

CHAPTER IV

FINDING AND ANALYSIS

A. Legal Analysis of Regulation of Granting of the Land Title in Investment for Foreign Investors

Basically, the regulation of the granting of the land title in Indonesia has been regulated in Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles. However, relation with the granting to the land title in the investment matter is also regulated in Law Number 25 Year 2007 about Investment.

In accordance with the provisions of the nationality principle contained in the general explanation of Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles, it has been explained that the principle of nationality provides the limitation on the traffic of the land resulting in different treatment for land objects and non-land objects.⁵³

Therefore, this principles only gives the rights to the Indonesian citizen the ownership of the land title and Foreigner or Legal Entity is granted the Right of Exploitation, Right of Use and Right of Building.

Article 16 paragraph (1) of Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles has mentioned that there are several land

⁵³Puji Astuti Wulandari, 2016, "Pemberian Hak atas Tanah bagi Investor dalam rangka Penanaman Modal untuk mewujudkan Kepastian Hukum" (Tesis Pascasarjana, Fakultas Magister Hukum, Universitas Pasundan Bandung), p. 6.

titles in Indonesia. Granting the land title consists of the right of ownership, the right of exploitation, the right of building, the right of use and the right of management.⁵⁴ It could be concluded that related to the Law Number 5 Year 1960 about Basic Regulation on Agrarian Principles and Law Number 25 Year 2007 about Investment, the business entities that are established under the Indonesian regulation and reside in Indonesia may be granted the right of exploitation.

Article 28 of Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles stated that:

- (1) The right of exploitation is the right to cultivate the land which is directly controlled by the State for a period of time as stipulated in Article 29 for enterprises in the field of agriculture, fishery or cattle breeding.
- (2) The right of exploitation is granted on land which size at least 5 hectares with the provision that, if its size is 25 hectares or more, a reasonable investment of capital shall have to be used coupled with a good management technique in line with the development of time.
- (3) The right of exploitation may go over and be transferred to another party.

In this matter, the foreign investors are entitled to use the land in the field of agriculture, fishery and cattle breeding, where the land owned by state. The foreign investors have no right to own the land.

Law Number 5 Year 1960 about Basic Regulation on Agrarian Principles determined that the right of exploitation can be granted for 85 years only. This is not in line with Law Number 25 Year 2007 about Investment, in

⁵⁴Article 2 of Minister Regulation of State/Head of National Land Agency Number 9 Year 1999 about the Procedures and Cancellation for the Granting of the Land Title and the Right of Management.

which this Law mentioned that the foreign investors obtain the right of exploitation for 95 years. Based on Article 22 point (1) of Law Number 25 Year 2007 about Investment, the right of exploitation may be granted for a period of 95 years by being granted and extended all at once in advance for period of years, and renewable for a period of 35 years.

From the explanation, for the provision regarding the limitation of time to invest in Indonesia for foreign investor, Law Number 25 Year 2007 about Investment is used. This is because foreign investors who want to open a business or invest in Indonesia need a legal certainty. The existence of clear rules regarding to the limit of time given to foreign investors, can be used as a basis or reference for foreign investor who want to invest in Indonesia. In addition, it indicates that Indonesia can provide a legal certainty and protect the rights owned by foreign investors.

According to Felic Untung Soebagjo, Law Number 25 Year 2007 about Investment deserves a reference, to be a guide, and as a tool that the legal certainty exist in Indonesia.⁵⁵

This provision applies based on the principle and objective of investment in Indonesia. Investment is organized based on the basis of legal certainty. The principle of legal certainty is a principle within a country of

⁵⁵See Article Jurnal Suparji, "Pengaturan Tanah untuk Kegiatan Investasi" available on <http://portal.kopertis3.or.id/bitstream/123456789/1053/1/ARTIKEL%20JURNAL%20PENGATURAN%20TANAH%20UTK%20INVESTASI.pdf> accessed on Wednesday, August 2nd, 2017, 2.34 pm.

law that places the law and legislation as the basis for any policies and actions in the field of investment.⁵⁶

Legal certainty is one of the essential principles in the rule of law. The function of legal certainty, among others, is to provide a benchmark for the behavior of an orderly, peaceful, and just behaviour.⁵⁷ The consistency in the execution of law is referred to as a reference or guideline for human behavior in daily situations dealing with other human beings.

