



Legal Implications of Authority Over the Merger of Port Soes Reviewed from the Create Work

Nugroho Dwi Priyohadi; Moh. Saleh

Master of Law Study Program, Faculty of Law, Universitas Narotama Surabaya, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v8i1.2210>

Abstract

The type of research used in this research is normative legal research. Port law arrangements have actually been regulated in transportation services, but if you look more closely related to the merger of the company at PT Pelabuhan Indonesia (Persero) each has its own characteristics by looking at the status of legal entities, assets and liabilities as well as shareholders. The implications of this policy certainly have an impact on changing the paradigm of the procedures and mechanisms of corporate governance at PT Pelabuhan Indonesia (Persero) both in licensing, to the welfare of the workforce which must be protected and is an obligation for the state.

Keywords: *Legal; Merger; Port*

Introduction

An important role in the dynamics of the economy and trade both at home and abroad is the company, which must be a reference in improving the national economy, especially companies in the field of port goods and or services. This is what Limited Liability Companies (PT) must carry out in optimizing the economic, trade and industrial routes in the field of goods and or services, especially PT Pelindo I, II, III, and IV. PT Pelindo I to PT Pelindo IV have their respective characteristics with several models and forms of business that are run, for that together look at the characteristics of each.

Type of Limited Liability Company (PT)	Company Character
PT Pelindo I	Currently Pelindo I manages 16 port branches in the provinces of Aceh, North Sumatra, Riau and Riau Islands. Pelindo 1's work area, which is located in western Indonesia and is located in western Indonesia and is directly opposite the Malacca Strait, which is the busiest waters in the world, makes Pelindo 1 have a strategic role in connecting international trade networks based on sea transportation in Indonesia.
PT Pelindo II	State-Owned Enterprises engaged in logistics, specifically in port management and development. Currently, Pelindo 2 has operated 12 ports located in 10 provinces of Indonesia. From West Sumatra to

	West Java, Pelindo 2 is one of the strategic SOEs where all managed ports have a significant position in the connectivity of international trade networks based on sea transportation.
PT Pelindo III	PT Indonesia Port III or abbreviated as Pelindo III is a State-Owned Enterprise (BUMN) which is engaged in Port Services.
PT Pelindo IV	Pelindo IV is currently led by Prasetyadi as the President Director. Pelindo IV has an office at Soekarno Street, Number 1 Makassar.

By looking at the above, it is clear that each has different characteristics, so that in carrying out economic activities and activities, trade and industry in the field of port goods and services must run well. To note that the Indonesian government through the State-Owned Enterprises (BUMN) this year has merged the *merger* company or *holding company* from PT Pelindo I, II, III, and IV to become PT Pelabuhan Indonesia (Persero).

By looking at the merger (*merger or holding company*) above, of course there is a paradigm shift in authority over the company's organs at PT Pelabuhan Indonesia (Persero). According to the Organ Theory of Otto von Gierke.(Gierke 1973) In a limited liability company, there are 3 (three) organs, namely the General Meeting of Shareholders (GMS), the Board of Directors and the Commissioner. It's certain that there is a change in the organizational structure of PT. Indonesia Port (Persero) to change the company's organs, both the GMS, the Board of Directors and the Board of Commissioners. Thus, it will also change the authority system (Fachruddin 2004) of each company in exploring port goods and services in Indonesia, so that the Indonesian port economy, trade and industry can run well. In its implementation, more detail for the settlement of industrial relations disputes itself is regulated in Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. There are several types of strategies carried out by *Go Public* companies in order to maintain their business and the resources of their employees, including through Merger, Consolidation, Takeover and Separation. These forms of strategy are carried out for the sake of running the company's wheels, as well as a way to streamline management and reduce expenses as efficiently as possible.(Atmoko n.d.)

By looking at the above, the legal issues that arise in this research and research are First, how is the regulation of authority for the merger of port SOEs in the perspective of Limited Liability Companies and the Job Creation Act and Second, what are the legal implications of the SOE merger system through PT Pelabuhan Indonesia (Persero). Persero on industrial relations.

Research Methods

The type of research used in this research is normative legal research.(Pratidina and Michael 2019)

Discussion

Arrangement of Authority for the Merger of Port SOEs in the Perspective of Limited Liability Companies and the Job Creation Act.

Legal action taken by one or more companies to merge with another existing company which results in the transfer of assets and liabilities of the merging company, due to legal action against the company that accepts the merger and subsequently the legal entity status of the merging company ends by law also known as a merger.(Sungatullina, Kadochnikova, and Faizrahmanova 2020) This happened in PT Pelabuhan Indonesia (Persero), where port companies at Pelindo I, Pelindo II, Pelindo III and Pelindo IV which emphasized the trade aspect of goods and services have brought a paradigm shift in the

regulation of authority over the merger of State-Owned Enterprises (BUMN). Ports, especially in the regulation of Limited Liability Companies and the Job Creation Act.

