



The role of private-owned enterprises in the defense industry according to the Omnibus Law

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ABSTRACT

The development of defense capabilities is a form of commitment to the state in creating a sense of security and peace. One of the concrete steps taken is the development of the defense industry. The basis for the development of the defense industry is the creation of a defense industry policy as stipulated in Law no. 16 of 2012 concerning the Defense Industry. The government also established the Defense Industry Policy Committee (KKIP) which is tasked with realizing the independence of the defense industry by bridging the needs of the military and the development of domestic strategic industries. Eight years ago, the government issued Law No. 16 of 2012 concerning the Defense Industry to support the master plan that had been established. However, now the Indonesian defense industry is still creating problems. It is clear in the law that only State-Owned Enterprises (BUMN) are the lead integrators, meaning that only SOEs have the right to produce the main components for defense equipment. In fact, if we learn from various countries such as America, Japan, China, and Korea, it can be seen that not only state-owned companies are capable of creating defense equipment, but private companies can also produce combat equipment.

Keywords: Capabilities, security, Defense Equipment, and Strategic

1. INTRODUCTION

The current development of the defense industry is basically still not well organized. Many problems arise such as lack of capital, limited experts and technicians, and the lack of orders for local products from the defense industry. This condition shows that the problems faced by Indonesia are still struggling with reforming the domestic industrial sector. The revival of the defense industry is anticipated to create independent economic development and build the creation of a defense industry that produces the main domestic equipment so as to create opportunities in various ways, namely investment, manpower and technology.

Various problems that can be identified related to the role of BUMS in the defense industry are as follows: First, it is

necessary to identify or map the development of the defense industry not only from the strategic plan made but based on real conditions in the field. Indonesia's defense industry players include State-Owned Enterprises (BUMN) and BUMS. Their business revolves around producing military equipment, producing components, supplying raw materials, and offering repair and maintenance services. Second, there is a legal umbrella that protects and ensures a stable business climate in Indonesia. Third, the mapping of clusters that can be carried out by companies in creating the main tool of the defense system. Fourth, strengthening the market segment, namely the commitment of all ministries and institutions through the ability to buy products produced by domestic companies. Fifth, create independence with all stages so that it can be fulfilled. Until now, the condition of the defense industry has many problems. What concrete steps should be taken in dealing with the defense

industry? This question becomes interesting to discuss to find out the ideal concept in the development of the defense industry.

Law No. 11 of 2020 concerning Job Creation, which was just passed on October 5, 2020, regulates several sectors including the defense and security industry. To that end, the Job Creation Act revised Law no. 16 of 2012 concerning the Defense Industry. One of these regulatory changes allows the involvement of the private sector in the development of defense equipment. According to the government, the involvement of these parties aims to make the defense industry sector more dynamic and progressive in terms of investment. The government also added that the national defense industry from upstream to downstream remains fully controlled by the Ministry of Defense.

As for the derivative rules, it will be further regulated through a Presidential Regulation or Government Regulation. This regulation change then opened a debate among the public with various pros and cons. Military observer Connie Rahakundini Bakrie believes that the entry of the private defense industry for investment in Indonesia has a positive impact, especially in terms of budget savings and the achievement of defense technology. On the other hand, a member of Commission I of the DPR RI, Sukamta, assessed that the involvement of the private sector poses a risk to capital ownership and supervision, because it is related to the direction of policies and the confidentiality of the production data of the main defense equipment. However, it must be acknowledged that so far there are still challenges in aligning the capacity of the national defense industry with the needs of the military. The ratification of the Job Creation Law opens a new chapter in the effort to develop the independence of the national strategic industry. This paper attempts to provide an overview of changes that may occur in the direction of developing the independence of the national defense industry after the implementation of the Job Creation Act or omnibus law.

2. PROBLEM ANALYSIS

The defense and security cluster that regulates the defense industry in the text of the Job Creation Act opens a public debate, especially regarding the involvement of the private sector in the production and ownership of the defense equipment industry capital which was previously fully controlled by the state. Table 1 provides a brief overview of what regulations were revised regarding the defense industry.

