

## The Impact of the Implementation of the Job Creation Law on Foreign Investment in the Japan-Indonesia Economic Partnership Agreement (IJEPA)

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### ARTICLE INFO

*Keywords:* Job Creation Law,  
Foreign Investment, IJEPA

*Received :* 16, January

*Revised :* 30, January

*Accepted:* 22, February

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### ABSTRACT

This paper examines the impact of the implementation of the Job Creation Law on foreign investment within the framework of the Indonesia-Japan Economic Partnership Agreement (IJEPA). The discussion focuses on two main points: regulatory changes introduced by the Job Creation Law to enhance the attractiveness of foreign investment and its impact on the flow of Japanese investment into Indonesia. This study employs a normative method with a qualitative approach, collecting data through literature reviews and analysis of relevant regulations. The findings reveal that, while the Job Creation Law facilitates foreign investors, several challenges persist in its implementation, including issues of legal uncertainty and bureaucratic obstacles. Therefore, efforts are needed to improve the existing regulatory system, including enhancing transparency and legal certainty, to foster a more conducive investment climate.

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## **INTRODUCTION**

The economic ties between Indonesia and Japan have endured for many years and grow stronger with each passing year. Indonesia, among the most populous nations of Southeast Asia, boasts vast economic potential, while Japan, a highly developed country of Asia, possesses considerable technological and financial resources. The economic collaboration between these two nations is marked by a series of agreements and investments designed to foster a mutually advantageous economic growth.

The Indonesian government forged its first bilateral agreement on economic cooperation and free trade with Japan, culminating in the Indonesia-Japan Economic Partnership Agreement (IJEPA). This accord, rooted in the principles of an Economic Partnership Agreement (EPA), arose in part due to the decline in Indonesia's export market share to Japan between 2000 and 2008. In a bid to fortify their bilateral ties, both nations resolved to deepen and expand their economic collaboration.

On July 1, 2008, the Indonesia-Japan Economic Partnership Agreement (IJEPA) came into force following its approval by the Indonesian and Japanese governments in August 2007. This accord was signed by President Susilo Bambang Yudhoyono and Prime Minister Shinzo Abe. After forging similar agreements with China, India, and the United States, IJEPA became Japan's fourth treaty to solidify bilateral collaboration through economic and trade partnership arrangements. By virtue of Presidential Regulation No. 36 of 2008, the ratification of the IJEPA was formalized under the title *"Ratification between the Republic of Indonesia and Japan Concerning an Economic Partnership"* (Presidential Regulation of the Republic of Indonesia, 2008). This fourth economic accord underscores Japan's commitment to fostering bilateral economic cooperation with ASEAN nations through the Comprehensive Economic Partnership Agreement (CEPA). The scope of IJEPA encompasses trade in goods and services, investment, intellectual property, competition policy, energy and mineral resources, public procurement, customs procedures, business environment enhancements, rules of origin, and cooperative ventures.

The IJEPA is crafted to foster economic growth between the two nations by dismantling tariff barriers, streamlining trade, and promoting various forms of economic cooperation. It aspires to yield mutual benefits, such as enhanced market access, elevated product quality standards, and a favorable investment climate. For Indonesia, the IJEPA presents an avenue to bolster the competitiveness of domestic goods and attract greater direct investment from Japan—investment that holds the promise of job creation, the enhancement of local workforce skills, and the transfer of technology. Conversely, for Japan, the IJEPA opens the door to Indonesia's burgeoning market, amplifying the profit potential for Japanese enterprises operating within the archipelago.

Yet, after more than a decade, the execution of the IJEPA continues to face numerous impediments. Chief among these are regulations deemed overly intricate, legal uncertainties, and an entrenched bureaucracy, which often stand as formidable barriers to foreign investors. The ambiguity surrounding regulatory frameworks and investment policies frequently deters the flow of

foreign capital into Indonesia, including that from Japan. This issue weighs heavily on the concerns of the Indonesian government, as foreign investment is vital to fostering economic growth, generating employment, and addressing the current account deficit..

To rise to this challenge, the Indonesian government introduced the Job Creation Law, more commonly known as the Omnibus Law, in 2020. This legislation was crafted as part of the government's endeavor to enhance the investment climate, streamline intricate regulations, and bolster Indonesia's global competitiveness. The Omnibus Law encompasses various dimensions, including the simplification of business licensing procedures, labor sector reforms, the reduction of bureaucratic hurdles, and the provision of incentives for investors. Its overarching aim is to foster a more conducive environment for both domestic and foreign investors, enabling them to channel their investments into Indonesia with greater ease and efficiency.

If the purpose of the Job Creation Law is to enhance investment and spur economic growth, it has nonetheless been the subject of considerable criticism and controversy, particularly within the nation. Some contend that the Omnibus Law may undermine workers' rights, harm the environment, and diminish community involvement in the process of granting business licenses. Moreover, there are fears that the law could deepen socio-economic inequalities in Indonesia by affording greater benefits to foreign investors without adequately accounting for its repercussions on local communities.

On the other hand, Japan, as an investment partner of Indonesia, is equally concerned with these matters. As a nation upholding stringent standards in labor and environmental protection, Japan undoubtedly expects its investments in Indonesia to remain in harmony with these ideals. Certain Japanese companies even implement specific policies to ensure that their operations abroad do not breach their ethical and environmental standards. It is thus crucial to further examine whether the Job Creation Law is capable of meeting these expectations and fostering an investment climate that is acceptable to Japanese investors. This paper aims to explore how the Indonesian economy is impacted by Japanese investments within the framework of the IJEPa agreement, the legal provisions concerning foreign investments within the Job Creation Law, the effect of the Job Creation Law on foreign investments, and the influence of foreign investment regulations on the Indonesian economy under the Job Creation Law.

