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Port Concession Policies In Indonesia as an Attractive Instrument for Investor

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Abstract: The Indonesian government is very aware that infrastructure is one of the determinants of smooth and accelerated development. Infrastructure development, including the Port Infrastructure, needs large funds. The role of the private sector is absolutely necessary to accelerate port infrastructure development because the APBN and internal SOE funds are very limited. The government quickly anticipates by making related regulations, namely Public-Private Cooperation (KPS), Government-Business Entity Cooperation (PPP), and Concession Cooperation. This study aims to analyze and examine port concession policies in Indonesia for the benefit of investors. This research uses quantitative and qualitative descriptive methods. Data was collected through library research, interviews, and Focus Group Discussions (FGD). Processing of data from FGD results by coding and data exploration through NVivo.

The results of this study indicate that the port concession policy implemented in Indonesia has attracted enough investors and succeeded in increasing the amount of investment in the port sector. Based on the results of the FGD it was found that (i). Issues regarding ease of doing business, legal certainty, business certainty, gradual determination of concession fees, the flexibility of institutional access, and complicated port permit processes will have an impact on Indonesia's investment competitiveness, especially in the port sector; (ii). The determination of the concession fee will have an impact on two things, namely on the aspect of investment competitiveness and port development; and (iii). Port development is also related to the maturity of Information Technology aspects to support business process transparency so as to reduce trade-offs that occur.

This study recommends that to realize the port as a locomotive of development and national welfare in the archipelagic country of Indonesia, it is necessary: (i). New breakthroughs to attract national and foreign private investors to invest in the port sector; (ii). Provide facilities in the field of licensing; (iii). Creating a more guaranteed sense of security and comfort; (iv). Determination of flexible concession period; (v). Granting a grace period (maximum 3 years) for payment of concession fees; (vi). So that capital gains can be assessed at a fair market price, and subsequently treated/calculated as additional capital for investors to be converted to a period of time as an additional concession period or by other means of settlement after an agreement, and (vii). Improving the business environment and ship routes in accordance with the Indonesian shipping road map.

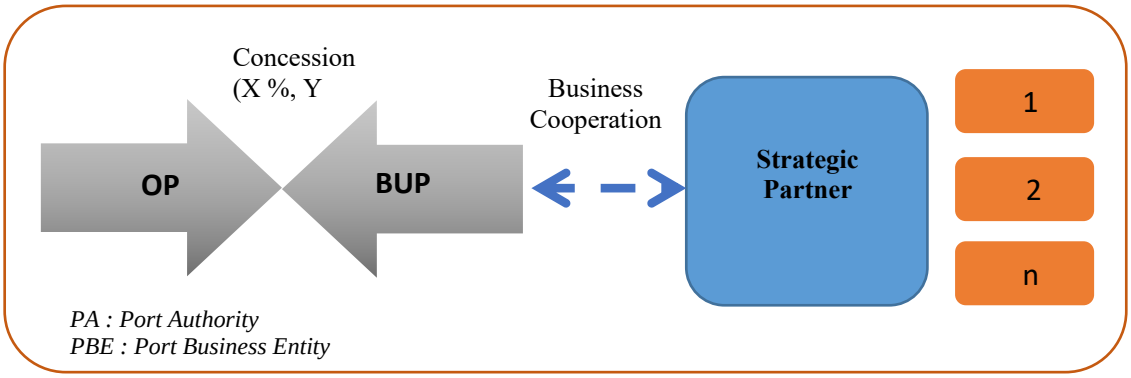
Keywords: Port`s infrastructure, APBN, Concessions, FGD, NVivo.

Introduction

Indonesia is the largest archipelagic country in the world, where approximately 70% of the total area of Indonesia is marine. Therefore, the movement of goods and people in Indonesia is dominated by sea transportation. For this reason, the government has launched the construction of ports throughout the country. Building a port will take a large amount of investment and requires a long payback period, while the resulting return is relatively small. With such investment characteristics, not many investors are interested in investing in the port sector, especially in countries with low economic growth. The important thing in port development is the concession agreement. Pallis,

et al. (2015) stated that the concession agreement will be the most important tool in port development activities and have a direct impact on the economy in the short and long term. Stable concession agreements can contribute to developing countries and become an important source of revenue for governments (Miranda, 2007).

