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THE RELEVANCE OF MARITIME AXIS POLICY IN FISHERIES FIELD IN THE CONTEXT OF THE ASEAN ECONOMIC COMMUNITY

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ABSTRACT

The Maritime Axis Program which was declared by President Joko Widodo in 2014 has an element in the development of the fisheries industry that allows foreign investors to invest in Indonesia in the field of fisheries processing. On the other hand, the ASEAN Economic Community 2015 program is running concurrently. The two programs of government that have a focus on the fisheries sector must also be strengthened by the preparation to build the Maritime Axis. The study aims to analyze the intent and goals of investment land clearing in the field of fisheries processing by 100%. In addition, this study also aims to analyze Indonesia's preparation to face the ASEAN Economy. The result which was found was a land clearing policy of 100% for the foreign investor in the field of fisheries processing in which it was the part of the vision contained in the ministerial decree concerning the AEC Roadmap in the marine and fisheries sector. The policy was issued in order to give the benefit for the country and foreign parties that invested in Indonesia. In addition, the policy also implemented the goals of the AEC.

INTRODUCTION

At the beginning of President Joko Widodo's leadership in 2014, he initiated a number of programs to support the welfare and prosperity of the people, one of which was the maritime axis. Maritime Axis is the superiority of Geo Strategic which is based on marine wealth (Suroso, 2015). In addition, the Maritime axis is also a strategic idea that is actualized to ensure inter-island connectivity, the development of the shipping and fisheries industry, the improvement of sea transportation and focus on maritime security. The main programs that want to be actualized by Indonesia to become the world's Maritime Axis, including: the enforcing the sea sovereignty of the Republic of Indonesia, revitalizing marine economic sectors, strengthening and developing

maritime connectivity, rehabilitating environmental damage and biodiversity conservation, and increasing the quality and quantity of Human Resources (HR) in the marine field.

The Maritime Axis Program runs concurrently with the ASEAN Economic Community 2015 (hereinafter referred to as AEC 2015) because the development program in the fisheries sector within the Maritime Axis is the actualization of the AEC 2015 program. The presence of the AEC 2015 has been initiated by ASEAN as an effort to deal with the economic crisis that hit the Southeast Asian region. In its declaration, the ASEAN Community consists of three main pillars namely, (1) Political and Security Community; (2) Economy Community; (3) Socio-Culture Community. The relationship among these three pillars is the basis for realizing the ASEAN Community. If one of the pillars does not run well, it will affect the other pillars. The leaders of ASEAN member countries consider that economic integration through the AEC 2015 is important for the economic growth of Asia, especially ASEAN. The element free flow of goods which found in the AEC 2015 can become the production factor provider market for the country around the world.

In order to support the Maritime Axis program, the government will provide opportunity for foreign company to invest in the fish processing industry (Satria, 2015). This was revealed by Minister of Maritime Affairs and Fisheries, Susi Pudjiastuti, in the Maritime Conference in Jakarta, May 16, 2016. In this case she will expand up to 100% of investment land in the field of fisheries processing for foreign investor.

On the other hand, the legal protection related to the increasing investment in the fish processing industry must also be considered. Economic law carries the greater weight based on its scope and the economic actors who involved (Niyobuhungiro, 2019). Economic law is the branch of law that regulates public economic relationship among the government, its economic administrative institution, economic organization and their citizen (Albiston, 2019).

Based on the moratorium policy, the licensing of ex-foreign fishing boat that has been conducted by the Ministry of Maritime Affairs and Fisheries at the end of 2015 had an impact on the abundant supply for the local market. It certainly requires an increase in productivity from Indonesian fishermen to compensate. Based on the Negative Investment List which regulated in Presidential Regulation No. 39 of 2014 (hereinafter referred to as Perpres No. 39/2014), states that the maritime and fisheries sector is a conditional investment clearing sector. However, with the existence of the Maritime Axis, President Jokowi then issued Presidential Regulation No. 44 of 2016 (hereinafter referred to as Perpres No. 44/2016), which states that Indonesia opened the field of maritime investment and fisheries processing become 100% open investment field and capture fisheries become close business sectors which can only be owned 100% by Indonesian citizen. Although the plan to investment land clearing for the foreign investors has been regulated in Article 29 of Law Number 31 of 2004 concerning Fisheries (hereinafter referred to as UU No. 31/2004), but this is not in accordance with Article 33

paragraph (3) of the 1945 Constitution of the Republic of Indonesia in which most of the earth and water and other natural resources are destined for the prosperity of Indonesian people.

The investment land clearing of 100% in the field of fisheries and with the program of the AEC 2015 that is, a single and product-based market has been implemented automatically most of the Indonesian local fish are processed by foreign investor that considers the production base. The single market in AEC 2015 is defined as a combination between the deep and broad liberalization system and crosses the line and based on the fundamental obligation to ensure that mutual market access and non-discrimination in 5 types of market are (goods, services, capital, labor and development technology) with the ambitious expectation that a wide range of 'positive integration' in both institution and market regulation (Pelkmans, 2016). Although, at present fishing is carried out entirely by Indonesian citizen themselves as regulated in Presidential Regulation No. 44/2016 and also if there is foreign investor investing in ASEAN, the product must be based in one of the ASEAN member countries. In this study was explored about the relevance of maritime axis regulation which related to full liberalization in the fisheries processing field. In addition, through the doctrinal method researchers also review the challenge and opportunity in the field of fisheries processing related to the AEC 2015.

