The Inward Foreign Direct Investment (FDI) and decentralized governance system in Indonesia
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3.1 INTRODUCTION

Foreign direct investment (FDI) has positive impacts on economic development because it contributes to a host country’s economic growth (Blostrom and Kokko, 1998). Rodriguez and Clare (1996) and Graham and Krugman (1991) suggest that FDI increases domestic firms’ productivity, expands international production networks and markets, encourages the transfer of technology, skills, and knowledge from MNCs to domestic firms, and reduces unemployment rates in the host country. Despite these positive impacts, FDI also has negative consequences on host countries, such as an increase of pollution in the production of goods, local dependency on foreign capital, and the destruction of small local enterprises (OECD, 2001 and Pavlinek, 2004). Because FDI brings both positive and negative impacts to the development of its host nation, recent concerns of policymakers are both attracting FDI and ensuring that FDI will be beneficial for the nation’s current and future generations. Similarly, UNCTAD (2012) argues that inclusive growth and sustainable development are at the heart of efforts to attract new inward FDI. Sustainable development may be defined as development that meets the needs of current and future generations (WCED, 1987).

Because the concepts of sustainable development and FDI have recently become a hot topic, research regarding FDI policy is very intriguing, especially for middle-income countries such as Indonesia. Indonesia has conducted substantial regulatory reforms after it was hit by economic crisis in 1997 in order to improve its competitiveness in the global market. This chapter is devoted to analyzing these reforms, specifically as they relate to the intersection of investment policies and sustainable development. In this chapter we attempt to answer the following research question: **How do the investment policies in Indonesia embody the concept of sustainable development?**

This chapter is organized into six sections. Section 1 discusses the background of the study. Section 2 discusses the investment policy framework for sustainable development as a tool of analysis. Section 3 discusses the research focus and methodologies. Section 4 discusses investment policy changes and trends of FDI in Indonesia over time, section 5 analyzes current investment policies in Indonesia, and Section 6 concludes the chapter.

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3.2 THE INVESTMENT POLICY FRAMEWORK FOR SUSTAINABLE DEVELOPMENT (IPFSD)

To analyze investment policies in Indonesia, we employ the Investment Policy Framework for Sustainable Development (IPFSD), developed by UNCTAD (2012) as tool of analysis. According to this framework, foreign direct investments should be beneficial economically, socially, and environmentally for all people. Therefore, investment policies must be designed to accelerate economic development, to enhance quality of life, and to protect the host country’s environment (UNCTAD, 2012). Furthermore, it is crucial to regulate inward FDI properly (OECD, 2012). The OECD (2012) recommends host-country governments to integrate investment policies with their development strategies, incorporate sustainable development objectives in their investment policies, and ensure the investment policies’ relevance and effectiveness. According to UNCTAD (2012 p. 15), there are three policy actions to be undertaken by host country governments in the case of managing inward FDI:

“At the strategic level, policymakers should ground investment policy in a broad roadmap for economic growth and sustainable development – such as those set out in formal economic or industrial development strategies in many countries. At the normative level, through the set of rules and regulations, on investment in a range of policy areas, policymakers can promote and regulate investment that is geared toward sustainable development goals. At the administrative level, through appropriate implementation and institutional mechanisms, policymakers can ensure the continued relevance and effectiveness of investment policies.” (UNCTAD, 2012 p.15)

3.2.1 Grounding investment policy in development strategy

Host country governments must design a development strategy consists of action plans to achieve social and economic objectives from foreign investments (UNCTAD, 2012). Furthermore, the development strategy should include investment priorities selected from sectors that will have the most significant contribution to national development. To determine investment priorities, analysis regarding the roles of public, private, foreign, and domestic investments must first be conducted. Important criteria to consider are the contribution of investments to the host nation’s human resources capacity, technological spillover, infrastructure development, and enterprise development. In addition to selecting investment priorities, the host government must ensure that investment policies and other existing economic policies are coherent (UNCTAD, 2012).
3.2.2 Investment regulations and incentives

Reaping the benefits of FDI requires policies designed to attract FDI, such as investment promotions and transparent mechanisms of the entry process, and adequate regulations for minimizing the inevitable risks of foreign investment (UNCTAD, 2012). There should be a balance of policies that are designed to attract FDI, and policies which are designed to regulate FDI (UNCTAD, 2012). Regulations that influence the attractiveness of a host country for foreign investors include regulation on the entry procedure, investment promotions, financial incentive provisions, the protection of investors’ rights and regulations related to the establishment of manufacture bases.

To protect investors’ rights, the host government should make regulations designed to prevent expropriation and protectionism, to allow foreign companies to repatriate their profits, to avoid discrimination against foreign investors and to relax the existing restrictions imposed upon MNCs (UNCTAD, 2012). However, the country may have certain restrictions on MNCs as long as they are deemed as necessary to protect the host nation’s national interest and security, to control natural resources, to develop critical infrastructure, to preserve the environment, and to accelerate national development (UNCTAD, 2012). Furthermore, UNCTAD (2012) recommends that the host government avoids intervening with the operation of foreign investor companies, abstains from setting performance requirements, and provides a clear, secure, and effective land ownership registration system.

Additional principles for attracting FDI include establishing an investment promotion agency (IPA) and connecting investment promotion strategies with national investment policy objectives (UNCTAD, 2012). The host government is encouraged to provide incentives for investments which are predicted to stimulate the transfer of technology, enhance domestic workers' skills, and cooperate with domestic enterprises (UNCTAD, 2012).

UNCTAD (2012) also advises the host government to facilitate business linkage between foreign investors and domestic companies. Direct intermediation between national and foreign investors is advised, with the objectives of supporting the technological upgrades of national companies, establishing national business norms and standards, and providing incentives for foreign investors which assist domestic small and medium enterprises (SMEs) (UNCTAD, 2012).

3.2.3 Investment-related policies

Besides the investment regulations as listed above, there are several economic regulations which should be designed with the goals in improving national development
policies and achieving sustainable development. Those regulations cover broader policies area such as trade, competition, intellectual property rights protection, labor market regulations, environmental, and investment-related policies (UNCTAD, 2012). Listed below are guidelines for the development of investment-related policies taken from IPFSD developed by UNCTAD (2012) (see table 3.1).

Table 3.1 The IPFSD Guidelines on Investment-Related Policies

<table>
<thead>
<tr>
<th>No</th>
<th>Investment-related policies</th>
<th>Investment policy framework for sustainable development guidelines</th>
</tr>
</thead>
</table>
| 1  | Trade policy                                     | 1. Participation of the host country government in international trade agreements and regional integration as an integral part of the development strategy to promote investments  
2. Trade policies, tariff and non-tariff barriers, and trade incentives must be congruent with development strategies and investment policies  
3. Customs and border procedures must be effective and efficient and periodically reviewed. |
| 2  | Intellectual property rights                     | 1. Laws and regulations for the protection of intellectual property rights and the mechanisms of enforcement should meet the needs of prospective investors  
2. Strong enforcement of laws is needed |
| 3  | Competition policy                               | 1. Competition laws and regulations exist, with strong enforcement policies |
| 4  | Labor market and regulation                      | 1. The labor market regulation should support job-creation objectives with their investment policies  
2. The country should guarantee internationally recognized core labor standards  
3. Labor policy and immigration policy should not be friendly for foreign workers.  
4. The transfer of skills from expatriate to national staff should be encouraged |
| 5  | Corporate governance and corporate social responsibility | 1. The host government should encourage the compliance of MNCs with high standards of responsible investments and corporate behavior  
2. The host and home countries should adopt international standards of corporate governance |
6 **Environmental policy**

1. An Environmental Impact Assessment (EIA) should be included in investment policies
2. Environmental norms should be transparent, nondiscriminatory, predictable, and stable
3. Foreign investors should be encouraged to adhere to international standards of environmental protection

7 **Policies to generate economic wealth**

1. The host government should actively nurture and facilitate a business linkage between national companies and foreign investors
2. The host government should intermediate between national and foreign investors
3. The host government should support the national companies in the upgrading of their technology
4. The host government should provide incentives for foreign investors to assist in upgrading their SMEs.


### 3.3 RESEARCH FOCUS AND METHODS

Chapter 3 of this dissertation provides an empirical analysis of the investment policies in Indonesia, to understand how investment policies can embody concepts of sustainable development. A qualitative research methodology is applied via a literature review and policy document analysis. Previous studies on investment policies in Indonesia are also reviewed. We use the Investment Policy Framework for Sustainable Development (IPFSD), developed by the United Nations Conference for Trade and Development (UNCTAD), as a framework for analyzing investment policies in Indonesia.

### 3.4 THE TREND OF POLICIES AND INWARD FDI IN INDONESIA

To provide a clear understanding of context, this section discusses the historical trends of inward FDI in Indonesia. From 1970 to 1996, there was a significant increase of approved inward FDI from US$ 145 million in 1970 to US$4.7 billion in 1996. However, the Asian economic and financial crisis of 1997 to 1998 deteriorated the Indonesian economy. At the same time, inward FDI fell sharply, to minus US$183 million in 1998. The inward FDI continued to fall: minus US$ 4.5 billion in 2000. Due to some massive regulatory reforms undertaken by the government, the economy has steadily recovered since 2004, until recently. The amount of inward FDI has increased significantly: US$ 833 million in 2004, and US$ 21.8 billion in 2014, which was the highest amount of inward FDI ever recorded (see figure 3.1).
Figure 3.1 The Inward FDI in Indonesia from 1970 to 2015 ($ million)


Note: The graph has shown a trend of increasing inward FDI from 1970 to 2015. From 1997 to 2001, due to the Asian financial crisis, Indonesia experienced a negative trend of inward FDI. From 2004 to the present day, inward FDI in Indonesia has steadily recovered.

