



Legal Analysis of Foreign Investment in Batam City is Related With the Implementation of OSS Legal Standing

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ABSTRACT

Investment is one of the initial steps in moving the wheels of a country's economy. In Batam City itself, it is very closely identified with the investment climate. With its strategic location, Batam City is located adjacent to its neighboring countries, namely Singapore and Malaysia. The OSS (Online Single Submission) system emerged as one of the steps aimed at increasing the competitiveness of the global region and encouraging investment growth. However, in the OSS system, there are still many obstacles both in terms of regulations and implementing regulations which are considered less than optimal in implementing electronically integrated business permits. This is also exacerbated by the dualism of authority in managing the region. Looking at neighboring countries, Singapore is a favorite destination for global companies looking to expand their business in Asia. The ease of obtaining a business permit has become a major focus for the Lion City. The purpose of writing this article is to study the ease of foreign investment in Singapore compared to Batam City along with the legal position of OSS in its application. The research method used in this journal uses normative juridical, namely examining through literature studies by reviewing all regulations and legislation related to the theme of investment and OSS to be studied. Based on the research conducted, the ease of investment is examined from various factors, namely in the fields of legal certainty, taxation, employment, and licensing. The Indonesian OSS system, including Batam City, still does not fully support a conducive investment climate in business compared to Singapore.

Keyword : Convenience, Investment, OSS System, Batam,

Introduction

For a country, investment is one of the initial steps in moving the wheels of its economy. With investment, production activities can be carried out massively and in a targeted manner in order to accelerate the level of national economic development. Basically, investment is also an effort to build a country's economy sustainably and comprehensively. The level of economic development is greatly influenced by the dynamics of investment and



can accelerate the pace of development. The perception of the role of investment in supporting the development of developing countries began when World War II occurred in the 1950s to 1960s, in developments such as Rostow and Harrod-Domar. Experts have found a pattern of growth. Rostow believed that to take off, all efforts require liquidity, external and internal savings of the country are needed to create adequate investment to accelerate the level of economic development.

In addition, investment also plays an important role in the economic growth and social growth of a country. With the emergence of foreign investment, investors will establish foreign companies and open up a large number of jobs to meet their needs for workers so that companies can operate smoothly. The opening of jobs will reduce the government's burden in overcoming unemployment and reduce the crime rate in an area. With a fixed income, the ability and capacity of the community to buy goods and services will increase over time and have a positive impact on the economic growth of a country.

The development of foreign companies in developing countries will also encourage the provision of better infrastructure. Starting from public facilities such as highways, bridges, ports, airports, to public utilities such as clean water sources, telecommunications networks, electricity supply facilities, and energy supplies. In addition to facilities, foreign investment also opens up opportunities for the transfer of knowledge and technology transfer in order to improve innovative and quality human resources. Like a spinning wheel, these benefits will create a healthy economic climate in competition. In a healthy economic climate, opportunities for international cooperation between countries are open so that Indonesia can achieve its ideals by prospering and enriching its people in the economic sector.

In Batam City itself, it is very closely identified with the investment climate. Supported by its strategic location, Batam City is located adjacent to and flanked by two neighboring countries, namely Singapore and Malaysia. This makes Batam City in the international shipping lane. No wonder, investors do not hesitate to pour their funds in this city to establish foreign companies engaged in various sectors. The sectors of interest include construction services, shipbuilding industry, export commodities, industrial and ship transfer sectors, trade and service sectors which are also the pulse of the economy in Batam City.



The OSS (*Online Single Submission*) system was created by the government as one of the steps aimed at increasing the competitiveness of the global region and encouraging investment growth in Indonesia, including Batam City. However, it is very unfortunate that in the implementation of this OSS system, there are still many obstacles both in terms of regulations and implementing regulations which are considered by various groups to be less than optimal in implementing electronically integrated business permits. This is also exacerbated by the dualism of authority in managing the region which has caused Batam to lose its competitiveness which has resulted in slow licensing, overlapping land management, legal uncertainty for investors, and the provision of infrastructure that does not meet international standards.

