Indonesia's Promotion Towards Its Outward Foreign Direct Investment from Transnational Law Perspective

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Abstract

Outward Foreign Direct Investment (OFDI) from developing economies has recently increase which have caught up to become global leaders in several industries. However, Indonesia as one of the developing economies still lacking its OFDI flow. The purpose of this research is to examine on what should the Indonesian government do to promote and coordinate its OFDI. This is done by firstly examining the success of other Asian states in promoting OFDI, and followed by comparing the role of home governments from developing countries in Asia that have better OFDI climate in coordinating their OFDI implementation from transnational law perspective that includes the role of international agreements in practice. Based on the research, it is found that to support OFDI government requires policy and regulation which is followed by coordination. This result support a conclusion that home countries should negotiate terms which protects and facilitate OFDI in investment treaties and Double Taxation Treaties. Home countries should also establish more firm coordination and collaboration internally in order to provide better assistance to their business entities that intend to conduct OFDI.

Keywords: Outward Foreign Direct Investment, Transnational Law, Indonesia, Asia

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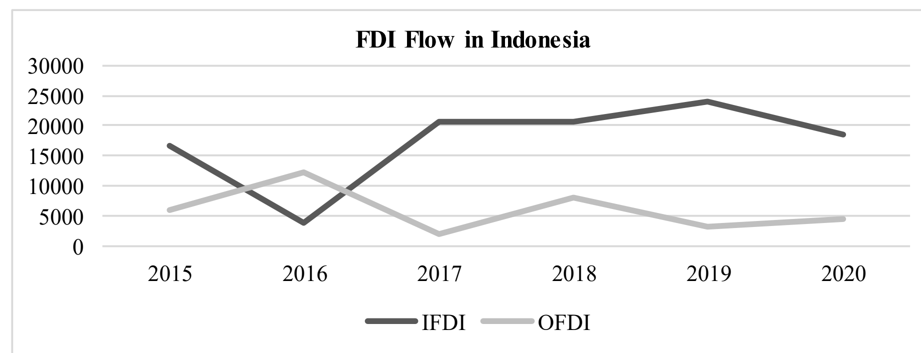
1. Introduction

In practice, there are basically two types of Foreign Direct Investment ("**FDI**"), namely Outward Foreign Direct Investment ("**OFDI**") and Inward Foreign Direct Investment ("**IFDI**"). OFDI is a business strategy in which domestic companies invest directly abroad, while IFDI is an activity of external (foreign) entities to invest



directly in the domestic economy (Ade, D. F., et al., 2020).

Figure 1. FDI Flow in Indonesia

Source: World Investment Report, UNCTAD 2021.

Based on the above Figure 1. description, it can be seen that the flow of IFDI in Indonesia has increased gradually. Although it had decreased from US$ 16,641 million in 2015 to US$ 3,921 million in 2016, the flow of IFDI in Indonesia from 2017-2019 experienced a significant development. This can be seen from the increase to US$ 20,579 million in 2017, US$ 20,563 million in 2018, and then reaching US$ 23,883 million in 2018. However, it cannot be denied that both IFDI and OFDI have experienced a decline in recent years. recently due to the COVID-19 pandemic. On the other hand, the data also shows that the movement of OFDI flows in Indonesia is indeed not as fast as compared to IFDI flows.