Ambarini, et al. (2014) show that Law 17 of 2008 concerning Shipping, provides very large business opportunities for the private sector, namely the establishment of container workshops, container washing, document service management, restaurants, etc. It can provide business diversification for the private sector so that there is an increase in company income, economic growth, and will lead to an increase in national income. The private sector can directly get a concession from the Port Authority (OP) or it can also be done through a Business Cooperation with the Port Affairs Agency (BUP) which has obtained a concession. The following is a general port concession drawing/scheme



Source: Rachman (2016)

Figure 1. Port Concession Scheme

Based on the picture above, the government as the OP gives concessions to BUP. Then BUP can look for strategic partners to conduct business cooperation (KSU). The granting of concessions to BUP is a government priority program for the development of seaports in Indonesia with funds from outside the State Revenue and Expenditure Budget (APBN) and internal SOE funds. According to Rachman (2016), currently, there are around 1,900 ports spread from Sabang to Merauke. Of this number, 112 public ports are operated (Pelindo I – IV operators), 890 public ports are not operated (managed by the Ministry of Transportation), and the remaining 900 are in the form of Special Terminals and Terminals for Own Purposes.

Then according to the National Port Master Plan (RIPN), the need for investment funds for seaport development until 2030 is around USD 46 billion, with a portion of government funding of 30% and private funding of 70%. It is hoped that the port concession business in Indonesia will develop in the near future. Until now, the number of BUPs that have received concessions is not enough, even though the opportunities/offers are quite large. This is certainly far from the government's expectations when issuing a policy for granting port concessions to BUP, namely as an instrument to attract investors. For this reason, it is necessary to evaluate the implementation of the policy of granting port concessions to BUPs in Indonesia.

Based on the above background, the objectives of this research are to analyze and assess: (i). The current condition of Seaports in Indonesia; (ii). Whether the port concession policy in Indonesia has become an instrument of attraction for investors; and (iii). Whether the investment margin/profit, concession period, and concession fee have been able to attract investors to invest their capital in the port concession sector. This research is limited to the port being operated and differs from several previous qualitative studies which only used descriptive methods or literature studies (see among others: Miranda, 2007; Pallis et al., 2015; Zhang, 2009; Oghojafor, et al, 2012; Ndubisi, 2016; and Opawole & Jagboro, 2016 and 2016b).

Literature Review

Public Policy Theory

Public policy plays an important role in the scope of the state administration where the government plays an active role in it. Understandings of public policy have developed and are estimated to have emerged around the 1920s through a study conducted by Charles Merriam to link theoretical concepts with actual conditions in the government environment (see Birkland, 2015). As the science of public policy develops, there are many ways to define public policy theory; either the definition or the aspects discussed. There are several aspects that are discussed or developed in public policy theory, such as: dynamics of public policy theory, policy models, policy implementation, analysis and evaluation, elements in the policy-making system, policy tools, policy failures, and other aspects (see: Dunn, 2011; Dye, 2013; and Birkland, 2015). Public policy is a series of actions proposed by a person, group, or even government within a certain scope that allows for obstacles in its implementation (Friedricht & Mason, 1940; Parsons, 2001; and Friedman & Friedman, 2002) and subsequently achieves its goals. namely well-being (see among others: Theodoulou & Zhan, 1995; Clemons & McBeth, 2011; and Cochran & Malone, 1995).