For foreign investors, legal certainty and law become one of the benchmarks to determine whether the climate of investment in a country is conducive or not. A legal certainty for them provides security, certainty, and predictability of their investment. Foreign investor think that if a country has a good legal conditions and law protecting their investment, so investment in the country will become more conducive.⁵⁸ So, there is no doubt and fear to invest in the country.

In addition, it refers to the application of the principles on which the legislation becomes effective:⁵⁹

1. *Lex Superior Derogate Legi Inferiori*

⁵⁶The explanation of Article 3 paragraph (1) letter a of Law Number 25 Year 2007 about Investment, "Principle of legal certainty is the principle that the rule of law state lays down law and provisions of laws and regulations as the of any investment policy and measure".

⁵⁷Salim HS dan Budi Sutrisno, *Hukum Investasi di Indonesia*, Raja Grafindo Persada, Jakarta, 2007, p. 15-16.

⁵⁸Juwana Hikmahanto tt, *Makalah Arah Kebijakan Pembangunan Hukum di Bidang Perekonomian dan Investasi*, Badan Pembinaan Hukum Nasional, Jakarta, p.10-11.

⁵⁹Ari Purwadi, "Harmonisasi Pengaturan Perencanaan Pembangunan antara Pusat dan Daerah Era Otonomi Daerah", *Perspektifi*, Volume XVIII No. 2 (Mei, 2013), p. 87.

This principle means that according to the latest regulation pertaining to the hierarchy of the Indonesian legislations, the upper level legislation defeats the lower level one.

2. *Lex Specialis Derogate Legi Generali*

This principle means that the more specific rule defeats the more general one. There are several principles that must be considered in the principle of *Lex Specialis Derogate Legi Generali*:

- a. The provisions found in general rules of law shall still apply specifically provided in the specific law.
- b. The provisions of *lex specialis* must be equal to the provisions of *lex generalis* (law by law).
- c. The provisions of *lex specialis* must be in the same legal area as the *lex generalis*.

3. *Lex Posterior Derogate Legi Priori*

This principle means that the more current legislation defeats the older one. In other words, *Lex Posterior Derogate Legi Priori* means that the new legislations defeat the old legislation, if the new legislations and the old legislations regulate the same object. The principle of *lex posterior derogate legi priori* requires to use the new one. This principle also contains the principles, including:

- a. The new rule of law must be equal or higher than the old rule of law.

- b. The new and old rule of law regulate the same aspect/substance. This principles aims to prevent the dualism of prevailing regulations that may create legal uncertainty.

In relation to the three principles explained above, Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles is an old law. Meanwhile, Law Number 25 Year 2007 about Investment is a new law. If it refers to the application of the *Lex Posterior Derogate Legi Priori*, of course for the regulation about the limitation of time granted to foreign investor in the context of investment, Law Number 25 Year 2007 about Investment is used. In other words, Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles can not be applied to grant a limitation of time to the right of exploitation for foreign investors in Indonesia.

In addition, in a direct interviews with Mrs. Inga, the Head of Marketing Division of Investment Coordinating Board of Yogyakarta, she stated “for the limitation of time for granting the right of exploitation, especially for foreign investors are regulated in Law Number 25 Year 2007 about Investment. Because considering the principle of *Lex Posterior Derogate Legi Priori*”.⁶⁰

From the explanations above, for the limitation of time for granting of the land title for foreign investor in Indonesia, Law Number 25 Year 2007

⁶⁰Direct Interview with Mrs. Inga as the Head of Marketing Division of Investment Coordinating Board, held in the Office of Investment Coordinating Board of Yogyakarta. Held on Friday, April 7th, 2017, 10 am.

about Investment is applied. Because the law clearly regulated the limitation of time for foreign investors in land use. Therefore, it does not harm both parties, either foreign investors as people who invest their capital, or Indonesia as a party and a place to invest. Rather, both parties, Indonesia and foreign investors can mutually benefit one another.