In more detail, this change in authority can be explained in the following table:

Type	Law of the Republic of Indonesia Number 40 of 2007 concerning Limited Liability Company	Law of the Republic of Indonesia Number 11 of 2020 concerning Create Work
Legal Entity Status	The merged company disappears and ends its status as a legal entity without going through a liquidation process.	The company in the case of a merger must go through liquidation procedures and mechanisms and by way of port licensing.
Assets dan Liabilities	The assets and liabilities of the merging company are completely transferred to the one who received the merger.	The assets and liabilities of the merging companies are completely transferred to those who accept the merger, but are determined by the direct authority.
Shareholders	Shareholders of the merging company become shareholders of the company that accepts the merger by law.	The shareholders of the merging company must be based on the proposal of the shareholders of the company on the basis of the government's consideration.

By looking at the above, of course there are dynamics and paradigms where the authority at the level of the Job Creation Act must be based on the proposal of the shareholders through the liquidation process and the role of the head of SOEs as the government in the management and management of assets, capital and company shares by merging the company which is now PT Pelabuhan Indonesia (Persero).

Legal Implications for the Merger of BUMN through PT Pelabuhan Indonesia (Persero) on Industrial Relations

The (*merger*) of course, concerns the economic and trade aspects of the national logistics, especially PT Pelabuhan Indonesia (Persero). There are also benefits and benefits for the company in the context of managing and dynamics of industrial relations for employees regarding rationalization and changes in the status of working period, which have no changes at all and no reductions, as conveyed by the Minister of SOEs. This is of course also a juridical implication when there is a overlapping policy with the applied regulations, so that it will be possible to cause industrial relations disputes such as, employee or labor remuneration (Tsymbaliuk and Shkoda 2020), also related to the new mechanisms and systems that exist at PT Pelabuhan Indonesia (Persero), to changing good corporate governance and *good corporate governance*.(Anon 2017) So that the execution and development of Port SOEs can be more focused in accordance with their business lines. Integrated PT Pelabuhan Indonesia (Persero) will be grouped into business clusters. Four clusters will be formed after the merger of state-owned ports, namely container, non-container, logistics and *hinterland development, and marine, equipment and port services*.(Purnomo and Suyanti 2019)

Conclusion

Port law arrangements have actually been regulated in transportation services, but if you look more closely related to the merger of the company at PT Pelabuhan Indonesia (Persero) each has its own characteristics by looking at the status of legal entities, assets and liabilities as well as shareholders. The implications of this policy certainly have an impact on changing the paradigm of the procedures and mechanisms of corporate governance at PT Pelabuhan Indonesia (Persero) both in licensing, to the welfare of the workforce which must be protected and is an obligation for the state.

References

- Anon. 2017. "Pelabuhan Indonesia Sebagai Penyumbang Devisa Negara Dalam Perspektif Hukum Bisnis." *Kanun : Jurnal Ilmu Hukum* 19(3). doi: 10.24815/kanun.v19i3.8593.
- Atmoko, Dwi. n.d. "Efektivitas Peran Hubungan Industrial Pada Perusahaan Go Public Ditinjau Dari UU Nomor 13 Tahun 2003 Tentang Ketenagakerjaan." *Fakultas Hukum, Universitas Bhayangkara Jakarta Raya., Vol. 6 No. 2 (2020): Jurnal Hukum Sasana.*
- Fachruddin, Irfan. 2004. *Pengawasan Peradilan Administrasi Terhadap Tindakan Pemerintah*. Bandung: Alumni.
- Gierke, Otto Van. 1973. *Das Deutsche Genossenschaftsrecht*.
- Pratidina, Ayudia, and Tomy Michael. 2019. "UJI MATERI PERATURAN KOMISI PEMILIHAN UMUM NOMOR 20 TAHUN 2018 OLEH MAHKAMAH AGUNG." *Mimbar Keadilan* 12(1). doi: 10.30996/mk.v12i1.2165.
- Purnomo, Cahya, and Suyanti Suyanti. 2019. "Penciptaan Nilai Logistik Pelabuhan Di Indonesia." *Majalah Ilmiah Bahari Jogja* 17(1). doi: 10.33489/mibj.v17i1.197.
- Sungatullina, L. B., E. I. Kadochnikova, and G. R. Faizrahmanova. 2020. "Modeling the Effectiveness of Employee Compensation Based on Financial Resources." *International Journal of Financial Research* 11(6). doi: 10.5430/ijfr.v11n6p63.
- Tsybaliuk, Svitlana, and Tetiana Shkoda. 2020. "Social Partnership in Ensuring Decent Labor Remuneration." *Social and Labour Relations: Theory and Practice* 10(1). doi: 10.21511/slrtp.10(1).2020.02.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).