

ATTAINING OIL AND GAS SOVEREIGNTY BY FORMING INDONESIA INCORPORATE BUSINESSES

Yoga Partamayasa, Rafiqi Anjasmara*

Abstract

Oil and gas are non-renewable types of natural resources. On the other hand, in the current era human dependence on oil and gas is very high. To meet Indonesia's national needs for natural resources, Article 33 of the Indonesian Constitution has mandated that "the earth, water and natural resources contained therein be controlled by the state for the greatest prosperity of the people." But in its development the distribution of welfare over natural resources, especially oil and gas, has not been able to be well distributed in Indonesia. The "Jakarta Sentris" concept is still the basis for distributing natural resources, especially oil and gas. This makes regions that are rich in natural resources not necessarily have prosperous people and not necessarily high-income areas. Therefore, legal reform is needed in the field of oil and gas management by regions in Indonesia.

Keywords

Oil, natural gas, incorporate, Indonesia, regions

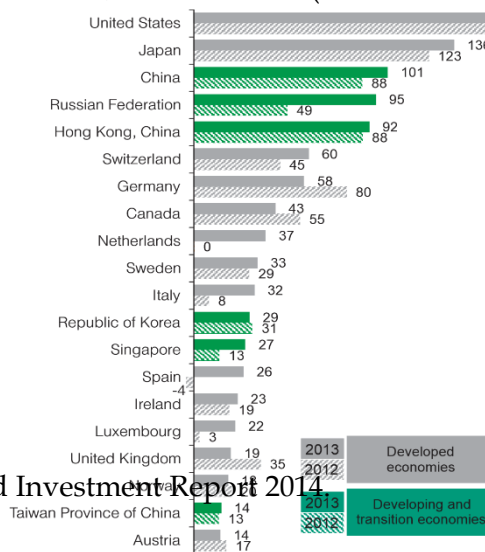
* Faculty of Law, Airlangga University

Correspondence: Yoga Partamayasa, Faculty of Law, Airlangga University, East Java, Indonesia. Email: yogapartamayasa@outlook.co.id

Introduction

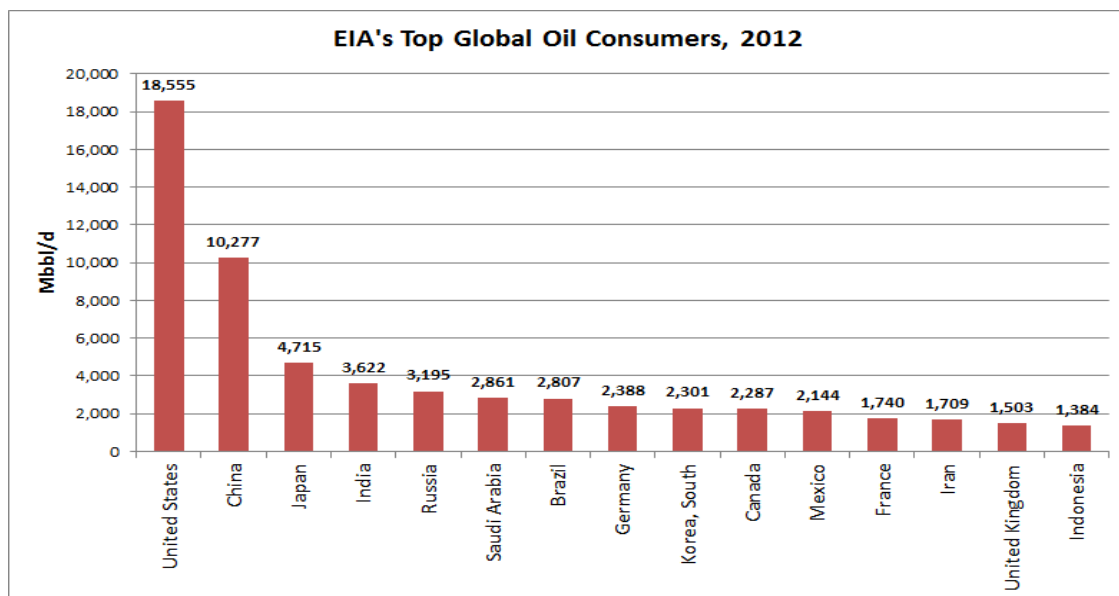
Indonesia is a developing country that has abundant natural wealth potential. Said to be abundant natural wealth potential because there are still a lot of natural resources that have not been touched or empowered. Almost every natural wealth in the world currently exists in Indonesia, including natural resources that can be used as energy resources. Without adequate energy supply, it is certain that the country's economy will be hampered or even stopped. Hence, it can be concluded that the development and economic growth of a country greatly influences the changing needs of energy resources. This can be seen through the diagram below

Graphic 1. Top 20 host economies, 2012 and 2013 (Billions of Dollars)