## LITERATURE REVIEW

### *Investment Theory and Legal Basis of Investment in Indonesia*

The theory of investment is a branch of economics that examines how individuals and institutions make investment decisions. It considers factors such as interest rates, inflation rates, risk, and the expected returns of various investment options. The theory also explores how individuals and institutions assess and manage risk within their investment portfolios, addressing concepts like asset allocation, diversification, and mutual funds. This theory enables individuals and institutions to make well-informed and prudent investment choices.

The neoclassical theory of investment is an approach grounded in microeconomic principles, which posits that individuals and institutions possess adequate information and base their investment decisions on expected returns and acceptable levels of risk. It assumes that financial markets tend toward equilibrium and are efficient, allowing for rational and optimal investment decisions. The neoclassical theory underpins many modern investment theories and practices, such as portfolio theory and risk-return analysis.

J.M. Keynes' investment theory, presented in his seminal work *\*The General Theory of Employment, Interest, and Money\** (1936), offers a critical departure from the neoclassical theory of investment. Keynes argued that financial markets are not always efficient and may experience imbalances. He contended that psychological factors and macroeconomic conditions—such as interest rates, income levels, and unemployment rates—play a crucial role in shaping investment levels. Furthermore, Keynes introduced the concept of a government as a spender of last resort, aimed at stabilizing the economy and addressing imbalances. His investment theory has significantly influenced modern macroeconomic thought and practice.

Investment refers to the allocation of a certain amount of funds or other resources at a specific point in time with the expectation of earning a profit in the future. The term encompasses a broad range of activities, from investing in tangible assets (such as land, gold, machinery, or buildings) to financial instruments (like deposits, stocks, or bonds).

According to Jogiyanto, investment can be defined as the postponement of current consumption to be employed in efficient production over a given period. Moreover, Sukirno posits that the investment activities undertaken by the community will continuously stimulate economic activity, create employment opportunities, increase national income, and elevate the community's prosperity. This role stems from three key functions of investment: (1) Investment is a component of overall expenditure, so an increase in investment boosts aggregate demand, national income, and employment opportunities; (2) The growth in capital goods resulting from investment enhances production capacity; (3) Investment is invariably accompanied by technological advancements.

Law No. 25 of 2007 on Foreign Investment outlines the definitions and concepts used within the law. It specifies the provisions related to the principles and objectives governing investment as regulated by the law.

### ***Types of Investment***

At its core, investment can be categorized into two broad classes: investment in financial assets and investment in real assets. Investment in financial assets is further divided into direct and indirect investment.

1. Direct Investment, which involves the acquisition of tradable financial assets in the money market, capital market, or derivatives market. Direct investment can also take the form of purchasing non-tradable assets, typically obtained from commercial banks. These assets may include savings and certificates of deposit.

2. Indirect Investment, which is achieved by purchasing securities through investment firms, such as mutual funds.
3. Shariah-Compliant Investment  
Shariah-compliant investment is one grounded in Islamic law, utilizing Islamic financial instruments for its execution.

Numerous types of investments exist, categorized by duration, risk, and process. These elements must be clearly understood to ensure the accuracy of the investment rationale and methodology:

1. By Time Period
  - a. Short-term investment, which lasts up to 12 months.
  - b. Medium-term investment, spanning between 1 and 5 years.
  - c. Long-term investment.

2. By Risk

Each investment choice is inherently linked to two factors: risk and return, both of which are cause-and-effect relationships, yet mutually contradictory. In investment theory, the phrases "high risk, high return" and "low risk, low return" are well known. In Arabic, risk is often referred to as *gharar*, sometimes associated with uncertainty. If risk is simply equated with uncertainty, and this uncertainty is deemed *gharar* and thus forbidden, the situation becomes complex. Therefore, it is crucial to distinguish and define *gharar* or risk clearly.

Al-Suwailem identifies two types of risk. The first is passive risk, such as gambling, which relies purely on chance. The second is reactive risk, where a distribution of probabilities is present with logical causality. Uncertainty is an inherent part of all economic activities; however, the uncertainty of events always follows a logical causality that can influence their probability. This suggests that seeking profit purely through chance, such as purchasing a lottery ticket, leads to illusions or false expectations, undoubtedly constituting a *gharar* transaction.

From these explanations, and referring to the cited hadiths, one can conclude that a *gharar* transaction may arise for two primary reasons: first, a lack of information or knowledge on the part of the contracting parties, leading to a loss of control; and second, the absence of a defined subject matter.

Furthermore, according to Pontjowinoto, risks that may arise must be managed in a way that does not cause a greater risk or exceed one's capacity to bear such risks. In Islam, any transaction that anticipates results must be prepared to endure risks. By Process:

1. Direct Investment, where no intermediaries are involved. In this case, investors can directly purchase the investment portfolio.
2. Indirect Investment, which involves the use of intermediaries or investments made through investment firms.