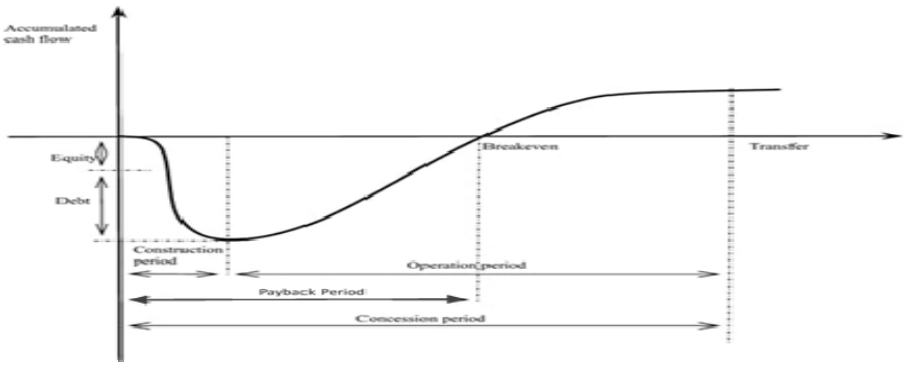
Furthermore, according to Dye (2013), public policy is the government's decision to take or not to take an action. In this case, the government can do many things, such as: (i). Regulating conflict in society; (ii). Organizing the community; (iii). Provide public services to the community; up to (iv). Collect taxes. According to Stigler (1972), public policy is the result of the involvement of stakeholders, one of which is the role of economists in it, the distribution of wealth (Stigler, 1966; Becker, 1976; and Tollison, 1989), and inefficiency and externalities (Stigler, 1966; and Gruber, 2017). According to Brunner & Metzler (1978), the form of government intervention, especially in the economy, is clearly seen through government spending during a recession. According to Buchanan (1967), the role of fiscal policy has a greater effect (multiplier effect) when the policy is carried out through changes in spending compared to the use of tax instruments.

Investment Theory

Investment is one of the posts forming Gross Domestic Product (GDP). GDP is the total income earned in the domestic scope, including income earned by foreign-owned factors of production or total expenditure on domestically produced goods and services (Mankiw, 2007; Meade, 1960; Suparmoko & Sofilda, 2017; and Pass & Lowes, 1988), or also interpreted as total consumption, investment, government spending, and net exports (Blanchard & Johnson, 2013).

As a GDP-forming post, investment is an activity that creates new real assets that will increase a country's production capacity (Pass & Lowes, 1988 and Suparmoko & Sofilda, 2017), which is the sum of the market value of durable buildings and equipment and changes in the value of the company's inventory (see: Blanchard & Johnson, 2013 and Lusiana, 2012). The role of the state is believed to be able to intervene in the market to correct market inequality and provide protection to infant industries, the interests of the community, domestic entrepreneurs, and environmental protection as well as the interests of investors themselves including FDI.

Investors who have invested in buying/building port equipment and facilities will want a concession period that is longer than the payback period. This is natural because the investors in addition to wanting their capital back, also want an adequate number of profits. But from the OP's side, the determination of the concession period must be justified. If the determination is shorter than the payback period, it will be detrimental to the investor. However, if it is too long, it will benefit investors. A reasonable concession period is the payback period plus the period to get a reasonable profit. According to Zhang (2009), the calculation of the concession period can be done through another approach, namely the project construction period plus the project operating period until a reasonable profit is obtained. The project construction period is calculated based on the standard time for completion of work packages, while the project operation period is calculated by approaching a reasonable return to be given to BUP/private investors during its operating period.



Source: Zhang (2009)