Source : UNCTAD, World Investment Report 2014

Graphic 2. Energy Needs In The World

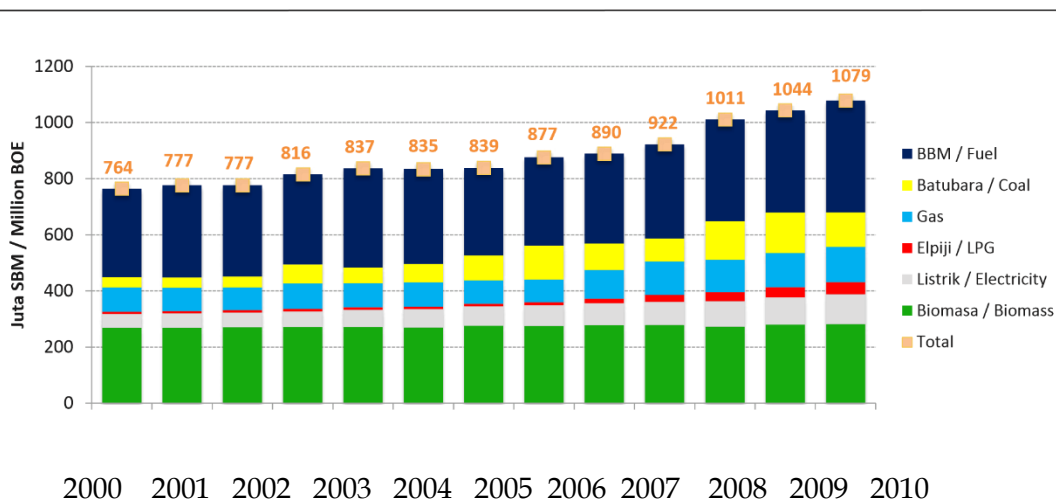


Source : Energi Information Administration

Oil and Gas is currently being referred to as a strategic commodity (Pudyantoro, 2014). In addition, the *Outlook Energi Indonesia* in 2014, compiled by BPPT displayed a graph of overall energy consumption in Indonesia. The graph shows that non-renewable energy sources dominate the total amount of energy consumption in Indonesia.

Furthermore, more about these non-renewable energy sources, it can be seen that petroleum and its derivatives make the most significant contribution compared to other non-renewable energies. As shown in the following chart.

Graphic 3 : Final energy consumption



Source : BPPT Outlook energi Indonesia 2014

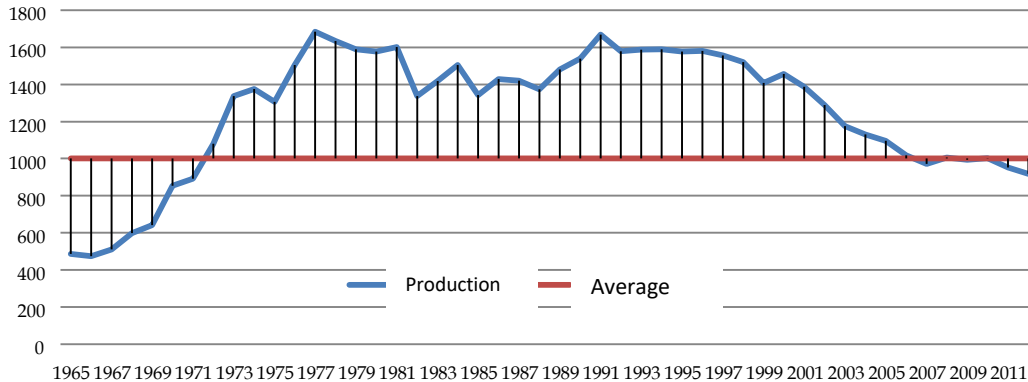
Petroleum itself comes from an English translation, namely Crude Oil, while the term natural gas comes from an English translation. We find the definition of petroleum in article 3 letter i The Petroleum Tax Code, 1997 Indian state.

Petroleum in this definition is constructed as crude oil, both solid and liquid, in the form of hydrocarbons and bitumen (H. Salim, 2005). It can be obtained by condensation, excavated and refined (H. Salim, 2005). What is meant by natural gas means liquid, dry gas, and other hydrocarbon gases and all compounds contained therein, including sulfur, carbon dioxide, nitrogen and helium that produced from oil or gas wells, but liquid hydrocarbons are not included, which are condensed or extracted from the gas and thawed at normal temperature and pressure conditions, but includes residual gases left after the condensation process or extracted by liquid hydrocarbons from the gas (H. Salim, 2005).

Data from BP (2013) shows that Indonesia has succeeded in producing crude oil above 1 million barrels per day (BPH) during the period 1972 to 2006 with the highest achievement in 1977 with production of 1.68 million BPH. But it must be realized that Indonesia's golden age in crude oil production has passed. Indonesia is currently in a

period of declining production. As seen from BP data (2013), which is illustrated from graph 4 (Mohamad Nasir, 2014).

