Policy Impact Areas of Spatial Plan Investment Climate of Business Plantation in Riau Province

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Abstract: The problems of this study sets on how the RTRW policy impact on the investment climate in Riau plantation fields?, then, how the efforts made in the middle of the lack of certainty RTRW policy towards investment in plantations in Riau Province?. This sociological study employ a survey to revealed that the fundamental phenomena that affect the investment climate in the province of Riau is the completion of the RTRW. It is a law that underlies the use of space/land. Therefore, the effect of the completion of this RTRW enormous impact because almost all areas of business will be affected. This is because each investment will obviously be a need for land/land for business activities. However, until this study RTRW by law Riau province has not been established, because there are still problem resolution status of forest in the Ministry of Forestry. Of course, the local government of Riau Province including the districts/cities in Riau did not dare to take the risk of a new legal issue licenses for plantation investments. That is all there is no certainty RTRW Riau provincial government did not dare to give permission for the investor field plantation to use the land. Investment in the plantation business which has been running until now is only an investment based on the provisions of the RTRW long. However, it will not be given permission for a new investor to acquire new land anyway. Despite promising a significant contribution to the income of Riau Province. Last issue of discourse RTRW Riau Province will be completed soon. Estimates in February 2017 RTRW Riau will soon be passed.

Keywords: RTRW investments, plantation

1. Introduction

The main consideration of a country optimizing the role of investment both foreign and domestic is to change the economic potential into a real economic power in order to improve economic growth. The role of investment is not only as the best alternative source of development financing when compared with foreign loans, but also very important as a tool to integrate a country's economy into the global economy. In addition investment can produce multiplier effects on national economic development, because investment activities not only transfer capital and goods, but also transfer knowledge and human capital to expand employment, develop import substitution industries to save foreign exchange, encourage non-oil and gas exports to produce foreign exchange, technology transfer, building infrastructure, and developing disadvantaged areas.
Therefore, many countries are no exception Indonesia, which makes investment activities as part of the implementation of the national economy. To attract investors to invest is not as easy as turning your palm. Serious, systematic, integrated and consistent efforts are needed to instill investor confidence in investing in the host country region. However, it must also be remembered that the consideration of investors before investing capital is always based on economic motivation to generate profits from capital and all the resources used. Therefore, investors always conduct a feasibility study on economic, political and legal aspects before making a decision to invest to ensure the security of the investment that will be carried out. Related to this, at least prospective investors will consider aspects of economic opportunity, political stability and legal certainty. These three aspects are also the absolute requirements that must exist in the host country to be attractive to potential investors.

Quite a lot of analysis and publications about the condition of the investment climate in Indonesia which generally leads to a conclusion that is very worrying about the conduciveness of investing in Indonesia. Djisman S. Simanjuntak, for example, highlighted security disturbances, looting rampage, legal uncertainty, corruption and labor disputes, joining together to diminish Indonesia's attractiveness when in other locations a brightly shining location appeared, especially China which competed with Indonesia in industry groups same or similar.

Another view was expressed by Todung Mulya Lubis who stated that in addition to inadequate investment infrastructure, the main obstacle to investment in Indonesia was the problem of legal certainty. It is said that courts in Indonesia, especially District Courts and High Courts, often intentionally or not neglect the contents of the agreements that apply between the parties involved, including in a number of cases where transactions have been carried out. The attitude of the judiciary that lacks respect for the validity of the cooperation contract gives a negative signal for Indonesia's commitment to implementing legal reform and upholding justice. A number of cases, including Manulife, Prudential, PT Danareksa Jakarta, PT Tripolyta, and Asia Pulp & Paper and its subsidiaries, in Indonesia illustrate the indifference of court institutions to the legitimacy of commercial transactions made under international agreements. This condition has a major impact on Indonesia's risk level in the international capital market and on direct capital flows.

Still related to legal certainty, Mc. Cawley describes the conditions of investment legal certainty in Indonesia as follows. "Every regulation seems to lead to another description of regulations so that in the end low officials in regional and port offices feel free and even have to set a vague thing by issuing their own regulations. This usually unsatisfactory situation is often interfere with the tendency of senior officials to break through all the red bands and delay by giving exemptions from the rules or by making general decisions as "desired" laws. When this happens it is often unclear whether they reveal their own statements or actually implement government regulations ".

