

Taxing Policy Reconstruction Based on Justice Value to Encourage Industrial Competitiveness in the Global Era

Amin Purnawan

amin.p@unissula.ac.id

Lecturer at Faculty of Law, UNISSULA

ABSTRACT

The study of trading will not be separated from the study of industry and investment, they have the close relationship of these three things in determining the competitiveness of a country, especially in the current pattern of global value chain (GVC) trading. The aims of this study are: (a) to analyze the urgency of increasing the competitiveness of national industry in the era of world free trade, and (b) to reconstruct taxation policies to promote industrial competitiveness in the global era. Tax reform should be able to improve competitiveness, and enthusiasm to invest for the investors. Due to growing business will increase tax revenue. The tax policy is very influential on industry, trade, and investment, because according to business people, tax is the biggest investment constraint, besides security, law, labor, regional autonomy, and smuggling issue. The reconstruction of taxation policies through the updating of tax laws includes: simplifying administrative procedures, raising taxpayer awareness, implementing a credible, accountable and consistent self-assessment system, tariffing adjustments to improve competitiveness, and expanding tax bases to increase state revenues. In order to improve competitiveness with other countries, it is necessary to put forward the principles of fairness and neutrality in tariff setting, and provide incentives for small business development. The structure of the prevailing tax rate is simplified in stages, planned, differentiated tariffs, and simplified layers intended to provide a more proportional tax burden for each taxpayer class.

Keywords : Reconstruction, Policy, Tax, Competitiveness, Industry

A. Introduction

The development of the world economy and the pattern of relations between countries generally show the distance between one country with another declining state, making the opening of trade between countries and increasing market access of products to other countries. Economic

and trade openness has two consequences simultaneously, challenges and opportunities. The increasing opening of trade between countries with other countries can provide opportunities for increased market access of domestic products in international markets as well as challenges to the competitiveness of domestic industries towards foreign products.

Theoretically, free trade can provide economic benefits due to increased market access and overall economic surplus. Nevertheless, this view of free trade is confronted by the protectionists' view, where the domestic industry should be protected from the harsh competition of world trade. Here comes the infant industry argument, an argument that says the domestic industry should be protected by the state until it can compete in the international market.¹

The study of trade will not be separated from the study of industry and investment given the close relationship of these three things in determining the competitiveness of a country, especially in the current pattern of global value chain (GVC) trading.

In the 2015 MEA Blueprint there are four main MEA pillar goals to be achieved and closely linked to each other. First, the establishment of a single market and production based. This objective will create free flow of goods, services, investment, labor, and free flow of capital between countries in the region. As an initial stage, twelve priority sectors agreed to represent more than 50% of intra-ASEAN trade, namely (1) aviation, (5) automotive, (6) electronics, (7) information communication technology, (8) fisheries, (9) health, (10) logistics, (11) textiles, and (12) tourism. Indonesia became the coordinating country for the automotive and wood-based industries.

¹The Ministry of Trading, Republic of Indonesia, *Kajian Dampak Kesepakatan Perdagangan Bebas terhadap Daya Saing Produk Manufaktur Indonesia*, Jakarta, 2011, p. 4.

Achieving these goals will transform the diversity of characteristics in the region into business opportunities that can make ASEAN more dynamic and strong in the global supply chain. The establishment of a single market will facilitate the establishment of a production network within the region and increase the capacity of ASEAN as a global production center or part of agro-processing, (2) rubber-based industries, (3) wood-based industries, (4) global supply chains. To achieve these objectives, each ASEAN member country is required to liberalize or open its domestic market.

Second, a competitive economic region. It is a precondition needed to support the achievement of a single market and an international production base. The achievement of the second objective is done through cooperation in various fields including (i) infrastructure development, such as transformation, information, energy, mining and finance; (ii) competition policy; (iii) consumer protection; (iv) intellectual property rights; (v) taxation; and (vi) e-commerce.

Large tax revenue by suppressing the real sector / investment is a fatal mistake. Due to the weakening of investment means the decreasing of purchasing power and ability of society, which resulted in reduced tax revenue. Tax reform should be able to improve competitiveness, and enthusiasm to invest. Due to growing business will increase tax revenue. Justice value-based taxation policy is very influential on investment, because according to business people, tax is the biggest investment constraint, in addition to security issues, law, labor, regional autonomy, and smuggling.²

²Amin Purnawan, "Rekonstruksi Sistem Pemungutan Pajak Penghasilan (PPh) Badan Berbasis Nilai Keadilan" dalam *Jurnal Dinamika Hukum Terakreditasi*, ISSN 1410-0797, Vol. 11 special edition February 2011, p. 1

From the above explanation, the question arises why a tax policy based on the value of justice is needed in promoting industrial competitiveness in the global era? How is the reconstruction of a justice-based tax policy that can drive the industry's competitiveness in international trade?