However, for the regulations applied for the implementation and technical of the granting of land title in investment for foreign investor in Indonesia, Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles is used. In addition, Law Number 25 Year 2007 about Investment is also used for investment matter. Besides that, there are also several laws and government regulations related to the granting of the land title, especially in the matter of procedures of granting the right of exploitation. The laws related to the granting of the right of exploitation, namely:

1. Law Number 26 Year 2007 about Spatial Management
2. Law Number 40 Year 2007 about Limited Liability Companies
3. Law Number 28 Year 2009 about Local Taxes and Charges

The government regulations related to the granting of the right of exploitation, consist of:

1. Government Regulation Number 40 Year 1996 about the Right of Exploitation, the Right of Building and the Right of Use
2. Government Regulation Number 24 Year 1997 about Land Registry

3. Government Regulation Number 11 Year 2010 about Control and Utilization of Abandoned Land.
4. Government Regulation Number 13 Year 2010 about Types and Tariffs of Non-Tax State to the National Land.
5. Governmnet Regulation Number 15 Year 2010 about Implementation of Spatial Planning
6. Minister Regulation of State/Head of National Land Agency Number 3 Year 1997 about Implementation of Government Regulation Number 24 Year 1997 about Land Registration
7. Minister Regulation of State/Head of National Land Agency Number 2 Year 1999 about Location Permission
8. Minister Regulation of State/Head of National Land Agency Number 9 Year 1999 about Procedures for the Granting and Cancellation of Land Title and Right of Managemment.
9. Regulation of Head of National Land Agency Number 4 Year 2006 about Organization and Administration of Regional Offices of the National Land Agency and the National Land Office
10. Regulation of Head of National Land Agency Number 7 Year 2007 about Land Inspection
11. Regulation of Head of National Land Agency Number 2 Year 2013 about Delegation of Authority to Grant the Land Title and Land Registration Activity

12. Regulation of Head of National Land Agency Number 1 Year 2014 about Organization and Administration of National Land Agency
13. Minister Regulation of Agrarian Spatial/National Land Agency Number 15 Year 2014 about Technical Guidelines for the Implementation of One Stop Integrated Service of Agrarian Spatial Sector and Land in Investment Activities.⁶¹

For the implementation of investment acceleration, it is necessary to provide the legal certainty and also legal protection to the parties. This legal certainty will be a guide in accelerating the realization of investment in the Special Region of Yogyakarta, so it can accelerate the development and growth of regional economies as well as create jobs and increase the local revenue.

In order to attract the investors to invest more and sustainably needed attractive incentives and the provision of ease in investment are needed. The Governor of Special Region of Yogyakarta has issued the Regional Regulation of Special Region of Yogyakarta Number 4 Year 2013 about Providing of Incentive and Ease of Investment. Providing of Incentives referred to in Article 1 point (1) is the support of local government to investment in order to encourage the enhancement of investment in the region. Based on Article 1 point (2) the definition of providing of ease is local government action of providing facilities for investors to facilitate any

⁶¹The Attachment II of the Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity.

investment activities in order to encourage the enhancement of investment in the region.

In the Regional Regulation of Special Region of Yogyakarta Number 4 Year 2013 about Providing of Incentive and Ease of Investment, several objectives of providing of incentive and ease of investment in Yogyakarta have been described. Clearly explained in Article 3 of the Regional Regulation of Special Region of Yogyakarta Number 4 Year 2013 about Providing of Incentive and Ease of Investment, stated that the objectives includes:

1. To improve the regional economic growth;
2. To create the employment;
3. To improve the community welfare;
4. To encourage the enhancement of investment;
5. To attract the investors to invest in Special Region of Yogyakarta;
6. To encourage and develop the Industrial Estate;
7. To improve the competitiveness of the business world; and
8. To assist the existing the investment in order to keep investment in Special Region of Yogyakarta.

B. The Procedure of Granting of the Land Title for Foreign Investor in Yogyakarta

In accordance with the applicable provisions for foreign investors who want to invest in Indonesia, they get the right of exploitation. This is stated in Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles.

As we know that the Special Region of Yogyakarta is led by Sultan. Based on the result of research that has been implemented in the Investment Coordinating Board of Yogyakarta and also in the National Land Agency of Yogyakarta, there is a special regulations for investment activities in Yogyakarta. For investment matter, the Special Region of Yogyakarta is treated equally as other provinces in Indonesia. Therefore, Law Number 25 Year 2007 about Investment and other regulations related to Investment are also used in Yogyakarta. Beside that, for the regulations of the right of exploitation for foreign investors also used Law Number 25 Year 2007 about Investment and Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles.

