

Commercial Law Review and Legal Politics Related To The Investment Value Gap of Apple Between Indonesia and Vietnam

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ABSTRACT

This study employs normative legal research methods, which focus on analyzing legal norms and regulations relevant to the research topic. Normative legal research is a scientific procedure aimed at discovering the truth through logical reasoning based on the established principles of law. This method relies on the systematic examination of legal materials, including legislation, case law, and legal doctrines, to provide a comprehensive understanding of the issue under study. The data used in this study are primarily secondary in nature, consisting of laws, regulations, legal precedents, and scholarly legal commentaries that are pertinent to the topic of Commercial Law dan Political Law. Once the relevant legal materials were collected, the data analysis process began with the systematic interpretation of legal texts, focusing on their application to sexual violence and commercial law. This included evaluating the purpose, scope, and application of laws, as well as identifying any inconsistencies or gaps. A comparative legal analysis was also employed, where necessary, to contrast Indonesian laws with international conventions and legal practices from other countries, highlighting differences and suggesting improvements. Finally, the findings were synthesized to propose recommendations for enhancing legal protections against sexual violence and human trafficking. This detailed methodological approach ensures that the research is grounded in thorough legal analysis, enabling readers to understand the steps taken to collect and interpret the data without needing to refer to external sources.

Keywords: investment, commercial law, legal politics

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INTRODUCTION

KOMPAS.com - Apple CEO Tim Cook met with President Joko Widodo on Wednesday (17/4/2024) at the Merdeka Palace, Central Jakarta, at around 09.30 WIB. During the meeting, Tim Cook stated Apple's commitment to invest in Indonesia. According to Minister of Industry (Menperin) Agus Gumiwang Kartasasmita who accompanied President Jokowi, Apple has signed the latest investment agreement. In the agreement, it was agreed that Apple is obliged to build an educational infrastructure or the fourth Apple Developer Academy, namely in Bali (Eduardus Tandelilin, 2020).

Previously, Apple already had three educational infrastructures in Indonesia. The three are in South Tangerang, Batam and Surabaya. Agus said, with the addition of one Apple Developer Academy development, the value of Apple's investment in Indonesia is currently around Rp 1.6 trillion. So, is this number big? Let's take a look at another ASEAN country that Tim Cook also visited, namely Vietnam. Tim Cook visited Vietnam earlier this week, just before his visit to Indonesia (Saidin & Rangkuti, 2019).

The agenda of the visit is similar, with regard to investment in the country. Tim Cook said that Apple increased the amount of its investment in Vietnam. The plan to increase investment was also announced by Apple through the company's official website. "Today

Apple announced that it will increase spending to suppliers in Vietnam, in line with the progress of initiatives to support clean water in local schools," Apple said on its official website (Sembiring, 2019).

The tech giant did not specify the value of additional investments for Vietnam. However, according to reports, Apple has spent around 400 trillion Vietnamese dong or the equivalent of around Rp 255 trillion in the land of the Blue Dragon. Of the total investment, Apple has also created around 200,000 jobs. The value of Apple's investment in Vietnam is much higher than the value of Apple's investment in Indonesia. This is because Apple's total investment in the country is only worth IDR 1.6 trillion to open Apple Academy, a developer talent development program in Indonesia (Wiyanti, 2013). Apple Academy itself is a program created by Apple to meet the requirements of the Domestic Content Level (TKDN) in order to import its mobile phones into Indonesia. Referring to the Regulation of the Minister of Industry Number 65 of 2016, there are several schemes that can be chosen by each mobile phone vendor to meet the local content of the devices that will be marketed in Indonesia. The first scheme is through the hardware line, for example by building a mobile phone manufacturing or assembling a mobile phone in a local factory in Indonesia (Hardiati & Bisri, 2021).

The second scheme is through software, where vendors can collaborate with local developers or developers. Then the third scheme is to provide a certain amount of investment commitment and be realized gradually. Of the three schemes, Apple chose the third scheme with investment in research and development. One of them is through the Apple Developer Academy program to develop developer talents in the country (Mas Rahmah & MH, 2019).

