



The Urgency of Establishing the National Defense Industry Supervisory Agency as the Grand Controller After Job Creation Act Number 11 of 2020 for the Production and Sale of Defense Equipment to Support the State Defense Strategy

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Abstract

The expanding role of the private sector in Indonesia in producing main weapon systems, in order to accelerate the mastery of technology and independence of the national defense industry (NDI) in the Job Creation Act. hasn't been accompanied by a mechanism for monitoring the production and sales of defense equipment, though this is something crucial related to the national defense-strategy. Although licensing for the production of defense equipment is held by the Ministry of Defense, there are no regulations or institutions/agencies that oversee this in an integrated manner. Thus, this study aims to determine the urgency of establishing the NDI-Supervisory Agency which can be a grand controller as well as an Integrated-Supervisory for the production and sales of the NDI. This study uses a qualitative method by collecting data through documentation studies which were analyzed descriptively. The result of this research is that there is no integrated regulation or institution that regulates the mechanism for controlling the production and marketing of weapon products independently, supervision is only on by the DPR-RI for the implementation of policies. Thus, there are two recommendations from this research, firstly expanding the role of the Defense Industry Policy Committee to oversee the production and sales flow of defense equipment in Indonesia, or secondly establishing an independent supervisory agency/body with an integrated supervisory base on the production and sales of the defense industry that has been granted a permit by the Ministry of Defense to support the independence of the NDI in accordance with the National defense strategy.

Keywords: *Supervisory; Defense Industry; Defense Strategy*

1. Introduction

The defense industry is an important pillar in supporting the development of the national defense force. National defense in general implies all efforts to build, use, and foster state power in

overcoming threats from within and outside the country in order to maintain state sovereignty and the safety of the nation. Because the defense capability of a country is very important, the revitalization of the national defense industry is closely related to the construction of the national defense strategy. A reliable defense industry will affect two things, namely the impact on development of defense capabilities, and increase national economic and technological development. In the field of development defense capabilities, a strong defense industry guarantees the supply of defense equipment needs and means of defense in a sustainable, resilient and productive manner. Availability of main tool supply weapons system (defense equipment) in a sustainable manner is an absolute prerequisite for the flexibility and certainty to formulate a capacity building plan defense in the long term, without worrying about factors politics and economics, such as embargoes or restrictions (Susdarwono, 2020). The development of the defense industry, which is fundamentally multi-linear in nature, can encourage the growth of national industry to an international scale, thus having an effect on national economic growth. The more advanced and healthy the defense industry, employment and technology transfer will automatically open new jobs and encourage the growth of other industries because it has many multiple linkages from upstream to downstream.

The development of the strength of the national defense industry through the fulfillment of defense equipment is a vital instrument in the strength and strategy of national defense. Law Number 16 of 2012 concerning Industry Defense has provided guidelines in developing the defense industry. Base The law requires the use of defense industry products, so the industry defense gets certainty in compiling production plan and development plan technology. The legal basis also mandated capacity building and mastery of defense industry technology done through research and engineering through the national system. In Article 28 paragraph (1) Law Number 16 of 2012 which confirms that mastery of technology is indeed one of the important key in the defense industry and problems of national defense in general. The regulation also regulates the position of State-owned Company and Privately-owned Company as actors in the production of the defense industry to fulfill strategic interests in the defense and security sector in Indonesia, where State-owned Company is appointed as the lead integrator in the production of defense equipment, while Privately-Owned Company only plays a role in supporting the fulfillment of supporting components for the production of defense equipment.

Then in 2020, Job Creation Act Number 11 of 2020 was ratified which also regulates the defense and security industry sector, one of which regulates the expansion of the role of Privately-Owned Company which is currently not only able to produce main/supporting components, but has the same role. With State-Owned Company to be able to produce defense equipment or integrate all components and raw materials into the main tool. This step was taken by the Government as one of the efforts to increase independence to complement the needs of defense equipment.

However, the expansion of the role of Privately-Owned Company is not or has not been accompanied by an expansion of the supervisory function of state apparatus, especially those related to defense institutions. Until now, Indonesia does not yet have a special institution or agency that acts as an integrated supervisory body related to the production and sales flow of defense equipment. This needs to be done because everything about the final results of the production and sale of defense equipment cannot be separated from the national defense strategy which is crucial, vital and is a critical point. Thus, the supervision of the flow of production and sales of defense equipment by Privately-Owned Company needs to be regulated in such a way, so that although on the other hand it can support creativity, technological innovation and the fulfillment of the production of national defense equipment.