### ***Definition of Agreements and Legal Basis for Indonesian and International Agreements***

According to Djumadi, an agreement is an event in which one person pledges to another, or two individuals mutually pledge to perform a certain action. Similarly, R. Subekti defines an agreement as an event wherein one person makes a promise to another, or two individuals promise to undertake a specific

action. The relationship between the parties involved forges a legal bond, entailing both rights and obligations for each. An agreement consists of promises or commitments, whether oral or written. As a written document, it represents one of two possible legal foundations for establishing an obligation, aside from statutory law. An agreement is a legal situation binding multiple entities with enforceable duties.

The legal foundation for agreements in Indonesia primarily refers to Book III of the Civil Code, with Article 1338 stipulating that all legally concluded agreements are binding upon the parties involved. Further, the prerequisites for an agreement are outlined in Article 1320, which asserts that valid conditions for an agreement must include: the consent of the parties, the competence of the parties, a definite subject matter, and a lawful cause. In the context of agreements made by Indonesia as a nation with other countries, Article 11 of the 1945 Constitution of the Republic of Indonesia states that “the president, with the approval of the People's Representative Council, declares war, makes peace, and enters into treaties with other nations,” supplemented by other laws and regulations governing international agreements, such as Presidential Decree No. 2826 / HK / 60 regarding agreements with other countries, Law No. 37 of 1999 concerning foreign relations, and Law No. 24 of 2000.

International treaty law refers to the 1369 Vienna Convention, which governs the subject of international treaties, primarily focusing on states, followed by the 1978 Vienna Convention, which explains the impact and implications of state succession, particularly the transfer of sovereignty from one state to another due to such succession. Furthermore, the 1986 Vienna Convention acknowledges the position of international organizations as subjects of international law, thereby enabling them to also enter into international treaties.

### ***History and Legal Basis of the Job Creation Law***

In his inaugural address as President of Indonesia for his second term in 2019, President Jokowi articulated five key areas of focus for his administration. Among his foremost priorities was the simplification of various regulatory issues. He revealed that the government would prepare two Omnibus Laws: the Job Creation Law and the MSME Empowerment Law, and he called upon the House of Representatives (DPR) to support the enactment of these significant legislative measures. The Omnibus Law, a novel concept within Indonesia's legislative framework, seeks to consolidate and amend several existing laws through a single, comprehensive statute.

The President's legislative agenda continued with the development of the 2020-2024 National Legislation Program (Prolegnas). On December 12, 2019, the DPR identified 248 bills as high-priority. Among these, three bills fell under the Omnibus Law category: the Bill on Job Creation, the Bill on Tax Provisions and Facilities for Economic Strengthening, and the Bill on Financial Sector Development and Strengthening.

The government's push for these bills was spurred by the global economic slowdown, the risk of stagnation within Indonesia's economy, and the nation's suboptimal competitiveness in comparison to other nations. The Omnibus Law

was conceived to foster a more favorable and attractive business environment for investors, boost economic growth, attract foreign talent to enhance the quality of Indonesian human capital, and encourage voluntary tax compliance.

The government recognized the need for a comprehensive overhaul of regulations pertaining to business licenses, MSMEs, labor, investment, cooperatives, business land, economic zone development, government project implementation, administrative processes, and the legal framework surrounding criminal sanctions. With the Job Creation Law rooted in the Omnibus Law, the government aspired to bring about positive reforms, streamline licensing procedures, and propel the Indonesian economy toward progress and modernization.

However, this policy has elicited a range of reactions from the public, both favorable and critical (Iswaningsih, Budiarta, and Ujianti, 2021). The implementation of the Omnibus Law in the legal domain has yielded both benefits and challenges. The concept's limited understanding has sparked various controversies, even though, in essence, the Omnibus Law is intended to simplify regulations.

Despite its intended purpose, suspicions persist that the law may cater to the interests of certain parties (Hukunala, 2022). As a groundbreaking reform, the Omnibus Law aims to eliminate superfluous regulations, thereby removing ineffective provisions to improve the legal system.

The Omnibus Law is seen as a potential solution to create a more favorable investment climate and provide necessary infrastructure for bolstering investment in Indonesia. The most effective means to achieve this is through law—regulations capable of meeting investors' needs without compromising national interests. The government has made strides by issuing numerous Government Regulations (PPs), Presidential Regulations (Perpres), and Ministerial Regulations to support investment growth in Indonesia. Yet, these measures have been deemed insufficient. An integrated regulatory framework is now deemed essential to provide legal certainty and avert future regulatory conflicts.

To date, President Jokowi has enacted no fewer than 347 Government Regulations (PP), 533 Presidential Regulations (Perpres), and 434 subordinate regulations, including Ministerial Regulations and directives from the Investment Agency Head, all part of his legislative packages. Additionally, in the Second Term, amendments to 79 laws have been initiated and implemented through the Omnibus Law in the Job Creation Law (Sutrisno & Poerana, 2020).

Ultimately, this legal reform seeks to dismantle, or at least diminish, the obstacles to foreign investment, achieved through deregulation and debureaucratization—simplifying licensing procedures and offering incentives, including tax relief (Burnett & Bath, 2009).