Based on Table 1, it can be concluded that there are significant changes in the regulation of the national defense industry. At least, there are two main things that can be identified from these regulatory changes. First, the reduction of protection for the national defense industry which is marked by loosening of business licenses and private participation in competing in the production of key equipment and capital ownership, although it is still under the approval of the minister of defense. Previously, the main means of production and ownership were wholly

owned by the state. Second, there are indications of strengthening the ministry of defense in determining parties that can invest in the defense industry as well as determining the private sector that will produce the main components. In addition, there are several reductions in the authority of the KKIP (Defense Industry Policy Committee) which was originally authorized to determine policies to meet the needs of defense equipment and provide considerations on its marketing.

Table 1 Revision of law

NO	Defense Industry Law	Creating Job Law / Omnibus Law	Substance
1	Chapter 11	Chapter 74 (1)	The main state defense equipment industry is no longer a state-owned enterprise but also a private-owned enterprise. Government acts as lead integrator
2	Chapter 21	Chapter 74 (2)	Elimination of the duties and functions of KKIP in determining the fulfillment of defense and security tools
3	Chapter 38	Chapter 74 (3)	Production activities through central licensing
4	Chapter 52	Chapter 74 (4)	Capital ownership of the main defense equipment industry can be owned by privately-owned enterprises with the approval of the minister of defense
5	Chapter 55, 56, 67, 68 & 69	Chapter 74 (5,6,7, 8, 9,10)	activities in the form of export, import, marketing and production are carried out by government agencies and must obtain approval from the central government
6	Addition of Chapter 69A	Chapter 74 (11)	further provisions regarding business licensing are regulated in government regulations
7	Chapter 72 -75	Chapter 74 (12 - 15)	change the phrase 'business license from the minister of defense' to 'business license from the central government on criminal provisions

3. METHOD

The purpose of the study was to analyze.

4. DISCUSSION

4.1. The Change Direction of National Defense Industry Independence Development

The implementation of the Job Creation Law requires the national defense industry to adapt, especially in increasing competitiveness. The development of defense industry technology is one of the visions of the government of President Joko Widodo in changing the policy of defense spending into defense investment. Openness to investment is believed by the government to shift dependence on imported defense equipment (kontan.co.id, 12 October 2020). The involvement of the private sector in the production of key equipment and ownership of capital is a critical point among the public who question the impact of this regulation on the agenda of developing the independence of the national defense industry.

Prior to the enactment of the Job Creation Law, the involvement of private companies in producing the main weapons equipment had been carried out, although the Defense Industry Law stated that private companies were only allowed to produce supporting equipment. However, in 2017 PT Palindo Marine succeeded in producing three units of Fast Patrol Boats for the Indonesian Navy (KRI Tahitu 853, KRI Layar 854 & KRI Madidihang 855). The three ships also have the capability to carry out anti-surface warfare, anti-air warfare, sea patrol operations, and Search and Rescue operations (batampos.co.id, January 11, 2017). Apart from PT Palindo Marine, other private companies such as PT Citra Shipyard and PT Karimun Anugrah Sejati also play a role in producing several Indonesian Navy and Bakamla patrol boats (cnn indonesia.com, 26 August 2020). It can be seen that the involvement of the private sector in producing the main tools has been seen slowly before the enactment of the omnibus Law

Indonesia is not the only country that seeks to build the independence of the Defense Industry. Turkey and South Korea are some of the countries that have shown significant progress in their defense industry development efforts. In the last two decades, Turkey has managed to reduce its dependence on foreign supplies by up to 70%. Even some of the Turkish defense industries (Alsesan, TAI, Roketsan, and others) have entered the top 100 manufacturers of world defense products (Kompas, October 18, 2020:3). Most of these companies are state-owned enterprises and are controlled by state institutions. Although initially dependent on foreign support, Turkey has succeeded in implementing the government's commitment and protection to the development of the defense industry so that policy changes cannot directly negate the ongoing development process (Kurç, 2017: 281).

