

**LEGAL ASPECTS OF INVESTMENT IN THE FRAMEWORK IMT-GT SUB-REGIONAL ECONOMIC COOPERATION (INDONESIA-MALAYSIA-THAILAND GROWTH TRIANGLE) IN INDONESIA**

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***Abstract.** Investment activities have a critical role in increasing the growth of a country's trade flows, and conversely, an increase in trade activities will also encourage investment growth. All of these aim to increase economic growth. The agreement in cooperation in investment in the Sub-Regional, Regional, and Multilateral scope regulates the principles of cross-border investment between countries by "minimizing" investment barriers so that capital flows can flow smoothly from one country to another other. The IMT-GT (Indonesia-Malaysia-Thailand Growth Triangle) Sub-Regional Economic Cooperation, an anticipatory response to implementing the AFTA (ASEAN Free Trade Area), is quite good when viewed from the object of cooperation. However, differences in progress, quality of human resources, limited capital, licensing systems, and applicable legal instruments are problems or obstacles in the investment sector's cooperation process. In addition, Indonesia's economic system, which is still centralized, makes it difficult for this region to develop. This study uses a normative juridical approach using secondary data. Information data collection was carried out through library research and interviews. Data and information were analyzed qualitatively and presented in a descriptive-analytical form with deductive conclusions drawn. From the research results, the implementation of IMT-GT in order to support investment in the regions needs to be pursued in several steps, namely, creating/refining regulations, existing licensing systems that are less supportive/inhibiting trade and investment, building and rehabilitating various facilities and infrastructure and encouraging KADIN (Chamber of Commerce and Industry) as the spearhead to play a more active role.*

***Keywords:** Investment Law, Economic Cooperation, IMT-GT Sub-Regional*

**A. BACKGROUND**

In today's globalization era, the Indonesian people's ability and resilience to ensure their survival and struggle for glory are increasingly facing complex challenges. Globalization in the economic field has given birth to a new economic order in which the formation of a more accessible market. One of the prerequisites for surviving in this global economic system is that a country must have comparative advantages and competitive capabilities. If this is not met, Indonesia will be run over by globalization. Plus, entering an era where the Asian region, including Indonesia and even the world, is hit by an economic and monetary crisis that also impacts the Indonesian economy nationally.

It is hard to deny that various facts show that relations between sovereign countries in the economic and political fields mutually influence and need each other. This pattern of reciprocal international relations can be found between countries that are economically qualified as developed countries, as well as between developed and developing countries or developing countries themselves. The 23rd meeting of ASEAN economic ministers in October 1991 in Kuala Lumpur, among others, resulted in an agreement regarding establishing the ASEAN Free Trade Area (AFTA) within 15 years. Then at the 4th ASEAN summit held on January 27-28, 1992, in Singapore, agreements were produced, outlined in three agreement texts, two signed by the governments of ASEAN member countries and one signed by handled by -handled by ASEAN economic ministers (Dadang Saefulah, 1993).

These agreements namely; The 1992 Singapore Declaration, the ASEAN Economic Cooperation Enhancement Framework Agreement, and the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for (AFTA).

With this renewal in intra-ASEAN cooperation, it is necessary to have clear and definite arrangements regarding rights, obligations, authorities, responsibilities, and restrictions for the parties that will provide guarantees of justice, benefits, protection, and legal certainty. The observable "Intra-ASEAN" economic cooperation shows a maturity process that moves dynamically by always conducting studies on the impacts arising from the processes that apply in the external and internal environment of ASEAN. The cooperation being led through AFTA is aimed at keeping the level of economic growth in the ASEAN region dynamic so that this region is currently and in the future still attractive to foreign investment or industrial relocation (Siddik, 2017).

The IMT-GT (Indonesia-Malaysia-Thailand Growth Triangle) or the Indonesia-Malaysia-Thailand growth triangle is a concept of subregional economic growth initially coined by the Prime Minister of Malaysia, Dr. Mahathir Mohamad and then received approval from the five Heads of State/ Heads of Government of ASEAN Members.