RESEARCH METHOD

This study was a doctrinal research, which was a systematic study with the analysis using the legal references that contained future prediction, thus it can provide solution to the problem of the study (Muhdlor, 2012). The problem approach which used in this study was the statute approach and conceptual approach. This study referred to the Law number 25 of 2007 concerning Investment, ASEAN Charter, and agreements that have been agreed by ASEAN member countries and other related regulation.

Analysis of the legal material in this study was the assessment using material that have been collected by describing, explaining the concepts which contained in the material, and proceed by drawing conclusion. The legal sources which used in this study was obtained from primary and secondary legal material sources. The primary legal material which used was the 1945 Constitution of the Republic of Indonesia, Law No. 17 of 2008 concerning Shipping, Law No. 31 concerning Fisheries, Law No. 25 of 2007 concerning Investment, Government Regulation No. 20 of 1994 concerning Share Ownership in the company which established in the context of Foreign Investment, Government Regulation No. 83 of 2001 concerning Amendments to Government Regulation No. 20 of 1994 concerning Share Ownership in the company which established in the context of Foreign Investment, Government Regulation No. 19 of 1960 concerning the Arrangement of the Maritime Council, Presidential Regulation No. 44 of 2016 concerning the List of Business Field that was closed and Business Field that was opened to requirement in the Field of Investment, Presidential Regulation No. 115 of 2015 concerning the Illegal-Fishing Eradication Task Force, Presidential Decree No. 77 of 1996 concerning the Indonesian Marine Council,

Presidential Decree No. 161 of 1999 concerning the Indonesian Maritime Council, Presidential Decree No. 21 of 2007 concerning the Indonesian Marine Council, Presidential Instruction No. 5 of 2005 concerning Empowerment of the National Shipping Industry, Decree of the Maritime Affairs and Fisheries Minister of the Republic of Indonesia Number 51A/KEPMEN-KP/2014 concerning the ASEAN Economic Community Roadmap in the sector of Maritime Affairs and Fisheries, ASEAN Charter, ASEAN Economic Community 2015 Blueprint, ASEAN Framework Agreement for The Integration of Priority Sectors Vientiane, 29th November 2004, ASEAN Framework (Amendment) Agreement for The Integration of Priority Sectors.

Whereas, the secondary legal material which used in this study included literatures regarding the foreign investment, literatures regarding the ASEAN Economic Community 2015 and fisheries law, legal journal. In addition, the author also used other legal materials such as seminar, public lecture, print media, and internet media.

RESULT AND DISCUSSION

The maritime axis policy in the context of Indonesia as a maritime country

The Maritime Axis Program began with the program design made by Jokowi-Jusuf Kalla for the election of the President and Vice President of the Republic of Indonesia in 2014. There were nine types of design which called Nawa Cita. This Nawa Cita was made to show the priority in the path of change in leading to politically sovereign Indonesia, independent in economic field and has personality in culture (Widodo and Kalla, 2014).

The Maritime Axis would pay more attention to investment decision which aimed in expanding the maritime sector in some forms or other. The Maritime Axis was usually the result of various public, social, economic, defense and other interests (Yang) policies. This maritime axis policy covered very broad field, therefore it was necessary to determine the goals of the maritime policy that want to be achieved first. Furthermore (Hoffmann, 2003) stated:

A next step could be to formulate the above broad areas of research into goals of a maritime policy, and then to see how these areas are related to each other. The goals would thus be:

- a) To reduce environmental and other transport related externalities;
- b) To promote economic integration and trade competitiveness through better transport services; and
- c) To generate employment and taxable income in the transport business

In accordance with the implementation of the Maritime Axis to make Indonesia as the world's maritime axis which declared by President Joko Widodo, due to the location of Indonesia's natural topographic region as a maritime country. One of the efforts which has been carried out by Indonesia was the eradication of illegal fishing by the Ministry of Maritime Affairs and

Fisheries. This eradication included a program to encourage Indonesia to become a Maritime Country. The effect of illegal fishing eradication was the abundance of Indonesia's marine resources and provided a positive outlook for foreign investors to invest in Indonesia's fisheries field.

Before the existence of the maritime axis program which stated that Indonesia was a maritime country, Indonesia experienced a reduction in state revenues of 300 trillion rupiah due to illegal fishing by foreign fishermen, illegal mining, illegal logging, fuel smuggling, and various other illegal economic activities (Nainggolan, 2016).

In handling with the Indonesian maritime axis, in the era of President Joko Widodo's administration, President Joko Widodo formed a new institution specifically to handle the maritime sector including the Indonesian maritime axis program namely, the Coordinating Ministry for Maritime Affairs of the Republic of Indonesia. In handling the maritime axis program, it also coordinated with several institutions, namely the Ministry of Administrative and Bureaucratic Reform of the Republic of Indonesia, Bapertarum-PNS, Ministry of Energy and Mineral Resources, Ministry of Transportation, Ministry of Maritime Affairs and Fisheries, and Ministry of Tourism.