This research is normative law research, with normative juridical approach because data source was the literature study or data source commonly called secondary data. For primary law material was in the form of law while secondary law material was a doctrine contained in books or research results, and tertiary legal material was in the form of dictionary or bibliography.

B. Discussion

1. Urgency of Justice-Based Tax Policy to Encourage Industrial Competitiveness

Industries as economic actors at national, regional and international level have important and strategic role in creating employment, tackling poverty and encouraging export value growth. However, the national industry still has some constraints both internally and externally in order to be competitive (competitiveness). The internal constraints can be limited capital, raw material difficulties, low production capacity and product quality, and weak market access, while external constraints that hamper industrial development are the threat of foreign products, therefore it is necessary to improve the competitiveness of industries, especially in the face of the Economic Community ASEAN (MEA).

The MEA has been formally implemented by the end of 2015 even though the process has started since the signing of The ASEAN Framework Agreement on Economic Cooperation by ASEAN leaders in

1992. Thus, true free trade has begun to be gradually and progressively applied by ASEAN member countries through regional trade agreement (RTA) in the form of ASEAN Free Trade Area (AFTA). In contrast to AFTA, the MEA is more comprehensive, encompassing four pillars with the goal of transforming ASEAN into a single market with an integrated production base, within a competitive economic region, with a level of economic development that is more evenly distributed and linked to a global production network.

The commitment of ASEAN countries in the MEA is not only composed of liberalization, but also includes economic reform, facilitation, and harmonization of regulations. Substantially, the application of the MEA has actually been largely achieved, for example, through tariff elimination, trade facilitation, service market integration agendas, investment facilitation, simplification and harmonization of capital market policy frameworks, skilled labor facilities, and others. MEA 2015 is not an end in itself, but an important step for the development of an increasingly integrated ASEAN economy.

For Indonesia, the implementation of MEA is one of the strategic steps that can be taken by the Government of Indonesia in order to take maximum benefit from economic globalization. Multilateral aspirations, especially those related to regional economic integration, such as MEA and others, in addition to providing wider opportunities/market opportunities, also contain a number of complex challenges / problems. In this regard, enforcing the MEA in addition to increasing ASEAN intra-regional trade will also increase competition for investment, production and trade in the region. With increasing trade, the surplus or trade deficit that occurs for a country tends to be more dynamic and multidimensional. In the context of international trade relations it will certainly be very relevant to the task of

Bank Indonesia in the framework of domestic macroeconomic stability, especially inflation and exchange rates.

Indonesia's current account deficits that have occurred since the end of 2011 to the current period are strongly influenced by two main factors, namely domestic factors: structural problems in industry and trade, and external factors: global shock. Indonesia's export structure is currently dominated by natural resource-based processing industries (SDA) whose performance depends on commodity prices. The end of the commodity super cycle and the world economic slowdown caused a decline in commodity prices that has bad impact on export sector in Indonesia.

Tax collection by the tax apparatus brings some implications. First, the real tax payments will reduce the disposable income of the Taxpayer (WP). Therefore WP will always look for ways to reduce the burden of paying taxes, even if necessary to avoid this obligation.³

Efforts made by WP can be in the form of tax planning (which is justified by law), or by tax evasion (which is a form of criminal acts in the field of taxation). In addition there are tax avoidance effort (tax avoidance) is engineering that should still remain within the frame of the provisions of the tax laws and regulations. This means that tax evasion can occur according to the contents of the provisions in the taxation legislation itself.⁴

Secondly, in relation to the provision of tariff or the amount of taxes is generally very attractive to WP, because tariffs are the variables

³Hunter, T. Wilard, *The Tax Climate for Philanthropy*, Garamond/Pridemark Press Inc., USA, 1968

⁴Fidel, 2010. *Cara Mudah & Praktis Memahami Masalah-Masalah Perpajakan Mulai dari Konsep Dasar sampai Aplikasi*, Jakarta : Raja Grafindo Persada, p. 60.

that affect the welfare of the WP in the form of reduction of income streams used to form assets in economic activities run by the WP.