The IMT-GT (Indonesia-Malaysia-Thailand Growth Triangle) sub-regional economic cooperation, which is an anticipatory answer to the implementation of AFTA, is quite good when viewed from the object to be cooperated with. However, differences in progress, quality of human resources, limited capital, and legal systems

and instruments that apply among ASEAN countries are problems or obstacles in the cooperation process in trade and investment (Mansfield & Milner, 2017).

This is where the importance of regulating subregional economic cooperation lies, which is the main problem in writing this scientific work. The Growth Triangle and Growth Areas are government policy tools to prepare regions, both local governments and the private sector, to take advantage of the opportunities created by globalization and free trade.

In this case, the role of the Regional Government is critical because Regional Government Officials are the front line in supporting private businesses in the region. Subregional economic cooperation is carried out by the private sector/entrepreneurs and is directed by market forces. The challenge for the government is creating such a climate for market forces to form and function properly. Creating a conducive investment and trade climate is the key to attracting economic activity.

## **B. FORMULATION OF THE PROBLEM**

Based on the background of this thinking, the problem can be formulated as follows:

1. What is the role of law in increasing investment in Indonesia, which is incorporated in the IMT-GT subregional economic cooperation area?
2. What is the role of government officials in increasing investment in the regions within the framework of IMT-GT subregional economic cooperation?
3. Constraints, obstacles, and legal institutions must be refined to make investment more effective in the IMT-GT subregional economic cooperation area.

## **C. RESEARCH METHOD**

Related to the writing of this scientific work, the method used is a descriptive-analytical research method with a normative juridical approach carried out by studying the applicable legal rules, especially those related to the provisions of economic law and international organizations. In addition, it is carried out using a comparative juridical approach, carried out through a comparative study, especially concerning

national legal regulations and international legal regulations, especially about aspects of economic law in the context of IMT-GT Subregional Economic Cooperation, international organizational law, and AFTA and other regional regulations that support the implementation of the IMT-GT cooperation.

#### **D. BENEFITS of RESEARCH**

This research is expected to make a scientific contribution theoretically, namely to add scientific insight into the field of international economic law, especially the prospects for the Development of the IMT-GT Growth Triangle Area. In addition, this research will be helpful. It can contribute ideas and input to government agencies and related institutions in establishing/implementing a legal policy in the field of investment, especially to Regional Governments, Private/Entrepreneurs who are centers of supporting economic actors IMT-GT Subregional Economic Cooperation.

#### **E. RESEARCH RESULTS**

##### **1. The role of law in efforts to increase investment in Indonesia, which is incorporated in the IMT-GT subregional economic cooperation area**

Increasing national and international economic cooperation is carried out in trade, tourism, and investment. In this regard, the Government has taken a breakthrough to form Growth Area Cooperation in the form of Subregional Economic Cooperation. Subregional Economic Cooperation involving Provinces/Regions in Indonesia as members can be grouped into two groups, namely ASEAN KESR and non-ASEAN KESR. ASEAN KESR includes three growth areas: the Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT), which is the study of this paper, the Indonesia-Malaysia-Singapore Growth Triangle (IMS-GT), and the Brunei Darussalam-Indonesia-Malaysia-Philippines Growth Area. (BIMP-EAGA). Meanwhile, only one non-ASEAN KESR has been formed, namely the Australia-Indonesia Development Area (AIDA).

The key to the success of the growth area cooperation scheme lies in optimizing the resources and all the potentials owned by each participating country. Taken together, several countries, due to their proximity, take advantage of each other's existing potential, such as natural resources, infrastructure, experts, capital, and

workforce. By itself, the essence of cooperation in this growth area is the combination of potential differences and comparative advantages that exist in each member country so that, in turn, they can formulate relevant forms of cooperation or attract investors to take advantage of the potential and facilities offered.