During the 1960s and 1970s, our investigation reveals the fact that policymakers focused primarily on the enhancement of conditions that would attract inward FDI to Indonesia and paid little attention to the sustainable development concept. The government of Indonesia introduced Law No. 1 on Foreign Investment (1967) to attract foreign capital, to improve economic conditions and to improve Indonesia’s credibility in the world of international business (Hill, 1989). The law was used as a basis of regulation for managing FDI in Indonesia (OECD, 2010). The law provided guarantees MNCs protection against expropriation and equal treatment with domestic enterprises. According to the law, foreign investments were allowed in all sectors except the following: port development, electricity production, transition and distribution, aviation, education, drinking water and irrigation, railway systems, nuclear technology, press media, and weapon industry. Furthermore, sustainable development was not explicitly stated as an objective of investment policies. During the 1960s and 1970s, the inward FDI was predominantly in the oil and natural gas (Tambunan, 2013). The government determined the List of Investment Priorities (1977), which was a list of sectors in which foreign investment was allowed (Hill, 1989).

In the 1980s and 1990s, Indonesia was in an industrialization period, so the government only focused on attracting inward FDI and made little effort to minimize the adverse impacts of inward FDI. The government of Indonesia introduced several deregulation
packages to liberalize its economy and provided massive financial incentives to boost inward FDI in the manufacturing and services sectors (Tambunan, 2013). For instance, in 1994, foreign investments were allowed in almost every economic sector, and joint venture requirements were abolished (Government Regulation No. 20, 1994). Policy interventions designed to protect the society and environment from adverse impacts of inward FDI were limited. MNCs were not obliged to conduct charitable activities as part of corporate social responsibilities and to train domestic workers (Law No. 1, 1967). In the 1980s and 1990s, the environmental impact assessment was not mandatory for foreign companies in the licensing process.

During the 1980s and 1990s, the investment licensing procedure was highly centralized. According to the Presidential Decree No. 97/1993 on the procedure of foreign investment, the President of Republic of Indonesia was the only authority with the power to grant investment and business licenses for FDI. The President was helped by the National Coordinating Investment Board (BKPM), which is responsible for advising the president, screening the applications of FDI, and monitoring the implementation of FDI projects.

Due to the lack of concern for sustainable development, from 1970 to 1998 Indonesia received a significant amount of inward FDI but did not reap the benefits of development. Inward FDI rose from $2.7 billion in 1970 to $5.59 billion in 1996. Thee (2006) found that there was very little technology spillover from MNCs to domestic enterprises. It means that MNCs did not upgrade the technology capacities of local firms. Similarly, Takii (2005) found that the technological levels of Indonesian firms in the 1990s were just not adequate to absorb a large spillover technology from foreign companies.

In 1997, Indonesia was hit by the Asian financial and economic crisis. As a consequence, from 1998 to 2003, the Indonesian economy was devastated, and Indonesia experienced a negative trend of inward FDI. The currency was depreciated from IDR 2,300 per 1 USD in June 1997 to IDR 17,000 per 1 USD in January 1998, and inflation rose to 78%. The overall GDP fell to 13.13%, and the poverty rate rose from 17.7% in 1996 to 24.2% in 1998 (Tambunan, 2013). From 1997 to 1999, Indonesia’s inward FDI fell from $4.7 billion to negative $ 4.5 billion (UNCTAD, 2017b).

From 1999 to 2004, the government of Indonesia conducted several economic and social reforms to improve the country’s economy and social conditions. For instance, the government streamlined the investment licensing procedure, revised the negative list of investments, provided financial incentives for inward FDI in manufacture and services sectors,
and privatized some state-owned enterprises (Rajenthiran, 2002). Some laws to improve the quality of public institution were enacted such as the Anti Monopoly Law (Law No. 5, 1999), Patent Law (Law No. 14, 2001), Brand Law (Law No. 15, 2001), Copyright Law (Law No. 19, 2002), Industrial Design Law (Law No. 31, 2000), and Anti Corruption Law (Law No. 31, 1999). Furthermore, the Workforce Law (Law No. 13, 2003) and Labor Union Law (Law No. 21, 2000) were enacted to improve labor regulations in Indonesia. In 1999, the government promulgated Government Regulation No. 27 on the Environmental Impact Analysis (1999), which required all companies, both domestic and foreign, to conduct an environmental impact analysis prior to the establishment of their business.

From 1999 to 2004, the investment licensing procedure for FDI was decentralized from the national government to provincial governments. Governors were authorized to stipulate foreign and domestic investment license for any investment in their jurisdiction (President Regulation No. 117/1999). To screen the investment application, Governors were helped by Regional Coordinating Investment Board (BKPM).

In 2004, the amount of inward FDI in Indonesia returned to the level prior to the economic crisis, and levels of inward FDI in Indonesia have been steadily rising over time. The increase continued until recently. In 2014, Indonesia received inward FDI of about US$ 21.8 billion. According to data from BKPM (2017), the dominant sectors for inward FDI in the past five years were in the manufacture and services sectors (see table 3.2). Specifically, within the manufacturing sectors, the dominant industries for inward FDI in 2016 were the metal, machinery, and electronic industries (13.5%), followed by the chemical and pharmaceutical industries (9.7%), and paper and printing industries (9.62%). In the service sector, the three most dominant sectors for inward FDI in 2016 were real estate and business activities (8.02%); electricity, gas, and water supply attracted 7.39%, and the hotel and restaurant industries attracted 3.07%.
Table 3.2. FDI Stock based on sectors from 2010 to 2016 ($ million)