Third, the apparatus of taxation in the setting of Indonesian taxation legislation is given an enormous authority to create sub-ordinate⁵ connectivity construction. In more extreme terms the relationship between tax authorities and WP without checks and balances mechanism. From the point of view of the taxation apparatus, this superior positioning authority can be justified, because the construct of connectedness is built between citizens and the state. However, such a view cannot be justified. Reduction of state position through the representation of the tax apparatus is potentially negative and counterproductive. The personal error of the tax apparatus can potentially be justified by being raised at the level of State action.

In addition, Indonesia's industrial share has declined over the past 1-2 decades and simultaneously the average economic growth has been lower than in the 1980s. Currently Indonesia's own processing industry is generally dominated by domestic-oriented industries with high levels of imported content. One of the causes is the weakness of investment policy and the lack of connections in the global market.

Indonesia has the potential that far exceeds the current performance. Indonesia has abundant natural resources, experienced demographic bonuses, and has strategic geographic location. In addition, Indonesia can also optimize the momentum of the rise of Asia to participate in developing its economy.

⁵Budiyono, 2003, "Pemusatan Otoritas Aparatur Perpajakan dan Kejahatan Pajak" artikel dalam Jurnal Hukum Terakreditasi, Vol. XV No. 3, Desember 2003, Semarang: FH Unissula, p. 546.

Urgency of taxation reform that can push the competitiveness of national industry is to overcome the above problems and to optimize the potential of Indonesia, the economic transformation needs to be done through increasing the competitiveness of industry in global market. Industry is becoming central in transformation as the industry is a locomotive of growth towards developed countries. The absorption of many labors can create added value in the economy that can ultimately become a fundamental source of foreign exchange.

2. Reconstruction of Justice-Based Tax Policy to Promote Industrial Competitiveness in the Global Era

The function and role of taxes for the development of a country is very important and vital. Therefore, the government is so earnest in encouraging its citizens to obey pay taxes. As for society, tax is a burden that will reduce its wealth. However, for both the government and the people, the existence of taxes is not only economically sensitive but also politically.

The strength of tax relations with economic and political interests and objectives is what makes it an icon that is not only important but also crucial. Even this linkage often creates controversy, polemics and social costs are not small. Precisely taxation policy is an inseparable part of economic policy or fiscal policy.⁶

The key to the willingness to pay taxes is if the money from tax revenue does not leak. The money should be fully utilized and budgeted for projects that benefit the community. There are three things to note for increasing tax revenues: improving tax regulations, improving taxation tools that include administration, work procedures, and ethical codes and

⁶ Syofrin Syofan, dan Ansyhar Hidayat, 2004, *Hukum Pajak dan Permasalahannya*, Bandung: Refika Aditama, p. 3.

making people aware of the importance of taxes by providing reverse benefits to society.

Tax awareness, according to RochmatSoemitro, requires an understanding of the functions and benefits of taxes. That understanding leads to tax consciousness. Furthermore, taxes will arise and there will be tax discipline (tax discipline), where the Taxpayer (WP) will fulfill his obligations honestly and in a timely manner.⁷

In the era of liberalization to measure the performance of an economy, export performance becomes more important than ever. Exports remain relevant as a major source of foreign exchange earnings, the means to achieve economies of scale and production specialization, and to access new technologies. Indirectly exports are also an indicator of the efficiency of the industrial sector when facing tighter competition (due to liberalization) and more intensively (due to decreased transportation costs). As long as industry remains a growth engine, structural change, as well as technological growth and modernization, growing manufacturing exports are a sign that the machine is working.

Trade performance analysis (trade outcome analysis) provides a quantitative and qualitative assessment of trade performance by using decomposition of international trade growth. Export growth can occur due to four dimensions as shown in Figure 1.⁸

⁷ Rochmat Soemitro, 1986, *Asas dan Dasar Perpajakan*, Jilid I, Bandung: Eresco, p. 20-21.

⁸ Masagus M. Ridhwan dkk, Analisis Daya Saing dan Strategi Industri Nasional di Era Masyarakat Ekonomi ASEAN dan Perdagangan Bebas, *Working Paper*, September 2015, p. 14.



Source: Reis and Farole (2012)

Figure 1. Export Growth Dimension

When viewed from the export destination market, Indonesia's export market is concentrated to China and Japan with a share of 20% and 18% of total exports. Malaysia, Thailand and the Philippines also made China its main export destination with a higher index of trade intensity than Indonesia.

Indonesia has problems in all four dimensions of competitiveness with issues mainly on skill sets, logistics, policies and domestic institutions that are not conducive and lack of market access support from free trade agreement (FTA) and non-tariff measures (NTMs). It was also found from

the results of FGDs with business actors, the main factor mentioned is legal uncertainty.⁹

The results of the analysis, the competitiveness of domestic manufacturing products, especially those based on medium and high technology, are relatively lagging compared to peers in ASEAN (Singapore, Malaysia and Thailand) and extra ASEAN countries in particular China. In other hand, the competitiveness of low technology-based products to date is still quite good although in the future will be increasingly competing with Vietnam in particular.