The government is quite understanding of the investment climate conditions and has made efforts towards improvement. Even the last effort was carried out quite fundamentally, namely by issuing a new law, Law (UU) No. 25 of 2007, to replace Law No. 1 of 1967 concerning Foreign Investment and Law No. 6 of 1968 concerning Domestic Investment because it was deemed no longer suitable with the need for accelerating economic development and the development of national law, especially in the field of investment. Article 3 of this Act definitely states the principle of legal certainty in the first rank of the 10 principles of capital investment in Indonesia. The presence of Law No. 25 of 2007 concerning new investment with a new paradigm is a significant step forward in attracting investors. Nevertheless the presence of Law No. 25 of 2007 does not and makes all legal issues in the field of investment in Indonesia to be resolved. Investment activities are very complex and therefore are not only related to one law. The law on investment is not only related to Law No. 25 of 2007 and its implementing regulations, but also will be related to other legal fields such as tax law, labor law, land law, regional spatial law, trade law and other legal fields related to business transactions both national and international dimensions.
Legal certainty must cover all legal fields related to the investment and its application in the decisions of the judiciary in Indonesia. Thus legal certainty not only covers the certainty of legal substance but also its application in the decisions of the judiciary. Carrying out a strategic role related to the investment, it is expected that the regional government in making regional-scale investment law policies, for example regional regulations (Perda), must always be able to harmonize them with national investment law. In addition, the regional scale investment law should be directed to condition the improvement of the people's economy in the region through policies that support investment activities. Especially for Riau Province, it is worthy to be the focus of research studies, because this area is considered extraordinary in strengthening the investment climate, even Riau in February 2012 received a Regional Champions award from the Investment Coordinating Board (BKPM) submitted by the Minister of Home Affairs. The award was given because Riau Province was assessed and was one of the provinces considered the most ready for investment. Of the 33 provinces, BKPM selected 7 provinces that were considered the most ready for investment. Besides Riau, also South Sumatra, West Java, East Java, East Kalimantan, NTB and Papua.

Riau Province is also considered the most prepared considering the tremendous potential in this area, in addition to bureaucratic matters related to investments that are no longer complicated as well as the upstream industry is already extraordinary. It's just just how to develop the downstream industry, so that it can provide value added to the community's economy. Riau's readiness in investment is certainly not enough to rely solely on the broad potential and bureaucracy that is no longer complicated, but how to harmonize in terms of the investment law itself. The fundamental phenomenon that influences the legal certainty of investment in Riau Province is that the regional spatial plan (RTRW) has not been completed. The effect of the completion of this Spatial Plan is very influential because almost all business fields will be affected. This is because every investment will obviously need land for its business activities. For example plantation investment in Riau, in the preparation of plantation spatial often overlaps with land tenure managed by communities and companies. This affects the slow process of obtaining permits and re-measuring company land resulting in a slowdown in the development of the plantation sector. Completion of the RTRW can also resolve land conflicts that often occur between companies and local communities in Riau. Not only for the plantation sector, the completion of the Spatial Plan is also believed to accelerate infrastructure development in Riau. So far, the development of Riau Province has been stagnant, due to stakeholder concerns violating spatial planning.

Hamsani Rahman as the Head of Facilitation and Cooperation at the Riau Province Investment and Promotion Coordination Board (BKPM PD) said that many companies from various countries cancel their investments in Riau, legal certainty must be paid handsomely with the loss of investments totaling tens of trillions. According to Hamsani, the latest incident is the cancellation of the investment that will be issued by a Japanese KAO company that will invest in Dumai, besides that there is also a Korean maritime company that plans to build investment in Buruk Bakul Bengkalis. Everything is canceled, even though if counted it reaches tens of trillions.