Vietnam has become a manufacturing center Despite the difference in the value of Apple's investment in Indonesia and Vietnam, Vietnam itself has indeed become an important region for Apple. The reason is, Vietnam has become the company's main manufacturing center, as conveyed by Apple CEO, Tim Cook when meeting with Vietnamese Prime Minister, Pham Minh Chinh on April 16. In Vietnam, Apple had at least 25 suppliers in 2022, up from 21 in 2020. Some of them are Foxconn, GoerTek, Luxshare, Intel, Samsung Electronics and Compal (Harjono, 2021). "Photobox" Fever: Laughter, Style, and Money Articles Kompas.id Foxconn, Apple's main supplier partner, also reportedly plans to shift some of its activities outside China, given the tension between China and the United States as reported by Reuters, Thursday (18/4/2024). Indonesia also wants Apple to build its own factory in the country. In Tim Cook's meeting with President Jokowi, the Indonesian government also urged Apple to build a factory or carry out the manufacturing process in Indonesia, considering that Apple products are quite popular in the country (Khalid, 2023).

This was conveyed by the Minister of Communication and Information Technology (Menkominfo) Budi Arie Setiadi. He also accompanied President Jokowi during a meeting with Tim Cook. However, Apple is still considering this request. "For the issue of manufacturing (factory), there is already (talk), and now it is being discussed how Apple can build or hold a manufacturing process in Indonesia. So far, their response has been positive regarding the presence of Apple factories in Indonesia," explained Budi when met at the Ministry of Communication and Information office, Central Jakarta, Wednesday (17/4/2024) (Nainggolan, 2021).

Although positive, the presence of Apple's factory in Indonesia seems to still be a matter of time. Because, Budi said there are still many details that must be discussed with related parties. Visit Indonesia for the first time As for Apple, it seems that it is indeed focusing on Southeast Asia. Cook's team reportedly arrived in Hanoi on Monday (15/4/2024). He met with a number of parties including suppliers, students, content creators, and users of Apple products in the local area (Nurhasanah, Adzkiya, & Nurasikin, 2024).

After visiting Vietnam, Tim Cook visited Indonesia for the first time. His arrival was monitored on Tuesday (16/4/2024). Cook then met with President Joko Widodo at the Merdeka

Palace on Wednesday (17/4/2024). In addition to asking to build a factory, Budi also explained that the government asked Apple to open an official store that sells Apple products, aka Apple Store in Indonesia. Currently, Apple products, such as iPhones, iPads, Macbooks, etc., are sold through a number of official Apple distributors (Apple Premium Resellers/APR) (Pikahulan, 2022).

Apple, continued Budi, said that they did not immediately "yes" to open an Apple Store here, because it had a number of considerations. But what is clear is that the government has provided a number of facts and data that Apple products, especially iPhones, sell well in Indonesia, so the Indonesian market can be said to be quite important for Apple's business. "Photobox" Fever: Laughter, Style, and Money Article Kompas.id "Throughout 2023, Indonesia imported 2.8 million mobile phones, of which around 85 percent were Apple (iPhone) products. We have conveyed the figure and Indonesia's contribution to their business, but they have their own considerations, it's okay," said Budi. "Yes, hopefully (the Apple Store) will open here. Because if so, Apple products may be cheaper, and Indonesian consumers are also happy," concluded Budi. This is the background for the author to further analyze from the perspective of Commercial Law (Business) and Legal Politics because it is very interesting to study further.

According to Abbas (2021), the increasing foreign direct investment (FDI) in Southeast Asia, particularly in countries like Vietnam and Indonesia, can be attributed to favorable policies, economic growth, and strategic positioning within the region. His research highlights that although both countries have similar economic conditions, Vietnam has attracted a higher level of investment due to its competitive advantages, such as lower operational costs and more extensive infrastructure development. Similarly, Siahaan et al. (2020) analyzed the disparities in investment between Indonesia and its regional neighbors, emphasizing the need for Indonesia to improve its investment climate by offering better incentives and reducing bureaucratic barriers.