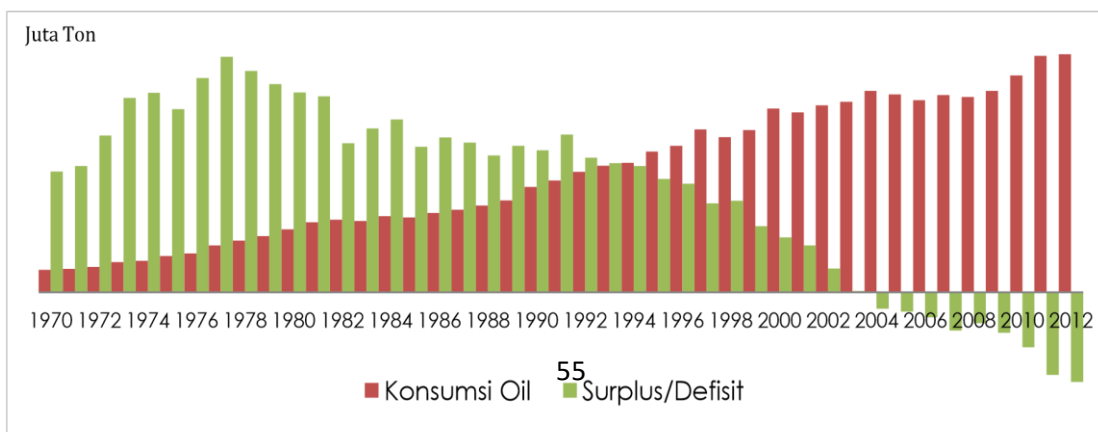
Graphic 4. Oil Production



In 2010, Indonesia was recorded to still be able to produce 945 thousand barrels per day. Then in 2011 the number dropped to 902 thousand bpd, in 2012 it dropped again to 859 thousand bpd, and until 2013 the number continued to fall to 825 thousand bpd (Gentur Putro Jati, 2014). With the continued decline in crude oil production from year to year, it shows the depletion of the contents of oil refineries in Indonesia. According to the Minister of Energy and Mineral Resources Sudirman Said said that Indonesia's oil resources were only sufficient for another 12 years. The Minister of Energy and Mineral Resources explained that if the country did not take action, then within 12 years there would be an oil crisis in Indonesia (Fransiska Noel, 2014).

Based on BP data (2013) the development of crude oil consumption was increased. In 1970s, crude oil consumption was estimated at only around 100,000 to 350,000 BPH. But the data shows that consumption is increasing from year to year constantly which is expected to increase to 6.1% per year during the period 1970 to 2012. The unbalanced situation of crude oil production and demand has caused Indonesia to experience a deficit in crude oil. The situation began to occur in 2004 when Indonesia experienced an oil deficit of around 5 million tons, which then continued to increase to 27 tons until 2012.

Graphic 5. Oil Consumption and Surplus / Deficit



Source : BP Statitital Review, June 2013.

Meanwhile, according to the Head of the Sub-Directorate for Oil and Gas Transportation at the Ministry of Energy and Mineral Resources Isnaini, in Jakarta, the capacity of Indonesian refineries in 2014 was 1.15 million barrels per day. The Indonesian oil production that can be processed at domestic refineries is only around 649,000 bpd. While domestic fuel demand reaches 1.25 million bpd, this means there is a deficit of 608,000 bpd. Whereas in 2015 it was estimated that the capacity of Indonesian refineries was 1.167 million bpd, oil production that can be processed was 719,000 bpd. Fuel demand is estimated at 1.36 million barrels per day, resulting in a deficit of around 640,000 bpd (Erlangga Djumena, 2014).

With the occurrence of oil deficit in Indonesia, Indonesia has to import the crude oil and processed products such as gasoline, diesel and kerosene (Mohamad Nasir, 2014).

Many issues are circulating that the upstream oil and gas sector in Indonesia has been controlled by foreigners, according to the President of the Confederation of the Indonesian Oil and Gas Workers Union (KSPMII) Faisal Yusra assessing Indonesia is a haven for foreign mining investors. Black gold luster (oil and gas) is very attractive to foreign mining entrepreneurs to dredge it from Indonesia. And again Yusra said, in a seminar upholding National Energy sovereignty, at Wisma Antara Jakarta on Wednesday (20/02/2013)(Dani Jumadi, 2013).

The control of oil and gas reserves by foreign companies is still dominant. Of the total 225 oil and gas blocks managed by non-Pertamina Cooperation Contract Contractors (KKKS), 120 blocks are operated by foreign companies, 28 blocks are operated by national companies, around 77 blocks are operated by foreign and national joint ventures.

The government must divide the total crude oil production with Cooperation Contract Contractors (K3S) with a percentage of 85% for the government and 15% for K3S. However, before being divided, the production results must first be used as a substitute for exploration costs incurred by K3S or also called cost recovery. thus, it can be said that crude oil production owned by Indonesia is below the production figure as shown in graph 4 (Mohamad Nasir, 2014).