In making investments, investors need legal certainty and protection in doing business. If a country is unable to provide this, investors will be reluctant and will look for other alternatives to invest their capital. So in reality, the investment climate in Batam City is now increasingly sluggish in terms of development and economic growth. This is indicated, especially when the pandemic wave hit many foreign companies that were unable to survive and were forced to close down to return to their home countries. As a result, many workers had to be laid off (PHK) and experienced unemployment in these difficult economic conditions.

Looking at neighboring countries, Singapore is a favorite destination for global companies looking to expand their business in Asia. The ease of obtaining business permits has become a major focus for the Lion City. The Singaporean government understands the position of its country which has a strategic geographical location in the Asian region and can easily reach its neighboring countries. Therefore, they are very accommodating for foreign industries and companies who want to enter the Asian market area through friendly regulations and a supportive business environment. In addition to having the advantage of a strategic location, the Singaporean government also has other advantages that are no less important, namely the regulations issued by the government are friendly to businesses to create a conducive business climate.

This country is nicknamed '*The Four Asians Tiger*' (four 'Asian Tiger' countries), namely Singapore, Taiwan, Hong Kong, and South Korea, which lead with their rapid



economic growth. Although Singapore has a relatively small area, Singapore leads the world among the 10 regions of economic freedom. Currently, there are 26,000 foreign industries operating in Singapore. This should spur Indonesia to improve the quality of its regulations even more, especially in Batam City. As we know, Batam City and Singapore are adjacent. Both regions have geographical advantages located on international trade routes. However, when compared, the two have very different investment climates, especially in the field of regulation.

Based on the description presented above, three problems can be formulated, the first, what are the factors that affect the ease of foreign investment in Batam City along with the legal standing of OSS in its implementation? the second, what are the factors that affect the ease of foreign investment in Singapore And the third, how is the comparison of the ease of foreign investment between Batam City and Singapore . The purpose of writing this article is to study the ease of foreign investment in Singapore compared to Batam City along with the legal status of OSS in its implementation. With this research, it is hoped that Batam City can gain knowledge to improve its investment climate so that it is as attractive as Singapore in terms of ease of doing business and has a business charm to be glanced at by prospective foreign investors who want to invest their capital. Based on the description above, the following problem formulation can be drawn:

1. Factors Affecting the Ease of Foreign Investment in Batam City and the Legal Standing of OSS in its Implementation
2. Comparison of Factors Affecting the Ease of Foreign Investment in Batam City and Singapore

Research methods

In conducting this research, the researcher uses a normative legal research type. Normative legal research is conceptual legal research as contained in statutory regulations and conceptually contained in other legal rules that exist in society regarding a particular legal problem. In this research, the researcher uses a normative research type, namely research conducted by examining statutory regulations. or other regulations applied in resolving a particular legal problem. This normative research is often called doctrinal



research where the object of study is are regulatory documents and library materials which are basic data which in research science are classified as secondary data. According to Soerjono Soekanto, legal research can be divided into: Normative Legal Research, consists of:

1. Research on legal principles
2. Research on legal systematics
3. Research on the level of legal synchronization
4. Legal history research
5. Comparative legal research

In accordance with the type of research, namely normative legal research (normative juridical), more than one approach can be used. In this study, the Legislation approach and the concept approach were used . The Legislation Approach is carried out to examine the Legislation rules that regulate In the perspective of legal theory, justice is the main goal of the natural law school. Where the natural law school is of the view that the law applies universally and eternally. In the context of Indonesia, justice is in line with the values stated in Pancasila as the foundation of the state. The fifth article in Pancasila states that social justice for all Indonesian people, based on this article it can be said that justice must be aimed at all citizens without exception as a manifestation of Indonesia's diversity. To realize social justice can be done through development

which is oriented towards the welfare of all Indonesian people. In the comprehensive development, legal development is an aspect that cannot be separated. This is because the law functions as a means of development/renewal of society, as stated by Mochtar Kusumaatmadja.