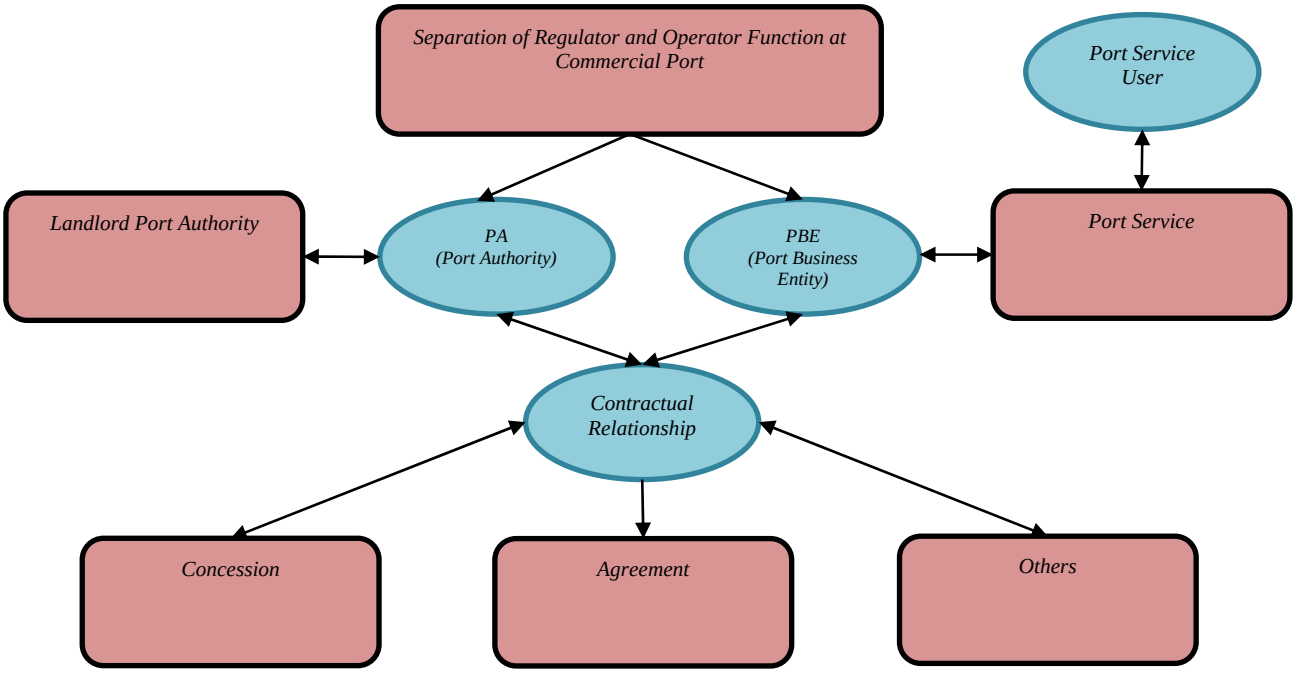
Figure 2. Concession Period

Ports Concept

According to Government Regulation No. 61 of 2009 concerning Ports, the organizer of the Port is the Port Authority (OP), which is a government institution that carries out the function of regulating, controlling, and supervising port activities that are commercially managed. While the Port Business Entity (BUP), is a business entity whose business activities are specialized in the exploitation of terminals and other port facilities or as port operators.

The role and duties of the OP as the landlord port authority in accordance with Law Number 17 of 2008 (articles 82 and 83), among others, are to provide concessions or other forms to BUP to carry out business activities at the port as stated in the agreement. From the role and duties of the OP, it can be seen that the OP grants concession rights to the BUP to carry out business activities at the port. The following is a picture of the separation of the functions of regulator and operator as well as the contractual relationship between OP and BUP.

Figure 3. Separation of Regulator and Operator Function and Contractual Relationship between PA and PBE



Source: Fuady (2013)

Concession and Fee

In infrastructure investment concessions, there is a fixed pattern, namely the Build, Operate, and Transfer (BOT) pattern, which is used for all types of "Concession Agreements" (Fuady, 2013; Manan, 2010; Supancana, 2008). The BOT pattern refers to a project based on the granting of concessions by the principal (generally the government) to the promoter (Concessionaire/Concessionaire) where the promoter is responsible for all activities including construction, financing, operation, maintenance of a particular project/facility during a concession period, before finally transferring all these facilities to the principal as a fully operational facility (Carbonara, et al, 2014 and Chen, et al, 2018). During the concession period, the promoter owns and operates the facility and collects payments to recover the costs and investments incurred, including maintenance and operating costs and a reasonable margin of profit. The main consideration of choosing the BOT pattern in the construction and operation of certain facilities/projects is, of course, based on the interests of the principal (especially the government) who gain various benefits by using the BOT pattern choice.