Therefore, to overcome this imbalance, the Director General of Oil and Gas routinely offers oil and gas working areas to oil companies operating in Indonesia. It is intended that oil companies can obtain new sources of production so that they will not rely on old wells or fields (Gentur Putro Jati, 2014).

According to A Rinto Pudyanoro in his book Upstream Oil and Gas Project: PetroEconomic Evaluation and Analysis, the increase and addition of oil and gas

reserves can be done if the company carries two important activities, namely seismic activities and exploration well drilling. However, currently seismic activities in Indonesia are not easy to do. According to the 2012 SKK Migas annual report, these constraints 37% occurred due to natural factors, 27% due to equipment problems, 23% due to licensing issues, and 13% due to social problems (Rinto Pudyanoro, 2014).

In ocean, the obstacle arises because many oil and gas working areas are in the deep sea so there is high level of risks, it is even worsened by bad weather, so that exploration and exploitation activities at sea require higher facilities, infrastructure and technology than on land. The implication is a higher cost that will be needed in upstream sector exploration activities (Rinto Pudyanoro, 2014).

Actually, from 2005 to 2014, the reserve findings from exploration reached 200 million barrels, but Pertamina EP as a business actor in the upstream sector is still slow in conducting the monetization process of the exploration findings (Energizing Asia, 2014).

Financial balance between the central government and regional governments as referred to in Law no. 30 of 2004 has provided confusion for regional governments, but on the other hand the regulation has been in accordance with the concept of the Unitary State as referred to in article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. According to J.H. Logeman, the concept of a unitary state is a form of state that has the highest sovereignty in the hands of the central government (C.F Strong, 1996).

According to ethical theory, law aims to achieve the highest possible justice for individuals (L.J. van Apeldoorn, 2000). The content of law is determined by the ethical awareness of the community about what is fair and what is unjust (L.J. van Apeldoorn, 2000). Referring to article 14 letter e of Law No. 33 of 2004 concerning the distribution of state revenue from oil resources that;

Petroleum mining revenue generated from the region of the region concerned after deducting the components of taxes and other levies in accordance with the legislation, divided 84.5% for the government and 15.5% for the region.

Whereas in letter f Law No. 33 of 2004 concerning the distribution of state revenue from gas resources, that;

“Natural Gas mining revenues generated from the area concerned after deducting the components of taxes and other levies in accordance with statutory regulations are divided by a balance of 69.5% for the government and 30.5% for the region.”

Talk about profit distribution, it cannot be denied that the system is far from "fair". Natural resources which in fact are located in the subterranean area, the environmental impacts arising from mining will affected the people around the area unfortunately the region does not get benefits they deserve. This is in line with Prof. Saldi Istra's opinion as the expert in Constitutional Law that in article 14 letters e and f of Law no. 33 of 2004 has the potential to harm the region due to unequal treatment before the law and discriminatory against areas that produce abundant natural resources (hukumonline.com, 2012). Therefore he believes that Law No. 33 of 2004 contrary to article 18A, Article 18 paragraph (2), Article 28D paragraph (1), and article 28I paragraph (2) of the 1945 Constitution (hukumonline.com, 2012).

These problems are not just theories, but have a real impact on people's lives. As said by the east Kalimantan governor Awang Faroek Ishak, during the 65 years of Indonesia's independence it turns out that East Kalimantan has not been able to develop its region, even East Kalimantan has not been able to finance the needs of its people (hukumonline.com, 2012). In fact East Kalimantan as the second largest province in Indonesia after West Irian can produce 134,626 barrels of oil per day (info.maybank2u.com.sg, 2019). Riau Islands also experienced the same that the Riau government felt disadvantaged over the potential for oil lifting in Riau (jpnn, 2011). The head of the Riau mining and energy department, Husni hasan stated that Riau's contribution of 450 thousand barrels of oil per day from the target of 970 thousand barrels per day for the country is considered massive but the Revenue Sharing (DBH) obtained is tiny (jpnn, 2011).

Similar facts were also felt by the local governments of Aceh and Papua. Cholid, Chair of Committee IV DPD, stated that poverty that survives in producing regions proves that mining activities are not beneficial to the region and its people (Rakyatmerdekaonline, 2011). The Consultation Forum for Oil and Gas Producing Regions (FKDPM) proposes a chapter on the role of the regions in the revision of Law no. 22/2001 on oil and gas and Law no. 33/2004 on the balance of regional finances which is currently being discussed in the DPR.

The questions are what is the function of regional autonomy concept? And is the state's goal of "advancing public welfare" as stated in the opening of the 1945 Constitution of the Republic of Indonesia only a discourse?

With these problems, the need for a progressive idea in order to answer these challenges, then a concept called *the Incorporating Oil & Gas Indonesia* is initiated. This idea is the result of a combination on "the concept of people's sovereignty" as stipulated in article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, "The Principle of Regional Autonomy" as stipulated in article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, & "Concept of the Welfare State" as stipulated in article 33 paragraph (3) of the 1945 Constitution.