Research Results and Discussion

Factors Affecting the Ease of Foreign Investment in Batam City and the Legal Standing of OSS in its Implementation

Various factors that influence investors to invest their capital, especially in developing countries, will at least pay attention to these three conditions. First, economic conditions (*economic opportunity*), namely investment that can provide economic benefits for



prospective investors. The second condition, political stability, greatly influences investor considerations in investing in a country. Third, legal certainty, investors need legal certainty and protection in trying to invest capital. Legal factors play a massive role in the world of investment. The government is obliged to ensure legal certainty and good regulations. Not only that, good regulations also require optimal implementation in their implementation. Unfortunately, Indonesian regulations are considered ineffective in their policies and this spreads in various dimensions. Regulations in the licensing sector, customs, labor, land and property ownership, investment, and so on. Ineffective regulations create legal uncertainty and in legal uncertainty investors are reluctant to invest their capital and will look to other countries that are more competent in providing legal certainty for doing business.

In Batam City itself, the consistency of law enforcement is difficult to rely on. This is accompanied by the dualism of authority between the Batam BP (Badan Pengusahaan) and the Batam City Government. In 2007, Batam City was designated as one of the *free trade zone areas* regulated in Law Number 44 of 2007 concerning Free Zones and Free Ports. After some time, the Government re-issued Government Regulation Number 46 of 2007 concerning the Batam Free Port and Trade Zone. The reasons for designating Batam as a *free trade zone* (FTZ) include the crisis that showed that the Indonesian economy was facing stagnation in its development.

Another consideration is to provide a legal umbrella for the Batam *Bonded Zone*. Two years later, on November 17, 2009, Batam City, which was originally an FTZ area, was then transformed into a Special Economic Zone (SEZ). The provisions were then announced with the enactment of Law No. 39 of 2009 concerning Special Economic Zones. Regulations that continue to change and are inconsistent in their application will cause many misconceptions among parties, both legal officers, related communities, and foreign investors who have difficulty adjusting to uncertain changes.

Indonesian regulations are considered ineffective in their policies, which can lead to legal uncertainty for investors, especially in the field of taxation. Several complaints that have arisen regarding taxes complained about by entrepreneurs include the tax rate being too high, which is 25 percent for income of IDR 250,000,000 to IDR 500,000,000 per year, too many types of taxes, complicated bureaucracy that makes it difficult for taxpayers to carry



out their obligations, the position and authority of tax officials (fiscus) which are higher than taxpayers, then investors who have invested their capital must be able to adjust the tax facilities provided by the government during the change in the FTZ period to KEK.

The taxation system in Indonesia, including Batam City, is reported online via <https://djponline.pajak.go.id/>. In the electronic system, the entire series of tax obligations are integrated with the tax bureau and can be easily accessed online, from registration to tax payments. The purpose of implementing an online tax system includes making it easier for taxpayers to carry out their tax obligations as well as time and administrative efficiency. However, when compared in terms of effectiveness, the current taxation system still needs to be improved, especially in reporting the SPT (Annual Tax Return). In carrying out their obligations, at least taxpayers must go through several stages to report taxes to the state. After filling out the annual report form, taxpayers (business entities) are required to provide document attachments to support the information provided. The financial documents of the business entity required include profit/loss reports, *balance sheets*, business recapitulations, lists of gross income and Final Income Tax payments per tax period and from each place of business per month, transcripts of elements of the financial report, and form 1771 (for business entities) along with their respective attachments must be signed by the director along with the company's legal stamp.

If the tax report is calculated as nil, then the taxpayer must still attach the various documents with nil attachments. If the foreign investor who is taxed is outside the city/country, then the document must be sent outside the city/country to be signed first even though the document contains nil. After all that is done, the taxpayer must also wait for the verification code sent via email by the online system to submit the tax report that has been made. This is very long-winded and takes at least 1 to 2 days to report taxes. It should be enough for the taxpayer to check the information below without having to attach too many documents.

With this information, the government can trust taxpayers and if the data provided is proven to be inconsistent and violates the provisions, strict sanctions can be imposed. Complicated bureaucracy and excessive document attachments often cause tax servers to have problems, especially before submitting SPT. DJP admits that the Directorate General of



Taxes server is not strong enough to accommodate the excessive wave of data that comes in at once online. As a result, many people complain about the difficulty of accessing the site even in carrying out the annual tax reporting process to the state.