According to the results of direct interviews with the Investment Coordinating Board, represented by Mrs. Inga, the Head of Marketing Division of Investment Coordinating Board of Yogyakarta “all investment activities in Yogyakarta must be based on Law Number 25 Year 2007 about

Investment”.⁶² In addition, Ms. Inga also stated that “the agency that has right or the agency that has authority to granting the land title in Yogyakarta is the National Land Agency”.⁶³ It is also affirmed by Mr. Edi from National Land Agency.

Location permit which also functions as land acquisition license, is determined based on the Presidential Decree Number 97 Year 1999 about the Procedures of Investment and held by the Agrarian Office of District/City. The purpose is to allow location permits to be carried out at a low cost, and fast process by utilizing facilities and data in the Land Office, and referring to the general of Regional Spatial Office. Furthermore, the procedure for granting location permits shall be further stipulated based on Minister Regulation of the State/National Land Agency Number 2 Year 1993 about Procedures to obtain location permit and land rights for companies in the framework of investment.⁶⁴ So, the permission of granting of the land title is granted by Local Government under Presidential Decree Number 97 Year 1999 about the Procedures of Investment.

However, for the granting of permits in investment of land, Investment Coordinating Board and National Land Agency are interconnected with each other. According to Mr. Edi, “in the working relationship there are several kinds of working relationship, such as

⁶²Direct Interview with Mrs. Inga as the Head of Marketing Division of Investment Coordinating Board, held in the Office of Investment Coordinating Board of Yogyakarta. Held on Friday, April 7th, 2017, 10 am.

⁶³*Ibid.*

⁶⁴Asmadi Weri, “Kebijakan Pemerintah dalam Pemberian Hak atas Tanah Untuk Kepentingan Penanaman Modal di Indonesia”, *Jurnal KIAT Universitas Alkhairat*, VIII, (Juni, 2016), p. 35.

consultative, collegial, structural, functional and coordinative. The relationship between the Investment Coordinating Board and the National Land Agency has a collegial relationship”.⁶⁵

The intent and purpose of collegial relations according to Article 5 paragraph (1) of Minister Regulation of Home Affairs Number 33 Year 2008 about Guidelines for Employment of the Regional Organization the Regional Government is to develop a sense of togetherness and partnership in carrying out workload and responsibility for increasing productivity and performance; and to develop the spirit of togetherness and control of structural authoritarianism that generally develops in a tendentially structural relationship. In addition, based on Article 5 paragraph (2) collegial working relation can be done by prioritizing deliberation and shared responsibility.

As for some requirements and some steps that must be fulfilled by foreign investors in order that they obtain the rights of exploitation, include:

1. The requirements

For foreign investor who want to obtain the right of exploitation in Indonesia, especially in Yogyakarta, firstly some requirement must be met. According to Article 30 point (1) letter b of Law Number 5 Year 1960 about Basic Regulations on Agrarian Principles, the first requirement includes “Business entity which has been establish according to the Indonesian law and have their seat in Indonesia.”

⁶⁵Direct Interview with Mr. Edi as the Head of Public Division of National Land Agency, held in the Office of National Land Agency of Yogyakarta. Held on Monday, April 21th, 2017 1 pm.

Residing in Indonesia means that foreigners or business entity must be in Indonesia when they want to invest. The foreigners can not be represented by Indonesian citizens.

The more important one, that must be fulfilled by the foreigner, if they want to obtain the right of exploitation is that they foreigner must provide benefits for national development, as stated in Article 33 of the Constitution.⁶⁶ The purpose is to improve the prosperity of the people of Indonesia.

2. The mechanism of granting of the land title for foreign investors

In general, the mechanism of granting the land title for foreign investors in Yogyakarta is similar with the granting of the land title in other regions in Indonesia. It is covered in the Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity. Article 1 stated that the Standard of Agrarian Service and Arrangement, Spatial, and Land in investment activity is carried out by the Ministry of Agrarian Affairs and Spatial/National Land Agency, Regional Offices, and District/City Offices.

⁶⁶Article 33 of the 1945 Constitution, "Investment should be a part of the implementation of national economy, to increase the national economy growth, to create the jobs, to promote the sustainable economic development, to enhance the capacity and national technology, to encourage the development of economy community, as well as to create the public welfare in the economic system, especially for competitiveness".

