Business Licensing And The Indonesia's Master Plan 2011 – 2025

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Abstract: In accordance with the local economic development context, the Coordinating Ministry of Economic Affairs recently announced a new Master Plan for the "Acceleration and Expansion of Indonesia's Economic Development 2011-2025". The second phase of the Master Plan from 2016 to 2020 will focus on "quick wins" and on preparing action plans for the "debottlenecking" of various pending regulations, licenses, incentives, as well as preparing the ground for major investments. Though the implementation of the first phase itself reveals a very ambitious short-term agenda for reform on cross-cutting policies, both domestic and foreign investors are hoping for an improved license system in the OSS.

Index Terms: OSS, Business Licensing, Master Plan, Indonesia

1. INTRODUCTION

INdonesia has successfully managed its economic growth as the Southeast Asia's biggest economy with 5.2 percent [1]. Despite achieving rapid growth, Indonesia has the potential to achieve even higher growth rates given the wealth of its natural and human resources and strategic location within the Asian engine of global economic growth. To meet this potential, the President of Indonesia through Coordinating Ministry of Economic Affairs recently announced a new Master Plan for the "Acceleration and Expansion of Indonesia's Economic Development 2011-2025". This longer-term strategy, which goes beyond, but is designed to be integrated, and coordinated, with the three-phase of five-year development plans (e.g. 2011-2015, 2016-2020, and 2021-2025), aims to move Indonesia into the top ten global economies by 2025 [2]. Growth rates in the range of 7 to 9 percent are targeted and the Master Plan recognizes the need for Indonesia to structurally transform its economy and change 'business as usual' practices. The new plan is based on three strategies: (i) the development of six economic corridors, (ii) the strengthening of national connectivity, and (iii) the acceleration of technological and R&D capacity (see Figure 1). The first strategy aims to build centers of growth in each corridor by developing leading sectoral clusters, matched to the economic potential of the corridor. The successful development of these sectors is reliant on the implementation of the second strategy on improving connectivity since this allows synergies to be built between the centers of growth and links them domestically and internationally to facilitate trade and tourism. Successful development of the clusters is also dependent on industries having access to skills and technology and so the third strategy aims to improve human resources capabilities and to increase investments in research and development. At the same time, the new plan also highlights that the benefits of these strategies will only be realized if they are supported by the development of new trade and investment policies, including trade agreements, as well as new financing policies, including public private partnership (PPP) ventures.

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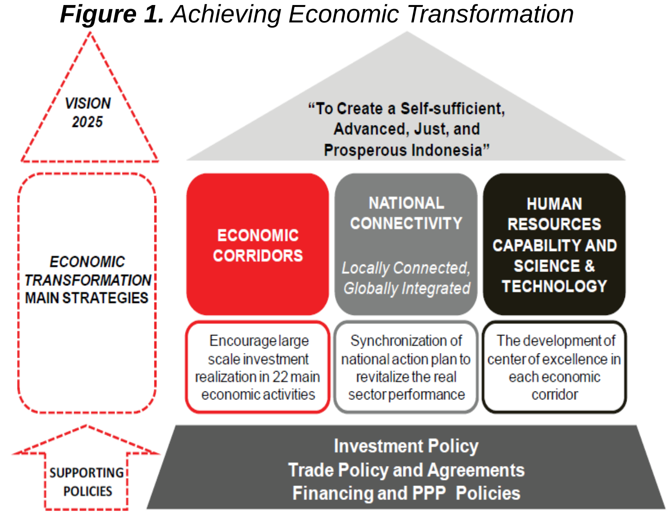
Figure 1. *Achieving Economic Transformation*