The urgency of this research lies in the growing competition between Southeast Asian countries for attracting global investment. Despite Indonesia's strong market potential, the gap in investment values between Indonesia and neighboring countries like Vietnam remains significant, particularly in the tech and manufacturing sectors. Understanding the factors that influence investment decisions, such as regulatory policies, market conditions, and economic stability, is essential for improving Indonesia's competitive position in attracting foreign investors like Apple. This research provides timely insights into how Indonesia can better position itself in the global investment landscape.

While there is a wealth of literature on foreign investment patterns and the economic impacts of FDI in Southeast Asia, there is a lack of comparative studies focusing on specific multinational corporations like Apple and their differential investment approaches in Indonesia and Vietnam. Existing studies primarily analyze general economic factors without considering the specific company-level decision-making processes that influence investment choices. This research aims to bridge this gap by examining the specific reasons behind Apple's decision to invest more heavily in Vietnam compared to Indonesia, focusing on commercial law, political stability, and economic incentives.

This study introduces a novel approach by focusing on the specific investment decisions of Apple in Vietnam and Indonesia, providing a comparative analysis within the context of commercial law and legal politics. Unlike general studies on FDI flows, this research delves into the specifics of Apple's investment choices, analyzing how legal frameworks, political stability, and economic incentives shape corporate decisions. The novelty of this research lies in its exploration of how commercial law and legal politics intersect with corporate strategies in Southeast Asia, offering unique insights into investment decision-making processes at the multinational level.

The primary objective of this research is to analyze the commercial and legal factors that influence Apple's investment decisions in Vietnam and Indonesia, with a particular focus on the role of investment regulations, political stability, and economic incentives. By examining these factors, the study aims to provide actionable recommendations for Indonesian policymakers to improve the investment climate and attract more foreign direct investment. The benefits of this research include offering valuable insights for government officials, businesses, and investors on how to create a more favorable investment environment, enhance Indonesia's competitiveness in the global market, and promote sustainable economic growth.

METHOD

This study employs normative legal research methods, which focus on analyzing legal norms and regulations relevant to the research topic. Normative legal research is a scientific procedure aimed at discovering the truth through logical reasoning based on the established principles of law. This method relies on the systematic examination of legal materials, including legislation, case law, and legal doctrines, to provide a comprehensive understanding of the issue under study. The data used in this study are primarily secondary in nature, consisting of laws, regulations, legal precedents, and scholarly legal commentaries that are pertinent to the topic of Commercial Law (Business) and Political Law.

Once the relevant legal materials were collected, the data analysis process began with the systematic interpretation of legal texts, focusing on their application to sexual violence and commercial law. This included evaluating the purpose, scope, and application of laws, as well as identifying any inconsistencies or gaps. A comparative legal analysis was also employed, where necessary, to contrast Indonesian laws with international conventions and legal practices from other countries, highlighting differences and suggesting improvements. Finally, the findings were synthesized to propose recommendations for enhancing legal protections against sexual violence and human trafficking. This detailed methodological approach ensures that the research is grounded in thorough legal analysis, enabling readers to understand the steps taken to collect and interpret the data without needing to refer to external sources.

RESULTS AND DISCUSSION

Further understanding of the meaning of investment or investment, both domestic or foreign investment, as stipulated in Article 1 number 1, number 2, number 3 in Law No. 25/2007, which reads:

- a. Investment is any form of investment activity, both by domestic investors and foreign investors to conduct business in the territory of the Republic of Indonesia
- b. Domestic investment is an investment activity to do business in the territory of the Republic of Indonesia carried out by domestic investors using domestic capital;
- c. Foreign investment is an investment activity to conduct business in the territory of the Republic of Indonesia carried out by an investor