During the initial term of President Joko Widodo (2014-2019), legal reforms and government policies concerning foreign investment were primarily aimed at streamlining administrative procedures, enhancing the ease of conducting business, and offering incentives to attract investors, thereby fostering an increase in investment within Indonesia. As outlined in the

introduction, sweeping measures in the form of the Legal Policy Package (PKH I and PKH II) were introduced by the country, each having both direct and indirect ties to foreign investment. In this context, various regulations have been promulgated in Indonesia to govern investment activities. These include:

- a. Presidential Regulation No. 91/2017 on the acceleration of business implementation (Perpres 91/2017). The service standards across ministries, agencies, provincial regions, and regency/city regions have been re-regulated under Perpres 91/2017 through regulatory reforms aimed at facilitating business activities, ensuring they are supported, and removing obstacles to business development.
- b. The BKPM Regulation No. 14/2017 on Guidelines and Procedures for the Control of Investment Implementation (BKPM Regulation 14/2017) has also been issued as a guide for the issuance of investment licenses and the provision of services for BKPM officials, Investment Offices, Provincial One-Stop Integrated Service Offices, Regencies/Cities, Special Economic Zones, Free Trade and Port Zones, the general public, and business actors. This regulation specifically addresses sectors such as electricity, oil and gas, minerals and coal, public works and housing, customs and taxation, and investment.
- c. BKPM Regulation No. 13/2017 on guidelines and procedures for the granting of licenses and investment facilities (BKPM Regulation 13/2017) has been enacted to replace principle licenses with investment registrations, allowing, in certain sectors, investors to directly obtain business licenses. The aim of this regulation is to streamline requirements and administrative procedures, making them more favorable to investors.
- d. Regulation No. 14/2015 of the BKPM regarding the guidelines and procedures for licenses under the capital investment principle. The BKPM Regulation No. 13/2017 has likewise been invoked to transfer the issuance of commercial licenses from 14 ministries of the Republic of Indonesia, thereby delegating authority to the Integrated One-Stop Service at the Central BKPM.
- e. Presidential Regulation No. 20/2018 concerning the employment of foreign workers (Perpres 20/2018). The administrative process for foreign workers has been streamlined by the Perpres, which no longer requires certain employers to present a plan for employing foreign workers.
- f. The BKPM Regulation No. 3/2019 has also been enacted, outlining guidelines and procedures for investment promotion to implement promotional strategies, facilitate operations, and coordinate promotion efforts between the central and regional governments. Additionally, the BKPM Regulation No. 6/2018 on the guidelines and procedures for granting licenses and investment facilities has been updated to Regulation No. 5/2019.
- g. Government Regulation No. 24/2019 has been published, addressing the provision of investment incentives and facilities in the regions, offering eligible investors benefits such as tax deductions, remuneration, and low-interest loans.



Article 3, letter d, of the Employment Creation Law stipulates that the law's objectives regarding investment aim to amend various regulatory aspects related to enhancing the investment ecosystem, promoting the expedience and acceleration of national strategic projects aligned with national interests, grounded in domestic science and technology, and guided by the ideological direction of Pancasila. One of the domains within this Employment Creation Law pertains to the improvement of the investment ecosystem and business activities. Specifically, in relation to enhancing the investment ecosystem and business activities, it encompasses:

- a. The implementation of risk-based business licenses;
- b. The simplification of the basic requirements for granting business licenses, acquiring land, and utilizing it;
- c. The simplification of sector-specific business license grants;
- d. The simplification of investment requirements as stipulated in Part One of Article 6 of the Employment Creation Law.

The simplification of business sector licenses and investment requirements is governed by Part Four of Article 26 of the Employment Creation Law. This simplification is deemed necessary because it is believed that business sectors possess distinct characteristics and sectoral identities that require a tailored approach for each. Consequently, it is asserted that the granting of investment licenses does not favor investors, thus necessitating the simplification of investment license issuance by business sectors. The Employment Creation Law regulates a total of 15 sectors for license grants, namely: maritime and fisheries; agriculture; forestry; energy and mineral resources; nuclear energy; industry; trade, legal metrology, halal product certification, and conformity assessment standardization; public works and housing; transportation; health, medicine, and food; education and culture; tourism; religion; postal services, telecommunications, and broadcasting; and defense and security. The regulation concerning the simplification of investment requirements in specific sectors is designed to facilitate public participation, especially by business actors, in investments related to sectors such as investment, banking, and Sharia banking, as outlined in Parts Five of Articles 76–79 of the Employment Creation Law.

In the article on [cnnindonesia.com](http://cnnindonesia.com) titled "6 Investment Regulations Amended by the Job Creation Law," it is explained that various modifications have been introduced, along with a simplification of the licensing process, to attract foreign investors. Among these changes, the first concerns the application of a risk-based business license system, which is determined by the level of risk and the business scale classification based on the company's evaluation and potential. The assessment of risk is conducted considering the type, criteria, location, and limited resources of the business. This provision is outlined in Article 7, Paragraph 1, of Part Two of the Job Creation Law, which categorizes business activities into low, medium, and high-risk enterprises (6 Investment Regulations Amended by the Job Creation Law, 2020).

Secondly, the basic requirements for business licenses, land acquisition, and land use have been simplified, including the suitability of space utilization activities, environmental approval, construction approval, and a certificate of

purpose suitability. Business location plans must now be submitted in the form of a digitized and standardized Detailed Spatial Plan (RDTR). These data are processed by the government and must be integrated into the electronic business licensing system. This provision is set out in Part Three, Paragraph 2, Article 14, paragraph 6 of the Job Creation Law, which stipulates that, upon confirmation of space utilization suitability, business agents must apply for a business license (6 Investment Regulations Amended by the Job Creation Law, 2020).

Thirdly, a simplification of sectoral business licenses and investment requirements is underway. The issuance of business licenses encompasses the marine and fishing sectors, agriculture, forestry, energy and mineral resources, nuclear energy, industry, trade, legal metrology, halal product certification, and compliance assessment standardization. Additionally, it includes public works and housing, transportation, healthcare, medicine and food, education and culture, tourism, religion, postal services, telecommunications, broadcasting, and defense and security. The simplification process varies according to the needs of each sector.

