Research Journal of Humanities and Cultural Studies
Abbr. Title: Res J Huamn Cul Stu
ISSN*(Online)***: 2945-4077**

OPEN ACCESS

Research Article Volume-01 | Issue-04 | 2022

Foreign Direct Investment in Pandemic Covid-19: Form of Positive Policies in Indonesia

Luis Soares Barreto[1], Yohanes Usfunan[2], I Wayang Parsa[2], I Nyoman Suyatna[2]*

[1]*Doctor of Law Study Program, Faculty of Law, Udayana University*
[2]*Faculty of Law, Udayana University*

Received 30-10-2022
Accepted 20-10-2022
Published 30-10-2022

Abstract: *The aim of this research is for identify and analyze the problems currently being faced by FDI as well as the policies applied to FDI in general and during the Covid-19 pandemic. This research is descriptive and analytic in nature. The secondary data used is literature. This research concludes that FDI can be maximized by the government by prioritizing agriculture, tourism, energy, information technology, infrastructure, and other sectors. Considering that investment instruments are a source of economic acceleration, the Indonesian government must accept and implement foreign investment proposals with commitment. However, the Covid-19 pandemic caused a decline in FDI. Although basically the Covid-19 Pandemic is not the only obstacle to investment, there are other factors in the form of the business environment, inadequate infrastructure, human resource skills, political transitions, weak government, tool disasters, diverse and complex geographical conditions, taxes , bureaucracy and climate change. Even though Indonesia's investment until 2019 has increased rapidly, in 2020 the COVID-19 Pandemic has made Indonesia's FDI less than optimal.*

Keywords: Policy, Covid-19 Pandemic, Foreign Direct Invesnment

INTRODUCTION

Foreigndirect investment (FDI) has an important role in capital formation and technology transfer in Indonesia as well as in various other developing countries. Indonesia accepts, approves and implements various investments that are factors supporting economic growth in the form of providing external resources, modern management practices, new technologies, capacity building and employment opportunities.

Meanwhile, Indonesia can receive capital from various countries. Where the amount of capital received can be mobilized (transferred) to reduce trade deficits in various projects. The use of capital as such a resource will increase start-ups and/or new companies so they can run a sustainable business in industrial competition.

Foreign Direct Investment (FDI) is considered to be a very significant facilitator of economic growth (Srinivasan *et al.*, 2011). Literature in the economic field shows that FDI encourages economic development in the form of providing capital, foreign exchange, technology and ease of access to foreign markets (Crespo & Fontoura, 2007). The research sub-sector in the investment sector also believes that FDI has a very large influence on domestic investment and innovation as well as economic growth. That is, a country with a low level of FDI will have low per capita growth so that the level of public savings will also be low. The way to get away from situations and circumstances like this is to promote FDI to enter the national market (Hayami, 2001).

This is because FDI has a significant role in capital, such as improving skills, managerial, research, development, and increasing economic growth (Mankiw *et al.*, 1992). However, this situation of FDI actually creates conflict. In the form of delays in domestic investment which results in income inequality because domestic investors lose competitiveness with FDI. Therefore, given the importance of the two investment instruments from FDI as well as domestic investors, developing countries should adopt policies to provide opportunities and facilitate the entry of FDI in order to keep pace with developed economies (Romer, 1993) and ease bureaucracy and investment motivation for domestic investors to facilitate equity in investors. Country.

But basically, according to Griffin, FDI does not benefit the country receiving the investment, on the contrary, it is the country that benefits from the investment issued by FDI through multinational companies (Griffin, 1971). FDI has a negative correlation in developing countries.fact, (Saltz, 1992) stated that there was no positive effect of FDI on developing countries that were carrying out economic development (Haddad & Harrison, 1993).

contrary, some researchers actually argued for the positive impact of FDI on economic growth (Blomström & Kokko, 1998). This can be seen from positive technological growth in 69 developing countries due to FDI (Blomström & Kokko, 1998). Because in developing countries, significant differences in the presence of FDI will be felt more because it comes from two directions of economic growth between countries and FDI to work hand in

***Corresponding Author:** Luis Soares Barreto

hand to shape the economic climate as expected by the two parties.