#### Government-Level Organization:

- a. Through Presidential Decree No. 72 dated 18 September 1996, the Indonesia-Malaysia-Thailand Growth Triangle Coordinating Team (IMT-GT) was established, and the Decree of the Coordinating Minister for Production and Distribution (now Coordinating Minister for the Economy) as Chair of the Indonesia-Malaysia-Thailand Growth Triangle Coordinating Team Number: 04/K/MK/PRODIS/I/1997 Concerning the Indonesia-Malaysia-Thailand Growth Triangle Coordination Implementation Team.
- b. At the Central level, the Indonesia-Malaysia-Thailand Growth Triangle Subregional Economic Cooperation (KESR IMT-GT) is handled by the Coordinating Minister for Prodis as the head of the coordination team and several Ministers as deputy chairmen and members. The Coordinating Minister for Disciplines (Coordinating Minister for the Economy) forms a Coordination Implementation Team chaired by the Assistant Coordinating Minister III, with echelon I officials from the relevant Ministries/Agencies as members.
- c. At the regional level, KESR IMT-GT Growth Triangle is handled by a regional coordination team chaired by the Governor, through Decree Number 193/410/1994 dated 20 July 1994, assisted by all regional government officials, especially BAPPEDA, BKPM, Universities, and the business world (Kadinda and Professional Association).
- d. The business world needs to make continuous consolidation efforts (Kadin-Kadinda-Association)

#### Facilities that have been provided to KESR IMT-GT:

- a) Non-Fiscal
  - Granting flight permits with a limited open skies policy

- Support for facilities and infrastructure, carried out in stages by the available Government budget capabilities, such as the Construction of airports, seaports, and land roads. At the same time, those handled by the private sector/government include telecommunications and electricity.
- Provision of Visa-Free Short Visit (BVKS) immigration services at all ports and international airports for entrepreneurs arriving in the IMT-GT area.
- Services for tourists who bring their vehicles.
- Deregulation of the fisheries sector, which has significant economic potential in the IMT-GT region.
- Reduction of international call rates in the IMT-GT region.

b) Fiscal

- Provision of tax incentives (a tax holiday) for specific industries in the IMT-GT area.
- Through Government Regulation Number 57 of 1996, dated 18 September 1996, individuals who go through ports or places of departure abroad within the IMT-GT cooperation area are exempt from fiscal payments (income tax for individuals going abroad).
- The Minister of Finance has further determined ports or departures abroad within the IMT-GT cooperation area.
- Deregulation in the field of trade, which increases the export value of goods exported by small/medium traders.

c) Follow-up

Furthermore, efforts are made to perfect a conducive business climate so that both the national economy and the IMT-GT region, through deregulation and de-bureaucratization, that the target is that Indonesia's economic growth is getting better in the face of AFTA, APEC, and globalization, while at the same time being able to spur economic growth outside the islands. Java and Bali.

## **2. The Role of Government Apparatuses in Efforts to Increase Regional Investment in the Context of IMT-GT Subregional Economic Cooperation.**

Subregional Cooperation is synonymous with regional development efforts, so the Regional Government must lead. Local government officials at both level 1 (Province)

and level 2 (Regency/City) can become pioneers in creating a "business friendly" business climate. It is realized that the administrative structure of the Government of Indonesia, which emphasizes the role of Sectoral Ministries at the Center, will affect the opportunities and capabilities of Regional Governments to carry out the desired roles/functions. However, these obstacles are being addressed through decentralization and deconcentration to improve the regional economy. The national coordination meeting for ASEAN sub-regional economic cooperation in Jakarta stressed the importance of the regional role in utilizing KESR. This is reinforced by BAPPENAS' commitment to pay special attention to project submissions from regions directly related to regional/provincial participation in one of the KESR (R.A.Hamid, 1997).

Seeing the various forms and contents of international cooperation carried out by several regions/cities in the territory of Indonesia and foreign countries in the past, the Minister of Home Affairs deems it necessary to make general rules regarding the implementation of Relations between Regions/Cities with Other Regions/Cities abroad which are embodied in the form of Regulation of the Minister of Home Affairs Number 1 of 1992 concerning the Implementation of Foreign Cooperation Relations at the Ministry of Home Affairs. The Minister of Home Affairs emphasized to Regional Government officials to change their orientation, which has been guided by the Central or National, to be more oriented towards other countries. In this case, one of the great potentials is the pattern of traditional relations in each region within the scope of KESR. In addition, special attention is requested for applicable laws and regulations, spatial planning, promotion, a delegation of authority, private sector participation, investment information, and a conducive climate to increase investment in the regions.