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Primary sector</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Food crops and plantation</td>
<td>751.0</td>
<td>1.222,5</td>
<td>1.601,9</td>
<td>1.605,7</td>
<td>2.206,7</td>
<td>2.072,0</td>
<td>1.589,1</td>
</tr>
<tr>
<td>2</td>
<td>Livestock</td>
<td>25.0</td>
<td>21.1</td>
<td>19.8</td>
<td>11.3</td>
<td>30.8</td>
<td>75.1</td>
<td>48.9</td>
</tr>
<tr>
<td>3</td>
<td>Forestry</td>
<td>39.4</td>
<td>10.3</td>
<td>26.9</td>
<td>28.8</td>
<td>53.3</td>
<td>19.0</td>
<td>78.2</td>
</tr>
<tr>
<td>4</td>
<td>Fishery</td>
<td>18.0</td>
<td>10.0</td>
<td>29.0</td>
<td>10.0</td>
<td>35.3</td>
<td>53.1</td>
<td>43.3</td>
</tr>
<tr>
<td>5</td>
<td>Mining</td>
<td>2.200,5</td>
<td>3.619,2</td>
<td>4.255,4</td>
<td>4.816,4</td>
<td>4.665,1</td>
<td>4.017,2</td>
<td>2.742,4</td>
</tr>
<tr>
<td>II</td>
<td>Secondary sector/manufacture</td>
<td>3.337,3</td>
<td>6.789,6</td>
<td>11.770,0</td>
<td>15.858,8</td>
<td>13.019,3</td>
<td>11.763,1</td>
<td>16.687,6</td>
</tr>
<tr>
<td>6</td>
<td>Food industry</td>
<td>1.025,7</td>
<td>1.104,6</td>
<td>1.782,9</td>
<td>2.117,7</td>
<td>3.139,6</td>
<td>1.521,2</td>
<td>2.115,0</td>
</tr>
<tr>
<td>7</td>
<td>Textile industry</td>
<td>154.8</td>
<td>497.3</td>
<td>473.1</td>
<td>750.7</td>
<td>422.5</td>
<td>433.4</td>
<td>321.3</td>
</tr>
<tr>
<td>8</td>
<td>Leather goods and footwear industry</td>
<td>130.4</td>
<td>255.0</td>
<td>158.9</td>
<td>96.2</td>
<td>210.7</td>
<td>161.6</td>
<td>144.4</td>
</tr>
<tr>
<td>9</td>
<td>Wood industry</td>
<td>43.1</td>
<td>51.1</td>
<td>76.3</td>
<td>39.5</td>
<td>63.7</td>
<td>47.1</td>
<td>267.5</td>
</tr>
<tr>
<td>10</td>
<td>Paper and printing industry</td>
<td>46.4</td>
<td>257.5</td>
<td>1.306,6</td>
<td>1.168,9</td>
<td>706.5</td>
<td>706.9</td>
<td>2.786,6</td>
</tr>
<tr>
<td>11</td>
<td>Chemical and pharmaceutical industry</td>
<td>793.4</td>
<td>1.467,4</td>
<td>2.769.8</td>
<td>3.142,3</td>
<td>2.323,4</td>
<td>1.955,7</td>
<td>2.889,1</td>
</tr>
<tr>
<td>12</td>
<td>Rubber and plastic industry</td>
<td>104.3</td>
<td>370.0</td>
<td>660.3</td>
<td>472.2</td>
<td>543.9</td>
<td>694.5</td>
<td>737.3</td>
</tr>
<tr>
<td>13</td>
<td>Non-metallic mineral industry</td>
<td>28.4</td>
<td>137.1</td>
<td>145.8</td>
<td>874.1</td>
<td>916.9</td>
<td>1.302,8</td>
<td>1.076,0</td>
</tr>
<tr>
<td>14</td>
<td>Metal, machinery and electronic industry</td>
<td>589.5</td>
<td>1.772,8</td>
<td>2.452.6</td>
<td>3.327,1</td>
<td>2.471,9</td>
<td>3.092,5</td>
<td>3.897,1</td>
</tr>
<tr>
<td>15</td>
<td>Medical and optical Instrument, Watches, and clock industry</td>
<td>-</td>
<td>41.9</td>
<td>3.4</td>
<td>26.1</td>
<td>7.2</td>
<td>6.9</td>
<td>8.8</td>
</tr>
<tr>
<td>16</td>
<td>Motor vehicles and other transport equipment industries</td>
<td>393.8</td>
<td>770.1</td>
<td>1.840,0</td>
<td>3.732,2</td>
<td>2.061,3</td>
<td>1.757,3</td>
<td>2.369,3</td>
</tr>
<tr>
<td>17</td>
<td>Other industry</td>
<td>27.6</td>
<td>64.7</td>
<td>100.2</td>
<td>111.7</td>
<td>151.8</td>
<td>83.2</td>
<td>75.2</td>
</tr>
<tr>
<td>III</td>
<td>Tertiary Sector/Services</td>
<td>9.843,6</td>
<td>7.801,7</td>
<td>6.861,7</td>
<td>6.286,9</td>
<td>8.519,2</td>
<td>11.276,5</td>
<td>7.774,6</td>
</tr>
<tr>
<td>18</td>
<td>Electricity, gas, and water supply</td>
<td>1.428,6</td>
<td>1.864,9</td>
<td>1.514,6</td>
<td>2.221,8</td>
<td>1.248,8</td>
<td>3.028,9</td>
<td>2.139,6</td>
</tr>
<tr>
<td>19</td>
<td>Construction</td>
<td>618.4</td>
<td>353.7</td>
<td>239.6</td>
<td>526.8</td>
<td>1.383,6</td>
<td>954.5</td>
<td>186.9</td>
</tr>
<tr>
<td>20</td>
<td>Trade and repair</td>
<td>773.6</td>
<td>826.0</td>
<td>483.6</td>
<td>606.5</td>
<td>866.8</td>
<td>625.1</td>
<td>670.4</td>
</tr>
<tr>
<td>21</td>
<td>Hotels and restaurants</td>
<td>346.6</td>
<td>242.2</td>
<td>768.2</td>
<td>462.5</td>
<td>513.1</td>
<td>650.2</td>
<td>887.8</td>
</tr>
<tr>
<td>22</td>
<td>Transport, storage, and communication</td>
<td>5.072,1</td>
<td>3.798,9</td>
<td>2.808,2</td>
<td>1.449,9</td>
<td>3.000,9</td>
<td>3.289,9</td>
<td>750.2</td>
</tr>
<tr>
<td>23</td>
<td>Real estate, estate, and business activities</td>
<td>1.050,4</td>
<td>198.7</td>
<td>401.8</td>
<td>677.7</td>
<td>1.168,4</td>
<td>2.433,6</td>
<td>2.321,5</td>
</tr>
<tr>
<td>24</td>
<td>Other services</td>
<td>553.9</td>
<td>517.3</td>
<td>645.8</td>
<td>341.7</td>
<td>337.5</td>
<td>294.3</td>
<td>818.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>16.214,8</td>
<td>19.474,5</td>
<td>24.564,7</td>
<td>28.617,5</td>
<td>28.529,7</td>
<td>29.275,9</td>
<td>28.964,1</td>
</tr>
</tbody>
</table>

Note:
1. The oil and gas sectors and financial sectors (such as bank and insurance).
2. The manufacturing and services sectors have remained the two dominant sectors for inward FDI.

Examining the country origin of inward FDI, BKPM (2017) shows that the primary sources of inward FDI to Indonesia are Singapore, Japan, Hong Kong, the Netherlands, and the United States of America (see table 3.3). However, if we see the aggregate data of inward FDI we found that Asian countries contributed to 77% of Indonesia’s total inward FDI, followed by European countries (10.30%) and American countries (9.25%) (BKPM, 2017).

<table>
<thead>
<tr>
<th>No.</th>
<th>Countries</th>
<th>Amount of inward FDI ($)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Singapore</td>
<td>9,178,691.8</td>
<td>31.69%</td>
</tr>
<tr>
<td>2</td>
<td>Japan</td>
<td>2,665,297.1</td>
<td>9.20%</td>
</tr>
<tr>
<td>3</td>
<td>Hong Kong</td>
<td>2,248,333.2</td>
<td>7.76%</td>
</tr>
<tr>
<td>4</td>
<td>The Netherlands</td>
<td>1,475,000.8</td>
<td>5.09%</td>
</tr>
<tr>
<td>5</td>
<td>The United States of America</td>
<td>1,161,938.7</td>
<td>4.01%</td>
</tr>
<tr>
<td>6</td>
<td>The British Virgin Islands</td>
<td>1,157,266.3</td>
<td>4.00%</td>
</tr>
<tr>
<td>7</td>
<td>Malaysia</td>
<td>1,115,563.2</td>
<td>3.85%</td>
</tr>
<tr>
<td>8</td>
<td>South Korea</td>
<td>1,065,803.7</td>
<td>3.68%</td>
</tr>
<tr>
<td>9</td>
<td>Thailand</td>
<td>338,210.1</td>
<td>1.17%</td>
</tr>
<tr>
<td>10</td>
<td>Switzerland</td>
<td>346,703.5</td>
<td>1.20%</td>
</tr>
<tr>
<td>11</td>
<td>Other countries</td>
<td>8,211,266.4</td>
<td>28%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>28,964,074.8</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: BKPM (2017) Data on inward FDI.

In the following section, we will examine the most recent investment policies (2004 – 2017) based on the Investment Policy Framework for Sustainable Development.

### 3.5 INVESTMENT POLICIES IN INDONESIA

The objective of this section is to understand how investment policies embody the concept of sustainable development. To achieve that objective, using the IPFSD as a benchmark, we scrutinize investment law, regulations on investment licensing procedures for inward FDI, rules regarding the restrictions of inward FDI, regulations on investment promotions and incentives, and the management of the land registration system. We also discuss investment-related policies such as trade policies, competition policies, property right protection policies, labor market regulations, environmental policies, and corporate social responsibility policies.
3.5.1 Grounding investment policy in the development strategy

According to the IPFSD, the host country government should develop the development strategies that contain action plans to achieve social and economic objectives of the development (UNCTAD, 2012). Three developmental planning documents are evaluated: the National Long-term Development Plan (RPJPN) 2005 – 2025, the National Medium Term Development Plan (RPJMN) 2015 – 2019, and the National General Investment Plan (2012).

From our examination of those documents, we found that sustainable development is already becoming an objective of the current investment policies in Indonesia. As stated by the RPJPN 2005 – 2025, the objectives of the investment policies are as follows: “The investment is directed to support the high quality and sustained economic development by providing good investment climates, supporting the foreign investments which can increase the national competitiveness, and enhancing the physical infrastructure” (Law No. 17, 2007 on RPJPN 2005-2025 in attachment p.50). Similarly, the General Investment Plan outlined the objective of investment policies in Indonesia as follows: “The vision of investment policies in Indonesia of 2025 is the sustainable investment to achieve an Indonesia which is self-sufficient, advanced and prosperous” (President Regulation No. 16/2012 on the National General Investment Plan of 2025, 2012 p.3). In the RPJMN 2015 – 2019, the government of Indonesia determined two principles to achieve sustainable development from investment: green investment, i.e. investment which does not create any environmental disturbance; and inclusive investment, which is investment that is beneficial for everyone (President Regulation No. 2, 2015 on RPJMN 2015 – 2019).

There are several strategies taken by the government of Indonesia to achieve sustainable development from investment. First, the government has determined investment priorities in three sectors: food, infrastructure, and energy (President Regulation No. 16/2012 on the General Investment Plan, 2012 and RPJMN 2015 - 2019). According to the IPFSD, the sectors which are selected as investment priorities should be those which have the most significant contribution to the economic development of Indonesia (UNCTAD, 2012). In contrast with that principle, there is little information about the selection criteria to determine the investment priorities, the reasons behind the selection of investment priorities, and the roles of foreign investment in the development.

Second, the document of RPJMN outlines the strategies to achieve sustainable development which are by supporting the partnerships between foreign enterprises and small and medium enterprises (SMEs), facilitating linkages between foreign and domestic
enterprises, upgrading technology owned by domestic enterprises, enhancing the effectiveness of investment promotions, enhancing public-private partnerships, and minimizing negative impacts of inward FDI (RPJMN 2015 – 2019). However, we cannot find any measurable actions to generate linkages between foreign enterprises and domestic companies, to stimulate local enterprises to be more competitive, to facilitate technology spillover, or to overcome the gap of technical capacity between domestic and foreign enterprises. We argue that the strategies stated in the RPJMN are vague because the action plans on the implementation of these strategies are absent.