As in Presidential Decree Number 97 Year 2014 about the Implementation of One Stop Integrated Services, the implementation of investment activities in Indonesia is known as One Stop Integrated Service, or abbreviated as PTSP, is an integrated service in a unified process starting from the application step until the completion step through one door. The pursuant of One Stop Integrated Services based on the Article 1 paragraph (2) of Presidential Decree Number 97 Year 2014 about the Implementation of One Stop Integrated Services are Government, Regional Government, Free Trade Zone and Free Port Authority, and Administrator of Special Economic Zone. The implementation of One Stop Integrated Services by government in the field of investment becomes the authority of the government.⁶⁷

The mechanism of granting the land title for foreign investors in Yogyakarta, consist of several steps. However, before going through those steps, foreigners or foreign investors have to fulfill the required documents mentioned in Attachment I of Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity. The required documents consist of:

- a. Application
- b. Identity of the applicant and the power of attorney

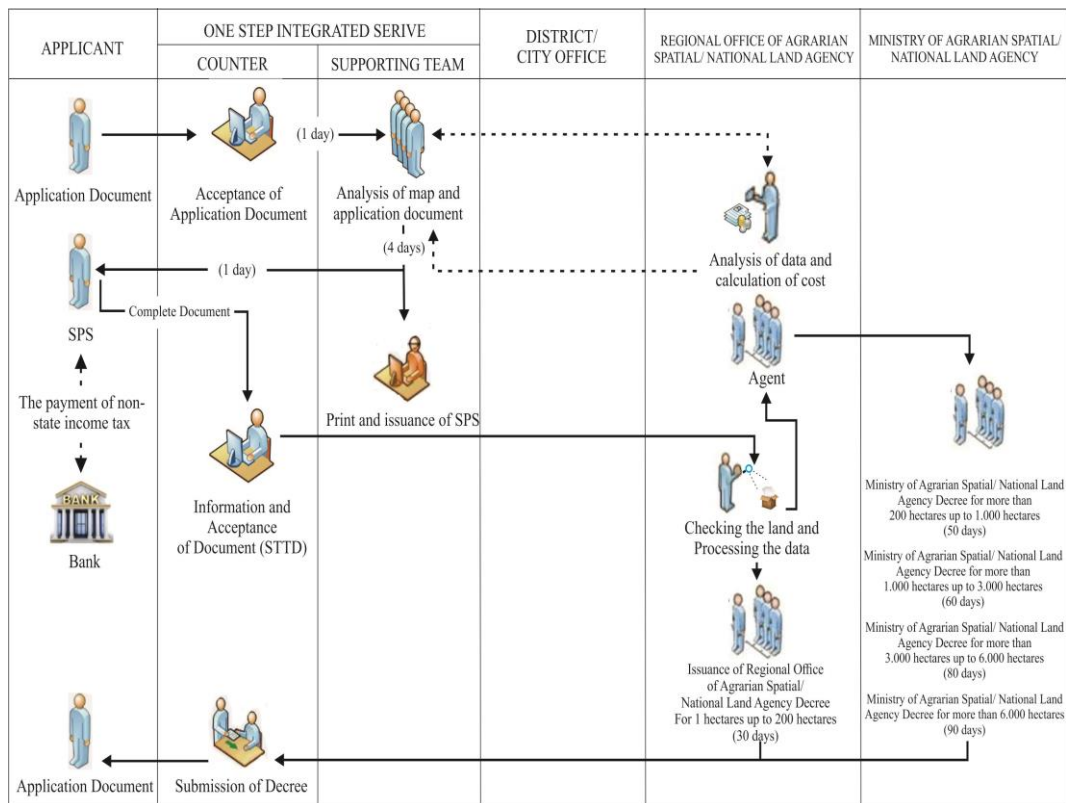
⁶⁷Article 1 paragraph (2) of Presidential Decree Number 97 Year 2014 about the Implementation of One Stop Integrated Services.