In this connection also, regional development requires sufficient preparation. Therefore the Regional Investment Coordinating Board (BKPMMD) has a vital role in planning investment in the regions to increase Regional Original Income (PAD) so that regions can be independent. Independence is the ability to carry out all development activities and other community tasks.

In order to achieve maximum efficiency and effectiveness in planning investment programs in the regions, BKPMMD is always required to carry out and maintain working relationships through consultation and coordination, both with regional and vertical

agencies. Besides that, the relationship between BKPM and Central BKPM (Ministry of Investment) is functionally consultative (Amrah Muslimin, 1986).

In connection with the purposes above, the bodies directly related to the implementation of investment capital in the regions are:

- 1) Regional Office of the National Land Agency (BPN);
- 2) Regional Office of Industry and Trade and the Office of Industry and Trade;
- 3) Regional Development Planning Agency (BAPPEDA);
- 4) Regional Office of the Ministry of Agriculture and Agriculture Service;
- 5) Banking.

### **3. Obstacles, Challenges, and Obstacles in IMT-GT Subregional Economic Cooperation.**

The IMT-GT Subregional economic cooperation prospects are good regarding the objects to be cooperated with. However, differences in progress, regulations and legal provisions in force, the quality of human resources, and limited capital are obstacles to this cooperation.

For KESR IMT-GT, which has limited facilities and qualified human resources, the efforts to take advantage of these collaboration opportunities still need to be expanded. It is even feared that there will be a return flow of capital, goods, and services from minus areas to areas that have been developed. Apart from the obstacles, in general, the challenges that must be faced to make the IMT-GT program successful, especially in taking advantage of opportunities to accelerate backwardness and develop the regional economy, are as follows:

First, economic development and relations are becoming increasingly uncertain, with competition in the international market becoming increasingly fierce among developing countries, developing countries, newly industrialized countries, and even developed countries. This will significantly influence investors in the three countries of IMT-GT to be more careful and scrupulous in expanding their business abroad and making choices in business fields that need to be better known.

Second, the progress of industrial technology, which is developing faster in the two partner countries (Malaysia and Thailand), follows the developed countries, thus



enabling them to carry out production efficiently in their own countries. Industries with advanced technology tend to be capital- and information-intensive, so our country's competitive workforce is no longer a comparative advantage.

Third, manufactured products produced by Indonesia are generally the same as those produced by the two partner countries (Malaysia and Thailand), and it must be recognized that some products from Malaysia and Thailand have better quality and design than domestic products, in addition to competitive prices. This is a challenge in the trade sector for the possibility of our entrepreneurs offering domestic products to the two countries.

Fourth, our mastery of business information still needs to improve. To enter foreign markets with new business fields, detailed information is needed regarding regulations, capital, market conditions, consumer tastes, and the actual situation of prospective overseas business partners. The mastery of this information needs to be improved by regional entrepreneurs, primarily from the middle and small groups.

Fifth, high bank interest and strict procedures in the country place our business people in a weak position in establishing joint ventures with Malaysian and Thai business people, which have simple banking procedures, fast processing, and relatively low bank interest

Sixth, the high-cost economy that haunts domestic and regional entrepreneurs cannot be eliminated, which in some ways makes it even more challenging to move and weaken the competitiveness of our entrepreneurs (Raharjo, 1997).

In connection with the obstacles and constraints, Sugeng Raharjo also stated that there is an impression that there is still sectoral arrogance between related Ministries. Besides, more supporting infrastructure still needs to be for implementing investment in Indonesia. It was also added that the disparities in business development, income, and poverty are factors that also influence whether or not an investment in Indonesia is smooth. In essence, Regional Governments' problems and obstacles in increasing investment in the regions are almost the same as those of other regions involved in sub-regional economic cooperation (IMT-GT, IMS-GT, BIMP-EAGA).

One of the complaints that often arise from domestic and foreign entrepreneurs/investors is the problem of service difficulties from the Regional Government. Meanwhile, regional governments tend to view regulations/provisions, permits, facilities, and conveniences as the central government's authority, so they see complaints from the business world as wrong addresses.