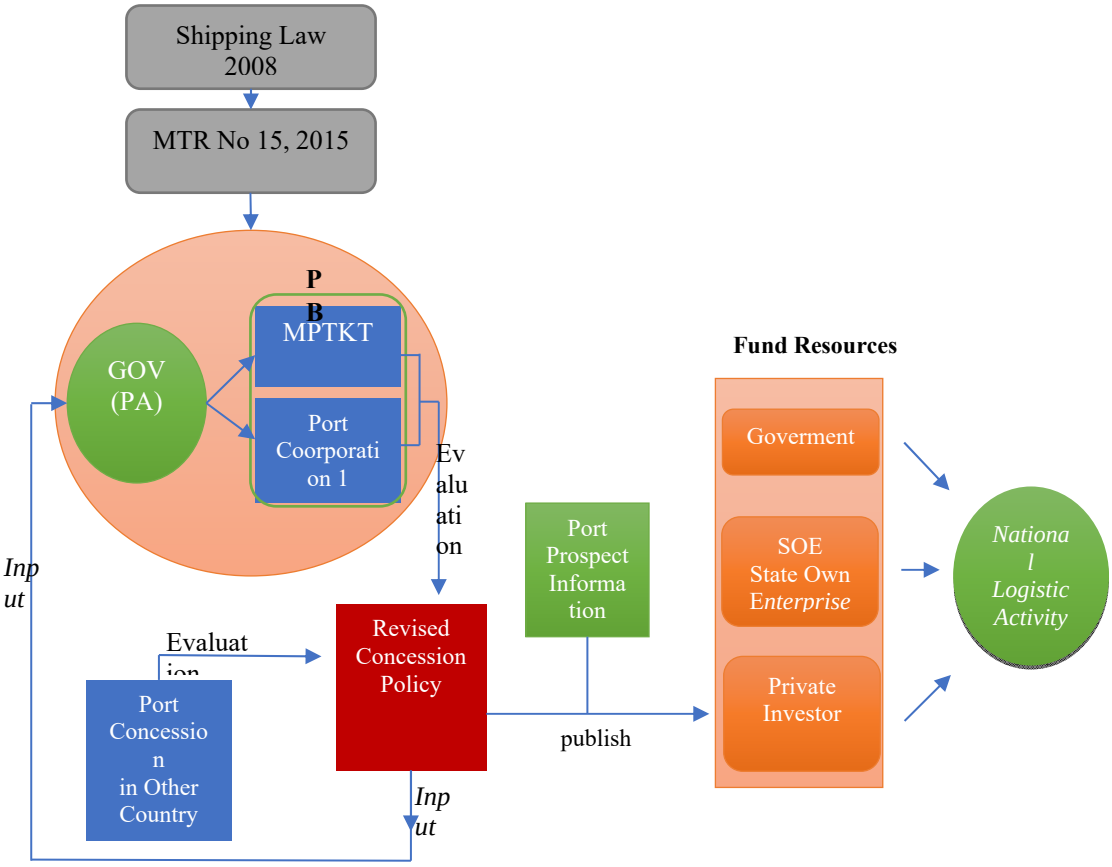
Concessions are the granting of rights, permits for land by the government, companies, individuals, or other legal entities, it is appropriate for the concessionaire to pay a concession fee to the government as Non-Tax State Revenue (PNBP). Since the concession granted will later be used for commercial business, of course, the fee paid is also commercial but should not burden the BUP/private sector. Based on the Private Public Partnership in Infrastructure Resources Center for Contracts, Law, and Regulations/PPPIRC (2009) that the concession fee is a fee paid by the company to the concession authority and consists of an entry fee and a performance fee. The entry fee is the fee that the company pays to the OP as an entry fee to use the concession right. The annual performance fee is the cost incurred by the company based on the company's performance which consists of 2 (two) calculations, namely: (i). Fixed Portion, ie costs paid at the beginning of each period on a quarterly basis; and (ii). Variable Portion, i.e. fees paid with the equivalent of 10% of the company's total turnover, is calculated based on the company's annual turnover and company debt on a semester basis (see also: Andrade & Raquel, 2010 and Auriol & Picard, 2013).

Previous Study

Several previous studies have been collected into a single unit that can be used as a reference and support researchers in developing the formulation of existing problems. Studies on concessions have been carried out with several approaches; both quantitative and qualitative, and with a variety of analytical techniques. Studies with a quantitative approach using the Structural Equation Model analysis method (Ambarini et al. (2014), with multiple regression techniques (Ndubisi, 2016), with a quantitative descriptive approach (Opawole & Jagboro, 2017), and with a moving average approach (analysis). trend) (Emeghara, et al, 2018) In terms of a qualitative approach, using the literature study method (among them by Trafford & Proctor, 2006; Miranda, 2007; Pallis et al., 2015; and Wulandari, 2017), with analysis qualitative descriptive (among them Zhang, 2009; Oghojafor et al., 2012; Opawole & Jagboro, 2016).