Indonesia currently ranks first as the most complicated country to do business quoted in the 2020 *Business Complexity Index*. This means that the ease of doing business in Indonesia is the most complicated compared to other countries. The research and consulting institution TMF Group published *the Global Business Complexity Index Rankings 2020* which showed that Indonesia ranked first, beating China, Brazil, Greece, Nicaragua, Argentina, Bolivia, Malaysia, Colombia and Ecuador. Based on the index, this happened because foreign investors considered existing Indonesian laws to be outdated and a significant barrier to investing in Indonesia.

The World Bank also assessed the same thing. Indonesia is not the main destination for foreign investors. Investors who are familiar with Indonesian bureaucracy will try to avoid this country. The long investment permit application takes 151 days, where 12 procedures are needed to start a business. Meanwhile, the funds that investors must spend to start a business reach at least 131% of GDP per capita. The ease of *doing business* (EoDB) ranking in Indonesia has stagnated at 73rd in the world since two years ago. The report issued by *the World Bank* will generally be a reference for foreign investors to invest in Indonesia. In order to improve the investment climate while also responding to investor complaints, the government must immediately take concrete steps.

One of the new efforts and breakthroughs aimed at increasing regional competitiveness and global dynamics and encouraging investment growth in Indonesia including Batam City, the Indonesian government has established an OSS (*Online Single Submission*) system to accelerate and increase investment and business through the implementation of electronically integrated business permits. In the latest regulation related to OSS, namely in Government Regulation Number 24 of 2018 concerning Electronically Integrated Commercial Licensing Services, the government regulates the types, applicants and issuance of business permits; implementation of business permits; reform of business permits for each department. OSS system, OSS institutions, OSS funds; incentives and



disincentives for implementing business permits through OSS; resolution of business problems and obstacles; and sanctions.

Unfortunately, the implementation of OSS public services is considered to have not yet achieved expectations to accelerate integration with related Ministries and Institutions. The slow transition period, especially at the regional level which is still lacking coordination with the central level, has caused many problems related to investment licensing. One of the obstacles found was that the time of implementation of OSS required companies to adjust business activities in their articles of association with KBLI 2017. Less than 2 years later, the government re-launched KBLI 2020 (Central Statistics Agency Regulation Number 2 of 2020) in which one of the articles, namely article 4, states that the 2017 KBLI regulation is revoked and declared invalid.

Although KBLI 2017 has been canceled by KBLI 2020, the Ministry of Law & Human Rights and OSS institutions still adopt the old KBLI 2017 in their systems. How to explain to investors to understand the changing and unpredictable regulations. The implication is that companies are forced to repeatedly spend more funds just to adjust the company's articles of association. After being adjusted, investors are also constrained in dealing with the OSS system which still adheres to KBLI 2017 while the latest KBLI 2020 has not appeared in the OSS system. In addition, there are still many more polemics found such as the business location determination feature that is not yet connected to the RTRW (Regional Spatial Planning Plan) and the availability of RDTD (Detailed Spatial Planning Plan), not receiving activation emails, the system cannot be accessed until changes in the OSS application version.

This may be due to the unpreparedness in handling the multidimensional value transformation. Other factors that also contribute to making it difficult for investors include dispute resolution, contract enforcement, taxation, property registration, and cross-border trade. These regulations are considered too many, convoluted, difficult to access, have very complicated procedures and there is no certainty of time and unity of service needed. This certainly harms the interests of various parties, not only the community itself but also for business actors, especially foreign investors who want to invest their capital. In investing by establishing foreign companies, investors also pay attention to the employment aspect. As we



know, employment and investment have a very close reciprocal relationship in their business activities. In Indonesia, the tendency for a high increase in minimum wages is very common. Almost every year workers ask for an increase in wages which in reality is not balanced with quality work performance. Based on the results of a study by the Federation of Korean Chambers of Commerce and Industry comparing wages and the business environment in several Asian countries, it can be seen that Indonesia's investment competitiveness is lower than China and Vietnam, and only better than Myanmar and Bangladesh.