Fourthly, investment requirements in specific sectors, such as banking, Islamic banking, and the press, have been simplified. This simplification addresses capital issues and mechanisms (6 Investment Regulations Amended by the Job Creation Law, 2020).

Fifthly, the acquisition of land for public interest and government priorities is carried out through the mechanism of forest zone release for government bodies or the release of forest areas and loan or use of forest zones for the private sector. Compensation may take the form of money, replacement land, resettlement, shared property, or other mutually agreed forms. The government will also establish a Land Bank to meet the country's needs and manage land resources. The Land Bank can be used for public, social, development, economic equality, land consolidation, and agrarian reform purposes.

Lastly, the government stipulates investment provisions in Special Economic Zones (KEK), free trade zones and free ports, National Strategic Projects (PSN), and investment management institutions (6 Investment Regulations Amended by the Job Creation Law, 2020).

## **METHODOLOGY**

The investigative approach employed in this study is normative legal research, which centers on the rules and legal standards embedded in the laws and regulations governing foreign investment and economic policy, particularly within the framework of the Employment Creation Law and the economic cooperation agreement between Japan and Indonesia (IJEPA). The primary aim of this research is to identify the legal principles at play, as well as the repercussions of the enactment of copyright law on foreign investment. This study also seeks to assess the role of IJEPA in enhancing economic cooperation between the two nations. The data collection technique applied is bibliographic research. The sources of data employed in this normative legal inquiry encompass secondary materials such as laws and regulations pertinent to foreign

investment and economic cooperation, literary books, scholarly articles, and information sourced from the Internet relevant to the Employment Creation Law and IJEPA. Primary data is also utilized to complement the secondary sources. The global data, composed of both primary and secondary materials, will undergo qualitative processing and analysis. This qualitative analysis is conducted inductively, wherein existing facts and phenomena are revealed and subsequently analyzed within the context of the relevant laws, regulations, and economic policies. Through this methodology, the research will assess the impact of the Employment Creation Law's enactment on foreign investment in Indonesia, as well as the efficacy of the IJEPA cooperation agreement in attracting Japanese investors. The issues to be discussed in this inquiry include how the policies and regulations outlined in the Employment Creation Law can be optimized to increase Japanese foreign investment in Indonesia, and how the implementation of IJEPA can be reinforced to further bolster economic cooperation between the two countries.

## RESEARCH RESULT

### *The Influence of IJEPA in the Context of Japanese Investment in Indonesia in the Indonesian Economy*

In August 2007, the governments of Indonesia and Japan ratified the IJEPA, an agreement signed by President Susilo Bambang Yudhoyono and Prime Minister Shinzo Abe. The accord came into effect on July 1, 2008. The IJEPA marks the fourth agreement of its kind, following China, India, and the United States, as a tangible manifestation of Japan's bilateral cooperation in the form of an Economic Partnership Agreement (CEPA). This bilateral pact was formalized through Presidential Regulation No. 36 of 2008 on the "Ratification between the Republic of Indonesia and Japan concerning an Economic Partnership" (Presidential Regulation of the Republic of Indonesia, 2008). The IJEPA is Japan's fourth economic agreement aimed at fostering bilateral relations through CEPA with member nations of the Association of Southeast Asian Nations (ASEAN). The agreement covers trade in goods, services, investment, intellectual property, competition policy, energy and mineral resources, public procurement, customs procedures, business environment improvement, origin standards, and cooperation.

For Indonesia, Japan stands as the largest trading partner in terms of import-export transactions. Indonesian exports to Japan were valued at \$23.6 billion (GdI statistics), while imports from Japan amounted to \$6.5 billion, resulting in a substantial trade surplus in Japan's favor in 2007 (id.emb japan.go.jp, consulted on November 29, 2016). Major commodities imported by Japan from Indonesia include oil, liquefied natural gas, coal, mineral products, shrimp, pulp, textiles and textile products, machinery, and electrical equipment. Conversely, Japan exports machinery and parts, plastics and chemical products, steel, electrical equipment, electronic components, transport machinery, and automobile parts to Indonesia.

In 2021, total trade between Indonesia and Japan reached \$32.5 billion, though trade trends showed a decline of 4.5% between 2017 and 2021. Indonesia's trade balance continued to show a surplus of \$2.9 billion in 2022 and \$3.2 billion

in 2021, primarily driven by the non-oil and gas sector. Indonesian exports saw a robust increase, rising by 45.8% from January to April 2022 compared to the previous year, aligned with the global economic recovery post-COVID-19 pandemic. Indonesian imports also rose by 29.8% in the same period. The primary motivation behind the bilateral agreements is to reduce barriers that hinder the flow of export-import goods between the two nations, while also striving to open greater market access between them.