Various other economic factors that also influence how FDI can affect economic growth include the economy of the country in general, the political environment, institutions, taxes, literacy levels and macroeconomic strength (Mallampally & Sauvant, 1999). There is a strong correlation between quality human resources and the impact of FDI on country's economy (Jyun-Yi & Chih-Chiang, 2008).

The development of investment or the first investment in Indonesia started from the first Ali Sastroamdjojo Cabinet (1952-1953). The policies that were prepared at that time related to regulations to attract FDI in Indonesia, but these regulations had not yet been submitted to parliament because of the fall of the cabinet. But then, the second Ali Sastroamdjojo Cabinet in 1953 submitted a Plan for the Law on Foreign Investment which contained provisions so that foreign capital would not hinder the development of Indonesian society. however, the parliamentary approval of the Planned Foreign Investment Law was not obtained (Hartono, 1972).

After the second Ali Sastroamdjojo Cabinet proposed a Law on Foreign Investment, Law Number 78 of 1958 concerning Foreign Investment was issued in 1958. Where Law Number 78 of 1958 concerning Foreign Investment was issued with the following considerations:

- That in order to accelerate Indonesia's economic development as well as increase national production in order to improve the people's standard of living, capital is urgently needed;
- Whereas the capital obtained by FDI in Indonesia at that time was not sufficient so that it was considered that there were benefits in attracting foreign capital invested in Indonesia;
- hat it is necessary to make clear provisions to meet the need for capital for national development, in addition to avoiding doubts from foreign capital owners.

However, in its development, these investment arrangements often change and are often disrupted due to unstable government. In practice, the disruption of FDI is also due to other factors such as weak infrastructure, lack of electricity facilities and lack of facilities from the government (Canning & Bennathan, 2000).

Especially at this time, the Covid-19 pandemic has affected the country's economy by hampering FDI. Because there is no research on FDI policies during the Covid-19 pandemic in Indonesia at this time, this research will discuss the extent to which the policies made by the government regulate FDI to sustain the country's economy due to the Covid-19 pandemic.

Whereas regarding the problems mentioned above, the purpose of this research is to identify and analyze the problems faced by FDI and the policies that apply to FDI in general and during a pandemic

METHODS

The approach method used in this study is normative, namely research conducted by collecting data with literature studies (Mamudji, 2005).

The research conducted was an analytical descriptive research, namely a research intended to provide the data under study may be about humans, conditions, or other symptoms. The purpose is primarily to reinforce hypotheses, in order to assist in strengthening old theories, or within the framework of compiling new theories (Mamudji, 2005).

In order to obtain data to support this research, data sources were obtained through

- library *research* , namely a way of obtaining secondary data through library research (Mamudji, 2005), covering books, journals and provisions of laws and regulations.
- Field research *(field research)* with the aim of finding field data (primary data) related to research material and functions only as a secondary data support.

That in conducting this research, data collection was carried out in 2 *(*two*)* ways, namely observation *and* library *research* (Soekanto, 1986).

- Observations in this study were carried out not only to record an event/event being observed, but also everything that was suspected to be related to the problem under study. Therefore, the observations made are always related to information and context so as not to lose their meaning.
- Literature *research (library research)* is a study of primary, secondary and tertiary legal materials.

After several stages in this research were passed, then at the final stage of this research data analysis was carried out. Data analysis was carried out qualitatively, namely a research procedure that produces descriptive analysis data, without using numbers and everything stated by respondents in writing or orally, is studied as a whole.

RESULT AND DISCUSSION

The Problems Faced and Policies against *Foreign Direct Investment* Indonesia in General

Whereas in regulating FDI, certain policies are determined that are enforced in connection with the restrictions set forth in the provisions of laws and regulations in Indonesia, among others relating to:

- Restrictions on capital and foreign companies investing in Indonesia.
- Restrictions on the portion and amount of foreign shareholding in a company.
- Special treatment of foreign investors in certain aspects.
- Limitations regarding operational standards, including the level of use of domestic products as production materials *(local content requirements)* and minimum export obligations,
- Incentives given to investment, one of which is in the form of tax concessions (Triwulandari & Budiana, 2018).
- Enforcement of Law Number 25 of 2007 concerning Investment which regulates all sectors regarding investment in the territory of the Republic of Indonesia.