2. Research Method

This research method uses qualitative research with an analytical descriptive approach. Data collected through relevant research documents as well as relevant information. This method explains and analyzes systematically, constructively and comprehensively related to phenomena and information related to the institutions of the National defense industry.

3. Results and Discussion

1) Defense Industry in Law Number 16 of 2012 and Job Creation Act Number 11 of 2020

The regulation regarding the defense industry in Law Number 16 of 2012 has become a guideline for building the independence and strength of the national defense industry. However, the law is still considered necessary for renewal in order to accelerate and maximize in achieving the goal of defense industry independence, one of which is regulated in Job Creation Act Number 11 of 2020 which also regulates the defense industry sector. As regulated in Law Number 16 of 2012 regarding the grouping of defense industry production which is explained as follows:

Table 1: Classification of the defense industry in Law Number 16 of 2012

Defense Equipment Industry	It is a state-owned enterprise that has been designated by the government as a lead integrator that produces and integrates all main components, components and raw materials into the main tool.
Main and/or Supporting Component Industry	Is a State-Owned Company and/or Privately-Owned Company that produces main components and or integrates components/spare parts & raw materials into main components.
Component and/or Support Industry	Is a State-Owned Company and/or Privately-Owned Company that produces spare parts for defense equipment, spare parts for main components, and or produces supporting products.
Raw Material Industry	Is a State-Owned Company and/or Privately-Owned Company that produces raw materials that will be used for the main equipment industry, main or supporting component industry & component and/or supporting industry.

State-Owned Company and Privately-Owned Company have identical fundamental characteristics and go hand in hand, based on Law Number 19 of 2003 concerning State-Owned Enterprises, State-Owned Company is simplified into a public company and a company. In contrast to Privately-Owned Company which are fully managed by the private sector and aim to maximize profits for their owners. In some countries, the defense equipment supply sector is dominated by State-Owned Company, including in Indonesia, but several countries, especially countries in Europe and the US, are more dominated by the role of Privately-Owned Company in their defense parts.

Through the ratification of Job Creation Act Number 11 of 2020, there has been a transformation of the expansion of the role of Privately-Owned Company in the contestation for the fulfillment of defense equipment. These regulatory changes have an impact on the direction of developing the independence of the national defense industry and the national defense strategy. The relaxation of Privately-Owned Company protection in the defense sector has not been accompanied by an expansion of supervision in the strategic defense industry contestation. Although this change aims to make the defense industry sector more dynamic and progressive so that it can add value to competitiveness in the global market.

Table 2: Substance of Changes to the Defense Industry Law after the Job Creation Act (Fitri, 2020)

No	Law No. 16 of 2012	Job Creation Act Number 11 of 2020	Description of Substance Change
1.	Article 11	Article 74 (1)	The main state defense equipment industry is no longer in the form of SOEs but also Privately-Owned Company although the Government is still placed as the lead integrator.
2.	Article 21	Article 74 (2)	Elimination of the duties and functions of KKIP in determining the fulfillment of security and security guard.
3.	Article 38	Article 74 (3)	Production activities are licensed by the central government.
4.	Article 52	Article 74 (4)	Capital ownership of the main equipment industry can be owned by Privately-Owned Company with the approval of the minister of defense
5.	Articles 55 – 56 and articles 67 – 69	Article 74 (5 – 6) and Article 74 (7 – 10)	Activities in the form of export, import, marketing and production are carried out by government agencies and must obtain approval from the Central Government.
6.	Addition of article 69 A	Article 74 (1)	Further provisions regarding Business Licensing are regulated in a Government Regulation.
7.	Article 72 - 75	Article 74 (12 – 15)	Changes in the phrase 'business license from the minister of defense' to 'business license from the central government' in criminal provisions.

In the table above, it can be concluded that in the renewal of the regulations for the defense industry sector, at least it can be identified that the release of protection for the national defense industry is marked by the loosening of permits and the expansion of the role of Privately-Owned Company in the defense industry. Privately-Owned Company under the Job Creation Law is allowed to produce defense equipment, although State-Owned Company is still designated as the lead integrator.

One of the ideas to pursue this reform is to accelerate independence and mastery of defense technology, but the policy reform also creates opportunities for separate threats to the State, especially SOEs because it is closely related to security and a sustainable strategic defense framework if it is not accompanied by increased integrated supervision. and structured. When Privately-Owned Company has been given the freedom to also producing finished goods from defense equipment, is the role of the Government regarding efforts to carry out monitoring of the finished product later. Not only related to permission to do production or permit for marketing, but Integrated supervision is directed so that the products to be sold later can continue to run consistently with the national defense policy to protect strategic interests of the Indonesian nation.