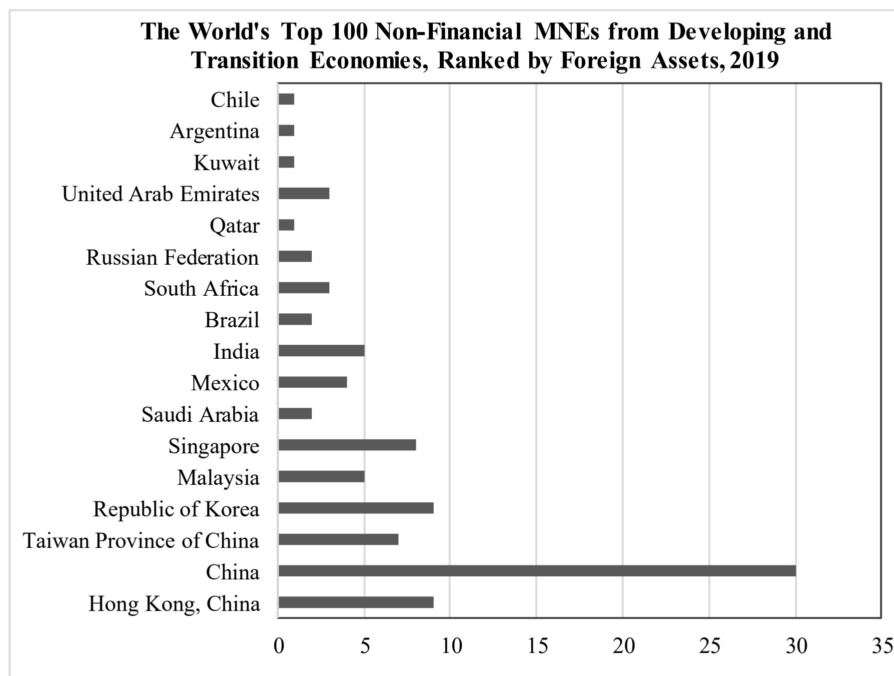


Figure 2. The World's Top 100 Non-Financial MNEs from Developing and Transition Economies, Ranked by Foreign Assets, 2019

Source: Annex table 20, World Investment Report, UNCTAD 2021

Over the last few decades, OFDI from developing countries has increased dramatically. This trend is further evidence that many transnational companies from developing countries have built sufficient capabilities in production, process, organization, and management for successful overseas ventures. However, based on the annual ranking data published by the United Nations Conference on Trade and Development ("**UNCTAD**"), it can be seen from Figure 2. that no Indonesian company is included in the list of the Top 100 Non-Financial MNEs from Developing and Transition Economies 2018. This further shows that the record of internationalization of companies from Indonesia is very less when compared to other developing countries (Sambodo, 2017). Even more so, within the ASEAN region in a smaller scope, the number of Indonesian companies that operate in the region is still far below that of the other ASEAN-5 countries. According to the ASEAN Secretariat 2014 report, the business players in the ASEAN region comprises of 35 Singaporean companies, 20 Malaysian companies, 7 Thai companies, while Indonesia's contribution to the region is only from its 6 companies.

In supporting the investment climate in Indonesia, several new policies have been issued by the Government recently. The policies made include the issuance of Law Number 11 of 2020 regarding Job Creation or also known as the Omnibus Law ("**Job Creation Law**") which simplifies various regulations to support investment activities that are packaged in one unified statutory regulation. The simplification is mainly carried out on regulations governing licensing which are considered to be able to hinder investment activities from outside into Indonesia with the hope that foreign investors who will later invest in Indonesia will not face complicated and convoluted regulations and bureaucracy to better guarantee legal certainty. The issuance of Law no. 11 of 2020 is also the basis for the establishment of an investment management institution that also functions

as an alternative to financing economic development to optimize government investment, increase FDI and encourage improvement in the investment climate, namely the Indonesia Investment Authority.

Another policy that shows the serious attention given by the Government of Indonesia regarding the investment climate can be seen from the change and elevation of the status of the institution or agency responsible for coordinating investment in Indonesia. President Joko Widodo on April 28, 2021, formed a new Ministry which was given a special mandate to manage investment activities involving Indonesia, namely the Ministry of Investment of the Republic of Indonesia led by a Minister who previously served as Head of the Investment Coordinating Board. This change was based upon Presidential Regulation No. 63 of 2021 on the Ministry of Investment. Referring to the State Speech at the The House of Representatives of the Republic of Indonesia on August 16, 2019, the President of the Republic of Indonesia, Joko Widodo, mandated that Indonesia could increase its role in the world economy by encouraging business entities to expand their business abroad, increasing exports of domestic products. to be able to enter regional and global markets and encourage national business actors and *Badan Usaha Milik Negara* (State-Owned Enterprise) to be more daring to become world-class economic players. This became known as OFDI.

Aside from the above explanations, there are still several obstacles faced by the government to support and facilitate OFDI in this case, among others: there are no rules that regulate the Indonesia procedures for investing abroad. This causes the information available to the public in the form of investment opportunities that are suitable for Indonesian entrepreneurs and other information to be limited and there is no updated data regarding companies or business lists and sectors investing abroad. In addition, the coordination carried out by stakeholders in formulating policies supporting investment abroad is also still limited. Lastly, from a transnational aspect, investment agreements concluded by Indonesia are generally made with IFDI in mind, not OFDI.