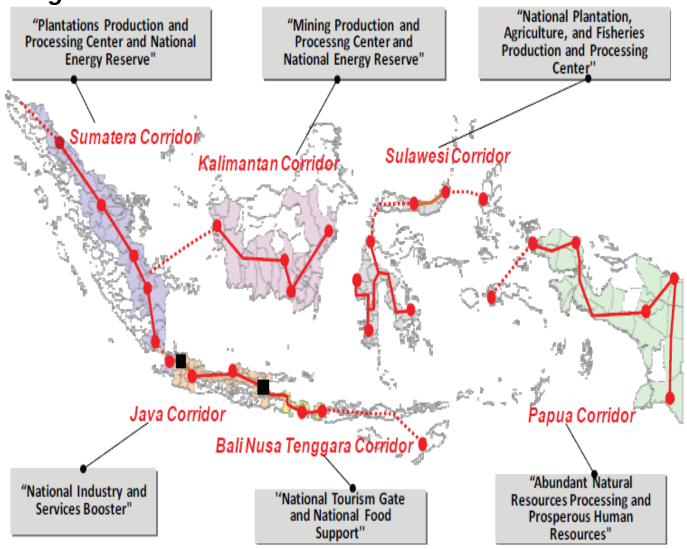


Source: Coordinating Ministry of Economic Affairs, 2011

The thrust of the Master Plan is to combine sectoral and regional approaches to development within the identified economic corridors. The sectoral approach focuses on identification of leading sectors within each corridor which have high growth prospects, and where Indonesia has the potential and ability to increase its competitiveness. The regional component complements the sectoral approach and identifies, for each corridor, what regional or national regulations need to be changed, what investments in infrastructure are needed in the region, and what type of human resource development (HRD) and science and technology upgrading will be beneficial to growth in those sectors. This regional emphasis intends to bridge West and East Indonesia, helping to close the development gaps between islands. The Master Plan considers the Government as a regulator and facilitator for new investments, inviting the private sector, state-owned enterprises and foreign capital to increase investments in key sectors, particularly for further processing. The Master Plan identifies investment opportunities in 22 sectors, including palm oil, rubber, coal, nickel, copper, oil and gas, tourism, fisheries, food estates, food and beverages industry, textiles, machines/ transportation, ship building, steel, aluminum and information and communication technology (ICT). These nation-wide investment opportunities are subsequently grouped into six regional corridors: Sumatra, Java, Kalimantan, Sulawesi, Bali - Nusa Tenggara (BNT), and Papua and Maluku (see Figure

2).

Figure 2. *Six Economic Corridors with Different Themes*



Source: Coordinating Ministry of Economic Affairs, 2011

Along with the investment targets, the new Master Plan also highlights the need to implement some cross-cutting reforms. These include synchronizing national and regional laws and regulations, developing a regulatory framework that supports increased domestic processing of commodities, and putting in place incentive systems to promote investments and streamlining business licensing procedures throughout the country.

2 BUSINESS LICENSING REFORM IN INDONESIA

Among the key factors hampering economic growth in Indonesia, one of the most commonly cited is low level of new domestic and foreign investment. Although there are many factors that contribute to investment such as infrastructure, political and economic country's condition, all firms are essentially facing the difficulty in obtaining required business licenses. In the World Bank's 2019 Doing Business survey of 190 countries, Indonesia's position decreased from 72nd position to 73rd, making the country's overall business performance was just higher than other ASEAN countries such as Cambodia, Lao, and the Philippines [3]. Also, of ten indicators in Doing Business survey, the variable of getting a credit, registering a property, and starting a business in Indonesia improved significantly. However, we performed poorly in protecting investors, getting electricity, paying taxes, enforcing contracts, closing a business, trading across borders, as well as dealing with construction permits. With such a situation, Indonesia in the midst of globalization faces two choices, make changes fundamentally or getting mired in an increasingly difficult position. The dimensions are very broad in revamping Indonesia's competitiveness and attractiveness among other countries, which involves multi-stakeholder commitment. Of course, too much reliance on the government's ability is not a wise choice considering its limitation on financial resources. However, the government must act as an agent of change toward strong competitiveness. Thus, business licensing reform can open the door of investment climate that will form an attraction for business sector around the world to choose Indonesia. As a part of regulatory reform, licensing reform has the fundamental objective in promoting national economic efficiency and enhancing government's ability to adopt changes in order to improve national competitiveness. One concrete step is to reform the institutions that previously had a duty and responsibility to provide licensing services. In principle, the central government through the Home Ministry has developed a One Stop Shop (OSS) licensing service center to improve the quality of bureaucratic reform. This manifests itself in a Single Window Integrated Service (PTSP) at the regional level for the purpose of business licensing. The idea is similar to those in other ASEAN countries, such as Thailand's One Start-One Stop Investment Center, Singapore's Online Business Licensing Service, and Malaysia's Business Licensing Electronic Support System (see Table 1). However, the areas that have implemented the ideal concept of OSS has not reached 90% of the entire regency/city in Indonesia [4].