Research Method

The type of research used in the discussion of the problems in this thesis is Empirical Juridical research. Empirical Juridical research is a research that done by explaining the provisions in applicable legislation, related to the reality that occurs in the field.

In writing this paper the author uses three approaches, the first, namely: The Law Approach (statue approach), (Peter Mahmud Marzuki, 2008) is an approach using legislation or regulations relating to the legal issues that occur, the second is the historical approach which is done by examining the background and development of the issues studied (Peter mahmud Marzuki, 2008), and the third is a case approach which is carried out by examining cases or events related to the issues studied (Peter mahmud Marzuki,2008).

Discussion

1. Incorporate Indonesia

In 1979, the world was stunned and began to wonder about the essence of "Incorporated" when E. Vogel first blurted out the term "Japan Incorporated" which appeared in his book *"Japan As Number One"* (AM Putut Prabantoro, 2015).

But Competition within the country must be eliminated when dealing with other nations. The domestic battle to become number one (Ichiban) among Japanese giant companies, was immediately changed to international Ichiban when it entered into a global battle (AM Putut Prabantoro, 2015).

The question is, is Indonesia able to become the winner in the global battle in the field of Oil and Gas with existing wealth? R. Priyono explained that Mohammad Hatta, the vice president of the Republic of Indonesia, saw the Indonesian people as having a mutual cooperation attitude, as a tradition of superior character. And this mutual cooperation should be translated into economic or business life. Including mutual cooperation to build a national oil and gas industry to achieve national energy sovereignty (AM Putut Prabantoro, 2015).

Some characteristics of the domination of oil and gas mining are High Capital and High Risk. The purpose of High Capital in the control of mining, where in its operation a huge capital is needed in conducting oil and gas mining business. Especially in the case of the discovery of new oil and gas wells. In one drilling to find a new well it would require more than 2-10 million dollars depending on the terrain of each working area (SKK Migas, 2015).

Furthermore, the characteristics of High Risk, in conducting oil and gas mining business it is often when in drilling process, the oil or gas content is not even found, an unexpected situation for the company. This has made the government, which in this case is represented by Pertamina, rethink to explore throughout Indonesia. Moreover, Pertamina must fulfill national oil and gas necessities, which are on average subsidized by the government. This is one of the factors that caused Pertamina unable to compete with foreign companies in controlling oil and gas blocks in Indonesia, which incidentally has huge capital and sophisticated technology.

Due to the small number of national oil companies that are able to compete in Indonesia, the increasing needs of Oil and Gas, and the emptiness of domestic oil and gas reproduction, it is necessary to create a new company that capable of increasing the National Oil and Gas production and able to provide contribution in terms of increasing development in regions in Indonesia.

As has been understood together that this mutual cooperation is one of the hereditary traditions, the identity of the Indonesian people and makes us superior when applied in government, economic or business life. The mutual cooperation concept is carried out by building a new company or cooperation that engaged in upstream oil and gas sectors, but the capital can be obtained from the joint venture of each regional government (in this case, the province, district or city). And besides that it encourages the participation of the community to manage, supervise and also enjoy the results of the Oil and Gas Business in Indonesia.

2. Regional Cooperation

The administration of government in the Republic of Indonesia uses the principles of decentralization, deconcentration, and assistance tasks (*medebewind*) by using the principle of autonomy to the fullest, real and responsible. In connection with the implementation of decentralization principle in the era of regional autonomy, it was realized that region (Province / City / Regency) is a regional unit that needs to be managed as a center for the growth of added value in order to become a source of economic viability for the area. Regional economic progress is influenced by positive and increasing growth. However, that growth will be at the saturation point if the coverage resources are inadequate compared to the population or if the holders do not treat the resources effectively and efficiently. The phenomenon shows that the wealth between regions are varies, it has advantages and disadvantages, so synergic inter-regional cooperation is necessary to do to optimize economic growth (Sugiyanto dkk, 2004).

Based on this assumption, inter-regional cooperation is one of the most important factors in order to support the successful implementation of regional and even national

development, because there will be interdependence between regions, especially at the district and municipal levels, which are relatively small in areal (Sugiyanto dkk, 2004).

One of the problems is the fulfillment of the need for energy sources in the form of oil and gas, as explained earlier that according to the Minister of Energy and Mineral Resources Sudirman Said said Indonesia's oil resources were only sufficient for another 12 years (Fransiska Noel, 2014). If oil production wells are not found very soon, maybe in 12 years Indonesia will run out of oil. Which means it will have an impact on: first, Indonesia will import oil from other countries; second, the loss of one of the largest contributing sectors to the state budget each year; third, rising fuel prices in each region; and fourth, the economy and development are hampered due to rising fuel prices. These things cause local governments to have an urgency to develop business entities engaged in the oil and gas sector that aim to achieve energy sovereignty for the economy development of the regions.