Based on the description above, this research aims to conduct an analysis in the perspective of transnational law encompassing national law, namely based on relevant regulations in Indonesia as well as international instruments, which includes an analysis of the arrangement of international agreements, such as the Bilateral Investment Treaties, Double Taxation Treaties and Free Trade Agreements. The analysis will then be continued by looking at the policies implemented by countries that have a better OFDI climate than Indonesia. This is done through comparative studies of other developing countries in Asia, namely China, Singapore, Thailand, and Malaysia.

A small amount of OFDI flow may signal a lagging in international competitiveness, and therefore creates a potential concern for policy makers. With this research, it is hoped that it can provide OFDI policy recommendations that can be used by the Government of Indonesia, especially the Ministry of Investment/ the Indonesian Investment Coordinating Board to encourage national business entities to expand abroad and further facilitate investment problems faced by Indonesian investors abroad by analysing best practices from other developing countries in Asia.

2. Research Methodology

The methods used in this research are juridical normative and comparative study method with descriptive analytical approach. The process of this research focuses on legal rules, such as principles, rules, or legal doctrines in order to answer a legal issue by examining library materials and secondary data (Soekanto, S. & Mamudji, S. 2004). Here, the juridical normative method applied in this includes research on legal principles, legal systematics, as well as vertical horizontal synchronization. Additionally, the comparative study method applied in this research was conducted by analyzing the relevant legal rules regarding the implementation of OFDI in Indonesia, which was then continued by reviewing the best practices of OFDI in Asian countries, namely China, Singapore, Thailand, and Malaysia. With the descriptive analytical approach, this research was conducted with the aim to provide an overview of the object of this research, which is the implementation of OFDI in Indonesia, through the data that are collected thoroughly and systematically (Soekanto, S., 1986).

The data used in this research were collected from secondary materials through documentary study which consists of primary, secondary and tertiary legal materials obtained from electronic sources of information. Primary legal materials are legal materials that have binding legal force (Soekanto, S. & Mamudji, S. 2006). In this research, the primary legal materials comprise of national legislations as well as international agreements instrument such as the Indonesian Job Creation Law (Law Number 11 of 2020 regarding Job Creation), Indonesian Investment Law (Law Number 25 of 2007 regarding Investment), Free Trade Agreements, and Bilateral Investment Treaties. As to the secondary legal materials, these materials are legal materials that are

closely related to primary legal materials which basically provide an explanation of primary legal materials (Mamudji, S., 2005). Such materials include books, journals, papers, and other documents obtained through electronic sources related to the subject matter of this research. Lastly, the tertiary legal materials were also used to provide explanations of the primary and secondary legal materials, such as encyclopedia, dictionaries, and other supporting documents.

In addition to the above, this research also used the data that are collected through focus group discussion. The focus group discussion was carried out by obtaining data related to this research by participating in zoom meetings and focus group discussions held by the Indonesian Investment Coordinating Board and also the Ministry of Foreign Affairs of the Republic of Indonesia as part of a collaborative research with Department of Transnational Business Law, Faculty of Law, Universitas Padjadjaran.

By implementing the above methods, this research attempts to analyze the implementation of OFDI in Indonesia and further show the urgency for Indonesia to promote such activity and at the end give some recommendations on how Indonesia should promote its OFDI. This will be done by reviewing and analyzing data from books, journals, articles, regulations, reports, doctrines, and multiple best practices of OFDI in Asian countries. Such type of research method and approach aim to provide a juridical argumentation when there is an absence of law.

3. Discussion and Analysis

1.1 The Urgency for Indonesia to Promote Its Outward Foreign Direct Investment

Indonesia's positive law that regulates investment or investment to date is Law Number 25 of 2007 regarding Investment ("**Investment Law**"). However, these laws and regulations no longer distinguish between the laws of domestic investment and foreign investment which were previously distinguished in Law Number 1 of 1967 concerning Foreign Investment and Law Number 5 of 1968 concerning Domestic Investment. In addition, in the Investment Law, there is no regulation regarding limits on investment activities. This can be seen from Article 1 point (1) which explains as follows: "Investment is any form of investing activity, either by domestic investors or foreign investors to conduct business within the territory of the Republic of Indonesia."[1]