Table 1*. Implementation of One Stop Service (OSS) in ASEAN Countries*

Country	OSS	Established Year	Rank in 2018	Rank in 2019
Singapore	OBLS	2004	2	2
Thailand	OSOS	2009	26	27
Malaysia	BLESS	2008	24	15
Indonesia	PTSP	2006	72	73

Source: Compiled from many sources

Also, unlike those countries, the Home Ministry's PTSP in some areas does not play a big role in licensing activity. Ideally, all permits such as permits for building, trade, and industry, would all be processed in this body. But, most of these permits are not performed there since there is no willingness from the local elites to speed up business licensing activity in PTSP. This, in turn, affects the time and cost that businessmen spent. Take the example of provincial government of Jakarta that just launched one-stop investment services. While this sounds promising for investors, it shows a lack of commitment by the governor to socialize PTSP as this body was actually established in 2007. Also, he did not commit to force regional government representatives (e.g. regional revenue office and regional trade office) associated with the issuance of the permits to be placed at PTSP office. With regards to the implementation of OSS in other ASEAN countries, the Thai Government regularly meet with investors, both domestic and foreign to identify the ways to improve the investment climate. As a follow up of the business plan, the government set up a one stop service center called OSOS (One Start One Stop Investment Center) on 23 November 2009. The performance of this institution looks promising in assisting investors' concerns, particularly related to business licensing procedures. As a result, the existence of this institution ranked 27th in terms of doing business. Another similar condition is found in Singapore, in which, as a follow up plan of implementation of the OASIS (Online Application System for the Integrated Systems) project in 2001, the Singapore government launched the OBLS (Online Business Licensing Service) in 2004, which has been successful in creating a pro-enterprise environment, especially for aspiring entrepreneurs' difficulties in terms of resources and expertise to assist the licensing system. With the existence of this institution, Singapore managed to improve the ranking of doing business into the second order. Meanwhile, the government of Malaysia through the Malaysian Industrial Development Agency (MIDA), an institution directly addresses the issue of investment in the country, launched BLESS (Business Licensing Electronic Support System) in 2008. It is a portal that provides information regarding licensing procedures and helps to facilitate the investors in starting a business. In addition, through virtual services, companies can obtain business permits in an effective, efficient and well-organized manner. Not surprisingly, Malaysia placed 15th position in doing business. Reflecting on the experience of these countries, the regulatory and institutional reform of licensing is one of the appropriate measures that could be an option. Starting from the simplification of licensing procedures through the creation of regulations that could be a proxy in investment will form a strong appeal for the investors to choose Indonesia as an investment target. From the institutional side, on-stop service system is a response to improve business licensing procedures. Therefore, to strengthen the performance of PTSP as a pioneer of deregulation and de-bureaucratization, as well as cut corruption in the licensing sector, local governments should develop local regulations of the implementation of the minimum licensing standards in starting a business in effective, efficient, transparent, and accountable manner, which ensures time and sustainability of business.