It is apparent that the relationship between export values before and after the implementation of the IJEPA remains modest. The average annual export value from Indonesia to Japan saw a notable increase after the IJEPA was enacted compared to the period before its adoption. This surge is attributable to the IJEPA, as a free trade agreement, offering Indonesian entrepreneurs opportunities to export to Japan. Furthermore, the IJEPA has positioned Indonesia in direct competition with other nations in the Japanese market, particularly those with existing free trade agreements with Japan. As a free trade pact, the IJEPA regulates the reduction of import duties on goods between the two countries, a mechanism utilized by Indonesian entrepreneurs, making Indonesian products more competitive in the Japanese market. Additionally, the IJEPA provides technical assistance in key industrial sectors such as energy, manufacturing, agro-industry, and fisheries, while also promoting Indonesian SMEs' exports to Japan. Notably, since the IJEPA's enactment, Indonesia's participation in the Japan International Seafood Technology Expo has contributed to increased production and export opportunities to Japan. As a trade agreement, the IJEPA has the potential to positively influence Indonesian exports, particularly if Indonesia specializes in industries that align with its comparative advantage. Moreover, the export promotion and technical assistance embedded in the IJEPA further bolster the value of Indonesia's exports to Japan.

The value of imports has risen following the enactment of the IJEPA, compared to prior to its promulgation, revealing a marked distinction in the value of exports before and after the agreement's implementation. It is evident that the ratio between the value of exports before and after the IJEPA's application remains notably low. The average annual import value of Indonesia from Japan experienced a considerable increase during the IJEPA's enforcement, as compared to the period preceding it. This surge can be attributed to the opening of Indonesia's market opportunities for Japan, encouraging Japanese entrepreneurs to capitalize on their comparative advantage. Beyond the aforementioned factors contributing to the rise in import value, other elements, such as foreign direct investment (Safitriani, 2014), exchange rates (Ginting, 2011), and heightened domestic demand, also play a role. The IJEPA's provisions, which regulate direct investment and offer the USDFS (User Specific Duty Free Scheme) tariffs, extend special rates to Japanese companies established in Indonesia. According to the Indonesian Ministry of Industry, following the 1998 crisis that impacted Indonesia, Japanese investors began to withdraw from the country. However, after the enactment of the IJEPA in 2008, Japanese direct investment in Indonesia resumed its upward trajectory ([kemenperin.go.id/](http://kemenperin.go.id/)

consulted on April 26, 2017). Under the tariff regime, Japanese investors are incentivized to establish enterprises in Indonesia, as Japan's export tariffs to Indonesia have become more affordable, bringing them closer to the raw material sources needed for their industrial production. This is due to the fact that, until now, Japanese industries have largely imported their production raw materials from Indonesia, though not in totality. Some industrial raw materials remain unavailable in Indonesia, which may further increase imports from Japan. Thus, it can be concluded that the IJEPA, as a free trade agreement, effectively removes trade barriers and boosts imports from Japan to Indonesia, with Japan itself reaping the rewards of the IJEPA's implementation. Moreover, the IJEPA's efficacy will be further enhanced, and the benefits to each nation will increase, should both nations specialize in production in line with the theory of Comparative Advantage.

### ***New or Added Articles Regarding Foreign Investment with the Enactment of the Job Creation Law***

With the enactment of the omnibus law, the government has opened the majority of the economic sectors to foreign investment, allowing up to 100% ownership. All lines of business are now accessible for direct investment, except for those deemed closed to investment or reserved for the central government. This implies that, while most companies are now entirely open, those managed by the central government remain inaccessible to foreign investment. The positive investment list now governs which business sectors are open or restricted to foreign investors, marking a shift in approach from a previous negative and restrictive stance to one that is more positive and open.

Some of the key highlights of the positive investment list include the pharmaceutical sector, including manufacturing, wholesale, and distribution, which is now open to 100% foreign ownership, up from the previous 85%. E-commerce companies may now also be fully foreign-owned, with the earlier capital requirement of 100 billion IDR reduced to 10 billion, of which 25% must be paid at the time of establishment. Specialized clinics, such as nursing, rehabilitation, and dental clinics, are now fully open to foreign investors, compared to the previous 67%. However, general clinics and hospitals remain entirely closed to foreign investment. Furthermore, the wholesale and distribution sectors are now open to 100% ownership, as are independent power generation companies with capacities up to 10 megawatts. Plantation and agricultural sectors are also entirely open to foreign ownership.

Although many sectors have been liberalized, six business activities remain closed to investment, compared to the twenty previously regulated under Regulation No. 44/2016. These activities include the cultivation and production of class 1 narcotics, all forms of gambling, endangered species fishing under CITES, the collection of coral for construction materials or souvenirs, and the chemical weapons industry as well as materials that harm the ozone layer.

Under Investment Law No. 25/2007, foreign investors are prohibited from establishing businesses in the arms production sector and other legally closed industries. Article 12 of the law specifies that all business fields are open to

investment activities, except those that are closed or open only under certain conditions, such as arms and explosives production.

The Job Creation Law No. 11/2020 amended Article 12 of Law No. 25/2007, updating and expanding the list of sectors closed to foreign investors. Among them are class I narcotics cultivation, gambling, protected fishing, and industries involving chemical weapons and ozone-depleting substances.

Presidential Regulation No. 10/2021 stipulates that all business activities not falling under the aforementioned classifications may be managed by any investors. For foreign investors, this means that most lines of business now allow 100% ownership, which will have a profound impact, particularly in sectors that previously restricted foreign investment.