South Korea has managed to keep pace with the development of developed countries for three decades through a strategy of accelerating the mastery of defense industry technology. South Korea focuses its defense offset (reciprocal investment) policy on technology transfer schemes. Thus, despite importing a lot of weapons, periodic reform of acquisition procedures can support the defense industry in building self-reliance (Lee & Lee, 2013:59). In addition, South Korea also uses large conglomerates such as Samsung and Daewoo to support independence (Chung, 2009:29).

Based on the experiences of the two countries above in building the independence of the defense industry, even though it started with foreign dependence and even the support of private conglomerates, both of them still apply protection to the defense industry by implementing supporting regulations and still prioritizing its competitiveness.

4.2. Defense Industry Complex

In theory, the complex defense industry is the integration of all components in the industry to create a determinant in the development of the domestic industry to achieve the independence of defense equipment in Indonesia. The defense industry is currently undergoing various changes, the big problem is that dependence on defense equipment will create vulnerability in the long term to the operational readiness of the main component of national defense, namely the TNI. For that reason, it is necessary to reduce the dependence on the defense equipment from outside parties by increasing the independence of defense equipment production in line with the national economic capacity.

The defense industry in Law No. 16 of 2012 states that the national industry which consists of state-owned enterprises and private-owned enterprises, either individually or in groups determined by the government to partially or wholly produce defense and security equipment, maintenance services to meet strategic interests in the field of defense and security located in the territory of the Unitary State of the Republic of Indonesia.

Article changes created due to the omnibus law. First, in Article 11, namely "a state-owned enterprise established by the Government as the main integrator that produces the main weapons system equipment and/or integrates all main components, components, and raw materials into the main tool" and in the legislation has just become "The main equipment industry ... is a state-owned enterprise and/or private-owned enterprise designated by the government as the lead integrator that produces defense equipment and/or integrates all main components, raw components, and raw materials into the main tool," there is a role for privately-owned enterprises so that the greater the production that will be received

Changes can also be seen from the investment capital which has been coming from the state in the new Job Creation Law which states that capital ownership of the main equipment industry is owned by BUMN and/or private sector with approval from the defense minister. Capital ownership of the main and/or supporting component industry, component and/or supporting (supplies) industry, and raw material industry are regulated through laws and regulations in the investment sector.

These changes to the law are opportunities and challenges for Indonesia for the development of the defense industry where the opportunity for the private sector in producing the main defense system tools to compete with state-owned companies is the obstacle, can the law be used by the private sector? This question must be answered with the right strategy because if it does not take advantage of this momentum, it is clear that the development of the defense industry will not be independent and still depend on other countries.

When looking at other countries, the development of the defense industry of other countries, Indonesia must admit that it is far behind, especially when considering Indonesia's membership in the G-20. The last record of the glory of the defense industry can be traced back to 1995. At that time, PT IPTN before becoming PT DI launched the N-250, a high-tech and prestigious passenger aircraft of its era. Expectations for industrial development had soared at that time along with the emergence of export demand, and the government's next plan to build the N-2130 (the first jet-engined passenger aircraft made in Indonesia). However, when the 1997 monetary crisis occurred, Indonesia's strategic industries found it difficult to survive and, moreover, to keep up with the dynamics of globalization

Currently, developed countries have moved away from reforming institutions and regulations. The focus is directed at increasing competitiveness and developing and discovering new technologies (innovation and invention) through research activities. the costs required for Research and Development (R&D) are not small. In addition, the process takes a long time. However, developed countries such as the United States and Britain have consistently followed the process so that they finally succeeded in building the latest generation of fighter aircraft, the F-35 and the Eurofighter Typhoon. The condition of Indonesia which is still not able to create it.