3 CHALLENGES IN BUSINESS LICENSING

In line with the decentralization of authority, the portion of local governments in building their area is greater than before. It indicates a large demand for the region in meeting the needs of development and services to the community. However, it did not practically bring major changes to the regional macroeconomic conditions. Even in some areas, they tend to grow more slowly than the national economy, and the gap becomes more and more visible. The division of authority and responsibility of budgeting sometimes is not parallel with a greater success in stimulating the regional economy. With decentralization went into effect, the regional governments should create conducive business climate to attract investment into their regions. However, their privilege to make regional regulations often hampered investment because they are more concerned with increasing local revenue through levy collection in business sector. Consequently, rates, timing, and procedures issued by entrepreneurs in each region are also different. In general, there are four principles for assessing the appropriateness of taxation at the regional level, such as the sufficiency of yield, economic efficiency, equity, the capacity of implementation, and the compatibility of regulation as the regional source of income [5]. With respect to the regional governments' fiscal capacity, their tax revenue could come from various sources, including tax sharing with the central government, tax levied by the regional government themselves, and additional taxes levied from the central government taxes. Ironically, the discretion in taxing has increased their creativity in designing other forms of taxes and various kinds of new retribution in a bid to avoid the limit of the existing taxes. The Regional Autonomy Watch's survey confirmed levies that have potential to cause a high-cost economy and uncertainty in the investment climate, including those with improper and different tariff structures, levies that double-up with those at the central and provincial level, or even those that overlap with other similar levies imposed by other regulations from the same municipal government, are frequently occurred in some regions [6]. For example, the Minister of Trade Ordinance No. 36/2007 on the Issuance of Trading Licenses states that there is no fee for making a new trading license (SIUP). Similarly, administration fee for a new company registration (TDP) is simply no existing, according to the Minister of Trade Ordinance No. 37/2007 on Company Registration. Yet, no businesspeople in regional areas enjoy new SIUP and TDP free of charge. Such situation basically arises due to a wrong interpretation of the essence of decentralization by local government. Decentralization, an instrument to bring the services closer to the community, is wrongly interpreted. In the context of licensing, decentralization should make licensing procedure simple and inexpensive, but it becomes increasingly difficult and expensive. Problems generally occur in decentralization related to the delegation of authority and its implementation. In many ways, the authority distributed at various levels of government is not followed by the implementation of these powers effectively. Many studies show that apparatus in the region are not prepared to exercise these powers [7] [8]. Unpreparedness of the authorities is highly related to the competencies and capabilities they have. In terms of implementation of licensing, lack of competencies is very easy to explain. First, the licensing process requires knowledge not only about the legal aspects of the licensing process, but also must consider the impact resulted from the issuance of licenses, both the short and long term. This is exacerbated by bad recruitment policy of PTSP employees. Second, optimizing the use of information technology can be considered to smooth the process of licensing. Unfortunately, there are still many who do not have the expertise to operate the technology. Mismatching between needs and competencies has led to the poor quality of public services. This stems from the recruitment process that is not based on job analysis. Also, recruitment and promotion systems are not based on meritocracy, but rather on the relationship of friendship, family, and politics. Such a system has led to the culture of Corruption, Collusion and Nepotism. Third, the licensing process cannot be separated from the interaction between the applicants and the apparatus. In such interactions, sometimes corrupt behavior by officials appears. Thus, the executing apparatus is required to have a positive attitude by not using the situation for personal gain. To achieve that, the clarity in the mechanisms of reward and punishment is essential. For example, the City Government of Sragen through Integrated Service Agency (BPT) apply incentive system for each staff who has provided the best services for local communities and administrative sanctions if they violate the provisions as contained in the Standard Operational Procedure (SOP). Behavioral problems take place when the principles of good governance are required to apply in license service. This condition could have been avoided if there is a Minimum Standard Service (SPM) in the PTSP so that the provided service can meet the given deadline. The SPM is also regulated through regulatory complaint tools (e.g. a complaint box). Unfortunately, complaint handling mechanism in the internal and external of PTSP does not work so the public does not have a strong bargaining power. The above findings are in line with the results of the Regional Autonomy Watch's study [6], which revealed a number of constraints related to the position or form of institution in the area of licensing. Clearly, there are many licensing service agencies in regional areas that reluctant to release some of the original licensing authority to PTSP. This indicates what we called "sectoral ego" of the relevant technical agencies to maintain the licensing authority. In the case of PTSP which has lower echelon than the technical services, problem that was encountered is related to the authority with limited coordination. It is called "structural problem" that arises as a result of the incredibility of leadership that does not has high personal integrity and vision. This will lead to a conciliation in organizational culture that is not customer oriented and simply measures the performance of OSS based on revenue, and considers corrupt behavior in public service as something normal and reasonable. Therefore, it is essential for encouraging business licenses issued by central and provincial levels, which are operationally more efficient and effective than the regency/city government. Also, the central government's role and commitment is crucial to solve the problems that hinder the process of licensing regulations in PTSP, whether caused by the regulation issued by any level of government at central, provincial, district and city. The mindset of bureaucrats as a ruler and not a public servant has led to the impossibility of changing the quality of public services. Not surprisingly if they still not possess an adequate competence, service procedures are still cumbersome, and the price of public services is still not transparent. Consequently, it is the duty of society to pay for expensive services illegally, which should be the responsibility of local and central government. Both illegal levies and bribes are an uncertainty cost to be incurred by the public every time they deal with the bureaucracy, and this practice has become a culture that is hardly abolished. The front officers of PTSP who are expected to act as an anti-corruption agent do not provide clarity regarding the time and the completion of a license. Instead they tend to lead customer if the permitting process needs to be accelerated, and in this context, the back officers play a major role in negotiating rates and prices. The misuse of authority may be avoided by the use of technology (online system) is seen as a way of reducing corrupt behavior, for example, the use of electronic systems on the maintenance of Taxpayer Identification Number (TIN). Thus, opportunities for corruption in the PTSP will not occur if the respondent does not interact directly with the officers. For a company, it does not matter whether its permission through official or unofficial channels, the most important thing is the proof of the transaction. This opportunity is utilized by all brokers in licensing such as notaries and service bureaus to make licensing packages for a price, depending on the clients' wants. In other words, the given evidence of the notary and service bureaus are said to be valid and considered more practical for the company's bookkeeping. However, if the customers use official channels, there is an extra fee beyond the applicable regulations when they bribe the officers to speed up the bureaucratic process. In principle, it is difficult to reduce illegal fees and bribery practices in the PTSP when cultural affiliation and patron-client relationship have taken the root. Sometimes, the process of licensing services is mainly based on friendship, ethnicity, religion and political affiliation. Influential businessman, who has a connection with the decision makers in the region, often got more services than regular businessperson. This is contrary to the essence of the Law No. 25/2009 on Public Service in which public services must be effective, efficient, economical, and equitable. Overall, the PTSP does not perform very well because most principals of government agencies involving in the licensing activity are still aware of the importance of authority for its own sake (rent seeking), so basically they are not willing to delegate authority in PTSP. In another dimension, the regional autonomy law grants regional governments the right to manage their financial resources through a regulation, in a bid to increase the revenue. However, such a discretion would only create more market distortion than solving inefficiency because they are only concerned with their goal of increasing regional budget through levy collection, which accommodates the interest of local elites. In addition, the regulation of regional government can potentially makes inequality in development due to different tariff of regulation imposed in each region. In principle, businessmen are eager to invest in areas where there is less cost of production and this could explain the phenomenon that investors are more favor to invest in western part of Indonesia (e.g. Sumatra and Java) than in the eastern part of Indonesia (e.g. Papua and Maluku). Regional government can actually revise regulations, however, they later face with the complexity of the procedure in Parliament. Even if the new regulations have been adopted, it cannot be implemented quickly, so that it becomes counter-productive for social development and the regional economy.