- c. The power of attorney
- d. Deed of Incorporation
- e. Certificate of Company Registration
- f. Certificate of Tenure
- g. Land Registration Certificate
- h. Description of business appraisal results from relevant agencies
- i. SPPT (Income Tax Return Form) PBB (Property Taxes) of the current year
- j. Map of Land re-measurement results
- k. Approval of investment for companies using investment facilities from technical institutions.
- l. A written agreement between the company and the surrounding community regarding with the form of corporate social responsibility that can improve the welfare of society in a sustainable manner.
- m. Approval of the holder of the mortgage, if the certificate of tenure is to be extended in the burden of the mortgage.
- n. Documents subject to photocopying requirements should be legalized by authorized officers.

Based on the Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity, the procedures for granting of the land title for foreign investors consist of

several steps. The following is a flow chart on the granting of the right of exploitation, which is Attachment II of the Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity.

Figure 4.1
The Procedures of Granting of the Right of Exploitation



Source: The Attachment II of the Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity.

In accordance with the chart above there are some parties involved in granting the right of exploitation for foreign investors who

are referred to as the applicants. The parties, consist of One Step Integrated Service, District/City Office, Regional Office of Agrarian Spatial/National Land Agency, and Ministry of Agrarian Spatial/National Land Agency.

First Step:

After fulfilling several requirement of the application documents, applicant shall submit firstly the application document to the counter of One Step Integrated Service.

Second Step:

Then, the application document is given to the Supporting Team for map analysis and checking of the application documents. The meaning of the Supporting Team is a professional person and master of land service in accordance with field and type of service. The Supporting Team of One Stop Integrated Service consists of technical services assistant, treasurer, and product delivery assistant.

The process of checking the application documents, also required confirmation of approval from Regional Office of Agrarian Spatial/National Land Agency. In addition to being involved in the document checking process, Regional Office of Agrarian Spatial/National Land Agency must also be account able for the costs required by the applicant in the process of issuing the SPS (Setor Order Letter).

SPS is a letter given by the officer of One Stop Integrated Service to the applicants in connection with the application document for land service and the fee to be paid by the applicant.⁶⁸

Then, after the SPS issuance approval issued by Regional Office of Agrarian Spatial/National Land Agency, the Supporting Team considers the result of the approval from Regional Office of Agrarian Spatial/National Land Agency. After four days, the Supporting Team considers the decisions of Regional Office of Agrarian Spatial/National Land Agency, then the Supporting Team issues the SPS.

Third Step:

After the applicant obtains the SPS, the applicant does the payment of non state income tax to appointed banks.

Fourth Step:

After the applicant does the payment and completes the required documents, the applicant returns to the counter of One Stop Integrated Service to re-submit the complete document or it is called as STTD (Document Receipt Letter). Document Receipt Letter is a letter given by the officer of One Stop Integrated Service to the applicants in connection with the file/document of applicant of the land service received by the counter officer.

⁶⁸National Land Agency, 2015, “Standar Prosedur Operasi Pengaturan dan Pelayanan (SPOPP)”, taken from <https://www.ndaru.net/wp-content/uploads-2010-08/SPOPP-5.00-SISMAN-P3M-RW.pdf> accessed on Friday, June 23rd, 2017, 9 pm.

Fifth Step:

The Document Receipt Letter is submitted directly to the Regional Office of Agrarian Spatial/National Land Agency for the examination of land and checking the document. This checking takes 30 days. Thereafter, if the Document Receipt Letter have been meet the determined requirements, the Regional Office of Agrarian Spatial/National Land Agency issues the Regional Office of Agrarian Spatial/National Land Agency Decree on the basis of the land size for 200 hectares.

However, if the land size is more than 2 hectares up to 1.000 hectares, then the authority to conduct the examination for Document Receipt Letter is on the Ministry of Agrarian Spatial/National Land Agency this can be done by obtaining a letter of introduction from Regional Office of Agrarian Spatial/National Land Agency. After the Ministry of Agrarian Spatial/National Land Agency conducted an examination, then the Ministry of Agrarian Spatial/National Land Agency issues the Ministry of Agrarian Spatial/National Land Agency Decree. This process takes 50 days. Then, if the size of the land is more than 1.000 hectares up to 3.000 hectares, it takes 60 days and if the size of the land more than 6.000 hectares, it takes 90 days.