The completion of the Spatial Plan is a very fundamental phenomenon affecting the investment climate in Riau. As mentioned, investment activities are very complex because they will be related to other legal fields such as tax law, labor law, land law, regional spatial law, trade law and other legal fields related to business transactions both national and international dimensions. When examined as a whole it is certainly too broad. The author needs to map in stages to conduct an inventory and analysis of regulations in the field of investment in Riau Province whose results are expected to explain its consistency. In line with this intention the author sets the title according to the road map for this proposal is: "The Impact of the RTRW Policy on the Investment Climate in the Plantation Business Sector in Riau Province". Therefore this study would like to find out on how is the legal certainty of investment in plantation business in Riau Province and the efforts made in the midst of the issue of legal uncertainty that underlies investment in plantation business in Riau Province?
2. Research Methods
This type of research is sociological legal research, its approach is empirical by examining the formulation of the problem to be studied as well as providing an overview and analysis of the impact of the RTRW policy on the investment climate in the plantation business in Riau Province. This research is associated with investment certainty in the plantation business sector in Riau Province. The fundamental phenomenon that influences the legal certainty of investment in Riau Province is that the RTRW has not yet been completed. The effect of the completion of this Spatial Plan is very influential because almost all business fields will be affected. This is because every investment will obviously need land for its business activities. For example plantation investment in Riau, in the preparation of plantation spatial often overlaps with land tenure managed by communities and companies. This affects the slow process of obtaining permits and re-measuring company land resulting in a slowdown in the development of the plantation sector. Completion of the RTRW can also resolve land conflicts that often occur between companies and local communities in Riau. Not only for the plantation sector, the completion of the Spatial Plan is also believed to accelerate infrastructure development in Riau. So far, the development of Riau Province has been stagnant, due to stakeholder concerns violating spatial planning.

The population associated with this study is the Head of the Riau Provincial Plantation Service, and the Head of the Investment and Promotion Agency of the Riau Province, the Chairperson of the Riau Province Farmers and Fishermen Association and one plantation businessman in Riau Province. Data or information obtained through interview techniques are collected and presented in the form of sentence descriptions, then analyzed qualitatively and relate them to legislation, concepts, theories, views of experts and other data that are all relevant to the research and presented descriptively. From the discussion, the writer draws conclusions in this study with "inductive method", namely drawing conclusions from statements that are specific to general conclusions.

3. Findings and Discussion
3.1. Impact of RTRW policy in Riau on investment climate in plantation business
Investment is currently a strategic role to support development that is not capable of being implemented and managed by the state because of limited funds. A serious step to encourage investment has been made by the government by enacting Law No. 25 of 2007 concerning Investment. Specifically in Riau Province in 2015 the realization of investment had contributed significantly and placed Riau in the 10th rank based on reports of national investment activities with a total of Rp 18,110.42 billion. In 2016 specifically for the third quarter the realization of investment in Domestic Investment (PMDN)/Foreign Investment (PMA) amounted to Rp 5.70 trillion, consisting of the realization of PMDN investments amounting to Rp 1.88 trillion and the realization of PMA of US $ 282.75 million or equivalent to Rp 3.82 trillion, ranked 9 (nine) nationally for PMDN and ranked 10 (ten) nationally for PMA.

Then the achievement of investment realization in Riau Province PMDN/PMA from January to September 2016 amounted to Rp 16.16 trillion, which consisted of PMDN realization of Rp 5.92 trillion and PMA realization of US $ 745.15 million or Rp 10.24 trillion. The achievement of PMA/PMDN investment realization has exceeded the target set by the Riau Province RPJMD of Rp 12.7 trillion and has reached 88% of the target set by BKPM to Riau Province in the amount of Rp 18.5 trillion. From the third quarter of 2016 the contributor business realization of PMDN/PMA investment was still dominated by CPO processing industry, vegetable oil industry (PKS), paper industry (pulp & papers), food crops and plantations, real estate/property and hospitality. While based on the location of districts/cities the main contributors to the investment realization are as follows: Dumai City is Rp 2.63 trillion, Siak is Rp 1.07 trillion, Pelalawan is Rp 907 billion, followed by Pekanbaru City with the realization of Rp 388 billion and Indragiri Hulu is Rp 377 billion. From the realization in the last 3 (three) years PMDN and PMA
According to the sector in Riau Province from 2013-2015 the investment plantations in Riau were quite large in 2015 reaching Rp. 566.45 billion (PMDN) and Rp. 35.18 billion (PMA). From the realization it has made a significant contribution to the revenue of Riau Province based on prices valid from 2011 to 2015. Regarding the plantation business sector is an investment that provides prospects for income, it must be supported by a legal basis that supports licensing, provides legal certainty and does not overlap.