The problem currently experienced by Indonesia is the absence of renewal provisions that are discussed periodically in accordance with dynamic investment developments. As for a regulatory provision, it should be reviewed at any time according to needs and updates.

In connection with updating the requirements for regulations and provisions of legislation, it is known as the sunset mechanism *or* sunset *mechanism,* which regarding a regulation and/or provisions of laws and regulations that are no longer relevant and outdated and no longer suitable for existing needs should be categorized as *sunset laws* and consequences in the form of replacing these rules and/or provisions with newer regulations and/or provisions.

This is done to achieve effective and efficient arrangements regarding investment in achieving its goals. Meanwhile, policies in the field of direct investment should adopt industrial policy patterns. Against these policies can be taken in the form of regulation or deregulation based on the interests and needs of a country.

One of the most phenomenal policies in direct investment is the privatization of state-owned companies based on the provisions of Government Regulation no. 59 of 2009 which reflects the trend of globalization in direct investment.

The factors influencing FDI in Indonesia are as follows:

- Gross Regional Domestic Product (GRDP) which is a significant influence on *direct investment*. This is because the greater the scope of a market, the more it will encourage FDI flows to enter the country and produce *Gross Domestic Product (GDP)* which affects direct investment. In this regard, Neini Utami believes that the size of the market can affect the amount of FDI because it reflects the income level of the people, thus providing a domino effect in the form of increased purchasing power and demand for goods and services (increased *demand*). Thus the increase in demand for goods and services will automatically increase *direct investment* because it will provide increased profits for investors.
  One of the things that investors look for in investing is *market-seeking* which specifically for FDI aims to penetrate the domestic market along with the size of the market, people's per capita income, market growth, access to international and national markets, structure and national market targets. . The accelerator theory also explains that an increase in income will lead to an increase in invertase and this will increase the number of FDI investors so that the value of FDI will also increase (Rahmi Jened, 2016).
  Based on this explanation, a government policy is needed that is specifically intended to increase Gross Regional Domestic Product in Indonesia.
  As for the *a quo* in Indonesia itself, there is still a gap in GRDP between provinces so that this unequal GDPR will reduce the average national GRDP. For example, the regional GDP of western Indonesia is generally higher than that of eastern Indonesia.
- Provincial Minimum Wage (UMP) is a factor that also influences *direct investment*. This is because workers' wages are inversely related to

FDI. The decision of a business entity to determine the location of the business and its production facilities will affect the availability and price of human resources (Rahmi Jened, 2016).

The low wages of workers are a separate motivation for FDI to invest their capital. This is because low labor wages will lead to lower production costs which in turn result in increased company profit margins and increased profits obtained by investors indirectly.

Under the *a quo*, the increase in UMP in Indonesia occurred by 14% every year and this increase in annual UMP is quite high globally and is the highest in Southeast Asia. However, in Indonesia itself an increase in the UMP has a positive effect on FDI because in Indonesia, an increase in the UMP is followed by an increase in work productivity where this element is what FDI sees in a country, namely the productivity and quality of its workforce.

in the other hand, an increase in the UMP is also seen as a factor in rising levels of consumption, so that even though labor costs have increased and production costs have increased, investors' profits in this case will also increase in line with increasing public consumption. Thus it can be concluded that in Indonesia itself, the increase in the UMP has a positive effect on the level of FDI. So to support favorable climatic conditions for FDI, a government policy is needed that supports setting the maximum UMP. This policy was used as a weapon to attract FDI. In addition, the function of determining UMP policies can also improve people's welfare so that the productivity and quality of the workforce can be maximized. This positive climate can then attract FDI to Indonesia.