The reason why local governments need to work together to form business entities that engaged in the oil and gas sector is because the characteristics such High Technology, High Capital and High Risk in oil and gas mining can be a huge burden if the local government stands alone in processing the business in its area. as in East Kalimantan, where the Governor, Awang Farouq Ishaq claimed that the Regional Government of East Kalimantan was financially unable to take over some of the Mahakam Block shares. Awang estimated that the BUMD appointed to take over the Mahakam Block shares from Total E&P, Indonesia needed no less than Rp5.8 trillion in funds, while the existing APBD was only 15 trillion. If the budget is used to take over Mahakam shares, this could hamper development due to insufficient funds.

Therefore, it is necessary to establish a business entity formed by the regional government so that the natural wealth in Indonesia can be empowered for the interests and goodness of the people. This Indonesian Incorporate Company is the result or formation of regional cooperation, in which capital / funds are used by local governments and come from the respective regional budget. As regulated in article 17 paragraph (1) PP no. 58 of 2005 which reads "all regional revenues and expenditures in the form of money, goods and / or services are budgeted in the regional budget". So that it can be understood that all forms of regional revenue and expenditure issued due to cooperation or establishment of joint business entities between regional governments must be budgeted in the respective regional budget.

In the explanation of article 116 PP no. 58 of 2005 stated that investment is carried out as long as it provides benefits to increase regional income and / or increase welfare and / or community services and does not disrupt regional financial liquidity.

Investments made by local governments in the form of the establishment of a business entity can be classified as permanent long-term investments. As stated in the

elucidation of article 118 paragraph (2) which can be classified as permanent investment includes regional cooperation with third parties in the form of exploitation / utilization of regional assets, inclusion of regional capital in BUMD and / or other business entities or other permanent investments owned by the government regions to generate income or improve services to the community.

Not necessarily an agreement of cooperation between regions that represented by their respective regional governments can be legal and have legal force. It is necessary to know the systematic use of the APBD budget which is used for regional cooperation. According to Made Suwandi, in general there are several stages of the process in collaboration between regional governments and other institutions or regional governments, namely (Sugiyanto dkk, 2004) :

- i. Planning. carefully develop programs and fields that will be formed for collaboration, activities to be carried out, cost contributions, and implementation schedules. In the preparation, various related parties should be involved. This material was outlined in the MOU from the two parties who collaborated.
- ii. Legislative agreement. Plans for establishing cooperation and collaborating fields are needed to get approval from the legislature, especially in terms of financing by the regional government.
- iii. Proposal and Negotiation. The agreed cooperation program and MOU were conveyed and consulted with the Regional Government which became the collaborative partner.
- iv. The signing. After the cooperation plan was agreed by both parties, the MOU is signed.

From the opinions that have been put forward, the general process that needs to be carried out in conducting inter-regional cooperation are (Sugiyanto dkk, 2004) :

- a. Preceded by an agreement / joint decision to make a cooperation agreement / contract;
- b. Joint agreements / decisions are followed up with feasibility studies and cooperation agreements / contracts;
- c. Regional heads with the mandate of the legislature are accountable to the public regarding the success / failure of the cooperation.

3. Form and Structure of Business Entity

Because in the Oil and Gas Law No. 22 of 2001 it is regulated that those who can carry out upstream Oil and Gas business activities are Business Entities or Permanent Business Entities, so that the form of this company is a Limited Liability Company (PT). And the paid up capital of each Regional Government will be converted into PT shares, the amount of which depends on the amount of capital deposited compared with the total capital collected. The advantage that can be obtained for the Regional Government who contributed to the capital for the establishment of the company is to get the distribution of Dividends and the right to speak at the GMS.

One of the initial objectives in this concept is to make the community participate in managing, supervising, and benefiting from the domestic oil and gas production process which is their right as a citizen.

Then a breakthrough was made to divert 1% of the total 1 (one) year salary of civil servants in each region to be invested in the Incorporate Indonesia company. This 1% transfer of salary is not a form of salary deduction made by the local government but rather transfers 1% of the total 1 year salary, into shares of the Incorporate Indonesia company. So that the civil servants get reciprocity in the form of ownership of the shares of the Incorporate Indonesia company and also dividends received each year. And not only that civil servants here also have the right to participate in supervising the performance of the company, because civil servants have become part of the shareholders in the Incorporate Indonesia company. If the salaries of all civil servants in Indonesia are generalized by one million per person, then in one year 13.7 T can be collected to become capital for Incorporate Indonesian company. Meanwhile, civil servant salaries throughout Indonesia are more than one million, some even reach tens and hundreds of millions of rupiah. So you can imagine, how much capital can be obtained only by diverting 1% of civil servant salaries for a year. their salaries will return to themselves in the form of dividends, in other words, this salary transfer is nothing but a business that will last a lifetime, because they will continue to benefit as long as the company is established.