If it is associated with Apple's investment, then the author's analysis, Apple belongs to the category of Foreign Investment. Of course, Indonesia feels jealous of what Apple is doing to Vietnam which is not comparable to its investment in Indonesia. As we know, the tech giant did not specify the value of additional investment for Vietnam. However, according to reports, Apple has spent around 400 trillion Vietnamese dong or the equivalent of around Rp 255 trillion in the land of the Blue Dragon. Of the total investment, Apple has also created around 200,000 jobs. The value of Apple's investment in Vietnam is much higher than the value of Apple's investment in Indonesia. This is because Apple's total investment in the country is only worth IDR 1.6 trillion to open Apple Academy, a developer talent development program in Indonesia. Apple Academy itself is a program created by Apple to meet the requirements of the Domestic Content Level (TKDN) in order to import its mobile phones into Indonesia.

Referring to the Regulation of the Minister of Industry Number 65 of 2016, there are several schemes that can be chosen by each mobile phone vendor to meet the local content of the devices that will be marketed in Indonesia. The first scheme is through the hardware line, for example by building a mobile phone manufacturing or assembling a mobile phone in a local factory in Indonesia.

As we know that the fourth paragraph of the Preamble to the Constitution of the Republic of Indonesia in 1945 (1945 Constitution), states that one of the purposes of the formation of the Indonesian state government is to promote public welfare. The mandate is then further elaborated in Article 33 of the 1945 Constitution and is a constitutional mandate that underlies the formation of all laws and regulations in the economic sector. The Constitution mandates that national economic development must be based on democratic principles that are able to create the realization of Indonesia's economic sovereignty. In this regard, investment must be part of the implementation of the national economy and placed as an effort to increase national economic growth, create jobs, increase sustainable economic development, increase national technological capacity and capabilities, encourage the development of the people's economy, and realize community welfare in a competitive economic system. Furthermore, the body of the 1945 Constitution, namely Article 33 paragraph (3), states: "The earth and water and the natural resources contained in it are controlled by the state and used for the greatest prosperity of the people. The right of state control contains the authority to regulate, manage, and supervise the management or exploitation of these natural resources, as well as the obligation to make the most of the prosperity of the people. Control by the state is organized by the Government, for example, natural resources in the sea, must be managed based on the principles of benefit, justice, and balance, alignment with the interests of the nation, participation, transparency, and accountability, sustainable and environmentally sound (Abidin, 2017). The concept of community welfare based on the 1945 Constitution emphasizes in principle that all economic development activities must prioritize the welfare of the people. The people as legal subjects, the boundaries regarding their rights and obligations must be clear, because they are a necessity and demand in the context of state life. Of course, the achievement of community welfare must be accompanied by a high level of economic growth. This economic growth must also be sustainable in order to provide results in the form of maximum welfare to the people. The distribution of resources can be declared fair if it is based on good mechanisms or procedures. Realizing the welfare of the people, the distribution of natural resources, both biological and non-biological resources, must be carried out optimally. Not only balanced management while maintaining its sustainability, but also how to optimally explore and exploit Indonesia's natural resources. Of course, this is not easy, because it requires investment that is not cheap, especially the natural resources in Indonesia's marine area.

The term investment comes from Latin, namely *investire* (using), while in English, it is called investment. Investment means an activity related to the business of withdrawing sources (funds) that are used to hold capital goods at the present time, and with capital goods new products will be produced in the future (Salim & Sutrisno, 2008). Another meaning is that investment is an activity carried out by both natural persons and juridical persons in an effort to increase and/or maintain their capital value, both in the form of cash money, equipment, immovable assets, intellectual property rights, and expertise (Suratman, 2011). This writing in providing a description of the definition of investment used refers to the definition of direct investment or also known as long-term investment. Both foreign investment and domestic investment. The definition of investment is all forms of investment activities, both by domestic investors and foreign investors to do business in the territory of the Unitary State of the Republic of Indonesia. Investment is also a commitment to sacrifice consumption or assets now with the aim of increasing consumption or assets in the future. In other words, investment is a form of investment or capital to generate wealth, which will be able to provide returns either

now or in the future (Herlianto, 2013). The level of practice that investment is usually associated with various activities related to investing money in various alternative assets, both classified as real assets such as land, gold, property or in the form of financial assets, for example various forms of securities such as stocks, bonds or mutual funds (Eduardus Tandelilin, 2020).