From the above definitions, it can be clearly seen that the scope of regulation of investment activities contained in the Investment Law only covers investment activities carried out in the territory of the Republic of Indonesia. If it is related to OFDI, the provisions that may be relevant in the Investment Law are related to the duties and functions of the Investment Coordinating Board as regulated in Article 28 paragraph (1) letter (i) which explains that:

"(1) In the event of coordinating the implementation of investment policies and servicing, the Investment Coordinating Board shall have the following duties and functions:
… i. **to coordinate** domestic investors that conduct their investment **activities outside the territory of Indonesia**."[2]

This article is the only provision in the Investment Law which mentions investment activities outside the territory of the Republic of Indonesia. In addition to these provisions, until now there has not been found any implementing regulations regarding investment activities outside the territory of the Republic of Indonesia. The explanation section of the Investment Law also does not provide further explanation regarding the purpose of the task of coordinating investment activities outside the territory of the Republic of Indonesia.

This lack of clarity is unfortunate because OFDI could essentially provide positive impacts on the development of a home country. A focus on OFDI could bring benefits to the home country to supplement the trade sector. Such impacts could also be assessed on the context in which OFDI occurs and the characteristics of the investments. For example, where the home state is less developed than the economy of the host state, OFDI may bring greater gains of knowledge and productivity. Additionally, OFDI may also result in greater exports and financial returns due to the host state's more sizeable and developed market. (Anderson et al., 2015; Cozza et al., 2015; Fu, Hou, & Liu, 2018; Huang & Zhang, 2017; Li et al., 2017; Pradhan & Singh, 2008). On the other hand, OFDI in less developed economies could offer great potential for financial gains due to the lower-cost nature of production in the host state (Knoerich, 2018). The other factor is in regard to the characteristics of the investing Multinational Enterprise ("**MNE**"). For instance, there would be greater home country effects for

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[1] Article 1(1), Law Number 25 of 2007 regarding Investment ("**Investment Law**").
[2] Article 28(1)(i), Investment Law.

larger, more experienced and competitive MNEs, while small and medium-sized enterprises ("**SMEs**") often would find it more difficult to invest abroad due to their smaller size. Another characteristic which is a State-owned enterprise ("**SOE**") ability to generate disproportionally stronger home country effects than private MNEs. This is due to the fact that SOEs cluster in key industrial sectors and more often undertake strategic economic activities, and is usually larger in scale and is better endowed with financial and other resources by its home state (Chen, 2018; Li et al., 2017; You & Solomon, 2015). Other consideration to be taken into account is the OFDI'S industrial sector (Fu, Hou, & Liu, 2018; Liu & Lu, 2011). For instance, investments in a knowledge-intensive sector will have an impact on innovation and productivity, while OFDI in natural resources will affect a country's resources security and OFDI in low-cost consumer goods may yield financial returns.

The benefits of OFDI have been recognized by Indonesian MNEs which has undertaken OFDI. Taking the example of Indonesian MNEs with OFDIs in ASEAN, OFDI have brought in certain benefits such as access to foreign markets (such as Telkom Indonesia through its subsidiary 'Telin' in Singapore, Timor-Leste, and Australia), easing exports barriers (such as Perusahaan Gas Negara and its pipeline projects to Singapore), gaining storage facilities in strategic ports and gaining consumer trust in foreign markets (highlighted in PT Semen Indonesia's acquisition of the established Vietnam firm TLCC) (Sambodo, 2017). In countries with considerable Indonesian labour such as Singapore, OFDI by Indonesian banks also serves to facilitate remittances, another source of income. OFDI has also brought on a reverse transfer of technology, transfer of knowhow, and increased R&D through acquired firms (Aminullah E. et al*.,* 2013).

In practice in Indonesia itself, it can be seen in the field that there are indeed many Indonesian companies that intend to expand into the international market. In a survey conducted in 2018 by Robert Walters Indonesia, an agency company specializing in recruitment, it was noted that at least 57% of Indonesian companies are planning to expand internationally. Furthermore, several studies on the challenges of internationalization of Indonesian companies also found several internationalization challenges covering various things, but one of the most frequent is the problem of weak knowledge of the market with a frequency of 34.72%.

Based on the above explanations, the considerable desire of business entities in Indonesia to conduct OFDI. However, weak knowledge of the market serves as a hindrance for the growth of OFDI. With the discussions below, we will examine how this issue has been mitigated in countries with strong OFDI presence, and how other measures may serve to further promote OFDI.