2) Supervision of Production Flow and Sales of Alutsista in Indonesia

The expansion of the role of Privately-Owned Company which is regulated by the mandate of the Job Creation Act is aimed at accelerating the mastery of technology and the fulfillment of the national defense equipment, but of course it needs to be accompanied by efforts to supervise the finished product until the sales flow so that it remains within the corridor of the national security and defense strategy. Some large and advanced countries in the field of defense have rules varied, such as the United States which has a separate organizational body whose task is to provide permits at once supervising the Defense Industry which will carry out marketing and sales of its production (US Government, 2002), while the United Kingdom to authorize the task of supervising the production and marketing flow to the Ministry of Defense (ECJU, 2019).

In Indonesia, licensing related to production and/or marketing activities of defense industry products is carried out by the Minister of Defense. For the marketing activities of defense and security equipment, it is carried out jointly by defense industry players and the Government (Article 53 of Law Number 16 of 2012), although Article 55 of Law Number 16 of 2012 has been amended where permits related to export activities are held by the Government no longer by the Minister of Defense. However, regarding efforts to supervise whether the results of production and marketing are in accordance with the permits granted have not been comprehensively and substantively regulated by law, although there has been an expansion and renewal of the existence of the production of the main weapons system.

Article 64-65 of Law Number 16 of 2012 does regulate the supervision carried out by the DPR's apparatus which oversees defense issues. However, this supervision is limited to the implementation of policies, work programs, the use of budgets and technology that has been mastered and the rights of intellectual property owned. In Law No. 16 of 2012 and its renewal in Law No. 11 of 2020, the defense sector has not regulated efforts to supervise the implementation of production and marketing of defense equipment that already has a permit from the Government, whether it has indications that are contrary to policy and strategic pride. country.

Then, in the implementing rules of Law number 16 of 2012, or the provisions concerning KKIP, it is not explained that KKIP has the authority to carry out supervision, other than its organization in the form of a committee does not allow it to carry out activities field supervision. Likewise, with the Directorate of Defense Industry Technology, both as the secretary of KKIP nor as a work unit of the Ministry of Defense, its position is not possible to carry out such extensive monitoring efforts.

Minister of Defense Regulation Number 58 of 2014 concerning Organization and Work Procedure of the Ministry of Defense in which there is a regulation regarding the authority to carry out supervision is only limited to the environment of the ministry of defense, not as a whole and horizontally. Although it is possible for State-Owned Company and Privately-Owned Company to receive financial assistance in financing, the two institutions are not part of the scope of work of the Ministry of Defense so that the Ministry of Defense is not obliged and authorized to carry out comprehensive and continuous and in-depth supervision of State-Owned Company and Privately-Owned Company players in the defense industry.

Thus, the form of organization that can become a grand controller in an integrated manner makes it possible to carry out supervisory activities on the production and marketing flow of defense equipment in a comprehensive, continuous and comprehensive manner, both for State-Owned Company and Privately-Owned Company. A work unit of the Ministry of Defense to carry out efforts to supervise the production and marketing flow of defense equipment that has obtained a permit from the Government.

3) Scheme for the Establishment of the National Defense Industry Supervisory Agency

The expansion and renewal of the role of Privately-Owned Company in the Job Creation Act needs to be accompanied by an increase in the role of supervision and controlling in order to maintain the dignity of security and the national defense strategy through the establishment of a separate Agency or Department in charge of monitoring the production flow and marketing of the finished defense equipment to comply with the provisions of the legislation, and permits that have been granted by the Government. There are 2 (two) schemes of efforts to supervise the production and sale of defense equipment, namely the expansion of the role of the Defense Industry Policy Committee to oversee the flow of production and sales of defense equipment in Indonesia,

a) Expansion of KKIP's Authority

In Article 21 of Law Number 16 of 2012 concerning the Defense Industry, the duties and authorities of the KKIP have been formulated, including:

- a. formulate national policies that are strategic in the field of Defense Industry;
- b. compiling and forming an Industrial master plan Medium and long term defense;
- c. coordinate implementation and control National policy of Defense Industry;
- d. establish a policy to meet the needs of Tools Defense and Security Equipment;
- e. coordinating domestic and foreign cooperation in order to advance and develop the industry Defense;
- f. Synchronize Tool Requirements Defense and Security Equipment between Users and Defense Industry;
- g. establish Defense Industry standards;
- h. formulate funding policies and/or Defense Industry financing;
- i. formulate sales and purchase mechanisms Defense and Security Equipment Tool result into Defense Industry to and from overseas; and
- j. carry out monitoring and evaluation of implementation Defense Industry policy on a regular basis.