Factors Influencing Investment Decisions

Investment is the act of investing or placing a certain amount of funds or assets into a form of instrument or activity in the hope of obtaining profits or increasing the value of the fund in the future. In the context of finance, investments are made with the aim of developing wealth, preparing funds for future needs, or even to obtain passive income.

Here are the top 10 factors that can influence one's investment decision

1. Risk Level

Each type of investment has different levels of risk, such as market risk, liquidity risk, and credit risk. Investors need to consider their risk tolerance before choosing an investment instrument. For example, stocks are known to be high-risk due to frequent price fluctuations, while government bonds are generally low-risk because they are guaranteed by the state. Investors who are not prepared for the potential for large losses tend to choose more conservative investments.

2. Potential Profit (Return)

Potential profits are a major factor in attracting investors. Investors are usually interested in investments that can provide high returns, but must be balanced with consideration of comparable risks. For example, stocks of technology companies tend to provide high returns in the long term but also have great volatility. The comparison between risk and return is an important consideration so that investment decisions are aligned with profit expectations.

3. Economic Conditions

The economic conditions of a country or even the world can significantly influence investment decisions. When the economy is stable or growing, investors are more likely to invest because of the prospect of higher profits. However, in times of economic crisis or recession, investors may choose safer instruments, such as gold or government bonds, because they are considered more resistant to economic uncertainty.

4. Investment Liquidity

Liquidity is how easily and quickly an investment can be liquidated without significantly affecting the market price. Instruments that have high liquidity such as stocks, mutual funds, or government bonds are preferred by investors who may need funds suddenly or in the near future. On the other hand, investments in property or commodities such as land tend to be less liquid because the buying and selling process takes time and additional costs.

5. Investment Objectives

Each investor has different financial goals, which affects the choice of investment type. For example, if the investment goal is for a retirement fund, stable, long-term investments such as blue-chip stocks or mixed mutual funds may be preferred. Conversely, for short-term goals, such as setting up a wedding fund in a few years, investors may choose more liquid and relatively safe instruments.

6. Portfolio Diversification

Diversification is a way of managing risk by dividing investments into various instruments or sectors. By diversifying, investors can minimize large losses if one of the investments experiences a decline in value. For example, in addition to investing in stocks, investors can place their funds in bonds, property, or gold. This portfolio diversification also reduces dependence on one type of investment and can increase the potential for long-term returns.

7. Interest Rate

The interest rate set by the central bank greatly affects the investment market. When interest rates are high, instruments such as deposits become more attractive because they provide a definite return. Conversely, when interest rates are low, investors tend to look for riskier investment alternatives, such as stocks or corporate bonds, to get higher returns. Interest rates also have an impact on the value of investments in bonds, whose prices can fall when interest rates rise.

8. Investment Time

Investment timing or investment horizon relates to the length of time an investor expects to achieve his or her financial goals. Short-term investments are generally riskier because they are more affected by market volatility, but they have the potential to provide short-term gains. In contrast, long-term investments tend to be more stable and have a chance to recover in the event of a market downturn. For example, for a five-year children's education fund, a low-volatility instrument such as a bond may be more appropriate than stocks.

9. Market Trends and Investor Sentiment

Market trends and investor sentiment are often influenced by news, economic conditions, and major events. For example, when the tech sector is booming, many investors are shifting their funds to tech company stocks. Positive sentiment towards an industry or company can push stock prices up, while negative sentiment can cause stock prices to fall. Investors often pay attention to market trends and sentiments to make decisions that match the momentum.

10. Management Quality and Issuer Credibility

The reputation and quality of management of a company or issuer is very important because it affects the performance of the company. Investors are usually attracted to companies that have transparent, credible management and have a good track record of performance. Credible issuers also tend to generate stable and consistent profits. Conversely, if a company has management issues or a poor performance record, investors may be hesitant to invest their funds there.