The structure of national industrial exports is also still very resource-based oriented with low added value. The results of the study by Masagus et al., Also identified a number of factors that led to the weakness of competitiveness is particularly closely related to domestic capability factors, especially the lack of conducive skill sets and employment, logistics, policies and domestic institutions and lack of market access support. Therefore, the national strategy should be directed to build a highly competitive industry. It can be achieved through upgrading and deepening of the industry, creation of domestic added value, and the realization of Indonesia as an export-oriented production base (hub).

Recommendation of policy strategy (with the spirit of reform) that needs to be done include aspects of industry, investment, and trade which are based on seven aspects, i) institution and leadership factors; ii) incentive trade and investment schemes; iii) human resources (HR) and employment, iv) infrastructure, v) technical efficiency and business services, vi) access to finance, and vii) market access.¹⁰

⁹Masagus M. Ridhwan dkk, *ibid.*p. 34.

¹⁰ Masagus M. Ridhwan, *Ibid.*, p. 1

The reconstruction of justice-based taxation policies to encourage the competitiveness of industries in global competition is done through the updating of tax laws including: simplifying administrative procedures, raising taxpayer awareness, implementing a credible, accountable and consistent self-assessment system, tariff adjustments to improve competitiveness, as well as expanding the tax base to increase state revenues.

In order to improve competitiveness with other countries, it is necessary to put forward the principles of fairness and neutrality in tariff setting, and provide incentives for small business development. The structure of the prevailing tax rate is simplified in stages, planned, differentiating tariffs, and simplifying layers intended to provide a more proportional tax burden for each taxpayer class.

The relationship between corporations, taxes and the state is interesting to examine through the optics of corporate income taxes that are mostly engaged in industry. The regulation of corporate income tax is unique in that it is one of the ways in which the state directly interferes in the affairs of the company. When corporate taxes were first adopted, "in fact" there was a dominant view that taxes were primarily used as a means of managing corporate management in relation to other stakeholders and the state¹¹. Tax is a concrete relation, objective and real relationship between the state and its people.¹²

¹¹Reuven Avi-Yonah, *Corporations, Society, and The State: A Defence of The Corporate Tax*, Paper 04-006, John M. Olin Center For Law and Economics, University Of Michigan, 2004, p. 1

¹²Masdar Farid Mas'udi, Ro'is Syuriah PB NU, dalam Seminar dan Bedah Buku "Pajak itu Zakat" organized by IAIN Syariah Faculty Walisongo in cooperation with Regional Office of Directorate General of Taxes of Central Java I, Semarang, November 24, 2010.

Taxation is essentially a state imposition of economic units to reduce their income by paying taxes. The results of tax payments by individual economic units and corporations constitute revenue for the state in the State Budget (APBN). Such revenue is used to finance the availability of public goods and public services that private goods cannot fulfill.

The rejection of the state's involvement in economic activity was expressed by Milton Friedman. The objection is to the concept of the welfare state, to him the system of prosperity for all is a "fraud against people who are still working and paying taxes". He is one of the few economists who are still very convinced of classical capitalism. In his opinion, state affairs are merely the question of soldiers and police, who protect the lives and property of their inhabitants ("the state as guard"). Particularly the state should not interfere with the economy and attract higher taxes from its people.¹³

In fact, tax is one of the most important sources of income for a country. Taxes not only serve as a source of government funding, but also serve as a tool to regulate the economy and people's welfare. Effective taxation policies can contribute to maintaining economic balance and inflation.

The government is currently in a dilemmatic position, on the one hand we want to reduce our dependence on foreign debt in closing the deficit, and therefore tax increases are one solution. But on the other hand, the business world that is too depressed will lead to investment lethargy, whose end is increasing unemployment.

¹³Paul-Heinz Koesters, *Tokoh-tokoh Ekonomi Mengubah Dunia: Pemikiran-pemikiran yang Mempengaruhi Hidup Kita*, PT Gramedia, Jakarta, 1988, p. 253.