4 CONCLUSION

The new Master Plan clearly aims to support domestic business and investment opportunities and to bring provincial and local government, business leaders and state-owned enterprises into one, integrated national development framework. The Master Plan is endorsed by presidential decree, which seems a better legal framework to put more pressure on relevant ministries and regional governments in accelerating industrial and infrastructure development. Concerning this issue, the Government is also aware that improvement of the investment climate and regulatory reform are needed to promote investment, mainly from the private sector. But, the key to successful implementation of such reforms will always be in their execution and enforcement. An important additional next step is the elaboration of the institutional arrangements required for high-level coordination between the different ministries and agencies involved in the design and implementation of the Master Plan. The plan is an enormous undertaking that will also require in-depth monitoring by a team that has also the mandate to make adjustments if deemed necessary. Based on the performance of other interdepartmental working groups, current monitoring arrangements appear to need strengthening. There is a risk that this new Master Plan suffers from implementation delays and bottlenecks and that it may seem like many other blueprints and plans produced by the Government. However, for cautious optimists, the plan has the potential to become a transformative tool enabling the nation to pursue pro-business and investment policies that are essential to long-term, sustainable and inclusive economic growth. The second phase of the Master Plan from 2016 to 2020 will focus on "quick wins" and on preparing action plans for the "debottlenecking" of various pending regulations, licenses, incentives, as well as preparing the ground for major investments. Though the implementation of the first phase itself reveals a very ambitious short-term agenda for reform on cross-cutting policies, both domestic and foreign investors are hoping for an improved license system in the PTSP. The President last time launched a plan of utilizing investment to increase GDP growth for Southeast Asia's biggest economy from 6.3 per cent in 2011 to 7.7 per cent in 2019. Therefore, improvement of public services in Indonesia depends on the role and commitment of leaders and regional heads of government agencies. PTSP who do not have a credible leader of high integrity and vision of the future over time will have organizational culture problems that are not customer oriented, simply measure the achievements of PTSP on licensing revenue alone, and consider corrupt behavior in public services as something normal and reasonable. In addition, it is essential for encouraging business permits and licenses issued by central and provincial level to operationally be more efficient and effective, only if the delegated authority is granted to the district / city government. Also, the role and commitment of the central government are crucial to solve the problems that hinder the process of licensing regulations in the PTSP, caused by the regulation issued by any level of government at central, provincial, district and city.

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