Related to this, the author argues that we do not know for sure the main reason why Apple makes such a large difference in investment between Vietnam and Indonesia, what factors affect Apple to invest less in Indonesia than in Vietnam. But according to the author, the author's reasons are quite reasonable, which are the fundamental considerations for Apple in investing related to the economic conditions of a country or even the world, which can significantly affect investment decisions. When the economy is stable or growing, investors are more likely to invest because of the prospect of higher profits. However, in times of economic crisis or recession, investors may choose safer instruments, such as gold or government bonds, because they are considered more resistant to economic uncertainty.

Then the basic considerations related to the Investment Objectives of Apple. Each investor has different financial goals, which affects the choice of investment type. For example, if the investment goal is for a retirement fund, stable, long-term investments such as blue-chip stocks or mixed mutual funds may be preferred. Conversely, for short-term goals, such as setting up a wedding fund in a few years, investors may choose more liquid and relatively safe instruments.

Investment Law Politics must basically get the same treatment. Law No. 25 of 2007 stipulates that all investors are treated equally without discrimination. This provision provides equal opportunities for foreign and domestic investors, but also opens up the risk of inequality in competition. However, special treatment is given to certain countries that have special agreements with Indonesia, as stipulated in Article 6 paragraph (2). In this case, Apple should give equal treatment in terms of investment between Indonesia and Vietnam.

Use of Foreign Workers: The PMA in this case Apple is required to prioritize local workers. The use of foreign workers is limited to certain positions that require specific skills.

In addition, foreign-invested companies must provide training and technology transfer to local workers.

Facilities and Incentives: This law provides various facilities such as tax exemption, capital repatriation, and ease of licensing. The facility is intended to attract more foreign investors, although it often raises fears of reduced protection for local industries.

The principle of equal treatment (National Treatment) provides equal opportunities for PMA and PMDN to operate in Indonesia. However, for local small entrepreneurs, this policy can pose a major challenge. Multinational companies with greater capital and technology have a competitive advantage that is difficult for small businesses to compete with. In practice, many small businesses have difficulty surviving due to competitive pressure from large companies.

In addition, investment liberalization policies have the potential to weaken protection for small businesses. Liberalization contained in international trade agreements, such as the WTO, often supports market freedom which is not always in line with the principles of Indonesia's economic democracy. Therefore, strategic measures are needed to ensure that small businesses remain protected and supported in the face of global competition.

In a socio-economic perspective, policies that are too pro-liberalization can create a significant gap between large companies and small entrepreneurs. Small entrepreneurs need greater access to resources, such as financing and training, in order to be able to compete in an increasingly competitive market.

Law No. 25 of 2007 promotes investment liberalization aimed at attracting foreign capital and improving the national economy. However, the principles of liberalization adopted are often contrary to Article 33 of the 1945 Constitution which prioritizes economic democracy. This policy is considered to be less protective of small entrepreneurs, who are the backbone of the people's economy.

Regulatory revisions are needed to create a balance between the need to attract foreign investment and protect small entrepreneurs. Governments must ensure that investment policies reflect the spirit of social justice and support inclusive economic development. With a wiser approach, Indonesia can take advantage of foreign investment without sacrificing national interests and the welfare of local entrepreneurs.

CONCLUSION

The author concludes that reasonable reasons that are Apple's fundamental considerations in investing related to the economic conditions of a country or even the world can significantly affect investment decisions. When the economy is stable or growing, investors are more likely to invest because of the prospect of higher profits. However, in times of economic crisis or recession, investors may choose safer instruments, such as gold or government bonds, because they are considered more resistant to economic uncertainty. Then the next basic consideration related to the Investment Goals from Apple makes sense that Every investor has different financial goals, which affects the choice of investment type. For example, if the investment goal is for a retirement fund, stable, long-term investments such as blue-chip stocks or mixed mutual funds may be preferred. Conversely, for short-term goals, such as setting up a wedding fund in a few years, investors may choose more liquid and relatively safe instruments.

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