1.2 The Recommendation on How Indonesia Should Promote Its Outward Foreign Direct Investment from Transnational Law Perspective

1.1.1 The Role of International Agreements in Promoting Outward Foreign Direct Investment

Numerous international agreements may serve to promote outflows of OFDI. Chief among them are investment treaties. Investment treaties may be bilateral (BITs) or Multilateral (MITs) in nature. Aside from dedicated treaties, FDI may also be governed by other treaties with investment provisions (TIPs). Investment treaties function by upholding host states to provide some degree of protection and treatment for foreign investors, or compensation should the need arise. While often made between unequal partners, investment protection in investment treaties applies both ways. In this, investment treaties follow the reciprocity principle in that it creates rights and obligations for all parties. As such, investor from any of parties may invoke the treaty's protection against any other parties (Monebhurrun, N., 2014). Therefore, investment treaties are essential in not only attracting foreign investment, but also facilitating and providing legal protection for OFDI (Sornarajah, M., 2010).

Other equally relevant international agreements are Double Taxation Treaties (DTTs). DTTs are agreements which governs taxation between two or more states with the purpose of avoiding taxation of one subject matter by two or more states. They are especially relevant in the realm of investments, where MNEs can operate multiple states. It is believed that by ensuring the same income is not taxed multiple times, MNEs would be more encouraged to invest abroad. Research supports the finding that DTTs have been correlated by increase flows of FDI. However, care must be given in negotiating DTTs as the ensure that the resulting loss in taxes is outweighed by the increase of FDI (Barthel, F., et al. 2010).

Lastly, Free Trade Agreements (FTA) may also indirectly stimulate OFDI. By lowering trade barriers, FTAs may facilitate movement of products between foreign affiliates and parent firms. By increasing mobility of funds and capital flows, FTAs may also allow MNEs finance to transfer more easily from parent firm to foreign affiliates (Coe et al., 2007). Therefore, FTAs serves as a potent tool in promoting FDI flows. In conclusion, the

onus falls on governments to negotiate treaties which truly promotes OFDI.

Aside from affecting a state's international obligations, these treaties also directly affect the scope of regulation a state may have with regards to the investments it hosts. While states would still have sovereignty to make regulations even when it is detrimental to foreign investors, state generally would strive to adhere to its obligations under investment agreements in order to attract foreign investors.

1.1.2 Comparative Study on Outward Foreign Direct Investment Policies from Asian Countries

Despite a 16% decline to US$61 billion on its OFDI, Southeast Asia boast an 8% share of global investment outflow, a rise from 6% in 2019. Among its biggest contributors in the region are Singapore and Thailand. Singapore alone is responsible for more than 40% of FDI in Vietnam and 25% in Indonesia. In 2020, the largest group of investors in several Asian countries will be Singaporean companies. Likewise, Thai OFDI has amounts to no less than US$17 billion. The bulk of this investment is received by ASEAN countries, primarily in financial services, construction, real estate and also power generation. It is worth examining how these ASEAN countries, as well as some Asian countries come to possess a significant chunk of the OFDI share. OFDI do not thrive by itself. By taking a closer look to the legal and institutional measures taken by these countries, we may have a better idea of what regulations and measures is needed for OFDI to thrive in Indonesia.

Of the 39 BITs concluded by Thailand, 36 are in force, along with nine FTAs which contains investment protection provisions. Thai BITs have increasingly shifted its focus beyond merely attracting IFDI and towards addressing the concerns of the growing Thai OFDI. Relevant agencies, such as the Ministry of Foreign Affairs, are now tasked with considering the protection of Thai OFDI within their BITs in light of Thailand's position as a capital exporter. Thai companies, especially those in the energy and mining sector, are generally aware of this protection. Such companies and their legal counsels (typically large firms) would inquire from the Department of International Economic Affairs of the Ministry of Foreign Affairs of the protection afforded to them under Thai BITs and rely on them should a dispute arise. Thai BITs are negotiated by The Department of International Economic Affairs, Ministry of Foreign Affair, while TIPs fall under the purview of the Ministry of Commerce. Thai OFDI is further supported by Thailand's numerous cooperation frameworks with its neighbouring countries (UNESCAP, 2020). A possible obstacle to the development of Thai OFDI is the limited number of DTTs concluded by Thailand (Penanond & Cuervo-Cazurra, 2015).