From the above table it can be concluded that the potential capital that can be collected from the transfer of PNS salaries is very large. Assuming that all civil servants have the same salary of Rp 1,000,000, we can raise capital of 13.7 T, even though civil servants' salaries in Indonesia are more than Rp 1,000,000 / month, even reaching tens of millions.

This company can also sell its shares to the public, and it should be noted that shares sold may only be owned by Indonesian citizens because the initial purpose of establishing this company is not only to achieve national energy sovereignty, but also to invite Indonesian people to participate in managing their natural resources. As

regulated in article 28 C paragraph 2 which reads "Everyone has the right to advance himself in fighting for his collective rights to build society, nation and country," this shows that every citizen has the right to work together to advance and fight for people interests which is intended to build the community, nation, and country. This is in line with article 33 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which explains that the Indonesian economy is structured as a joint effort based on the principle of kinship. So that in this case Indonesian citizens have the right to manage and control the upstream oil and gas sector for the benefit of the community, nation and state.

In terms of capital acquisition, the Incorporate Indonesia company will get its capital with the concept of mutual cooperation, first by collecting joint capital that obtained from local governments, transferring of civil servant salaries as shares in the Incorporate Indonesia company and public offering of shares only to Indonesian citizens. After investing their shares in the Incorporate Indonesia company, shareholders will have several rights, namely:

- a. Attending and issuing votes at the GMS;
- b. Receive dividend payments and remaining assets from liquidation proceeds;
- c. Implement other rights under the law

Local governments will hold 50% + 1 share of the total shares so the company can be said to be a BUMD-shaped company. Furthermore, the organs of the Incorporate Indonesia Company consist of General Meeting of Shareholders (GMS), Directors and Board of Commissioners.

1. General Meeting of Shareholders

General Meeting of Shareholders (GMS) is an organ of the company which has authority that is not owned by the directors or the board of commissioners, but remains within the limits determined by Law Number 40 of 2007 concerning Limited Liability Companies.

Based on article 85 of the Company's Law, those entitled to attend the GMS are shareholders who have voting rights in accordance with the number of shares they have. But not all shareholders will have voting rights. As regulated in article 84 paragraph (2) of limited company law which states that

"Shareholders, whether alone or represented by power of attorney are entitled to attend the GMS and use their voting rights in accordance with the number of shares they have."

In addition to meeting the quorum requirements, participants from the GMS can also be determined unilaterally by the chair of the meeting, this is in accordance with article 85 paragraph (6) which states that

“The Chairperson of the meeting has the right to determine who has the right to attend the GMS by observing the laws and articles of association of the Company.”

2. Diretors

The Board of Directors is the organ of the company that manages the Incorporate Indonesia company for the benefit of the company. As referred to in Article 94 of Law Number 40 of 2007 and in its management the directors must be in accordance with the objectives or interests of the establishment of an Incorporate Indonesia company that is to realize energy sovereignty, contribute to regional development, and make the company a place for Indonesian citizens to participate in managing , supervise, and enjoy the results of the country's natural wealth.

As stipulated in article 94 paragraph (1) the appointment of members of the board of directors is carried out by the GMS. However, for the first appointment, namely when the GMS has not yet been formed, members of the board of directors are chosen and appointed by the founder in the deed of incorporation of the Incorporate Indonesia Company. In the Articles of Association of the Incorporate Indonesia Company, it is stipulated that the election of members of the board of directors shall be conducted by means of an open tender position. open tender is chosen so that the people who run or manage the Incorporate Indonesia Company are people who are indeed Professional and experts in their fields. Expertise is so important because the money to be managed in the Incorporate Indonesia Company can be said as "people's money".

3. Board of Commissioners

As referred to in Article 1 paragraph (6) of Law Number 40 of 2007, the Board of Commissioners is a corporate organ that oversees matters such as management policies, the course of management of both the company's business and the company itself, and provides advice to the Directors. Furthermore, the appointment system, criteria, and objectives of the board of commissioners apply the same as in the selection of company directors.

4. Obstacles from Incorporate Indonesia concept

Regional cooperation is not optimal because it is hampered by things like potentials that have not been discovered, so that a region does not know its potential and benefits. In addition, local governments do not understand their authority that can be used as an object to work, and the subjects to to work with, and the benefits from the collaboration. Another obstacle is about Regional egoism, a sense to dominate and feel as a superior region often creates a sense of unnecessary cooperation with other regions, yet problems can be solved internally in their own regions.

