

Investment Policy According to the Direction of Investment Policy in Indonesia

Ni Luh Made Elida Rani

University of Hindu Indonesia

Corresponding author. Email: rannyelida@gmail.com

ABSTRACT

To attract investors to invest, a country needs to determine a conducive and investment-friendly investment policy. A *conducive investment policy* is a policy that can facilitate and attract private investment in general and foreign investment in particular, encouraging foreign investors and domestic investors to invest by increasing the level of comfort and minimizing uncertainty, discretion, and ambiguity. Some countries provide restrictions on investment entry (especially foreign investment) by setting a minimum capital limit. The government creates a fundamental investment strategy to stimulate the formation of an investment-friendly national business climate in order to boost the national economy's competitiveness and accelerate investment growth. Article 4 of Law Number 25 of 2007 declares the essential investment policy. The investment climate is a policy, institutional and behavioral environment, both current and expected conditions, which affect the level of risk and the rate of return on capital investment. The investment climate is dynamic, meaning that every element in it will change as business dynamics and time change. The national development program, which is the direction of Indonesia's investment policy, stipulated that it is possible to implement investment in Indonesia by fulfilling specific requirements. In addition, foreign investment is directed at strengthening the growth of the national economy in order to support the achievement of national development goals. The need for government regulation of investment is intended to provide direction for investment carried out in Indonesia to play a role in national development.

Keywords: *Investor, Investment, Policy.*

1. INTRODUCTION

The government creates a fundamental investment strategy to stimulate the formation of an investment-friendly national business climate in order to boost the national economy's competitiveness and accelerate investment growth. Article 4 of Law 25/2007 declares the essential investment policy.

According to Article 4 paragraph (2) of Law 25/2007, the government, in establishing the basic investment policy, is obliged to:

1. Give fair treatment to both domestic and foreign investors while keeping the national interest in mind.
2. The provisions of the law ensure legal clarity, commercial certainty, and business security for investors from the licensing procedure to the completion of investment operations.
3. Opening opportunities for development and protecting MSMEs and Cooperatives.

A General Investment Plan is used to carry out the core investment policy (GIP). Presidential Regulation No. 16 of 2012, relating to the General Investment Plan (hence referred to as Perpres 16/2012), was issued by the government. GIP is a long-term investment planning document that will be effective until 2025 and will serve as a guide for Ministries and Non-Ministerial Government Agencies in developing investment policies. GIP's role is to bring all connected sectoral interests together and operationalize them so that there is no overlap in choosing which sectors should be developed and promoted through investment activities. GIP consists of investment policy directions and a roadmap for the implementation of the general investment plan. Article 2 letter d of Presidential Regulation 16/2012 regulates the direction of investment policy. [\[1\]](#)

2. METHOD

The research method employed was normative legal research, which entailed evaluating materials from numerous laws and regulations, as well as other materials

from related literature. Normative legal research or library law research is defined as legal research undertaken by evaluating library documents or secondary data. [\[2\]](#)

3. RESULT AND DISCUSSION

3.1 The direction of investment policy in improving the investment climate in Indonesia

The investment climate is an institutional environment policy and behavior, both current and expected conditions that affect the level of risk and the rate of return on investment. This investment climate has a significant impact on investors' motivation to engage in investment activities, both new investments and growth of existing ones. The investment climate is dynamic, meaning that every element in it will change as business dynamics and time change. In addition, the investment climate is also locational, meaning that although the investment climate will be strongly influenced by the situation and conditions of the national economy, the different characteristics of each regional and regional economy will give different directions of emphasis in efforts to improve the investment climate in Indonesia.

Improvement of the investment climate is carried out through strengthening investment institutions (such as the development of a One-Stop Integrated Service system in the field of investment that is more effective and accommodating, increasing coordination between institutions/agencies in the context of investment services, directing investment institutions in the regions to effectively proactively being the initiator of investment, regulating closed and open business fields with conditions, management of business competition (regulation, supervision, enforcement, and improvement of competence of business competition supervisory agencies), improving industrial relations (increasing worker competence and code of good faith for employer-employee relations), and improvement of the taxation and customs system. [\[5\]](#)

3.2 The Direction of Investment Policy

The national development program, which is the direction of Indonesia's investment policy, stipulated that it is possible to implement investment in Indonesia by fulfilling specific requirements. Furthermore, foreign investment is aimed at bolstering the national economy's growth in order to aid in the attainment of national development goals. In addition, in the national development program, it is expressly stated that the policy and implementation of investment, primarily foreign capital, is determined and carried out by the government, which is embodied in a policy instrument in the form of laws and regulations such as through government regulations, presidential decrees, ministers, and Capital Investment Coordinating Board. In setting these objectives, the government wants to achieve a specific objective. The policy and management of

investment, which began in the Fifth period of Five Years Development (1989-1994) and was described in the Presidential Decree of the Republic of Indonesia Number 13 of 1989, concerned the Fifth Period of Five Years Development Plan, chapter 7 concerning the Development of the Business World, it was explained that "investment, especially foreign capital is still needed for development in various fields, especially those that can produce goods and services for export, encourage development and transfer of technology, as well as create jobs and are directed to encourage the ability and growth of the national business world." This policy further formulates that foreign investment is carried out basically in joint ventures accompanied by certain conditions, including opening up enormous job opportunities, enabling the transfer of skills and technology transfer to the Indonesian people in the shortest possible time, and maintaining quality and environmental balance.