The legal basis underlying investment in general is Law No. 25 of 2007 concerning Investment, this law is not specifically associated with certain business fields. The legal basis for investment in plantation business can be categorized as a regulation made by the Investment Coordinating Board (BKPM) in relation to aspects of licensing, facilities and investment control. Then the legal basis is directly related to the plantation business itself. The legal basis underlying investment in general is Law No. 25 of 2007 concerning Investment, this law is not specifically associated with certain business fields. The legal basis for investment in plantation business can be categorized as a regulation made by the Investment Coordinating Board (BKPM) in relation to aspects of licensing, facilities and investment control. Then the legal basis is directly related to the plantation business itself. The legal basis of the Investment Coordinating Board (BKPM) is related to the aspects of licensing, facilities and investment control as follows:

1) Regulation of the Head of the Investment Coordinating Board (PERKA BKPM) No. 14 of 2015 concerning Guidelines and Procedures for Principle License for Investment;
2) Regulation of the Head of the Investment Coordinating Board (PERKA BKPM) No. 15 of 2015 concerning Guidelines and Procedures for Licensing and Non-Licensing of Investment;
3) Regulation of the Head of the Investment Coordinating Board (PERKA BKPM) No. 16 of 2016 concerning Guidelines and Procedures for Investment Facility Services; and
4) Regulation of the Head of the Investment Coordinating Board (PERKA BKPM) No. 17 of 2015 concerning Guidelines and Procedures for Controlling Investment Implementation.

Legal basis directly related to the plantation business sector as follows:

1) Act No. 39 of 2014 concerning Plantations;
2) Regulation of the Minister of Agriculture of the Republic of Indonesia No. 98 / PERMENTAN/OT. 140.9 / 2013 concerning Guidelines for Licensing of Plantation Businesses.

From the legal basis that underlies investment in general, namely Law No. 25 of 2007 concerning Investment, then the regulations made by the Investment Coordinating Board (BKPM) are related to aspects of licensing, facilities and investment control and the legal basis directly related to the plantation business itself until the implementation of this research is not followed up by the Government Riau Province by making regional regulations (Perda) which specifically underlie investment in plantation business. The results of Yalid's research, et al (2012) also have concluded that investment arrangements in the Regional Government of Riau Province, since the promulgation of Law No. 25 of 2007 concerning Investment after being traced to the implementation of this study there is no single regulation made by the Regional Government of Riau Province that embodies the substance of the law. Until the time the research was carried out, the Riau Provincial Government only made a policy in the form of a Governor's Decree which was to encourage efforts to create an investment climate, and provide services to prospective investors. Like the Governor of Riau Decree No. 364/IV/2012 concerning the Establishment of the Riau Province Investment Climate Strengthening Coordination Team and Riau Governor's Decree No. 365/IV/2012 concerning Establishment of Prospective Investor Service Teams in the Framework of Investment Implementation in Riau Province in 2012.
As mentioned in the background of this study, the fundamental phenomenon affecting the investment climate in Riau Province is the incomplete regional spatial plan (RTRW). The RTRW is clearly a legal rule that underlies the use of space/land. Therefore, the influence of the completion of this Spatial Plan is very influential because almost all business sectors will be affected. This is because every investment will obviously need land for its business activities.

The ambiguity of the RTRW can be said to be a fundamental cause of legal uncertainty for investments in Riau, including plantation business. Because plantation investment must use space or land. This opinion was justified by the Riau Provincial BKPMMPD in the event the writer with the Head of Riau Province BKPMMPD who was disposed to the Head of Sub Division (Head of Sub Division) Evaluation of Data Collection and Investment in BKPMMPD Riau Province. The same thing was said by the Head of the Indonesian Farmers and Fishermen Association (HTNI) of Riau Province. In an interview with the author of the Riau Provincial Plantation Service, there were no obstacles faced by investors in investing in plantation business in Riau Province. However, in answering the question of the next author with the question whether there are obstacles faced by the Riau Provincial Government in increasing investment in the Plantation sector in Riau Province? Then it was answered by saying that the Riau Provincial Government had limited funds to provide financial assistance to the community to support the results of the people's garden production. From this interview shows the interlocutor does not master the material and does not understand the direction of the question that the author submits.