- Export Value, exports have a positive influence on the level of *direct investment* in Indonesia because the large export value indicates the opening of Indonesian market access to the international community. This indicates that the government is starting to reduce various barriers to import and export duties as well as other*non-tariff barriers* that have been applied so far to support national market activities in the form of increased activity by multinational companies and FDI flows (Kartasapoetra, 1985).

  The export situation *a quo* in Indonesia, it is decreasing every year. This indicates the need for policies from the Government to encourage increased exports, both in the form of reducing tariffs and increasing public interest in the market and this can be done by increasing national and international cooperation.

  Historically, the entry of FDI into Indonesia in the oil and gas sector in the 1970s was a prima donna, which was accompanied by the development of the country's infrastructure which became the main capital for bringing in FDI at that time (Kartasapoetra, 1985).

Foreign investment or FDI is a valuable potential whose benefits cannot be ignored, one of which is is the flow of foreign exchange and wider employment opportunities. In addition, it can also indirectly increase the growth and development of the country which is marked by an increase in the per capita income of the people of the country.

Observing this condition, the government's awareness is needed to understand how big the contribution of FDI is to the nation's economy, even though as previously explained, there is a negative side from FDI which cannot be ignored either.

Even so, it must be admitted that the country's dependence on FDI is deep-rooted and closely related so that the government has made several efforts to increase interest in FDI in Indonesia. In addition, the country's stability factor, which is widely seen as not only security, but also stability from corruption, collusion and nepotism, is also seen as necessary to attract FDI. The country's stability factors include:

- Social stability;
- Economic stability;
- Political stability;
- The existence *Good Corporate Governance* both by bureaucrats, ministries, central government and local governments;
- Good and adequate infrastructure condition;
- Certainty in law enforcement;
- Compliance and harmonization of national law with international law;
- Arrangements and regulations to support legal certainty in the field of taxation, regional taxes and levies;
- Protection of intellectual property rights guaranteed under positive law; and
- Other supporting factors.

As for what is meant by political stability is a basic and fundamental condition that encourages FDI in assessing the country's economy. This is used as a separate parameter for FDI to ensure that there is a guarantee of a sense of security by looking at political, economic, and monetary conditions so that if the political, economic, and monetary conditions are going well, then FDI can predict the capital invested under favorable conditions for FDI.

In addition, political stability will also greatly affect economic stability and social stability. What is meant by economic stability is the presence of controlled and sustainable economic growth, while what is meant by social stability is the absence of political upheavals or disturbances in society.

Thus, observing the *quo* condition of the FDI investment climate, it is necessary to formulate dynamic policies to support stable and sustainable political stability. Not only now, but also in the long term.

The Problems Faced and How Policies against *Foreign Direct Investment* Existed in Indonesia during the Covid-19 Pandemic

At present the Covid-19 case is a concern of every country which not only has an impact on public health, but also has an impact on the national economy which has fallen due to restrictions activities such as regional quarantine, transportation, mobility and other physical restriction policies to deal with the Covid-19 pandemic.

In connection with the economic impact caused by the Covid-19 pandemic, it is estimated that there will be a contraction in GDP of 5.2 percent and will have a significant impact on reducing investment including FDI. The social problems that arose along with the decline in GDP were rising unemployment and a decline in trade and economic activity.

This situation is not only experienced by Indonesia, but also faced by other countries globally. Although each country has a different impact depending on the economic structure of each country. However, referring to the Economist Intelligence Unit's projection, Indonesia (together with India and China) is predicted to still be relatively lucky in achieving positive growth rates. While the European region is the worst affected area. However, considering that this analysis was carried out at the start of the pandemic, this prediction is too premature to generate optimism because it is estimated that no country will be able to accelerate its economic growth in 2020.

Since the beginning of the pandemic, the Government of Indonesia has moved quickly by shifting various ways to make it extraordinary, such as issuing Government Regulation in Lieu of Law (Perppu) No. 1 of 2020 ("Perpu 1/2020") to anticipate the impact of the pandemic. As a result, the Indonesian economy continues to gradually recover and this improving trend continues in Q1-2021 with a contraction that is getting smaller at -0.74% *year of year*.