From the authority of the KKIP mentioned above, KKIP is only given the authority to carry out evaluation or supervision of the implementation of defense industry policies, does not yet have authority over the production and marketing flow of defense equipment that already has a permit from the Government. KKIP oversees several areas of implementation tasks, including: cooperation and marketing, which is tasked with formulating and coordinate domestic and foreign cooperation and marketing policies order to advance and develop the Defense Industry. None of the scope of duties and authority of KKIP to carry out comprehensive and integrated supervision of the Defense Industry. This is because the task of KKIP only focuses on the preparation of regulations and policies, even for data collection and KKIP formulation materials come from the KKIP Secretariat who also doubles as the Director of Defense Technology and Industry. Thus, the role of KKIP limited to carrying out non-field coordination, a task that almost similar to that of the elements of the Directorate General of a Ministry.

Whereas KKIP, with the enactment of Law Number 11 of 2020, it is necessary to renewal of the organization, so that it can accommodate legal needs according to changes that occur. Changes to KKIP can be made into the formation of an organization in the form of an Agency that becomes a work unit within KKIP, so that it can carry out inherent supervision in the field of the production and sales of the defense industry, both State-Owned Company and Privately-Owned Company.

b) Establishment of the National Defense Industry Supervisory Agency (NDISA)

In addition to the expansion of authority through the formation of units within the KKIP organizational structure, supervision of the production flow and marketing results of defense equipment can also be through the formation of new agencies or institutions as grand controllers with the principle of integrated supervisory-base authority that can carry out continuous supervision, so that the production results from the defense industry run consistently with the corridors in the policy national defense, one of which is the establishment of the National Defense Industry Supervisory Agency (NDISA).

NDISA consists of a combination of the Ministry of Defense, KKIP, Research and Development Institute, Ministry of SOEs, Ministry of Industry, Ministry of Finance and the Commander of the Indonesian Armed Forces where NDISA is still under the control of the President and Ministry of Defense, however, for the position of Head of the Supervisory Agency selected from the Ministry of Defense. When described its core organizational structure as follows:



The main tasks and functions of NDISA are:

- Has the task of carrying out government affairs in the field of supervision of the production and sale of defense equipment as a whole, both to State-Owned Company and Privately-Owned Company;
- Formulation of national policies for supervision of finance, capital, research and development of defense equipment technology, cooperation and marketing of finished goods for defense equipment production by State-Owned Company and Privately-Owned Company;
- Implementation of audits, reviews, evaluations, monitoring and other supervisory activities on the planning, implementation and production flow to the marketing of defense equipment both in the national and international scope;
- Implementation of audits and reviews of the process and flow of the sale of defense equipment against the suitability of permits granted by the Government and compliance with laws and regulations.

Conclusion

In the context of implementing national defense, the essence of the national defense strategy is as a reference for every defense organizer in military defense and non-military defense in an integrated, directed and sustainable manner as a complete and integral national defense unit. One form of development of the national defense force is through strengthening the defense industry reliable and healthy so that can have a positive impact on the development of the national defense posture as well as

economic development in Indonesia, either directly or indirectly. The roles of State-Owned Company and Privately-Owned Company currently go hand in hand and harmoniously to achieve independence in provision of national defense equipment. However, a mechanism is needed or an agency that can carry out integrated supervision and become a grand controller agent, so that the production and marketing results of the defense industry run consistently within the corridors of policies and strategies the National Defense. Because until now there is not a single agency or work units within the Ministry of Defense or KKIP that have the ability or authority to carry out this supervision, it is necessary to form a new agent in the form of a body supported by legal strengthening through massive and comprehensive policy and organizational reforms. Thus, there are two recommendations from this research, namely expanding the role of the Defense Industry Policy Committee to oversee the flow of production and sales of defense equipment in Indonesia, or forming a new agency or institution as a grand controller with the principle of integrated supervisory-base authority that can carry out continuous supervision. , so that the production results from the defense industry run consistently with the corridors in the policy national defense, through the National Defense Industry Supervisory Agency (NDISA).

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