While many Thai government agencies are responsible for investments, there had been none which specifically govern OFDI, an absence that is highlighted in the Twelfth National Economic and Social Development Plan (2017-2021). The new OFDI body would be expected to provide information on trade and investment, offer support, funding, and insurance against OFDI related political risks, reduce cross-border barriers to the flow of money and help expand Thai banks abroad to support these businesses. These tasks were eventually assumed by the Thai Overseas Investment Promotion Division of the Board of Investment (BOI), a Thai government agency responsible for both OFDI and IFDI (Penanond & Cuervo-Cazurra, 2015). While the BOI has a coordinating function over OFDI, it is not the only agency which manages OFDI. The Bank of Thailand, the Department of International Trade Promotion of the Ministry of Commerce, the Ministry of Foreign Affairs and the EXIM Bank serves their own roles in managing OFDI. Further, the inter-agency Committee on the Protection of International Investment, which is chaired by the Deputy Prime Minister, ensures that domestic investment laws pertaining to OFDI and IFDI adheres to Thailand's investment treaties (UNESCAP, 2020).

Another major capital exporter, Singapore, has emphasized the state's role in promoting OFDI since 1993. In its 1993 report, the Singapore Committee to Promote Enterprise Overseas urged the state to facilitate OFDI through tax incentives and partnerships. In keeping to that advice, the Singapore government has facilitated investment through two main agencies. The Economic Development Board manages IFDI and OFDI, while the Trade Development Board focuses on trade and exports. The Trade Development Board is later restructured into International Enterprise Singapore, with a shifted focus towards internationalization of Singaporean companies (Lee & Lee, 2016). The Singaporean government has since established numerous FTAs to support is business communities. In such agreements, Rules of Origin clauses are drafted to promote high-value-added production in Singapore, and relegate less important value chain activities to neighbouring countries. Additionally, Singapore is party to multiple BITs and DTTs. These regulations and facilitations have the effect of encouraging SMEs to expand to foreign markets, and encourage MNE's to fragment their value chain activities to neighbouring Southeast Asian countries (UNCTAD, 2007).

Thailand and Singapore are not alone in having a framework of government agencies OFDI responsible

for OFDI. In Malaysia, OFDI is supported by the state-controlled Malaysia External Trade Development Corporation (MATRADE) and the Ministry of International Trade and Industry (MITI). These agencies provide information on relevant rules and regulation in foreign countries, cost of doing business, political risk, and even potential business partners. MITI and MATRADE also works to arrange meeting between Malaysian firms and high-level decisionmakers in business and government. Within these agencies, OFDI takes a secondary priority to export promotion, however MATRADE is responsive to OFDI inquiries. MATRADE also boast two programs to support its service sector. The Large Corporations and SME Programme offers incentives and grants to such partnerships, including for projects abroad. While the Services Export Fund offer soft loans and grants for companies with export-oriented activities. Malaysia is also party to 66 BITs, 25 TIPs, and multiple DTTs. Many of these treaties were negotiated with IFDI in mind, but is more than sufficient to promote Malaysian OFDI. Legal protection and strong support from government agencies has created an environment where Malaysian OFDI thrives (UNESCAP, 2020).

Beyond Southeast Asia lies another powerhouse of OFDI, China. China has partnered with 147 countries and regions in trade agreements/protocols and economic cooperation agreements, 109 countries and regions with BITs, and 81 countries and regions with DTTs (UNCTAD, 2007). China stands as an outlier for its early adoption of home country measures to support OFDI. By the 2000s many of such measures have been introduced (UNESCAP, 2020). From an institutional perspective, OFDI is governed by the State Council, the Ministry of Commerce, the People's Bank of China and the National Development and Reform Commission (NDRC). The NDRC is responsible for various overseas administrative measures. In the other hand the Ministry of Commerce is responsible for approval and supervision of OFDI projects. The Ministry of Commerce also undertakes negotiations of BITs and FTAs as well as making regular overseas trade and investment reports (Li, 2018). Additionally, numerous investment promotion agencies work to increase investment flow, though these are mostly aimed in attracting IFDI rather than OFDI. The government monitors Chinese enterprises investing abroad and would occasionally require companies to report back to them. This monitoring has a twofold benefit. First, it allows the government to push enterprises to adhere to to principles of responsible business conduct (RBC) or corporate social responsibility (CSR) on matters pertaining to labour rights, treatment of local communities and environmental concerns. In this respect, China's monitoring system have increasingly required adherence to RBC/CBR. Second, it allows the government to keep track of development outcomes of OFDIs (UNESCAP, 2020).