The Government's policy on investment from time to time continues to experience ups and downs. Sometimes stringent policies are treated, then loosened again. This fact can be seen from the government policy on January 22, 1974, which required every investment, especially foreign capital that would carry out its business in Indonesia, to cooperate in the form of joint ventures with the national capital. The stipulation of business fields followed this policy declared to be completely closed to foreign investment, open but must be through joint venture cooperation with the national capital.

The need for government regulation of investment is intended to provide direction for investment carried out in Indonesia to play a role in national development. In other words, both foreign and domestic investment policies are founded on the assumption that investment activities must contribute to the building and strengthening of the national economy's structure. In other words, the existence of various arrangements for investment is nothing but intended to provide wider opportunities for investors in carrying out their activities through the support of a conducive investment climate. [\[6\]](#)

Moreover, various deregulation and debureaucratization efforts are needed to create a better implementation of investment licensing services by simplifying investment regulations and licensing. This is one of the government's efforts to provide more investment opportunities to carry out their business smoothly, safely, and in an orderly manner.

Because no matter how good the investment climate created by the government for both foreign and domestic investment, if it is not accompanied by efforts to deregulate and debureaucratize investment services, then, of course, it will not provide adequate results so as not to cause doubts from investors to invest in Indonesia.

The direction of government policy on the implementation of investment must be clear and consistent so that it cannot and does not easily change according to the tastes of policymakers. In other words,

tailored policies are supposed to give legal certainty for investment to play a larger role in national development implementation, rather than the other way around. For this reason, the government must be able to coordinate the activities of fostering and supervising investment as well as possible so as not to cause friction or conflict between investors on the one hand and the government and/or society on the other.

With the enactment of Law Number 25 of 2007 on investment as a replacement for Law Number 1 of 1967, jo. Law No. 11/1970 on foreign investment and Law No. 6/1968, jo. Law No. 12 of 1970 on domestic investment, the regulation of investment activities in Indonesia has changed and is expected to be in accordance with or in line with Law Number 32 of 2004 on regional government, which grants regions broader authority to carry out investment.

The regional authority is limited to investment licensing. It includes further regulation of top-level policies relating to the provision of various investment facilities and fostering and controlling investment in the regions.

From data on investment applications for both Foreign Investment and Domestic Investment from 1967 until January 2008, the total investment projects that Investment Coordinating Board has approved are valued at approximately US\$ 63.1 billion (approximately Rp. 126.2 trillion). This gives the impression that the policies adopted by the government in attracting investment, especially foreign capital to enter Indonesia, have not fully shown maximum results. This is due to several technical, operational constraints. Therefore, it is necessary to continue to strive strategically by the government to create and encourage a standard mechanism in the implementation or management of investment to provide greater stimulation or impetus for investment, especially foreign capital, to carry out business applications in Indonesia.

Although various supporting instruments have been put in place to complement the new investment law, which no longer distinguishes between foreign and domestic regulations, such as the improvement of investment application procedures through Presidential Decree No. 97/1993 in conjunction with Presidential Decree No. 115/1998 on Basic Provisions Investment method that stipulates a one-door service system licensing service for entrepreneurs who will invest their capital in Indonesia, and even now with a one-roof service system through the Presidential Decree No. 29 of 2004, but not yet show interest for the owner of the capital to take advantage of the investment facility. With this presidential decree, Investment Coordinating Board and Domestic Investment Coordinating Board act as the executor of all matters relating to the completion of the investment process in Indonesia. The decision is also intended to assist investors so that their dealings with the government and local governments related to investment can be carried out smoothly.

Furthermore, in conjunction with Presidential Decree Number 96 of 1998 concerning the List of Business Fields Closed to Investment and Presidential Decree Number 99 of 1998 concerning Fields/Types of Business Reserved for Small, Medium, and Large Businesses with Partnership Terms, the President of the Republic of Indonesia issued Decree Number 32 of 1992 as an elaboration of Article 6 of the Foreign Investment Law. The President of the Republic of Indonesia issued Instruction No. 5/1984 on Guidelines for Simplification and Control of Licensing in the Business Sector, as well as Investment Coordinating Board Decree No. 37/SK/1999 on Investment Guidelines and Procedures, to help investors apply for permits in Indonesia by reducing the number of permits available and simplifying procedures. Then the Investment Coordinating Board Decree Number 10 of 1985 and further elaborated in the Minister of Home Affairs of the Republic of Indonesia Number 20 and 21 of 1986, which aims to secure and regulate investment fees in the regions.