Although the strategies are unclear, the government of Indonesia has determined the timeframe to achieve sustainable development from the investment. There are four distinct phases designed to achieve sustainable development in these sectors (President Regulation No. 16/2012). In the first phase (within 1 – 2 years), the government will focus on investments within the primary/intermediate material production industries, investments within import substitution manufacturing, investments that support material for infrastructure, and the expansion of current investments. These investment sectors all have tangible impacts in a short-term period. In the second phase (5 years) the government will focus on the acceleration of investments within the infrastructure and energy sectors, via the promotion of the Public Private Partnership. In the third phase (10-15 years), the government will focus on investments in large-scale industries. In the fourth phase (15 years) the government will focus on investments in the knowledge-based economy, by enhancing research and development and by encouraging local governments to develop techno-parks.

3.5.2 Investment policies and regulations

In this section, we analyze investment policies and regulations such as the Investment Law (Law No. 25/2007 on the Investment), regulations on the investment restrictions which is called the Negative List of Investment (NLI), regulations on licensing procedures, and regulations on investment promotions and incentives.

Our research found that the Indonesian government has attempted to find a balance between the policies for attracting and regulating FDI. The Investment Law explicitly states that sustainable development is one of the objectives of the investment policies in Indonesia. Furthermore, the Investment Law illustrates the government’s strong commitment to be open to FDI, to prevent discrimination against foreign investors, to avoid expropriation, to relax restrictions regarding FDI, and to allow MNCs to repatriate their profits. At the same time, the Investment Law allows the government to design policy interventions to achieve sustainable
development from the investment. For instance, the government can impose some restrictions or obligations for MNCs which invest in Indonesia such as to conduct corporate social responsibility programs, to preserve the environment, to prioritize domestic workers, and to protect small and medium enterprises.

We also found that Indonesia has made tremendous efforts to improve their national competitiveness and to continue to attract inward FDI, via policy reforms. For instance, the government has streamlined the licensing procedure by utilizing One Stop Service Offices across the nation, by reforming the land ownership registration system, and by actively enhancing the effectiveness of promotional activities. The Indonesian government also continues to provide generous incentives for foreign investors and to liberalize the economy over time. As a result of these efforts, the Indonesian Ease of Doing Business Index has improved from rank 128 in 2008 to 72 in 2017 (World Bank, 2017).

Regarding the economic liberalization taken by the government, our analysis reveals the fact that Indonesia’ economy remains restrictive and less liberal compared to the OECD countries and other ASEAN countries. There are some restrictions imposed upon MNCs by the government. For instance, the foreign equity owned by MNCs are limited to a certain percent, MNCs are required to divest their shares to domestic entities, MNCs in certain sectors are required to form a joint venture company with domestic enterprises, and MNCs are required to use the local raw materials. In the following section, we discuss investment policies in Indonesia.

1) **Law No. 25 Year 2007 on Investment; or, The Investment Law.**

UNCTAD (2012) suggests host country governments have a strong commitment to avoid expropriation and protectionist investment policies, to avoid imposing performance requirements upon MNCs, and to provide equal treatment between domestic and foreign investors. Upon analyzing Law No. 25 on Investment (2007), we argue that the law has succeeded in sending a strong message to the international business community that Indonesia welcomes foreign investors, and is significantly friendlier and more liberal towards foreign investors than previous investment laws (OECD, 2010). The Investment Law does not differentiate between foreign and domestic investments, unlike previous investment laws. In Article 6 of the Investment Law, the Indonesian government states their commitment to providing equal treatment for all investors. Article 7 shows the Indonesian government’s commitment to avoid expropriation activities, and Article 8 shows the government’s commitment to respecting companies’ rights to transfer and repatriate profits.
The Investment Law also shows the strong commitment of the government of Indonesia to provide financial incentives to foreign investors and to improve the quality of institutions in Indonesia. According to Article 22 of the Investment Law, foreign investors can receive land use rights in Indonesia for up to 85 years. Generous incentives are provided to foreign investors who can create jobs, invest in the investment-priority sectors, support infrastructure development, support technology spillover, develop pioneer industries, invest in remote areas, support environmental protection, support research and development, create linkage with micro, small, and medium enterprises, and utilize domestic raw materials in business production (Article 18). The Investment Law also illustrates a strong commitment to improving the quality of institutions by establishing One Stop Service Offices for investments across the nation (Article 26) and to improving the distribution of authority between government levels (Article 27).

The Investment Law (2007) also mandates the government to enact policy interventions designed to maximize the contribution of FDI to development. These interventions are outlined as follows: 1) foreign companies should conduct corporate social responsibility activities (Article 16); 2) foreign companies should comply with the national environmental standards (Article 17); 3) foreign companies should prioritize local (Indonesian) workers, and support technology and knowledge transfers through employee training and research development (Article 10); and 4) foreign companies should empower the Indonesian micro, small, and medium enterprises (Article 12).

2) The investment licensing procedure.

UNCTAD (2012) advises that a country should have predictable and effective investment licensing procedures. Accordingly, the Indonesian government has attempted to simplify their investment licensing procedures for FDI. A cross-ministerial body administers the licensing process, called the national coordinating for investment board, or Badan Koordinasi Penanaman Modal (BKPM), and recently, the government has established an online licensing system called the investment One Stop Service Office, or Pelayanan Terpadu Satu Pintu (PTSP) (OECD, 2010).

The stages of the investment licensing procedure for FDI are explained below:

1) Foreign companies apply for an investment license with BKPM through the One Stop Service Office (PTSP). Several documents are needed for this application, including the
company’s notarial establishment deed, which must be legalized by the Ministry of Law and shows that foreign companies have established a limited company in Indonesia;

2) Within 72 hours, if the application meets the requirements, the BKPM will grant an investment license;

3) After obtaining an investment license, the prospective companies must apply for a business license to start the construction process. Some permits are required, such as the recommendation for the technical ministries, the deed of establishment and its approval, evidence of the legality the site used to develop manufacture bases, a nuisance permit, a land use permit, a land building permit, an environmental permit, and additional forms; and,

4) After the company provides the above documents, they will receive a business license. After the company obtains this business license, they are eligible for fiscal and non-fiscal incentives and can start their business (Head of BKPM Regulation No. 14, 2015).

Examining the simplification of the investment licensing procedure in Indonesia, we found that the efforts to simplify the procedure have been taken since the 1970s (see table 3.4). From 1966 to 1997, the Indonesian presidential office was the only authority with clearance to grant investment and business licenses for FDI. In order to help the President, a national agency called BKPM was created with authority to screen foreign investment applications before being submitted to the President for approval (Presidential Decree No. 97/1993 on the procedure of foreign investment).

In 1998, to reduce license processing time, the president decentralized the authority to grant investment licenses for FDI to BKPM Head (Presidential Decree No. 115/1998). In 1999, the head of BKPM further decentralized the authority to grant investment licenses for FDI to the Governors (Presidential Decree No. 117/1999). However, in 2004 the BKPM Head reclaimed the authority to grant investment licenses for inward FDI (Head of BKPM Decree No. 58/SK/2004).

In 2009 a bureaucratic breakthrough was made, in which the government established the One Stop Service Office or PTSP. The PTSP is an office that consists of cross-ministerial officials, whose function is to fully process the applications of FDI under one roof. All relevant ministries officials delegated licensing authorities to the PTSP office, under the BKPM (President Regulation No. 27/2009 on the One Stop Service Office). Using this system, investors can apply for business licenses online and check the status of their applications online through the electronic system for information and investment licenses services (SPIPISE). Since the construction of this streamlined system, the administrative
processes of the foreign investors have been carried out through the PTSP office with clearer and more predictable mechanisms. In 2015, the Indonesian government launched a three-hour investment service designed for investments that had 100 billion IDR or higher value and employed one thousand or more Indonesian workers (Head of BKPM Decree No. 14/2015).

Table 3.4. The Process of the Simplification of the Procedure of Investments

<table>
<thead>
<tr>
<th>No.</th>
<th>Regulation on the Procedure of Obtaining Investment License</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Presidential Decree No.97/ 1993</td>
<td>• The President of Indonesia grants foreign investment licenses, while BKPM has the functions of screening applications and advising the president</td>
</tr>
<tr>
<td>2</td>
<td>President Regulation No. 115/1998</td>
<td>• The President of Indonesia decentralized the authority to grant foreign investment licenses to the Minister of Investment/Head of BKPM (for projects worth less than $100 million)</td>
</tr>
<tr>
<td>3</td>
<td>President Regulation No. 117/1999 and The Minister of Investment Decree No. 38/SK/1999</td>
<td>• The head of BKPM decentralized the authority to grant foreign investment licenses to governors. The Minister of Investment/Head of BKPM issued the Ministerial Decision No. 38/SK/1999 to provide these guidelines for the governors</td>
</tr>
<tr>
<td>4</td>
<td>Head of BKPM Decree No. 57/SK/2004 and Head of BKPM Decree No. 58/SK/2004</td>
<td>• The BKPM took the authority to grant the foreign investments from the governors and returned it to the central government (BKPM)</td>
</tr>
<tr>
<td>5</td>
<td>President Regulation No. 27/2009 on the PTSP and the head of BKPM Decree No. 12/2009</td>
<td>• After the promulgation of Law No. 25/2007, the government introduced the One Stop Service Office (PTSP) through Presidential Regulation No. 27/2009 on the One Stop Service Office (PTSP). • Therefore, BKPM grants foreign investments and business licenses through the One Stop Service Office (PTSP).</td>
</tr>
<tr>
<td>6</td>
<td>Head of BKPM Decree No. 5/2013</td>
<td>• The process of investments is through PTSP office</td>
</tr>
<tr>
<td>7</td>
<td>Head of BKPM Decree No. 12/2013</td>
<td>• The process of investments is through PTSP office</td>
</tr>
</tbody>
</table>
Head of BKPM Decree No. 14/2015

- BKPM grants foreign investments and business licenses through the One Stop Service Office (PTSP), and a three-hour service on investment is introduced.