Based on Article 11 paragraph (7) Perpu No.1/2020 mandates the implementation of the National Economic Recovery Program to be further regulated by Government Regulation. So that Government Regulation Number 23 of 2020 was issued concerning the Implementation of the National Economic Recovery Program in the Context of Supporting State Financial Policies for Handling the *Corona Virus* Disease (COVID-19) Pandemic and/or Facing Threats that Endanger the National Economy and/or Financial System Stability and Saving the Economy National.

In addition, in the framework of national economic recovery, the Government has allocated a budget in 2021 of IDR 699.43 T. As of May 21 2021, the budget for the PEN Program has reached IDR 183.98 T or 26.3% of the ceiling. The government will continue to accelerate achievements in the 2021 PEN Program so that it can encourage faster economic recovery.

Based on the Press Release HM.4.6/281/SET.M.EKON.3/09/2021 concerning *Extraordinary* in Handling the Covid-19 Pandemic in Jakarta on September 17 2021, Secretary to the Coordinating Minister for Susiwijono Moegirso representing the Coordinating Minister for the Economy Airlangga Hartarto stated that the Indonesian economy would bounce back from the beginning of 2021.

This was marked by the success of the government's program to suppress the economic destruction caused by the Covid-19 Pandemic in the form of Indonesian inflation amid the global economic turmoil, only experiencing inflation of 1.68% in 2020 and 0.84% from January to August 2021. This means that even though the global economic situation was in turmoil, the inflation experienced by Indonesia in the current year was not higher than the year before the Covid-19 pandemic.

Even based on DKI Jakarta Governor Regulation No. 103 of 2020 concerning the Provincial Minimum Wage for 2021, specifically for the DKI Jakarta area, the local government still guarantees the application of a minimum wage to workers with the condition that companies affected by Covid-19 can apply for relief and be calculated as a debt to workers.

This conducive situation certainly supports a positive climate that FDI can still entrust its capital to Indonesia considering that until now the country's political, economic and social conditions are still under control.

The Indonesian government's efforts in terms of investment or investment are also not playing games, in 2020, the Indonesian government has passed Law no. 11 of 2020 concerning Job Creation or what is called the *Omnibus Law*. This was all done by the Indonesian government in order to boost the country's economy which was suffering due to this pandemic. Because it is hoped that the Job Creation Law will be able to resolve licensing issues which have so far been considered to have not provided the best solution and hindered investment, especially foreign investment. It is hoped that the enactment of the Job Creation Law will provide answers in order to boost investment flows, even though Indonesia is still experiencing the co-19 pandemic.

CONCLUSION

Based on the explanation above, the factors that influence FDI in Indonesia are as follows:

- The Gross Regional Domestic Product (GRDP): which will affect the *Gross Domestic Product (GDP),* the size of the market indicates good people's income so that it provides a domino effect in the form of increased purchasing power and demand for goods and services (increased *demand*). However, government policies are still needed that are specifically intended to increase Gross Regional Domestic Product in Indonesia because until now there are still GRDP gaps between provinces so that this unequal GDPR will reduce the average national GRDP.
- Provincial Minimum Wage (UMP): In the *quo*, the increase in UMP in Indonesia occurs by 14% every year and this increase in annual UMP is quite high globally and is the highest in Southeast Asia. However, in Indonesia itself an increase in the UMP has a positive effect on FDI because in Indonesia, an increase in the UMP is followed by an increase in work productivity where this element is what FDI sees in a country, namely the productivity and quality of its workforce. So to support favorable climatic conditions for FDI, a government policy is needed that supports setting the maximum UMP. This policy was used as a weapon to attract FDI. In addition, the function of determining UMP policies can also improve people's welfare so that the productivity and quality of the workforce can be maximized. This positive climate can then attract FDI to Indonesia.
- Export Value: export situation *a quo* in Indonesia is decreasing every year. This indicates the need for policies from the Government to encourage increased exports, both in the form of reducing tariffs and increasing public interest in the market and this can be done by increasing national and international cooperation.