Next is the uncertainty of employment relations between companies and workers. Indonesian entrepreneurs believe that the "Employment Law" burdens the business world and is not a means to promote the investment environment. This is followed by the increasing number of demonstrations by workers who aim to demand wage increases every year. If explored further, entrepreneurs and investors object to the quality of the Indonesian workforce which has low competitiveness in terms of skills, discipline and professional ethics. In response to this, on October 5, 2020, the House of Representatives of the Republic of Indonesia (DPR RI) together with the President stipulated the Omnibus Law on the Job Creation Law (Law Number 11 of 2020 concerning Job Creation) which is expected to increase investment flows and expand employment opportunities. However, until now the law has still drawn a lot of controversy and rejection from various groups.

The decline in competitiveness in Batam City will result in 30 percent of hundreds of companies in Batam planning to allocate their industries to other countries that support a good and conducive investment climate for business. It is undeniable that the result is that many workers have experienced Termination of Employment (PHK). This was exacerbated when the pandemic wave hit, with around 2,000 employees losing their jobs. This will increase the number of unemployed in Batam, accompanied by job seekers in Batam which is always increasing every day. Singapore is one of the developed countries in the ASEAN region that ranks first in the World Bank report entitled "*Ease of Doing Business*". Since Singapore implemented a transparency policy in its ease of investment, Singapore has succeeded in attracting the interest of foreign investors in investing in this lion country. According to data reported by the UNCTAD 2016 *World Investment Report*, Singapore also



succeeded in achieving seventh place among host countries with the most investment in the world.

Singapore's official foreign direct investment policy adopts the policy approach adopted by developed countries. There is no separation between policies and treatments that differentiate foreign investors from domestic investors. This results in no discrimination between PMA and PMDN in Singapore. Singapore's focus on economic development has increased steadily over several periods. As one of the statutory bodies of the Singapore government, *the Economic Development Board* has classified Singapore's development history into several stages from the 1960s to the 2000s, namely, the 1960s; 1970s; 1980s; 1990s; and 2000s on its official website. Singapore's investment agreements and contracts are based on Article 37 of the *Singapore Constitution*, which encourages the Singapore government to bind the contract. Foreign investment classified as a business element must first be registered with *the Business Registration Act* (BRA), while still implementing a negative list of types of businesses that can be invested in by foreign investors. Then, Singapore requires investors to re-register the types of businesses to be invested in through *the Accounting and Corporate Regulatory Authority* (ACRA). Foreign investment is the main key to Singapore's ability to accelerate its economic growth rate. Singapore is a country that proposes the principle of *fair and equitable treatment* as outlined in Article 3 paragraph (1) of the *ARC Regional Investment Treaty*. In Singapore, all foreign investors can freely have power over 100% of their business ownership for repatriation, with exceptions for a number of business areas that involve Singapore's national security, such as telecommunications, broadcasting, media, financial services, law, and other businesses. Government-owned business areas must be owned by the government with 20% of its shares in order to continue to cooperate in running investment businesses with the government. The government not only provides supervision, but also provides guarantees in the form of legal certainty in sensitive sectors such as employment and taxation. The government also provides transparency to foreign investors in the investment process, so that investors continue to believe that Singapore is a worthy host country for investment.

All Singaporean companies are required to prepare financial reports in accordance with *the Singapore Financial Reporting Standards* (SFRS). These financial reports are



prepared transparently so that investors can understand the pace of investment development in Singapore. The tax system in Singapore is reported online via <https://www.iras.gov.sg/>. By filling out the form provided, taxpayers can immediately send the report without having to attach various pages of documents. The reporting is quite concise and effective and can be done within 1/2 to 1 hour. Then, Singapore also applies a lighter basic corporate tax rate of 17%, a fairly large tax allowance for small and medium businesses and tax incentives for certain industries.

Comparison of Factors Affecting the Ease of Foreign Investment in Batam City and Singapore

The following table summarizes the factors that influence the ease of foreign investment in Batam City and Singapore.