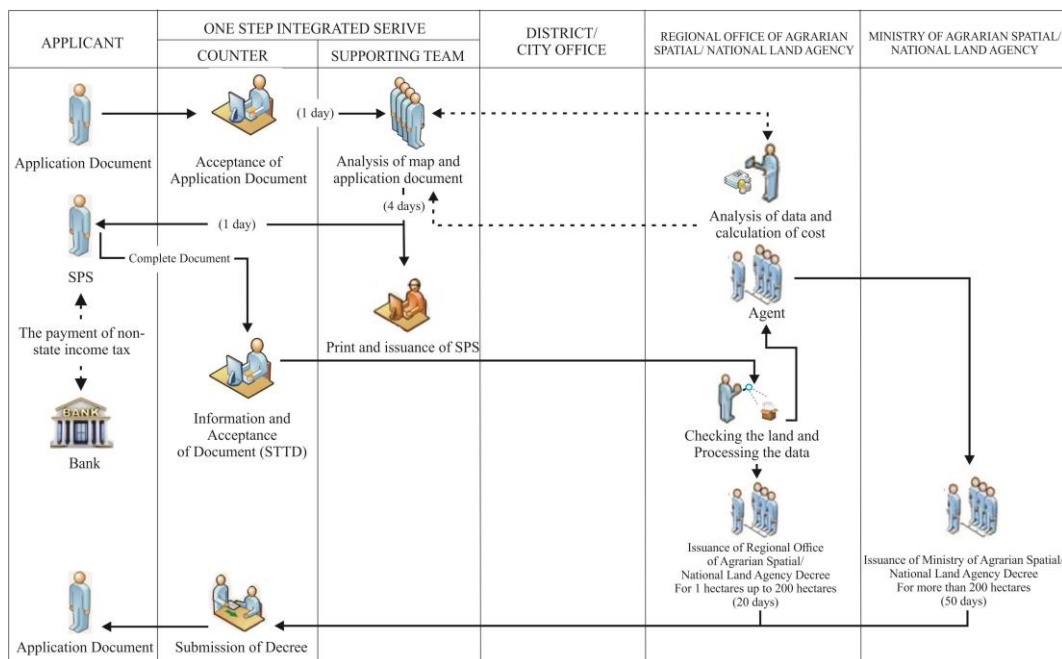
Sixth Step:

The final step is the submission of a decree granted to the applicant from the One Stop Integrated Service.

In addition, the mechanism or procedures for granting the right of exploitation also regulated the extension/renewal of the rights of exploitation. The following is the flow chart of extension/renewal of the right of exploitation which is mentioned in the Attachment II of the Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity.

Figure 4.2

The Procedures of Extention or Renewal of the Right of Exploitation



Source: The Attachment II of the Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity.

From chart above, it is clear that the process of extension/renewal of the right of exploitation is the same as the process of granting of the right of exploitation under the Minister Regulation of State/Head of National Land Agency Number 2 Year 2015 about Standard of Service and Arrangement of Agrarian, Spatial and Land in Investment Activity. However, the extension or renewal of the right of exploitation can only be applied for the maximum of 200 hectares. The extension or renewal of the right of exploitation can take 50 days to process.

In investment activity, the possibility of a dispute between an investor and another investor, as well as between an investor and the government is also anticipated in Law Number 25 Year 2007 about Investment, which contains about dispute settlement. Article 32 of Law Number 25 Year 2007 about Investment has regulated the procedures on how to settle the dispute between government and foreign investors. If the dispute happened between the government and investors, firstly the parties must resolve the dispute through deliberation. However, if no consensus is reached, then the dispute settlement may be resolved through an arbitration or alternative dispute settlement or by a court in accordance with the provisions of the law. As for the meaning of Alternative Dispute Settlement in Article 1 point 10 of Law Number 30 Year 1999 about Arbitration and Alternative Dispute Resolution.⁶⁹

⁶⁹Article 1 point 10 of Law Number 30 Year 1999 about Arbitration and Alternative Dispute Resolution, Alternative Dispute Settlement shall be an institution for the settlement of disputes or

In dispute settlement, if the dispute is between the government and domestic investors, the parties may resolve the dispute through arbitration based on the agreement of the parties, and if the dispute settlement is through arbitration, it will be conducted in a court. Additionally, if the dispute is between the government and foreign investors, the parties will settle the dispute through international arbitration to be agreed upon by the parties.

divergent views through the procedure agreed upon by parties, namely the settlement out of the court by means of consultation, negotiation, mediation, conciliation or evaluation of expert.