The development of the defense industry is currently carried out with several schemes such as the following:

Tahapan Alih Teknologi Skema 1

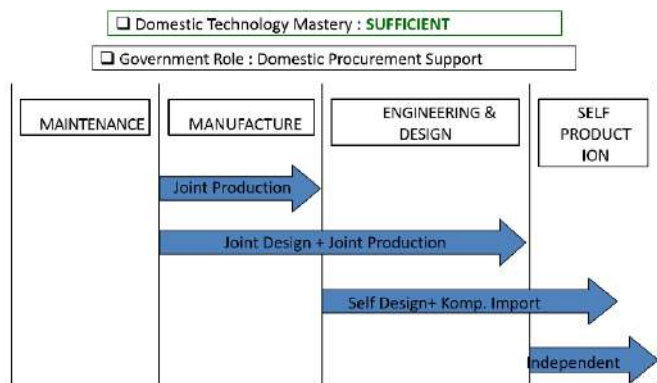


Figure 1 Technology transfer is sufficient

In the picture, the position of the defense industry has been able to create the production of domestic defense equipment needs, both BUMN and BUMS. For now, this first scheme cannot be implemented because the actual condition is that there are still many foreign procurements, so the second scheme is created.

Tahapan Alih Teknologi

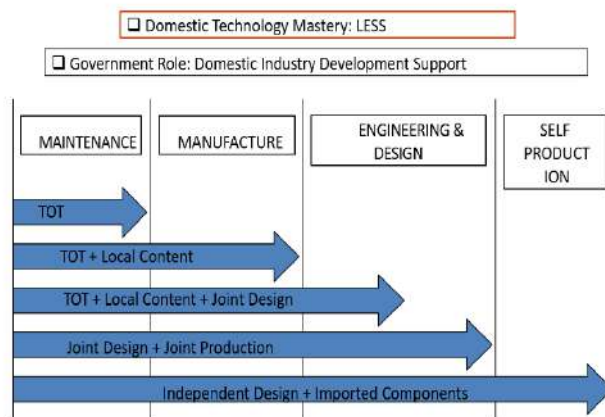


Figure 2 Technology Transfer Less condition

In this situation, the technology owned is still limited so it is necessary to have a design that involves outside. In this condition, it is necessary to build a commitment with BUMN and BUMS to remain integrated with each other so as not to be completely dependent on external parties continuously, every year there must be a standard set for the technology. The development of a complex defense industry must be adjusted to the capabilities possessed and identified by mapping existing needs and successes.

4.3. Opportunities for Private-Owned Enterprises to be involved in Defense Industry Development

The problem of the national defense industry is not an industry that is only seen from the economic aspect, although the development of the orientation of the defense industry in various countries in the world has become one of the profitable sectors. In this industry there is the role of the state as the largest shareholder of the security interests of their respective countries. So it should be underlined that the defense industry is full of the national interest of the country, which if left entirely to profit seeking will threaten the interests of that country. It is conceivable if weapons made in Indonesia are sold to other countries, and used for interests that will harm Indonesia someday (war, natural resource theft).

The role of the defense industry of state-owned enterprises and private-owned enterprises currently has the same portion, due to the latest work copyright law. With this law, it is hoped that it will create a good market share. The problem is that in maintaining the long-term health of the defense industry, the government needs to examine at least the policy paradox that is still at the root of various problems. the paradox is that the main consumer needs of defense industry products (in this case the TNI) are with the targets or expectations of defense SOEs. On the one hand, despite the TNI's institutional commitment to

strengthening the defense industry, the history of military demands for operations and daily activities since independence has been more inclined towards internal security. Data from various publications of the TNI History Center noted that of the 249 ABRI/TNI operations (1945-2004), around 67 percent were carried out in the face of domestic enemies or challenges. The problem is that domestic military operations, such as counterinsurgency or regional development, mostly use simple or medium technology defense and security equipment (APPK), such as armored vehicles or light weapons. The main tools of the air and sea weapon systems (AUSP) are mostly used as support rather than spearheads for various ground operations.