Conclusion

In Indonesia there are 34 provinces, 403 districts and 98 cities, this is a huge potential for the formation of an upstream oil and gas company that is formed based on the principle of mutual cooperation. With this concept, large capital borne by one party becomes a joint responsibility so it feels easy, as well as the high risk. It can be imagined how Indonesia, which stretches from Sabang to Marareuke which forms a group of islands, is further divided into several regions and which has 249.9 million people united and cooperating in building our current oil and gas industry, to achieve national energy sovereignty. So that in the future, maybe we can be sovereign energy. And maybe with the increasing oil and gas energy needs, the company can expand overseas. Efforts to develop the oil and gas industry in Indonesia cannot be based on one or two companies or national business actors, but it is an obligation for all Indonesians. So that the need for an Indonesian National Direction Line or master plan to jointly develop the National Oil and Gas Industry that is able to compete with Foreign Oil and Gas companies and be able to achieve National Energy Sovereignty. The need to form a National Upstream Oil and Gas company that is engaged and aims to achieve National Energy Sovereignty outside the existing SOEs, in this case Pertamina. Form and add a business entity that is able to compete with foreign oil and gas companies, so that the National Upstream Oil and Gas sector is not dominated by foreign companies and the national company increases national oil and gas production. A socialization is needed for all Indonesian people to be willing to unite to develop the Oil and Gas Industry so that Energy Sovereignty can be achieved, by buying shares from the National Oil and Gas Company which is engaged in the Upstream Oil and Gas sector and saving on fuel consumption which makes the state budget tortured each year.

Reference

- Badan Pengkajian dan Penerapan Teknologi. (2014) *Outlook energy Indonesia*, Pusat Teknologi Pengembangan Sumberdaya Energi BPPT, Jakarta.
- BP. (2013) *Statistical Review of World Energy*, Pureprint Group Limited, London.

- Energizing Asia. (2014) *Melaju di Jalan Berliku*, Jakarta.
- HS, Salim. (2008) *Hukum Pertambangan di Indonesia*, Cetakan Pertama, Rajawali Pers, Jakarta.
- Marzuki, P.M. (2007). *Penelitian Hukum*, Cetakan Ketiga, Prenada Media Group, Jakarta.
- Pudyantoro, A. R. (2014) *Proyek Hulu Migas: Evaluasi dan Analisis Petro Ekonomi*, Petromindo, Jakarta.
- Strong, C.F. (1996) *Modern Political Constitution: An Introduction to the Comarative Study of Their History and Existing For*, The English Book Society and Sidgwick Limited, London.
- Sugiyanto dkk. (2004). *Pengelolaan Penyelenggaraan Kerjasama Antara Daerah (Tinjauan atas beberapa ketentuan dan substansi dalam penyelenggaraan kerjasama antar daerah)*, Penerbit Lembaga Administrasi Negara, Jakarta Pusat.
- United Nation Conference on Trade and Development. (2014) *World Investment Report 2014*, Division on Investment and Enterprise UNCTAD, Geneva.
- van Apeldoorn, L.J. (2000) *Inleiding tot de Sardis van het Nederlandse Recht*, Terjemahan Oetarid Sadino, 2000. *Pengantar Ilmu Hukum*. Cetakan Dua Puluh Lima, Pradnya Paramita, Jakarta.

Website

- Djumen, E. (2014). *Indonesia Defisit Minyak Bumi 608.000 Barrel Per Hari*. Available at: <http://bisniskeuangan.kompas.com>. [Accessed Mei 13. 2019].
- HukumOnline. (2012). *Pembagian DBH Migas Rugikan Daerah Penghasil*. Available at: <http://www.hukumonline.com>. [Accessed Mei 10. 2019].
- Jati, G.P. (2014). *Ragam Cara Pemerintah Naikkan Produksi Migas*. Available at: <http://www.cnnindonesia.com>. [Accessed Mei 10. 2019].
- JPPN. (2011). *Riau Minta Pusat Transparans Soal Data Lifting Migas*. Available at: www.jpnn.com. [Accessed Mei 10. 2019].
- Maybank Singapore. (2015), *Daerah-Daerah Penghasil Minyak Di Indonesia*. Available at: <http://info.maybank2u.com.sg/pdf/investment-insurance/misc/misc-12-02-15.pdf>. [Accessed Mei 10. 2019].
- Mulyana, A. (2011), *Bagi Hasil Migas Masalah Semua Daerah Penghasil*. Available at: www.rakyatmerdekaonline.com. [Accessed Mei 10. 2019].

- Nasir, M. (2014), *Potret Kinerja Migas Indonesia*. Available at: www.kemenkeu.go.id. [Accessed Mei 10. 2019].
- Noel, F. (2014), *Astaga ! Ini Perkiraan Waktu Cadangan Minyak Indonesia Habis*, Available at: <http://manado.tribunnews.com>. [Accessed Mei 9. 2019].
- Profil Tenaga Kerja Provinsi. (2015) <http://pusdatinaker.balitfo.depnakertrans.go.id>. [Accessed Mei 13. 2019].
- Suryowati, E. (2015) Gubernur Kaltim Akui Tak Mampu Ambil Alih Sebagian Saham Blok Mahakam. <http://m.tribunnews.com>. [Accessed Mei 7. 2019].