for non-Halal products if proper cleaning procedures, according to Islamic requirements, are observed.

7. The European Union notes the introduction of an exemption clause in the draft implementing regulation, according to which, medicines, biological products and medical devices of a life-saving nature using non-Halal raw material or not following the Halal process can still be distributed and traded until a Halal substitution product is found. This would contradict the principle of coexistence between products claiming Halal compliance and other products. The European Union would like to seek confirmation of the coexistence of Halal and non-Halal products without a time limitation, also for medicines, biological products and medical devices.

8. Although the draft implementing regulation defines both products for which Halal certification is required and products exempted from it, we would like to ask for further clarification on the scope of the definitions.

9. The European Union notes that the draft implementing regulation provides for the recognition of foreign Halal certification, according to which, products certified Halal by a foreign Halal institution having mutual recognition cooperation on Halal certification with the Halal Product Assurance Agency (BPJPH) do not need the BPJPH certificate, but only the product registration. The EU would like to obtain further information of the planned set-up for such mutual recognition schemes and confirmation of whether such mutual recognition schemes are already in operation.

10. According to the information available, in addition to the Halal Product Guarantee Law, additional provisions on Halal requirements would have already been set out in separate regulations for specific products, (for instance, for imports of carcasses and meat), and further requirements would be under preparation for milk and milk products, fats, gelatines, egg products and honey. Both the lack of transparency on implementing rules and this fragmented approach create uncertainty as to the requirements applicable at any point in time. It is essential to have a clearer idea of the specific products under the scope of the Halal Product Guarantee Law.

11. The EU would like to recall that, under Article 2.2 of the TBT Agreement, technical rules should not be more trade restrictive than necessary to fulfil a legitimate objective.