Besides that, to support the smooth flow of investment in spurring investment growth, especially foreign capital to Indonesia, various deregulations in the fields of finance, transportation, and trade, as well as industry have been carried out, including the permitting of foreign ownership of shares, regulation of commerce, increased efficiency in sea transportation, especially in the determination of free ports, import duties, formation of bonded zones, as well as industry, monetary policy, improvement of the investment climate and capital market, improvement of physical infrastructure, and promotion of investment promotion. [7]

The establishment of investment regulations by Law Number 25 of 2007 in place of Law Number 1 of 1967 about Foreign Investment and Law Number 6 of 1967 concerning Domestic Investment has eliminated the duality of regulation of investment, whether foreign or domestic. Furthermore, the inclusion of this new Law supports and clarifies Indonesia's investment regulation policy.

The government is clearly specified to adopt fundamental investment policies in order to (a) stimulate the formation of a favorable national business climate for investment in order to boost the national economy's competitiveness; and (b) expedite the rise in investment. Furthermore, while establishing the primary policy alluded to in this, the government would treat local and international investors equally while keeping the national interest in mind.

Furthermore, through the provisions of laws and regulations, the government will ensure legal certainty, business, and business security for investors from the licensing process to the end of investment activities, as well as opening opportunities for development and protecting micro, small, and medium enterprises cooperatives.

To reinforce the direction of the primary investment policy, the government will make it happen in a general

investment plan. The direction of investment growth in Indonesia is intended to be included in the government's general investment strategy, particularly in terms of regional investment development. One of the goals of forming a state government is to promote public welfare, thus the development of a fundamental investment strategy will be in keeping with that goal. Where the mandate has been stated, among other things, in the terms of Article 33 of the Republic of Indonesia's 1945 Constitution and as a constitutional mandate that underpins the formulation of all economic laws and regulations.

According to the constitution, national economic growth must be built on democratic values in order for Indonesia to achieve economic sovereignty. The People's Consultative Assembly of the Republic of Indonesia issued Decree Number XVI of 1998 addressing Economic Politics in the Framework of Economic Democracy as a source of material Law, reinforcing the relationship between economic growth and people's economic actors. As a result, the primary investment policy includes investment development for micro, small, medium, and cooperative businesses.

In this regard, an investment must be made as part of the national economy's implementation, with the goal of increasing national economic growth, job creation, long-term economic development, national technological capacity and capability, people's economic development, and community welfare in a competitive economic system.

The goal of implementing investment can only be achieved if the supporting factors that stifle investment can be overcome, such as better coordination between central and regional government agencies, the creation of an efficient bureaucracy, legal certainty in the investment sector, highly competitive economic costs, and a favorable business climate in the fields of human resources and business security. It is envisaged that when these numerous supporting variables improve, the investment realization would increase dramatically.

The mystical atmosphere surrounding the establishment of the Law on Investment is based on the spirit of creating a favorable investment climate, with the Law on Investment regulating matters such as the scope of the Law, basic investment policies, forms of business investment entities, treatment of investment, business fields, and so on, as well as the linkage of economic development with people's economic actors, which is embodied in the regulation regarding the development of investment for micro, small, medium, and cooperative enterprises, rights, obligations, and responsibilities of investors, as well as investment facilities, ratification and licensing coordination, and implementation of investment policies, which regulates institutions, the implementation of investment affairs, and provisions governing disputes. All direct investment operations in all areas are covered by this law. This law also ensures that all investors are treated equally. In addition, the

government is required by this law to strengthen cooperation between government agencies, the government, and Bank Indonesia, as well as between the government and regional governments. [8]

Small tables should be put within a column, whereas larger tables should be placed in a text frame that spans both columns. Use the Table feature in MSWord to create a table. The font in the row header should be strong, and you may use a style from the style palette to accomplish this.

4. CONCLUSION

From the description above, it can be concluded as follows: repair of the Investment Climate is carried out through strengthening institutional investment (such as the construction of a one-door integrated service system in the field of investment that is more effective and accommodating, increasing coordination between institutions/agencies in the context of investment services. This policy further formulates that foreign investment is carried out basically in joint ventures accompanied by certain conditions that can open considerable employment opportunities, enabling the transfer of skills and technology to the Indonesians as soon as possible and maintaining quality balance and environmental planning.

REFERENCES

- [1] Mas Rahmah, 2020, *Hukum Investasi*, Kencana, Jakarta Timur.
- [2] Soerjono Soekanto dan Sri Mamudji, 2011, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, PT Raja Grafindo Persada, Jakarta.
- [3] I Dewa Gede Atmadja dan I Nyoman Putu Budiarta, 2018, *Teori-Teori Hukum*, Setara Press, Malang.
- [4] Aminuddin Ilmar, 2010, *Hukum Penanaman Modal di Indonesia*, Kencana Prenada Media Group, Jakarta.