On the other hand, our defense industry tends to need high-tech production demand to improve the quality of resources and research capabilities, increase production capacity, and maintain competitiveness in regional and global markets. In addition, the paradox between the doubling of the defense budget after the New Order and the declining performance of various defense SOEs, including the bankruptcy of PT DI in 2007. Although many people blame the politics of the defense budget, which is always less than 1 percent of GDP, the problem lies in the budget allocation strategy. That over the last decade the majority of spending (60-70 percent) has tended to be in the personnel sector with the remainder allocated to AUSP spending. However, in the context of the defense industry's sustainability towards the independent local innovation stage, the allocation of research, development, training, and evaluation (RDT&E) budgets is more important than simply purchasing AUSP; especially if most of them are contracts with foreign industries

With the new law related to the role of BUMS, it can provide fresh air for improvement in the development of the defense industry. An established (matured) industrial system is an industrial system that is built from upstream to downstream. This means that the industry that supplies raw goods and components has been controlled by the domestic industry, so that dependence on support from imported materials can be minimal. Each of these industrial sub-systems requires production levels that exceed their respective economies of scale in order to be able to grow and survive in a sustainable manner. The further upstream, the greater the economies of scale, because the added value generated is relatively smaller. For example, the bolt-making industry will achieve economies of scale if it produces 1 million bolts. However, for the bicycle industry, economies of scale can be achieved if only 100,000 units are produced. The further you go downstream, the investment and the need for mastery of technology will be higher. So for developing countries that want to develop their industry, they will start from upstream to downstream.

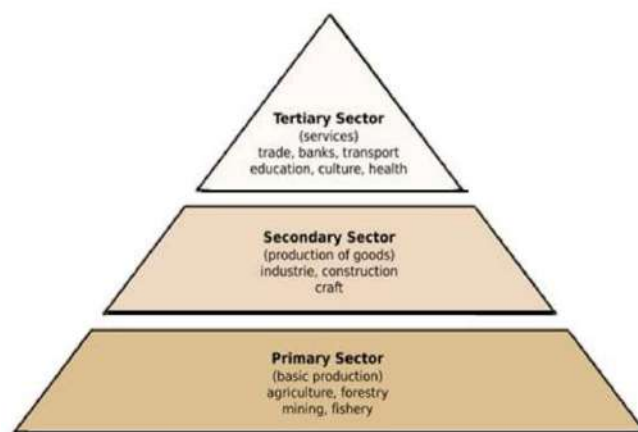


Figure 3 Economic Sector Pyramid

By mapping the economic sector, there are great opportunities that the defense industry can build with uninterrupted synergies that are integrated with each other so as to create an industry that has a competitive climate. To build a large industry, core competencies must be identified first and then strengthened through appropriate government policies. There needs to be support from the military as end users to build the core competencies of this national defense industry by accepting all its shortcomings. National industries that are not yet strong tend to produce less prime quality products at relatively high costs when compared to imported products. However, if the products of the national defense industry are not supported by the central government and the military, the national defense industry will not be able to produce competitive products and the Indonesian military will depend on imported products. The development of the defense industry is now not dependent on SOEs, so it's time for BUMS to synergize to form a supply chain for domestic defense equipment production, so that over time it can reduce dependence on outside parties.

5. CONCLUSION

Positively, changes in defense industry regulations through the Job Creation Act can be seen as an effort to develop the competitiveness of the national defense industry. However, it is important to remember that Indonesia also has an agenda for the independence of the defense industry. Reflecting on several countries that are developing independence, such as Turkey and South Korea, which still apply protection to the defense industry, strengthening the role of the Ministry of Defense is important in determining the direction of developing the independence of the defense industry in the future. The Ministry of Defense also needs to form derivative rules that support the mastery of defense industry technology. Through its supervisory role, the DPR RI also needs to be involved in overseeing the progress and independence of the national defense industry.

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