Source: BKPM website data, created by Kuswanto

Notes: Efforts to simplify the investment license procedure have been taken since the 1970s, and have continued until recently. Initially, investment licenses for FDI were granted by the President of Indonesia, and then this authority was delegated to Minister of Investment or BKPM Head. Previously, investors went to the technical ministries to obtain business permits; permits may now be obtained at the One Stop Service Office.

The simplification of the licensing procedure investment has improved the Indonesian Ease of Doing Business Index, and from 2016-2017, Indonesian ranking improved from 106 to 91 out of 190 countries (World Bank, 2017). The average time span of starting a business was reduced from 168 days in 2004 to 25 days in 2017, and the cost of starting a business was reduced from 136% of total per-capita income in 2004 to 19.4% of total per-capita income in 2017 (World Bank, 2017).

3) Investment Restrictions

The UNCTAD (2012) suggests that host-country governments should be open toward FDI, and if a country has restrictions regarding inward FDI, the restrictions should be only to protect the country’s national interests, national security, natural resources, critical infrastructure, public health, environment, and national development promotions. Here, restrictions are defined as the additional requirements imposed upon MNCs which will invest in Indonesia (President Regulation No. 44/2016). Examining Indonesia’s regulations and policies regarding investment restrictions, Indonesia remains restrictive compared to other OECD and ASEAN countries (OECD, 2016). Indonesia is highly restrictive in the following five sectors: real estate investment, radio, TV broadcasting, media, and fisheries (OECD, 2016).

We identify several types of regulations imposed by the Indonesian government to restrict MNCs in investing in Indonesia. First, the government limits the percentage of foreign equity ownership of a company in certain economic sectors. For instance, foreign equity of a company which participates in port development is limited to a maximum of 49%; foreign companies are not allowed to participate in terminal development; foreign equity of a company which run a business in the horticulture sector is limited to 49%; foreign equity of a company which runs a business in the pharmaceutical industry is limited to 85%; foreign
equity of a company which runs a business in telecommunications is limited to 49%; and foreign companies are not allowed to run businesses related to the installation of electric power utilization (President Regulation No. 44/2016). Second, the Indonesian government requires MNCs to create joint venture companies with domestic enterprises in certain sectors such as forestry (rattan, pine sap, bamboo, sago, latex, and natural silk business), fisheries, telecommunication, and agricultural sectors (President Regulation No. 44/2016). Third, foreign investors are not allowed to possess land and are instead granted rights of land use. According to the laws of investment, foreign companies may be granted land use rights for 65 years, and this grant may be extended for a further 30 years (95 years in total). Fourth, for foreign companies in the mineral and coal mining sectors, the government has imposed a divestment requirement, a requirement to have a partnership with local companies, and a requirement to prioritize local workers (Law No. 4 on Coal and Mineral Mining, 2009). Fifth, the government has mandated MNCs to use local materials in the telecommunications and machinery sectors (Law No. 3 on the Industry, 2014).
Source: OECD (2016) FDI regulatory restrictiveness index

Notes:
1. The FDI Regulatory Restrictiveness Index is a tool used to measure discriminatory regulations affecting foreign investors, such as market access restrictions and the national treatment of foreign investors.
2. Score 0 = open and 1 = closed
Source: OECD (2016) Regulatory Restrictiveness Index

Notes:

1. The FDI regulatory restrictiveness index as a tool to measure the discriminatory regulations affecting the foreign investors such as market access restrictions and the national treatment to foreign investors.

2. Score: 0 = open, 1 = closed
UNCTAD (2012) suggests that the host country government should provide transparent restrictions to foreign investors, and review these restrictions periodically. Accordingly, the Indonesian government issued President Regulation No. 76/2007 to set the criteria for imposing restrictions upon MNCs which invest in Indonesia. The restrictions should be evaluated every three years, under the coordination of the Ministry of Coordinator of Economic Affairs. Furthermore, the restrictions are imposed upon MNCs in certain conditions as follows: 1) the free market mechanism fails to achieve the objective of development; 2) national interest cannot be protected by the current economic policies; 3) the policy restrictions upon MNCs is effective in protecting national interest; 4) the restrictions imposed upon MNCs can solve the problems faced by domestic enterprises includes SMEs; and 5) the restrictions imposed upon MNCs do not create the high-cost economy.

As we have mentioned earlier, the government of Indonesia imposed many restrictions upon MNCs that want to invest in Indonesia. However, the government has attempted to loosen the restrictions on FDI gradually, through several liberalization policies (see table 3.5). In 1977, the Indonesian government introduced the Investment Priority Lists, which contained information about the 831 sectors which were open for FDI. It means that inward FDI is allowed in those 831 sectors and prohibited in other than those 831 sectors. These lists were divided into four categories: open with full incentives, open with some incentives, open without incentives, and prohibited to FDI (Hill, 1989). In 1978, the lists were expanded to 1,095 sectors which were allowed for inward FDI. However, the lists were narrowed again in 1981. In 1986, the government relaxed the restrictions which allowed inward FDI in certain sectors which were prohibited previously. The relaxation of the restrictions was continued until 1989 when the Investment Priority List was changed into the Negative List of Investments. It means that the regulations were only listing the sectors which were prohibited or restricted for FDI. The FDI was prohibited in the nine strategic sectors: ports, energy, telecommunication, shipping, civil aviation, water supply, railways, nuclear, and media. In 1994, the Indonesian government allowed FDI in the nine strategic sectors, which were prohibited in the past. From 1995 to 1996, nine strategic sectors were removed from the NLI, and the minimum capital investment requirement for foreign investment was reduced to $1 million from $ 10 million previously (OECD, 2010). In 1998, a company with full foreign ownership was allowed to invest in the banking sector (OECD, 2010). In 1999, foreign investment was allowed in several sectors such as retail, palm oil plantations, and broadcasting, which were previously prohibited. Following the enactment of Law No. 25/2007 on investments, the Negative List of Investment was revised. These revisions included the
removal of divestment requirements and the opening of additional sectors to foreign investors. In 2009, a company with full foreign ownership was permitted in mining sectors through concession, and foreign investors could invest in the electricity sectors. In 2014 foreign ownership was allowed in additional sectors, such as electricity (>10MW), port development, terminal development, the pharmaceutical industry, creative economy, and venture capital. However, the regulation on the NLI reduced the percentage of equity ownership by foreign companies in some sectors, such as electricity (generation 1-10 MW), drilling services, oil and gas services, electronic installation services, operation and telecommunication services, data and communication services, and internet services. In 2015, President Joko Widodo delivered ten economic packages to liberalize many economic sectors. He removed 45 sectors from the Negative Lists, increased the percentages of foreign ownership in many business sectors, and allowed full ownership of investments for all ASEAN member citizens (President Regulation No. 44/2016).

Table 3.5 Economic Liberalization Policies 1977-2016

<table>
<thead>
<tr>
<th>Year</th>
<th>Liberalization policies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>The government of Indonesia introduced the Investment Priority Lists (IPL). They listed 831 sectors which were divided into four categories: open to FDI with full incentives, open to FDI with some incentives, open to FDI without incentives, and prohibited or closed to FDI.</td>
</tr>
<tr>
<td>1978</td>
<td>The Investment Priority Lists were expanded from 831 sectors to 1,095 sectors.</td>
</tr>
<tr>
<td>1981</td>
<td>The Investment Priority Lists were reduced</td>
</tr>
</tbody>
</table>
| 1986 | 1. Foreign firms with 75% of shares owned by Indonesians were treated equally to domestic enterprises.  
2. Minimum capital investment requirement of $1 million (reduced from $10 million previously).  
3. Several areas previously closed to FDI are opened, including retail trade. |
| 1987 | 1. Foreign investors granted permission to participate in Indonesian stock exchange.  
2. The government provided huge incentives in automotive industries, machinery industries, textile, metal, cotton industries.  
3. Privatization of state-owned enterprises: Krakatau Steel  
4. The investment licensing procedure was simplified |
| 1988 | Foreign investment in the banking sectors is allowed through joint ventures. |
| 1989 | 1. The IPL was changed into the Negative List of Investment. The NLI only contained information on the sectors that are restricted for FDI.  
2. Foreigners are allowed to purchase 49% of shares of listed companies. |
1992
1. Non-Indonesians are permitted land ownership for up to 30 years (previously 20 years).
2. Foreign workers only need the approval to work from the Ministry of Law (previously, approval was needed from the sectoral ministries).

1993
FDI was allowed in flour industry (previously reserved for domestic enterprises).

1994
1. No minimum capital requirement for foreign investment.
2. Ports, electricity, telecommunication, education, aviation, drinking water provision, railway, and press sectors all opened to 95% foreign ownership.
3. Divestment requirements for MNCs are relaxed.
4. Domestic partnership requirements are relaxed.

1999
1. BKPM no longer requires a presidential signature for approvals.
2. The program to support the automotive industry by requiring foreign companies in the automotive industry to use raw material was finished.
3. Full foreign ownership of holding companies allowed, including via acquisitions.
4. Foreign investment in some sectors such as retail, general importing, palm oil plantations, broadcasting, and downstream operations in the oil sector is allowed.