Challenge and opportunity in the field of fisheries processing related to AEC 2015

The fisheries industry had an important role within the millions of people's life in ASEAN and in the world. Fishery was the main food source and livelihood for many people. Fishery was also one of the goods that were often traded globally, with the demand and offer which developed substantially since the last few decades (Kawamura and Siriraksophon, 2014). This was included as a significant percentage in agricultural commodities global trade. ASEAN has become the largest producer of fish and other fishery products.

With the combination of 10 countries, ASEAN was a contributor of a quarter of global fish production. From the ten largest fish producers in the world, four of them came from ASEAN - Indonesia, Thailand, Vietnam and the Philippines. From the four ASEAN countries, Indonesia was the largest fish producing country in the Southeast Asia. In 2010, the total fishery production reached 10.83 million tons, increased by 10.29% if compared to the previous year 9,820,000 tons of catch. In the same year Vietnam and the Philippines produced 5.2 million tons of fish and other fishery products.

The condition of the fisheries sector in Indonesia was now increasing high and strongly supported the application of the world maritime axis concept that was declared by President Jokowi. The condition of these fisheries improved after the Presidential Regulation No. 115 of 2015 concerning the Illegal-Fishing Eradication Task Force signed on October 19, 2015 by President Jokowi. Article 5 of Presidential Regulation No. 115 of 2015 emphasized that, in carrying out their duties, the Task Force commander received guidance from the Coordinating Minister for Political, Legal and Security Affairs, the Coordinating Minister for Economic Affairs, the Coordinating Minister for

Human Development and Culture, the Minister for Maritime Affairs, the Commander of the Indonesian Armed Forces, the Chief of the Indonesian National Police, and the Attorney General. The Ministry of Maritime Affairs and Fisheries (KKP) said that the number of Indonesian fisheries increased by 2.1 million tons to 7.9 tons from 5.8 million tons. According to Plt. General Director of KKP's Capture Fisheries, Zulficar Mochtar, the potential increasing in the number of fish production was encouraged by the increasing of the total available fish stocks (maximum sustainable yields / MSY) this year. Potential fish production was around 80 percent of the total MSY. The result of the final stock assessment at the end of 2015, MSY increased to 9.93 million tons. In 2013 it only around 7.3 million tons (Chomariyah, 2018). The potential for fish production spread to eleven Fisheries Management Areas (WPP). The biggest potential for fish production was in the waters of the Arafura Sea to the Timor Sea, Flores Sea waters to the Makassar Strait, Indian Ocean and South China Sea (Chomariyah, 2018). In balancing the policy reformation with the investment in the marine and fisheries sector, if carried out concurrently, it could prevent short-term profit loss because there was no restriction on fish production, always paying attention to the process of exploitation and fish production sustainably.

Before the eradication of IUU Fishing, FAO stated that Indonesia's loss due to IUU Fishing was estimated at 30 trillion rupiah per year. The loss rate was around 25 percent of the total potential of fisheries owned by Indonesia, which was valued at 1.6 million tons per year. In 2003-2007, the Ministry of Maritime Affairs and Fisheries conducted surveillance and capture of 89 foreign boats and 95 Indonesian fishing boats. The loss of state that could be saved was estimated at 439.6 billion rupiah (Chomariyah, 2018). Vision of the Ministry of Maritime Affairs and Fisheries in implementing maritime and fisheries cooperation in ASEAN, namely Strengthening the Sovereignty of Indonesian Maritime Affairs and Fisheries in ASEAN (Decree of the Minister of Maritime Affairs and Fisheries, Republic of Indonesia, 2014).

Related to the policy of the Minister of Maritime Affairs and Fisheries, Susi Pudjiastuti, investment land clearing of 100% for foreign investor in the field of Fisheries Processing within the Maritime Axis program and AEC, in which with the free flow of investment, this would make it easier for foreign investors to invest foreign capital in the fisheries processing sector and also foreign investors have been protected by PP No. 20 of 1994, in which these foreign investors could own the shares of 100% if it was seen from the economic viability of their business activities.

CONCLUSION

From the whole discussion that has been described in the previous chapters, it can be concluded that the maritime axis in general was a policy in the field of maritime that wanted to restore the greatness of Indonesia as an archipelago. To deal with maritime axis policy, Indonesia must also have a dominant economic and trade activity and utilize the sea maximally. In carrying out the maritime axis program together with AEC 2015, the policy of the Minister of Maritime Affairs and Fisheries, Susi Pudjiastuti, in investment land clearing of 100% for foreign investor in the field of Fisheries Processing was part of the

vision which stated in the Ministerial Decree concerning the AEC Roadmap in the marine and fisheries sector. It was in order to provide the benefit to countries and foreign parties who invest in Indonesia and simultaneously implemented the goals of the AEC.

Ethical clearance

This research does not involve any participants, rather it is descriptive study. This research was carried out in accordance with the research principles. This study implemented the basic principle ethics of respect, beneficence, non maleficence and justice.

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