No	Factor	Batam	Singapore
1.	Investment Law	Legal certainty is difficult to rely on. There is dualism of authority between the Batam Business Agency (BP) and the Batam City Government (Pemkot). Changes in investment regulations from FTZ (<i>free trade zone</i>) to KEK (Special Economic Zone).	There is a guarantee of legal certainty for investors. Stable and unchanging Investment Regulations prioritizing Singapore's economic development in several stages from the 1960s to the 2000s.
2.	Taxation System	The tax system is reported online via https://djponline.pajak.go.id/ . In carrying out their obligations, at least taxpayers must attach various types of documents and wait for the verification code so that it takes at least 1 to 2 days to report taxes. Complicated bureaucracy and excessive document attachments often cause problems with the tax server, especially before submitting the SPT. Entrepreneurs also complain about the tax rate which is too	The tax system in Singapore is reported online via https://www.iras.gov.sg/ . By filling out the form provided, taxpayers can immediately send the report without having to attach various pages of documents. The reporting is quite concise and effective and can be done within 1/2 to 1 hour. Then, Singapore also applies a lighter basic corporate tax rate of 17%, a fairly large tax allowance for small and medium businesses and tax



		high, which is 25 percent, too many types of taxes, complicated bureaucracy, and the position and authority of tax officers which are too high compared to taxpayers.	incentives for certain industries.
3.	Licensing System	The Indonesian government created the OSS (<i>Online Single Submission</i>) system to accelerate and increase investment and business through the implementation of electronically integrated business permits. In the latest regulation related to OSS, namely in Government Regulation Number 24 of 2018 concerning Electronically Integrated Commercial Licensing Services	Singapore's investment agreement is based on Article 37 of the Singapore Constitution. Foreign investment classified as a business element must first be registered with the Business Registration Act (BRA) and then requires investors to re-register the type of business to be invested in through the Accounting and Corporate Regulatory Authority (ACRA).
4.	Employment System	The Employment Law is considered burdensome for the business world in encouraging an investment climate. Almost every year there are demonstrations by workers asking for wage increases which in reality are not balanced with quality work performance. The Job Creation Law has been passed but until now it has still received rejection from a number of groups.	<i>Employment Act</i> provides legal certainty for investors (<i>fair and equitable treatment principle</i>) while still protecting the interests of workers. Although wages are offered at high costs, this is followed by the ability of skilled human resources.

Conclusion

The research conducted, the ease of investment was examined from various factors, namely in the field of legal certainty, taxation, employment, and licensing of the Indonesian OSS system including Batam City still does not fully support a conducive investment climate in business compared to Singapore. Here are some things that can be learned from the



comparison of the ease of foreign investment in Batam City and Singapore. First, properly implementing the Investment Law, namely being consistent in implementing the regulations that have been set in order to create legal certainty for foreign investors. Second, reforming the taxation system to be more concise and efficient without the need to attach many types of documents so that the tax server can accommodate data properly, eliminating the verification code process, and equalizing the position of taxpayers and tax officers fairly.

Simplifying the licensing system, namely OSS, which can be said to be a significant improvement, but still requires integrated coordination between the central and regional governments. And fourth, improving the employment system while still paying attention to a decent minimum wage and accompanied by improving the quality of competent Indonesian workers or human resources . If this is truly done by various related parties, both by the community, regional governments, and the central government who work together and synergize in increasing competitiveness in the field of investment, foreign investors will certainly look at Batam City as an investment field that has the potential comparable to Singapore to invest their capital.

Suggestion

In addition to the tax sector, the government also provides legal certainty in the employment sector. There are policies that provide legal certainty and legal umbrella protection for investors (the principle of *fair and equitable treatment*) while still paying attention to labor protection, this makes foreign investors always invest their capital in Singapore. Singapore's labor regulations are regulated in the Singapore Employment Act .

Although wages are offered at a high cost, it is followed by the ability of skilled and disciplined human resources. The workforce in Singapore has a good work ethic, is professional, and works productively which is often compared to Japan which is famous for its disciplined work ethic. These things make Singapore considered in the long term to be a host country that can provide positive implications for investors, marked by the existence of a guarantee of legal certainty that creates a conducive investment climate in business.



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