## DISCUSSION

### *The Impact of the Job Creation Law on Foreign Investment and the Indonesian Economy*

Fundamentally, the Employment Creation Law was introduced by the government, with one of its principal objectives being to attract foreign investors or investments. This law has had a profound impact on the business and investment climate in Indonesia. The seventh President of the Republic of Indonesia, Joko Widodo, highlighted six key effects of this law:

- a. First, the process of authorizing businesses and investments has been simplified and expedited. "Investment requirements have been streamlined. Business licenses for micro and small enterprises are no longer required, registration alone suffices. This simplification of licensing procedures should shorten the overall process, thereby strengthening efforts to enforce the law."
- b. Second, illegal levies and corruption have been reduced through the integration of all authorization procedures into an electronic system via the Online Single Submission (OSS) platform. Before the establishment of the OSS system, the process of starting a business could take nearly a year. This lengthy process paved the way for corrupt practices" (Suara.com, 2020).
- c. Third, managing a business and making investments has become easier. The formation of limited liability companies is now simpler, with the removal of minimum capital requirements. "The patent and trademark registration process has been accelerated. Acquiring land and property for public interest and investment purposes has also been greatly facilitated."
- d. Fourth, investment in special economic zones, free zones, and free ports has become more accessible and attractive through various incentives and benefits. "Licensing services for businesses in these zones will be completed within hours, with integrated tax incentives within the OSS system."
- e. Fifth, Indonesia has established a sovereign wealth fund to manage and allocate state funds and assets, both directly and indirectly, and to facilitate cooperation with third parties.

- f. Sixth, the Employment Creation Law safeguards and strengthens the role of workers in supporting investment in Indonesia, notably by providing legal security in the determination of minimum wages and severance pay.

### ***Impact on Foreign Investment***

The government's efforts to maintain national economic stability consist of opening avenues for foreign investment through various incentives governed by Law No. 11 of 2020, the Employment Creation Law. Foreign investments can invigorate a nation's economy by channeling capital, generating employment, and fostering technological advancement. Moreover, without foreign investment, a country's economic progress would be hindered. Therefore, it is of paramount importance for each nation to attract foreign investments, as each holds distinct advantages in terms of natural resources and human capital. The Employment Creation Law is a regulation that introduces reforms across various sectors to improve the investment climate and is expected to positively influence Indonesia's economic development.

Through the Employment Creation Law, the government seeks to simplify the licensing process by integrating environmental permits into operational licenses. This simplification is expected to shorten the entire authorization process, which, in turn, will strengthen law enforcement. As a result of the integration of environmental permits into operational licenses under the Employment Creation Law, any violations—such as those relating to environmental management standards and procedures—will affect the primary permit, namely the operational license (Suryani, 2020).

The ease with which the Employment Creation Law facilitates the granting of operational licenses encourages investment, whereas previously, overlaps between central and regional authorities, as well as between ministries and institutions, posed challenges for investors, particularly due to the lengthy and cumbersome licensing process. However, with the improvement in the current licensing procedures, the process has become more attractive and accessible for investors wishing to invest and create new jobs in Indonesia. This simplification of the licensing process is expected to have a positive impact by enhancing the investment ecosystem amid increasingly fierce global economic competition, ultimately improving the country's economy (Kartiko et al., 2020).

Certainty, speed, convenience, and transparency are elements that investors perceive and require. The Employment Creation Law addresses these expectations by offering the following benefits:

1. It defines the scope of investment promotion activities. Investment criteria include high-tech investments, large-scale enterprises, digital projects, and labor-intensive industries.
2. MSMEs can collaborate with foreign capital in their business operations.
3. Regulations concerning foreign direct investment (FDI) are only linked to foreign ownership restrictions.
4. Provisions regarding investment requirements in the industrial law will be removed as they will be governed by presidential regulations on investment activities (BUPM).

The incorporation of a land agency in the Employment Creation Law is an article that has the potential to create an investment-friendly climate for foreign investors. Foreign investors have always required vast plots of land for constructing factories or investment projects. Therefore, the government's ability to provide land to foreign investors is crucial in attracting such investments. To address this need, the Ministry of Agrarian Affairs has implemented the concept of a land bank institution in the Employment Creation Law. This land bank allows the government to lease land to investors free of charge for a 20-year concession period. The land bank, as envisioned by the Employment Creation Law, is a specialized agency entrusted by the government to manage land.

Another provision of the Employment Creation Law that may be viewed as a catalyst for attracting foreign investors is the amendment of Law No. 25/2007 on Investment, as outlined in Article 77 of the Employment Creation Law. One of the key changes that should draw foreign investment is the revision of Article 12 of Law No. 25 of 2007, which now opens 14 sectors previously closed to foreign investment. These sectors include the recovery of valuable objects from sunken ships, the manufacturing of mercury-based chlor-alkali, active ingredients for pesticides, alcoholic beverages, wine-based alcoholic drinks, malt-based beverages, passenger terminal operations, vehicle weighing services, maritime navigation facilities, the Vessel Traffic Information System (VTIS), air navigation services, and motor vehicle type testing services. This broadening of access is expected to draw a significant influx of foreign investors to Indonesia.

Additionally, the amendment of Article 18 of the Investment Law through the Employment Creation Law, which includes the development of the tourism sector as one of the industries eligible for government investment facilitation, can also be seen as an enticing provision for foreign investors. However, the tourism sector must be supported by the requisite infrastructure, such as adequate road access for transportation, in order to truly attract foreign capital. The Vice Minister of Finance, Suahasil Nazara, has also expressed that one of the primary challenges faced by investors in Indonesia is corruption and the high costs associated with informal business activities. One of the government's efforts to address corruption through the Employment Creation Law involves streamlining the bureaucracy surrounding licensing, notably by implementing the concept of a public service mall. Business licensing services are expected to utilize an electronic licensing system managed by the central government.