2007
1. General divestiture requirements removed from Investment Law.
2. New Negative List was revised to open some sectors to greater foreign participation.

2009
1. Mining Law allows foreign ownership of concessions.
2. Electricity Law allows private operators in areas not served by state electricity company (PLN).

2010
New Negative List was revised to open some sectors to greater foreign participation.

2014
1. Negative List of Investment was revised.
2. Expanded foreign ownership in the following sectors: electricity >10MW, port development, terminal development, the pharmaceutical industry, creative economy, and venture capital.
3. Reduced foreign ownership in the following sectors: electricity generation 1-10 MW, drilling services, oil and gas services, electronic installation services, telecommunication operation services, data and communication services, and internet services.

2016
1. Negative List of Investment was revised.
2. 45 sectors were removed from the NLI


Note: Indonesia has been liberalizing its economy by gradually opening its sectors to FDI. In the 1970s, the Indonesian government created a List of Investment Priority (DSP) which listed...
sectors in which foreign investment was allowed. In 1989, the DSP was changed to the Negative List of Investment (NLI) which listed sectors in which that foreign investment was not allowed. Until recently, the NLI was still used as a regulatory tool to screen foreign investment in Indonesia. The NLI has been revised six times since 1989, with the latest revision in 2016.

4) **Land rights and ownership registration system**

Indonesian government uses the Law No. 5/1960 on the Agrarian Sector as a basis for the land ownership registration system. According to the law, there are five types of land titles in Indonesia: right of ownership (hak milik), right to build (hak guna bangunan), right to use (hak pakai), right to cultivate (hak guna usaha), and right to lease (hak sewa). The right of ownership is the absolute right owned by a person or a company to possess the lands/buildings; hence, the owners can use the lands, and sell or give the lands/buildings to other parties (Law No. 5/1960). The right to build is a right owned by a person or a company to construct and own the buildings on the lands (Law No. 5/1960). The right to use is the right owned by a person or a company to use the state-owned land or private land upon an agreement with the landowner(s) (Law No. 5/1960). The right to lease is a right to build or to use existing buildings or lands owned by other people or companies for a fixed period (Law No. 5/1960). The right to cultivate is a right given to companies to cultivate state-owned lands for business activities in the fishery, agriculture, farming in Indonesia (Law No. 5/1960 and Government Regulation No. 46/1996). Foreign companies and foreign people are only entitled to the right to build, right to cultivate, right to use and right to lease (Government Regulation No. 46/1996). Furthermore, according to Law No. 25/2007 on Investment, foreign companies can be granted the right to cultivate lands for 60 years that can be renewed for a further 35 years; the right to build for 50 years that can be renewed for a further 30 years; and the right to use for 45 years that can be renewed for a further 25 years.

UNCTAD (2012) suggests that host country government should provide a clear, secure, and effective land ownership registration system. In contrast to that suggestion, registering property in Indonesia remains problematic. The procedure for registering property in Indonesia consists of five procedures and takes 27.5 days on average, costing 10.8% of total property value (World Bank, 2017). The position of Indonesia in term of registering property to start a business was not good enough compared to other countries in the world, in which Indonesia ranks 123 out of 190 countries in the world (World Bank, 2017). As a result, 86 million out of 126 million parcels of lands in Indonesia have not been registered in the national system (Jannah, 2018).
5) Investment Promotion and Incentives

UNCTAD (2012) suggests that investment promotion strategy should be connected with Indonesia’s national investment policy objectives. Furthermore, UNCTAD (2012) suggests that financial incentives should be provided for investors who help to stimulate technology and knowledge spillovers from MNCs to domestic companies, and support backward/supply linkage between MNCs and domestic enterprises.

In Indonesia, BKPM is assigned to be the investment promotion agency (IPA) whose function is to coordinate investment promotion activities at different levels of government. BKPM promotes four sectors in its investment promotion: natural resources, which can catalyze development; infrastructure; industries (manufacturing); and knowledge-based investment (creative industries) (BKPM, 2016). Secondly, effective investment promotion is conducted directly through investment promotion events and indirectly through the website, mass media, international BKPM branches, and the Indonesian embassies across the world.

The government of Indonesia has set several criteria for investors which can receive generous financial incentives from the government. The Investment Law (2007) outlines the following criteria of foreign companies which will receive financial incentives: 1) companies which invest in pioneering industries; 2) companies which invest in sectors determined as investment priorities; 3) companies which create many jobs; 4) companies which support Indonesia’s infrastructure development; 5) companies which enhance the transfer of technology; 5) companies which invest in the Indonesian geographical periphery; 6) companies which preserve environmental quality; 7) investments which support human and research development; 8) companies which support new innovation; 9) companies which hold partnerships with Indonesian small and medium enterprises (SMEs); and 10) companies which utilize more than 20 per cent of local raw materials.

There are two facilities which are usually provided by the government to foreign investors which meet these criteria (BKPM, 2017). The first is facilities for import duty exemptions for materials and machinery. MNCs which are granted these facilities do not have to pay import duty on imported machinery, goods, and materials which are not available in Indonesia; the facilities are provided for two consecutive years while the MNCs establish manufacturing bases (Widyawan and partners, 2014). The second is the facilities for corporate income tax (PPh Badan) that are given in the form of a tax allowance or tax holiday (BKPM, 2017). The tax allowance is income tax facilities granted to MNCs in several business sectors in accordance with Government Regulation No. 1 (2007) on Income Tax in certain business sectors.
sectors and/or certain regions as last amended by Government Regulation No. 9 (2016). There are four kinds of facilities granted to MNCs, as follows: 1) the net income of MNCs is reduced to 30%; 2) MNCs receive depreciation and amortization deduction; 3) MNCs receive the withholding tax rate deduction; and 4) MNCs receive the right to carry forward tax losses for up to 10 years (Widyawan and Partner, 2014). Furthermore, according to Government Regulation No. 9 on Tax Allowance (2016), the tax allowance is granted for MNCs in 145 sectors. Another form of corporate income tax facilities is the tax holiday. The tax holiday is a corporate income tax granted to MNCs as a pioneer industry with the amount of investment of 1 trillion IDR (Ministry of Finance Decree No. 159/PMK.010/2015).

3.5.3 Investment-Related Policies.

UNCTAD (2012) states that the investment policies should be in coherence with other economic, social and environmental policies, which have impacts on investments in Indonesia. The economic, social and environmental policies that have impacts on investments in Indonesia is called investment-related policies (UNCTAD, 2012). In this section, we evaluate seven investment-related economic policies to understand how those policies relate to investment policies, and how they align with efforts to achieve sustainable development alongside the investment.

In our evaluation, we have found that the government of Indonesia has made serious efforts to improve investment climates through regulatory reforms. For example, the government enacted Anti-monopoly Law (Law No. 5/1999) to ensure fair competition among companies, both domestic and foreign, in Indonesia. The government also introduced regulations designed to protect property rights of both domestic and foreign companies such as Patent Law (Law No. 41/2001), Brand Law (Law No. 15/2001), Copyright Law (Law No. 19/2002), Industrial Design Law (Law No. 31/2000), Trade Secret Law (Law No. 30/2000), and Government Regulation No. 29/2004 on the production of the technology optical disc drive. To improve the quality of institutions in Indonesia, the government also enacted Anti Corruption Law (Law No. 20/2001), Commission for Eradicating Corruption Law (Law No. 20/2002), Ombudsman Law (Law No. 37/2008) and Public Services Law (Law No. 25/2009).

The government of Indonesia also attempted to reap the social benefits of inward FDI via the regulation of labor and markets, and regulation on corporate social responsibilities. The government enacted the Workforce Law (Law No. 13/2003) to improve regulation related to wage standards, training for employees, protection of workers’ rights, and formation of labor unions. In 2007, the government of Indonesia enacted Company Law (Law No. 40/2007) to
sets corporate governance standards for companies, and to require foreign and domestic companies to conduct charity activities that help their local communities. As guidance to conduct the charity activities, the government promulgated Government Regulation No. 47/2012 on corporate social responsibility.

Aware of the negative impacts of FDI on the environment, Law No. 32/2009 on the Environment was enacted to replace Law No. 23/1997 on the Environment. The new law provides a more comprehensive regulation to protect the environment from any disturbance caused by business activities. For example, the new law imposes a mandatory environmental impact assessment for all companies prior to the establishment of the business, which previously was not mandatory. Furthermore, the new law requires all companies to obtain environmental and land use permits from the environmental bodies in the regions before constructing the manufacturing bases. Unlike Law 23/1997, the new law mandates the government to conduct an environmental audit during the business operation of companies. The preservation of natural resources is a mandatory obligation for companies.