The lack of clarity in the RTRW raises questions at least, what is the problem with the Riau Province RTRW? When traced to Riau Province, it was first drafted the RTRW in 1991 and passed into the Riau Provincial Regulation in 1994 through the Regional Regulation No. 10 of 1994 is valid until 2009. In this regulation, the space requirement is allocated to 4,341,501 Ha. The Riau Provincial Government in 2001 had already begun revising Regional Regulation No. 10 of 1994. During this revision process, various changes in territorial dynamics occurred such as the establishment of Riau Islands Province and the expansion of districts/cities and various rules related to development planning and space utilization so that it was only completed in 2007.

The draft revision of the RTRW Regional Regulation has been submitted to the Riau Provincial DPRD for the discussion process to become a Regional Regulation. The DPRD formed a Special Committee and began discussions. However, in the same year the Law No. 26 of 2007 concerning Spatial Planning in lieu of Law No. 42 of 1992. Based on Law No. 26 of 2007 there was a fundamental change in the preparation of spatial planning. Therefore, an adherence to the principle that the Riau Provincial Government in parallel also made adjustments in accordance with the substance of Law No. 26 of 2007.

However, until this research was carried out the Riau Province Spatial Planning Regional Regulation has not been determined, because there is still a solution to the problem of forest area status in the Ministry of Forestry. In accordance with the dynamics of space use Decree (SK) No: 173 of 1986 concerning Forest Use Agreement (TGHK) is no longer in accordance with the dynamics of space use. The whole area of Riau is a forest area when referring to the Ministry of Forestry's Decree, even the Governor of Riau's office is included in the forest area. In addition, all regencies/cities in Riau Province are expired. This situation creates a legal vacuum, in the sense of formal legal, rules that govern the planning, utilization and control of space utilization do not exist.

Of course, the Riau Provincial Government, including the regency/city in Riau, does not dare to take legal risks in issuing new permits for plantation investment. As for the risks of criminal and fines as stipulated in Law No. 26 of 2007 concerning Spatial Planning Article 69 paragraph (1), provided that every person who does not obey the stipulated spatial plan which results in changes in spatial function, shall be sentenced to a maximum of 3 (three) years imprisonment and a maximum fine of Rp 500,000,000 (five hundred million rupiah). Therefore, investment licensing in the plantation business sector has stopped.
The absence of new permits for investment in plantations in the future can certainly cause other problems. Because it is still open to work on the land for plantation business in Riau, it continues to run, even though it was not given permission, as said by a plantation businessman who was sampled in this study. Maridup said that in the future the Riau Province Spatial Plan was successfully completed, but it was not in accordance with the use of plantation land which had already been managed before, it caused rejection. In addition, the land that has been previously managed cannot contribute to the revenue, especially for the Government, because there is no legal basis for citing taxes from the plantation business, this is the impact of the policy gap of the RTRW.

The RTRW policy is clearly a legal rule that underlies the use of space/land. Because the completion of the Spatial Plan has not been very influential because almost all business fields will be affected. This is because every investment will obviously need land for its business activities. This situation affects the investment climate in Riau Province in line with the opinion that the stability and predictability of policy is a component that influences investment according to Mahmul Siregar, legal certainty of effort according to Sugeng Praptono provides predictability in the future according to Leonard J. Theberde.

Thus, it can be said that the completion of the Spatial Plan has an effect on the investment climate which is very fundamental in investment in Riau. Although investment activities are very complex because they will be related to other legal fields such as tax law, labor law, land law, trade law and other legal fields related to business transactions both national and international dimensions. To ensure the legal certainty of investment activities is very complex, it cannot be answered with this analysis but requires further research.

3.2. Efforts were made in the midst of uncertainty over the RTRW policy on investment in plantation business in Riau Province

As discussed that the realization of investment in Riau Province in the last 3 (three) years PMDN and PMA according to the sector in Riau Province from 2013-2015 the investment plantations in Riau were quite large in 2015 reaching Rp 566.45 billion (PMDN) and Rp 35.18 billion (PMA). From the realization it has contributed significantly to the revenue of Riau Province. This amount can still increase again as long as there are no obstacles for the entry of investors. However, it is known that investment barriers in the plantation business sector in Riau Province are very basic, namely the lack of clarity in the RTRW.