Economically, there are two principles to measure the fairness of the distribution of tax burdens associated with income levels. These two principles can be used to answer how the tax burden is fairly distributed. First, the benefit principle relates to how much benefits a person derives from the state. Second, the ability to pay principle, the tax burden is associated with the taxpayer's economic capability.¹⁴

Dichotomically, there are two main functions of tax in relation to the life of the state and create a tendency of community behavior. The two main functions are budgetary function and *regulerend* function. According to RochmatSoemitro, the function of budgeters is a function that is located in the public sector and taxes here is a tool or a source to put as much money into the state treasury, which in time will be used to finance state expenditures. What is meant by the *regulerend* function (regulation) is those taxes are used as a means to achieve certain goals that are located outside the field of state finance.

Regulatory functions can be interpreted as government efforts to encourage economic activities and provide justice to the community. Setting function is very important in creating business climate and competitiveness. If the prevailing tax system weighed heavily on business, it would weaken competitiveness and would undermine investor interest. Governments are required to set tax rates and tax objects and target incentives to encourage priority industries, including small and medium-sized industries.

The era of global competition demands the establishment of a fair tax rate and takes into account the tariffs that other countries use to attract foreign investment and strengthen the competitiveness of domestic

¹⁴ Joel Slemrod and Jon Bakija, *Taxing Ourselves fourth edition a Citizen's Guide to the Debate over Taxes*, The MIT Press Cambridge, Massachusetts, London, England, 2008, p.61.

businesses. This reality shows the need for a balance between budgetary and *regulerend* functions.

C. Conclusion

Urgency to increase the competitiveness of industry is to optimize the potential of Indonesia. Therefore, economic transformation needs to be done through increasing the competitiveness of industries in the global market. Industry is becoming central in transformation as the industry is a locomotive of growth towards developed countries. The absorption of many labors can create added value in the economy that can ultimately become a fundamental source of foreign exchange.

The reconstruction of justice-based taxation policies to encourage the competitiveness of industries in global competition is done through the updating of tax laws including: simplifying administrative procedures, raising taxpayer awareness, implementing a credible, accountable and consistent self-assessment system, tariff adjustments to improve competitiveness, as well as expanding the tax base to increase state revenues. In order to improve competitiveness with other countries, it is necessary to put forward the principles of fairness and neutrality in tariff setting, and provide incentives for small business development. The structure of the prevailing tax rate is simplified in stages, planned, differentiating tariffs, and simplifying layers intended to provide a more proportional tax burden for each taxpayer class.

References

- Amin Purnawan, 2011, "Rekonstruksi Sistem Pemungutan Pajak Penghasilan (PPh) Badan Berbasis Nilai Keadilan" dalam *Jurnal Dinamika Hukum Terakreditasi*, ISSN 1410-0797, Vol. 11 Edisi Khusus Februari.
- Fidel, 2010, *Cara Mudah & Praktis Memahami Masalah-Masalah Perpajakan Mulai dari Konsep Dasar sampai Aplikasi*, Jakarta: RajaGrafindo Persada
- Hunter, T. Wilard, 1968, *The Tax Climate for Philanthropy*, USA: Garamond/Pridemark Press Inc.
- Joel Slemrod and Jon Bakija, 2008, *Taxing Ourselves fourth edition a Citizen's Guide to the Debate over Taxes*, London: The MIT Press Cambridge.
- Kementerian Perdagangan Republik Indonesia, 2011, Kajian Dampak Kesepakatan Perdagangan Bebas terhadap Daya Saing Produk Manufaktur Indonesia, Jakarta
- Masagus M. Ridhwan dkk, 2015, Analisis Daya Saing dan Strategi Industri Nasional di Era Masyarakat Ekonomi ASEAN dan Perdagangan Bebas, *Working Paper*, Jakarta
- Miyasto, 1997, *Sistem Perpajakan Nasional dalam Era Ekonomi Global*, Pidato Pengukuhan Guru Besar FE Undip, Semarang
- Paul-Heinz Koesters, 1988, *Tokoh-tokoh Ekonomi Mengubah Dunia: Pemikiran-pemikiran yang Mempengaruhi Hidup Kita*, Jakarta: PT Gramedia.
- Reuven Avi-Yonah, 2004, *Corporations, Society, and The State: A Defence of The Corporate Tax*, Paper 04-006, John M. Olin Center For Law and Economics, University Of Michigan
- Rochmat Soemitro, 1986, *Asas dan Dasar Perpajakan*, Jilid I, Bandung: Eresco
- Syofrin Syofan, dan Ansyhar Hidayat, 2004, *Hukum Pajak dan Permasalahannya*, Bandung: Refika Aditama
- Tri Budiono, 2003, "Pemusatan Otoritas Aparatur Perpajakan dan Kejahatan Pajak", *Jurnal Hukum*, Vol. XV (3) Desember.