Policy interventions are also stipulated to reap economic benefits of inward FDI. For instance, the government screens inward FDI by stipulating the Negative List of Investments. Through the NLI, the government of Indonesia determines in which sectors foreign investments are allowed (unconditionally open), prohibited (closed), and allowed with certain restrictions (open with certain conditions/restrictions). An example of these restrictions is the requirement for MNCs to form a joint venture company with domestic companies which will invest in agriculture sectors, and the limitation of foreign equity in a joint venture company of up to 49% investment in public infrastructure. Another example of the policy intervention is that the government requires MNCs to utilize local raw material in the production process such as a minimum of 20% of domestic raw material for the automotive industry, and a minimum of 70% domestic raw materials for telecommunication, electronics, and energy to support domestic industries. The most recent policy intervention by the government is the policy to support the downstream mining industry. The Mining Law (Law No. 4/2009) requires MNCs to divest a minimum of 51% of their shares after ten years of operation, prohibits MNCs from exporting unprocessed minerals, and requires MNCs to hire domestic enterprises as partners in the mining processes. In the following section, we will discuss seven investment-related policies in more detail.
1) Trade Policy

According to the IPFSD, participating in international trade agreements is important for the promotion of investments (UNCTAD, 2012). Indonesia is very ambitious in liberalizing trade policy and has participated in international and regional trade agreements. The liberalization process is taken by simplifying and harmonizing fifty regulations on export-import for regulations on the export of 2,278 varieties of goods, and 79 regulations on the import of 11,534 varieties of goods (Ministry of Economic Affairs, 2015). Furthermore, Indonesia joined the World Trade Organization (WTO) in 1995, so the government agreed to reduce tariff rates and eradicate non-tariff barriers for international trade. Indonesia is also a member of ASEAN and a member of the APEC Forum. Thus, Indonesia has agreed to reduce tariff rates for international trade amongst ASEAN countries and to eliminate non-tariff barriers in international trade, to prohibit quantitative restrictions, and to implement Common Effective Preferential Tariff Scheme for ASEAN Free Trade Agreement and ASEAN Trade in Goods Agreement (ATIGA).

As a commitment to international trade agreements, Indonesia has successfully reduced the most favored nation (MFN) average tariff from 9.5% in 2006 to 7.7% in 2012, in which the average tariff for industrial products is 7.5%, and the average tariff for agricultural imports is 9.5% (WTO, 2013). Simultaneously, the government implements Indonesian National Single Windows (INSW) to improve the custom and border system. INSW is an integrated system on export-import processing which enables single submission of data and information, single and synchronous processing of data and information and single decision making for customs clearance and release of cargoes (President Regulation No. 10/2008). The INSW can reduce the time and cost of customs clearing, and can limit smuggling and customs fraud. Besides developing INSW, the government has also created twelve Special Economic Zones (SEZs). An SEZ is an area determined for special economic activities in which special laws and regulations on business and trade are applied differently from the rest of the countries to attract inward FDI (World Bank, 2011)

2) Intellectual Property Rights

UNCTAD (2012) suggests host country governments protect intellectual property rights owned by MNCs to support innovation, and technology spillover (UNCTAD, 2012). In line with the suggestion, the government of Indonesia enacted seven laws regarding the protection of property rights. These include Law No. 41/2001 on patents, Law No. 15/2001 on brands, Law No. 19/2002 on copyrights, Law No. 31/2000 on industrial design, Law No.
30/2000 on trade secrets, and Government Regulation No. 29/2004 on the production of the high technology optical disk drives. In addition, the government signed seven international treaties regarding property rights administered by World International Property Right Organisations as follows: 1) Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks on January 2, 2018; 2) WIPO Performance and Phonogram Treaty on February 5, 2005; 3) WIPO Copyright Treaty on March 6, 2002; 4) Berne Convention for the Protection of Literary and Artistic Works on September 5, 1997; 5) Patent Cooperation Treaty on September 5, 1997; 6) Trademark Law Treaty on September 5th, 1997; 7) WIPO Convention Establishing the World Intellectual Property Organization on December 18, 1979; and 7) and Paris Convention for the Protection of Industrial Property on December 24, 1950 (WIPO, 2017). Despite the fact that the government of Indonesia has enacted many laws related to property right protection and signed seven international treaties on property right protection, Indonesia was listed in the Priority Watch List 2017, which means Indonesia is poor at protecting property rights (US Trade Representative 2016).

3) Competition Policy

The third important policy to attract inward FDI is the competition policy. UNCTAD (2012) suggests that host country governments must ensure fair competition among all companies via strong regulations and strong law enforcement (UNCTAD, 2012). The government of Indonesia has enacted the Anti-monopoly Law (Law No. 5/1999), which forbids monopoly or oligopoly practices and unhealthy business competition. Through this law several business practices were prohibited, such as actions to control the market (oligopoly), actions to make agreements with competitors to determine market prices, actions to create a territorial restriction or boycott a product, actions to establish cartels, and actions to create unfair competition (Articles 4 – 16, Law No. 5/1999). Furthermore, monopoly, monopsony, market control, manipulation of the procurement process, and other activities that control the markets are prohibited (Article 17 – 24, Law No. 5/1999). Companies are prohibited from using their dominant position to control the market, to interfere with the business of other companies, or to determine trade criteria for the purpose of controlling the market (Article 25, Law No. 5/1999).

To enforce the Anti-Monopoly Law, the commission on business competition (KPPU) was established in 1999. The KPPU has the following functions: 1) to assess whether or not business agreements between two or more companies may cause monopolistic practices; 2) to assess business activities which may lead to monopolistic or oligopoly practices; 3) to assess
business activities which may result in the abuse of a dominant position; 4) to advise the president on matters of competition policy; and 5) to report the activities to the House of Representatives and the President of Indonesia. The KPPU is authorized to impose sanctions on companies that violate Law No. 5/1999 (Article 35 – 36, Law No. 5/1999).

4) Labor Market and Regulations

Other important laws and regulations to enhance the contribution of inward FDI toward social development are regulations related to the labor market (UNCTAD, 2012). Furthermore, UNCTAD (2012) suggests that regulations on labor should support job creation, protect labor rights, follow international standards, and be friendly to foreign workers. The Indonesian government has made serious efforts to improve labor regulations. In 2003, the Indonesian government enacted Law No. 13/2003 on the workforce to replace Law No. 14/1969 on the workforce. Law No. 13/2003 provides more comprehensive regulations. It consists of 28 chapters and 192 verses which are designed to regulate all aspects of labor, such as national labor policy principles, labor rights, wage and welfare systems, labor unions, training systems, social security, industrial relations, mechanisms of dispute, and the use of foreign workers. The freedom to create a labor union is also guaranteed by Law No. 21/2000 on labor unions.

Law No. 13/2003 contains crucial revisions, in contrast with its predecessor. For instance, the central government, local government, and private companies are required to increase the capacity of their workers to meet market demands. Law No. 13/2003 also clarifies the rights and obligations of companies, the government, and workers in finer detail. Governor and district heads are authorized to determine the wage standards in their region based on its decent life standard. In determining the wage standards, Governors and district heads are assisted by the wage council. Law No. 13/2003 is also friendly for foreign workers. Companies are allowed to hire foreign workers by obtaining a work permit from the Ministry of Manpower. In obtaining the work permit, companies should guarantee that foreign workers have to transfer knowledge to Indonesian workers, and the foreign workers are not permitted to hold high- and mid-level management positions in the personnel department (Law No. 13/2003).

5) Corporate Social Responsibility

One of the principles to be followed by MNCs is compliance with good corporate governance (UNCTAD, 2012). The host country governments have to set the standard of
corporate governance to be followed by companies. The government of Indonesia has set good
corporate governance principles by enacting Company Law (Law No. 40/2007 on the Limited
Companies). According to the law, all companies should adhere to international principles on
good corporate governance. Furthermore, the law mandates all companies to participate in
socially responsible activities called Corporate Social Responsibility (CSR). CSR can be
defined as responsibilities held by companies that exploit natural resources to create a good
relationship with their local communities and to preserve environmental quality (Law No.
40/2007).

Government Regulation No. 47/2012 on corporate social responsibility regulates the
mechanisms used to enforce corporate social and environmental responsibilities. However,
this regulation leaves companies with the freedom to select which mechanisms and activities
they use. There is no clearly stated consequence for companies who do not comply with the
obligation to act socially and environmentally responsibly, and the mechanisms of
coordination between the different levels of government are vague. Because of this ambiguity,
CSR is regarded as voluntary.

6) Environment Policy

The UNCTAD (2012) suggests that the host country government should impose an
environmental impact assessment as a part of the foreign investment procedure (UNCTAD,
2012). The government of Indonesia followed this principle when Law No. 32/2009 on the
environment was promulgated. Article 22 of Law No. 32/2009 requires all companies, both
foreign and domestic enterprises, to conduct environmental impact assessments or to provide
documents on their environmental management plan before establishing a business in
Indonesia. Article 36 of Law No. 32/2009 requires companies to obtain an environmental
permit from the local government as part of the licensing procedure. The law also states that
all companies are subject to an environmental audit from environmental bodies at the central,
provincial and district governments (Article 49, Law No. 32/2009). These requirements are
enforced to protect the environmental quality from the potentially destructive effects of FDI.

Law No. 32/2009 also provides policy tools to counter the destructive impacts of
business. These tools include strategic environmental assessments, land use planning, grants
or incentives from government, budget support for environmental activities, environmental
standards and criteria for pollution, and environmental risk assessments. All companies that
exploit natural resources such as mining companies or companies in agriculture and plantation
sectors are required to compensate for the destruction caused by their activities (Law No.
32/2009). Furthermore, the waste management system of the companies which invest in Indonesia are reviewed periodically by government authorities. Therefore, in principle, Indonesian environmental policy contains policies which strive to protect the environment via preventive action, environmental management, and recovery procedures in the case of environmental disaster. However, the enforcement of these policies remains a roadblock in the achievement of sustainable development.