That at this time, Indonesia has launched various policies to deal with the conditions of the Covid-19 Pandemic in the form of issuing Government Regulation in Lieu of Law (Perppu) No. 1 of 2020 to anticipate the impact of the pandemic. As a result, the Indonesian economy continues to gradually recover and this improving trend continues in Q1-2021 with a contraction that is getting smaller at -0.74% *year of year*.

In addition, in the framework of national economic recovery, the Government has allocated a budget in 2021 of IDR 699.43 T. As of May 21 2021, the budget for the PEN Program has reached IDR 183.98 T or 26.3% of the ceiling. The government will continue to accelerate achievements in the 2021 PEN Program so that it can encourage faster economic recovery.

The policy to ratify the Job Creation Law is also a concrete action by the Indonesian government in terms of investment or investment because with this law the investment climate in Indonesia is considered to be easier again, related to aspects of ease of licensing, protection and improvement of the investment ecosystem, etc.

This situation certainly supports a positive climate that FDI can still entrust its capital to Indonesia considering that until now the country's political, economic and social conditions are still under control.

REFERENCES

1. Blomström, M., & Kokko, A. (1998). Multinational corporations and spillovers. *Journal of Economic Surveys*, *12*(3), 247–277.
2. Canning, D., & Bennathan, E. (2000). The social rate of return on infrastructure investments. *Available at SSRN 630763*.
3. Crespo, N., & Fontoura, M. P. (2007). Determinant factors of FDI spillovers–what do we really know? *World Development*, *35*(3), 410–425.
4. Griffin, K. (1971). Foreign capital, domestic savings and economic development: Reply. *Oxford Bulletin of Economics and Statistics*, *33*(2), 156–161.
5. Haddad, M., & Harrison, A. (1993). Are there positive spillovers from direct foreign investment?: Evidence from panel data for Morocco. *Journal of Development Economics*, *42*(1), 51–74.
6. Hartono, C. F. G. (1972). *Beberapa masalah transnasional dalam penanaman modal asing di Indonesia*. Alumni.
7. Hayami, Y. (2001). Ecology, history, and development: A perspective from rural Southeast Asia. *The World Bank Research Observer*, *16*(2), 169–198.
8. Jyun-Yi, W., & Chih-Chiang, H. (2008). Does foreign direct investment promote economic growth? Evidence from a threshold regression analysis. *Economics Bulletin*, *15*(12), 1–10.
9. Kartasapoetra, G. (1985). *Manajemen penanaman modal asing*. Bina Aksara.
10. Mallampally, P., & Sauvant, K. P. (1999). Guest Article: Foreign Direct Investment in Developing Countries. *Finance & Development*, *36*(001).
11. Mamudji, S. (2005). Metode Penelitian dan Penulisan Hukum,(Jakarta: Badan Penerbit Fakultas Hukum. *Universitas Indonesia*.
12. Mankiw, N. G., Romer, D., & Weil, D. N. (1992). A contribution to the empirics of economic growth. *The Quarterly Journal of Economics*, *107*(2), 407–437.
13. Rahmi Jened, S. H. (2016). *Teori dan kebijakan hukum investasi langsung:(Direct Investment)*. Prenada Media.
14. Romer, P. (1993). Idea gaps and object gaps in economic development. *Journal of Monetary Economics*, *32*(3), 543–573.
15. Saltz, I. S. (1992). The negative correlation between foreign direct investment and economic growth in the third world: Theory and evidence. *Rivista Internazionale Di Scienze Economiche e Commerciali*, *39*(7), 617–633.
16. Soekanto, S. (1986). pengantar penelitian hukum, Jakarta. *Penerbit Universitas Indonesia*.
17. Srinivasan, P., Kalaivani, M., & Ibrahim, P. (2011). An empirical investigation of foreign direct investment and economic growth in SAARC nations. *Journal of Asia Business Studies*.
18. Triwulandari, I. G. A. A. M., & Budiana, I. N. (2018). Nasionalisasi Perusahaan Penanaman Modal Asing Di Indonesia. *Jurnal Analisis Hukum*, *1*(1), 1–21.