The Provincial Government of Riau Province, including the regency/city in Riau clearly does not dare to take legal risks in issuing new licenses for plantation investment as limited by the provisions of Law No. 26 of 2007 concerning Spatial Planning. Even so, the Riau Provincial Government must make efforts, say efforts in the midst of uncertainty in the policy of the RTRW that underlies the investment in plantation business. According to the Head of the Riau Provincial BKPMPPD in an interview with the author who technically the answer was disseminated to the Head of Sub Division (Sub-Division Head) Evaluation of Data Collection and Investment in the BKPMPPD of Riau Province, stated that the effort was always to coordinate with the Central Government so that the RTRW problem could be resolved by immediately. From these answers, provide information that investment in the plantation business sector still adheres to the Spatial Plan. This means that as long as there is no certainty the RTRW of the Riau Provincial Government does not dare to give permission for investors in the plantation business to use the land.

Investment in the plantation business that has been going on until now is only an investment based on the provisions of the old RTRW. However, no new investors will be given permission to get new land. Although promising significant contribution to the revenue of Riau Province.
From the last discourse the problem of the Riau Province Spatial Plan will be finished soon. According to the Governor of Riau, Riau investment in 2017 is no longer hampered by forest areas because the draft RTRW will be approved by the Ministry of Environment and Forestry. The struggle to get certainty of the RTRW has been through a long process and is very draining. Based on the exposures document of the Riau Province RTRW in December 2015 shows the process that has been carried out by the Riau Provincial Government in order to accelerate the completion of the Riau Province Spatial Plan:

1) After 5 December 2012, the Riau Provincial Government has delivered request for acceleration of changes in Riau's forest area (written and verbally delivered in official forums) to the President, the House of Representatives (DPR), the National Spatial Planning Coordinating Board (BKPRN), the Ministry of Home Affairs, the Coordinating Minister for the Economy, the Presidential Work Unit for Development Supervision and Control (UKP4) and other relevant central agencies, in writing 8 times.

2) Confirming the Ministry of Environment and Forestry regarding the follow-up to the problem of Forest Areas in Riau, and the Ministry of Environment and Forestry promises to have a meeting between the Ministry, the AGO, the Corruption Eradication Commission (KPK) and the Riau Provincial Government.

3) Request for the completion of the forest area to the Ombudsman.

4) Facilitating the acceleration of the completion of the Riau Province Spatial Plan by Coordinating Ministry for Economic Affairs 4 times.

5) Meetings/meetings with the Ministry of Environment and Forestry intensely since 2012, last on August 19, 2015.

Until now these efforts have not produced results. The result is still in the form of discourse, which is estimated in February 2017 Riau RTRW will soon be ratified. The Governor of Riau, said that the problem of the RTRW has a significant impact on investment realization. A number of foreign and domestic investors delayed investment worth Rp. 22 trillion, because it was restricted to forest areas. Although investment is hampered, the Governor of Riau said that the development of national infrastructure, such as the construction of the Trans-Sumatra toll road and the railway line, could continue. So far, the government and the local DPRD cannot issue regulations because they are still in the forest area.

4. Conclusion

The impact of the RTRW policy in Riau on the investment climate in the plantation business sector is currently very influential on the entry of new investors due to the incomplete RTRW that underlies the use of space / land. It can be said that the completion of the Spatial Plan affects the investment climate in Riau. Although investment activities are very complex because they will be related to other legal fields such as tax law, labor law, land law, regional spatial law, trade law and other legal fields related to business transactions both national and international dimensions. The Riau Provincial Government in 2001 had already begun revising Regional Regulation No. 10 of 1994. However, until this research was carried out the Riau Province Spatial Planning Regional Regulation has not been determined, because there is still a solution to the problem of forest area status in the Ministry of Forestry. Of course, the Riau Provincial Government, including the regency/city in Riau, does not dare to take legal risks in issuing new permits for plantation investment.
Efforts made in the midst of the uncertainty of the RTRW policy on investment in the plantation business sector in Riau Province can be said to be just waiting for the ratification of the Riau Province RTRW Regional Regulation. Although the plantation business sector contributes significantly to the revenue of Riau Province. Efforts are made to always coordinate with the Central Government so that the RTRW problem can be resolved as soon as possible, it is estimated that in February 2017 Riau RTRW will soon be ratified.

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