7) Policies to Generate Economic Wealth from inward FDI

There are four classifications of the regulations that generate economic wealth from inward FDI through the linkage between foreign enterprises and national companies in Indonesia. The first is the Presidential Regulation on the Negative List of Investments. According to the Presidential Regulation, the sectors are classified into three groups: 1) closed (sectors in which foreign investment is prohibited); 2) open with conditions (the sectors in which foreign investment is allowed with certain conditions or restrictions attached); and 3) unconditionally open (the sectors in which foreign investment is allowed without any conditions attached) (Presidential Regulation No. 44, 2016). There are several requirements imposed upon MNCs, which will invest in the sectors, which are classified as "open with certain conditions." For instance, the MNCs are required to form cooperation with domestic small and medium enterprises such as in the forestry sectors (rattan, pine sap, bamboo, sago, latex); fishery sectors (the fish seed industry); the agriculture sectors (fruit, soybean, vegetable, milk production, and sugar); economic creative sectors (batik, and rattan handicraft production); and telecommunication sectors (President Regulation No. 44, 2016). Another restriction is that MNCs are required to form a joint venture company with domestic enterprises. The government also limits the maximum percentage of the foreign-owned equity of the joint venture companies. This restriction applies specifically to FDI in agriculture, forestry, horticulture, and some mining sectors.

The second policy to generate economic wealth from inward FDI is the regulations that required MNCs to use the domestic raw material in the production process. The regulations are called the regulations on local content requirements. The Minister of Industry issued Ministerial Regulation No. 80/M-IND/PER/9/2014, which requires MNCs in the automotive industry to use a minimum of 30% of local raw materials in the production. The same minister also promulgated Ministerial Regulation 48/M-IND/PER/4/2010, which requires MNCs in electronics to use local goods and services in the construction of electric power infrastructure. The Minister of Industry promulgated regulation 65/M-IND/PER/7/2016, which requires all
companies in the electronics industry to use at least 30% local materials in the production process as part of the import substitution strategy. In 2019, the government plans to increase the minimum percentage of the use of local raw materials for MNCs in the automotive industry to 60% of the total materials used in the production (Ribka, 2017).

The third policy to generate economic wealth from inward FDI is the policy to support the downstream mining industry. In order to support that policy, the government of Indonesia enacted Law No. 4/2009 on Mineral and Coal Mining in 2009. There are five requirements imposed by this law, as follows:

1) the contract system used in the mining sector will be replaced with the licensing system;
2) foreign companies must divest a portion of companies' stock to domestic firms or Indonesian government after five years of operation, and reach 51% of total companies’ stock share after ten years;
3) foreign companies must use domestic goods and services;
4) foreign and domestic companies in mining sectors are prohibited from exporting unprocessed minerals and must establish smelters for the refinery process;
5) foreign companies must conduct research and development, and provide training for local workers.

The fourth policy to generate economic wealth from inward FDI is a policy to protect domestic SMEs. To protect these enterprises, foreign investors are not permitted to invest in selected sectors reserved for SMEs, such as certain agricultural sectors, plantation sectors, fishery sectors, and creative and tourism sectors (President Regulation No. 44/2016). Furthermore, the government gives SMEs a lot of privileged access to loans through national programs such as the National Program for People Empowerment (PNMP) and The Loan for SME’s (Kredit Usaha Rakyat) (Law 20/2008). Furthermore, the government provides financial incentives to foreign investors who have cooperation agreements with domestic SMEs (RPJMN 2015 – 2019).

3.6 CONCLUSION

This chapter has attempted to analyze how investment policies in Indonesia embody the concept of sustainable development. To achieve this, we have examined development planning documents, investment policies, and seven investment-related policies such as trade policy, property rights protection policy, competition policy, labor market regulations and policies, regulations on corporate social responsibilities, environmental policies and policies to generate economic wealth from inward FDI.
From our examination, several findings are revealed. Firstly, we conclude that investment policies in Indonesia have been directed to achieve more sustainable development, albeit gradually. Sustainable development has been embodied in the development of strategies and investment policies in Indonesia. The objective of development that is to achieve sustainable development is explicitly stated in the General Investment Plan 2012-2025, RPJP 2015 - 2025 and RPJMN 2015 – 2019. Similarly, the Investment Law (Law No. 25/2007) outlines that Indonesian investment policies are directed to achieve sustainable development. Several laws also state that sustainable development becomes the objective of development in Indonesia, such as the Company Law (Law 40/2007), the Environmental Law (Law No. 39/2009), the Industrial Law (Law No. 3/2014) and the Small and Medium Enterprises Law (Law No. 8/2008).

To achieve sustainable development, the government of Indonesia balances the efforts to attract and to regulate inward FDI. Several regulatory reforms have been made to increase the attractiveness of Indonesia in the eyes of investors. The Investment Law (Law No. 25/2007) was enacted to substitute the Foreign Investment Law (Law No. 1/1967) in 2007. This gave a strong message to international businesses that Indonesia is highly open to foreign investments. The law has shown serious commitment to shielding MNCs from expropriation, to liberalizing the Indonesian economy and to improving the quality of public institution in Indonesia. The law does not differentiate between foreign and domestic investments and provides generous incentives for foreign investments in Indonesia by lengthening the land leasehold right for foreign investors. In line with the effort to attract inward FDI, the Indonesian government has also introduced several regulatory reforms such as a number of property rights laws and the Anti-Monopoly Law, and liberal and pro-market trade policies. The Indonesian government has made serious efforts to simplify the investment licensing procedure, to improve the land ownership registration system, to provide effective incentives, and to relax investment and business restrictions. As a result of those reforms, there is a significant increase in inward FDI (UNCTAD, 2017).

To regulate inward FDI in Indonesia, policymakers have focused on three components of sustainable development: economic, social, and environmental. Policy interventions have been made to enhance the contribution of inward FDI to the economic, social and environmental development of Indonesia. Four policy interventions have been carried out to support the economic development of Indonesia. The first is the Presidential Regulation on the Negative List of Investments. The regulation classifies the economic sectors in Indonesia into
open, open with certain conditions and closed or prohibited to foreign investment. Several restrictions and requirements are imposed upon MNCs such as joint venture requirements and restrictions on the maximum amount of company stock owned by foreign companies. The second policy to generate economic wealth from inward FDI is regulations that require MNCs to use domestic raw materials in the production process, or local content requirements. The requirements are applied to MNCs in the automotive industry, and the electronic and telecommunication sectors. The third policy to create economic wealth from inward FDI is the policy to support the downstream mining industry. The government of Indonesia enacted Law No. 4/2009 on Mineral and Coal Mining in 2009 that required foreign companies to: substitute the contract system with a licensing system; to sell some parts of companies’ stock to the Indonesian government or domestic companies (a minimum of 51% of the total stock after 10 years of operation); to utilize domestic goods and services; to establish smelters for the refinery process because exporting for unprocessed mineral is not allowed; and to enhance the capacity of local employees by conducting training and research. The fourth policy to generate economic wealth from inward FDI is a policy to protect domestic SMEs and to upgrade the capacity of SMEs in Indonesia.

In efforts to reap social benefits from inward FDI, the government has introduced Law No. 21/2000 on the Labor Union, Law No. 13/2003 on Workforce and Law No. 40/2007 on Companies. Law No. 21/2000 ensures the freedom to create a labor union which was not given before 2000. Furthermore, Law No. 13/2003 contains crucial revisions in contrast with its predecessor. For instance, the law requires the central government, local government, and private companies to increase the capacity of their workers. The law also clarifies the rights and obligations of companies, the government, and workers in finer detail, and mandates Governors and District Heads to determine the wage standards in their region based on its decent life standard. The law is also friendly for foreign workers. Law No. 40/2007 mandates all companies, both foreign and domestic, to adhere to international principles on good corporate governance and to participate in socially responsible activities called Corporate Social Responsibility (CSR).

To minimize the adverse impacts of inward FDI on the environment, the Indonesian government requires all companies, both foreign and domestic enterprises, to conduct environmental impact assessments, or to provide documents on their environmental management plan, before establishing a business in Indonesia. Furthermore, all companies are required to obtain an environmental permit from the local government as part of the licensing procedure, and all are subject to an environmental audit from environmental bodies from the
central, provincial and district governments (Law No. 32/2009). The government also provides policy tools to counter the destructive impacts of business such as strategic environmental assessments, land use planning, grants or incentives from government, budget support for environmental activities, environmental standards and criteria for pollution, and environmental risk assessments.

Despite the fact that sustainable development has been adopted in the investment policies and other related policies, we found that some weaknesses remain. Firstly, there is little coherence between investment policies, industrial policies, education policies, and environmental policies. For example, the substances on the Negative List of Investments contradict with several laws including the Horticultural Law, the Industrial Law, and the Mineral and Coal Mining Law. Secondly, we cannot find any measurable actions to generate linkages between foreign enterprises and domestic companies, to stimulate local enterprises to be more competitive, to facilitate technology spillover, or to overcome the gap of technical capacity between domestic and foreign enterprises in the development planning documents. The strategies stated in the RPJMN are unclear, as they do not list clear action plans on the implementation of these strategies. Thirdly, the government of Indonesia has a serious problem in the implementation of the law. One example is that the state has enacted rules and regulations on the protection of property rights, but Indonesia remains under the priority watch list of the US for weak property rights' protection. Another example is that despite the government enacting the competition policy, monopolies and oligopolies remain common due to weak law enforcement. Fourthly, even though Indonesia is liberal regarding FDI, non-tariff barriers remain a serious problem for foreign investors. Some regulations such as local content requirements, performance standard requirements and divestment requirements are considered as significant barriers for foreign investors, which are not justifiable.