As a whole, countries with thriving OFDI share a lot in common. They generally ensure that protection of OFDI is adequately addressed in investment treaties they partake in, while also signing additional economic cooperation agreements and DTTs to facilitate OFDI. While it would be more beneficial for these treaties to be negotiated with OFDI in mind, the fact that investment protection applies both ways under the reciprocity principle usually serve as ample protection for both IFDI and OFDI. Specific agencies are usually appointed to coordinate and facilitate regulations of OFDI. Governments in these countries would also provide direct or indirect assistance to companies undertaking OFDI.

In Indonesia itself, there is indeed exist Indonesia Investment Promotion Centers ("**IIPC**") which is the official representative of BKPM overseas in charge of increasing investment from the state of domicile and working area to Indonesia and facilitating investment from Indonesia to the State of Domicile and Working Area. However, from the discussion with the respective IIPC's officer, they essentially admitted that the IIPC is more focused on promoting investments from overseas towards Indonesia (inward investment). Hence, it can be concluded the assistance provided by the Indonesian government in relation to the undertake of OFDI is not yet effective.

Mirroring from the practices from above countries, Indonesia should undertake investment treaties with states of interest to Indonesian investors, be it through BITs, MITs or FTAs. Given that Indonesia has not renewed its past BITs with many countries, this presents Indonesia the opportunity to reconsider the sort of protection it would like to have with regards to its OFDI. However, it must be noted that investment treaties by virtue of their reciprocal application would generally already provide ample protection to both OFDI and IFDI.

Further, there should exist more comprehensive cooperation from Indonesian government bodies in strengthening the undertake of OFDI. As in terms of ensuring compliance towards BITs, Indonesian business entities through their legal counsels could cooperate with the Ministry of Foreign affairs to inquire information in regard to BITs' implementation. Moreover, Indonesia even has took another by having its own Ministry of Investment to assist on matters related on investment activities. As such, more extensive is needed, this could be done for example by on relevant rules and regulation in foreign countries, cost of doing business, political risk, and even potential business partners.

In summary, recommended measures for Indonesia to stimulate OFDI growth are as follows:

Issues	Recommended Measures
Regulations	• Ensuring sufficient protection of OFDI by investment treaties • Ensuring tax codes avoid double taxation by DTTs, provide ample fiscal incentive, while still outweighing loss of tax revenue • Enacting a monitoring and support system for enterprises undertaking OFDI (similar to China's NDRC)
Institutions	• Creation of a unified or coordinating government body on OFDI (similar to Singapore's Economic Development Board and China's NDRC)
Services	• Information support on host countries with regards to OFDI (similar to Malaysia's MATRADE & MITI and Thailand's BOI). • Connection support with overseas governments and businesses
Financial Support	• Provide funding, loans or other grants (Similar to Malaysia's MATRADE)

4. Conclusion

OFDI represents a new source of investment income for newly developed and developing countries. Yet many of such countries which stands to benefit from OFDI lack the necessary legal and institutional infrastructure to capitalize on this new revenue stream. Indonesia, while possessing a Ministry of Investment, still currently lack regulatory framework which serves to promote and coordinate OFDI. Reflecting from the experiences by countries such as China, Singapore, Thailand and Malaysia, Indonesia needs to take measures that may support effort to promote OFDI. From a legal perspective, Indonesia could take steps to ensure that the interests of enterprises undertaking OFDI. These range from ensuring that investment treaties to potential host states are negotiated with IFDI and OFDI in mind, to ensuring that DTTs minimize barriers to investments. Additionally, Indonesia needs to allocate specific agency/agencies to effectively govern and coordinate OFDI regulations. Lastly, Indonesia needs to offer government support ranging from information to subsidies. By emphasizing a legal framework that facilitate and protect OFDI, dedicating specific agencies to coordinate OFDI, and providing the necessary support for MNEs and SMEs, Indonesia could catch up with its neighbors in OFDI promotion and become a major player in OFDI.

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