Yose Rizal Damuri, Head of the Economic Department at the Centre for Strategic and International Studies (CSIS), has stated that the Employment Creation Law can prevent low-quality investments from entering Indonesia, which will positively impact the nation's competitiveness. The Employment Creation Law has had a significant positive effect in encouraging investment growth, including foreign direct investment (FDI), in Indonesia. According to Professor Nindyo Pramono, a business law professor at Gadjah Mada University (UGM), investors have reacted favorably to the structural reforms embedded in the Employment Creation Law, as reported by *bisnis.com*.



### ***Impact on the Indonesian Economy***

The employment creation law is expected to deliver five key benefits to Indonesia's economy. First, the creation of jobs, which is projected to reach 2.7 to 3 million annually. This law is poised to have a positive impact on job creation by fostering new employment opportunities. A central focus of the law is facilitating investment in Indonesia to support business growth. By streamlining the process of starting businesses and attracting investment, the law is set to generate significant job creation. The law also includes provisions related to labor, such as regulations on working hours, severance pay, wages, and mechanisms for contractual workers, all aimed at enhancing the security and quality of employment for Indonesian workers. Consequently, this law is anticipated to offer a resolution to these issues. Second, it aims to enhance the skills of job seekers and the well-being of workers. Third, there will be an increase in worker productivity, which in turn will positively affect investment and economic growth. Fourth, the law is expected to spur investment growth by 6.6–7.0% to build new businesses or expand existing ones, thus generating new jobs and improving workers' well-being, which will also promote an increase in consumption (estimated at 5.4–5.6%).

In this context, the goal of investment is not only foreign investment (PMA) but also domestic investment (PMDN). The law seeks to revise policies that were previously seen as barriers to foreign investment in Indonesia. This effort is part of a broader objective to strengthen Indonesia's economy and position it as one of the four largest global economic powers by 2030–2035. A central element of the law concerning investment in Indonesia is the simplification of the investment licensing process, making it faster and more efficient. Fifth, the empowerment of micro, small, and medium enterprises (MSMEs) and cooperatives, which will support an increase in their contribution to the GDP, estimated at 65%, and enhance the contribution of cooperatives, estimated at 5.5%. The various objectives are to create and expand employment opportunities by facilitating, protecting, and strengthening cooperatives, MSMEs, and the national industry and trade sectors to absorb as much of Indonesia's workforce as possible, while maintaining regional balance and promoting national economic progress. Secondly, it aims to ensure that all citizens receive fair and decent employment, rewards, and treatment within labor relations. Additionally, adjustments are being made to various regulatory aspects to promote equity, strengthen and protect cooperatives, MSMEs, and national industries, and implement necessary reforms. Regulatory adjustments are also being made to improve the investment ecosystem, encourage and accelerate strategic national projects aligned with national interests, based on national science and technology, and guided by the ideology of Pancasila.

## **CONCLUSIONS AND RECOMMENDATIONS**

### ***Conclusions***

The Job Creation Law has ushered in profound changes to the regulation of foreign investment in Indonesia, particularly within the framework of the economic cooperation agreement with Japan through the IJEPA. This study reveals that while the law provides various incentives for foreign investors –

such as the reduction of bureaucratic hurdles and the relaxation of regulatory provisions—its implementation encounters notable challenges. Several articles governing foreign investments have been amended to enhance their appeal, offering improved licensing processes and legal safeguards for investors. However, persistent obstacles remain, notably in the realms of legal uncertainty and bureaucratic inefficiency, which often impede investment procedures and demand further refinement to cultivate a more conducive investment climate.

On balance, though the Job Creation Law lays a stronger foundation for increasing foreign investment flows, particularly from Japan, its success hinges on the Indonesian government's ability to address lingering issues of legal ambiguity and administrative complexity. Additional measures are required to bolster transparency, ensure legal security, and streamline the licensing system. To fulfill the law's overarching aim of attracting greater foreign investment, continuous improvements to regulatory frameworks and enhanced collaboration between the government and the private sector are indispensable.

### ***Recommendations***

In the realm of implementing the law on job creation to bolster foreign investment under the auspices of the IJEPA, it is vital for the Indonesian government to persist in refining its licensing systems and resolving ambiguities within its regulatory framework. Although the job creation law presents significant opportunities for foreign investment inflows, challenges remain in addressing legal uncertainties and bureaucratic hurdles. Consequently, it is imperative for the government to fortify mechanisms for oversight and law enforcement while equipping relevant officials with the necessary training to render authorization and investment processes more efficient and transparent. Furthermore, establishing forums for dialogue between the government and foreign investors is equally essential, providing a platform to address grievances and solicit input, thereby fostering a more conducive and mutually advantageous investment environment.

### **ADVANCED RESEARCH**

The validity and generalizability of this study's findings are constrained by several limitations. Chiefly, the analytical focus rests upon the influence of copyright legislation on foreign investment within the framework of the Indonesia-Japan Economic Partnership Agreement (IJEPA). Furthermore, the study broadens its scope to encompass the impact on foreign investment and Indonesia's broader economy. However, the relatively brief period of data collection may obscure long-term trends, underscoring the need to extend the study's temporal horizon to capture a more faithful representation of these dynamics.

Additionally, the narrow reference interval employed curtails the depth of the analysis, highlighting the importance of a more expansive engagement with relevant literature. Future researchers are thus urged to account for shifts or updates in foreign investment laws, alongside the evolving terms and expiration of Indonesia's bilateral agreements with other nations, as such factors may significantly shape the outcomes of subsequent inquiries.

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