In this regard, several concrete steps can be taken by the Regional Government, including the following:

- 1) Make guidelines regarding all provisions relating to the process of obtaining various permits in the context of investment in the region, including information regarding the competent authority and the applicable laws/regulations. Thus, the process of obtaining permits in the regions will become transparent. This is very important because, according to information from entrepreneurs/investors, they are okay with spending money for administration and licensing as long as the amount can be controlled within reasonable limits, the process is transparent, and the time is limited. This manual should preferably be prepared in both English and Indonesian.
- 2) Regulate regional levies charged to entrepreneurs/investors to cover the costs of activities in the region and official levies based on applicable laws and regulations.
- 3) Embracing central entrepreneurs who come from the regions. Entrepreneurs from the regions who have succeeded in developing their businesses to the center are one of the most valuable resources for the regions. They have proven successful in national and international economic arenas, so they certainly have helpful knowledge and experience that can be shared with entrepreneurs in the regions. This can be achieved through a partnership pattern.
- 4) Organize and mobilize Kadinda and Professional Associations. The Chamber of Commerce and Industry (Kadin), as the only forum for national economic actors that brings together entrepreneurs and companies from various business sectors as outlined in Law Number 1 of 1987 concerning the Chamber of Commerce and Industry, has not been able to fully meet the expectations of its members, including among others to function as a “private voice” in various national and

international forums. This is partly because Kadinda and the Professional Association of Entrepreneurs do not yet have unprofessional management/management. In this case, the local government can facilitate restructuring the private sector organization, but the primary responsibility still lies with the entrepreneurs/members.

- 5) Study the report on the results of the IMT-GT study by a team of international consultants sponsored by the ADB (Asian Development Bank) as reference material for establishing various regional policies.
- 6) In order for each region/province that is part of the IMT-GT KESR to be better known by both national and foreign entrepreneurs, each region/province needs to compile a regional investment profile and project profile in the form of an informative and promotive presentation which in the pattern of preparation needs to be supported by a professional work pattern (Bin, 2010).

## **F. CONCLUSION**

1. Sub-regional economic cooperation (KESR), often referred to as the growth triangle or growth area, including the IMT-GT KESR, is a form of economic cooperation/linkage between regions and countries. The inter-regional economic linkages in KESR are somewhat different because they have the privilege of having an "international" element. With subregional economic cooperation, it means that ASEAN economic cooperation, which has been in an idle state, has now shown encouraging results; this is indicated by the execution of contracts, investment agreements, and MOUs from the three countries that are members of the IMT-GT.

In addition to deregulation on an ongoing basis to increase efficiency and productivity, Indonesia is expected to be able to prepare business/investment legal instruments that are internationally acceptable to create guarantees or legal certainty in investing in Indonesia.

2. To accommodate and actualize the role of the Government/Local Government in the context of KESR IMT-GT, Presidential Decree Number 26 of 1994 was

stipulated, which was subsequently amended by Presidential Decree Number 72 of 1996 concerning the Establishment of Indonesia, Malaysia, Thailand Growth Triangle Coordinating Team (IMT-GT). In organizing/implementing KESR IMT-GT in the regions, a team was formed, chaired by the Governor as Chair of the Steering Team and the Deputy Governor as the Implementation Team. The Team Leader is accompanied by deputy chairpersons, secretaries, and staff consisting of elements from BAPPEDA, BKPM, KADIN and Associations, Higher Education, and elements of regional offices and related offices whose job is to implement/succeed KESR IMT-GT.

3. In the IMT-GT subregional economic cooperation, various business sector opportunities, such as investment, trade, industry, and tourism opportunities, are open. The existing potentials have yet to be utilized optimally due to various constraints/obstacles. This is due to limited capital, human resources, unclear marketing network, and applicable provisions and legal instruments, directly and indirectly affecting investment flows with foreign parties. Therefore, regulations and a business climate that are not conducive must be changed to create a climate and opportunities for investment and business that are large. This can be done by increasing coordination between regional agencies by seriously and genuinely involving all components. Regional governments should be more proactive and provide investment facilities and incentives conducive to investors investing in the regions. Besides that, it is necessary to make guidelines regarding all provisions relating to obtaining various licenses in the context of regional investment, including information on the competent authority and the applicable laws and regulations. Thus the process of obtaining permits in the regions will become transparent.

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