Research Framework

Based on the previous description/explanation, it can be described a framework of thinking as the basis/guideline for writing about port concession policies in Indonesia as an instrument to attract investors, as follows:



Note: MTR is Minister of Transportation, MPTKT is Multipurpose Terminal Kuala Tanjung
Source: Authors

Figure 4. Research Framework

Research Method

The research in this dissertation uses two methods, namely quantitative and qualitative descriptive analysis. The qualitative research method is a research method based on the philosophy of positivism, used to examine the condition of natural objects, where the researcher is the key instrument (Sugiyono (2011; Bandur, 2019; Miles & Huberman (2009)). A quantitative research method is a quantitative approach. quantitative descriptive. This method is widely used and developed in social science research. The research location is the Kuala Tanjung Port, with the first location being the Kuala Tanjung Multipurpose Terminal and the second location being the old port that existed before the Minister of Transportation Regulation Number PM 15 of 2015.

This study uses two data collection techniques, namely: (i). Library research, namely looking for data sources through various kinds of literature and books related to the object of research; and (ii). Field research, was conducted through Focus Group Discussion (FGD). Regarding the use of FGD techniques, Raco (2010) and Creswell (2009) stated that there are several things that must be considered in selecting participants, including having information, being directly involved; and being credible. In this study, there were 6 informants representing the perspectives of stakeholders, namely informants categorized as operators (Ir. Budiyono Doel Rachman Dipl HE, M.Sc.; Drs. Mulyono, Ak. MBA.; and Ir. Ari Sunaryono, DESS); the informants are in the regulator category (Dr. Capt. Wisnu Handoko, M.Sc.), and the informants are in the association category (Dani Rusli, M.Sc. and Wahyono Bimarso Dipl HE., M.Sc.).

As for the results of the FGD, the analysis will use the help of the NVivo tool which is a qualitative data analysis software developed by Qualitative Solution and Research International (QRS International, 2013). QSR itself is the first company to develop qualitative data analysis software. NVivo started with the emergence of NUD*IST (Nonnumeric Unstructured Data, Index Searching, and Theorizing) software in 1981 (Bazeley & Jackson, 2013). In using NVivo, the most important thing to note is the existence of coding and nodes. According to Bandur (2019), coding is an iterative process in which a qualitative researcher or group of researchers continuously analyzes data and nodes as a set of references on topics or sub-topics related to the research problem.

Result and Discussion

PT. Pelindo I (Persero) so far has obtained 3 (three) concession rights, namely: (i). PT Pelindo I concession and existing port branches; (ii). Phase II Belawan Container Terminal Concession; and (iii). Kuala Tanjung Multipurpose Terminal Concession. This paper examines 2 (two) objects, namely the concession at the Kuala Tanjung Multipurpose Terminal and the concession at the existing PT Pelabuhan Indonesia I (Persero).

Quantitative Descriptive Analysis of Concession

Kuala Tanjung Multipurpose Terminal (TMKT)

TMKT is managed by PT Prima Multi Terminal (PT PMT) which is a subsidiary of PT Pelindo. The government has designated the Kuala Tanjung port as one of the National Strategic Projects (PSN) and is projected to become an International Hub Port for the western part of Indonesia. PT. PMT obtained a concession permit on January 23, 2015 with a concession period of 69 years.

A. Calculation of Concession Period and Concession Fee, and Financial Performance

The construction of a port terminal requires a large investment cost, which consists of preliminary costs, civil & infrastructure, mechanical work, electrical work, and equipment & IT systems. The following is a breakdown of investment costs and funding sources for the construction of TMKT phase 1 and phase 2.

Table 1. Investment Cost for Developing MPTKT (Phase 1 and Phase 2)

PHASE 1 (2015)		
Description	Investment Cost	
	USD	IDR
I. Preliminary Cost	13,412,645	174,364,380,785
(Include Land Invesment)		
II. Civil & Infrastructure		
Marine Structure Work	113,418,943	1,474,446,257,765
Land Structure Work	24,474,300	318,165,896,934
III. Mechanical Work	5,548,482	72,130,262,215
IV. Electrical Work	3,407,636	44,299,264,456
V. Equipment & IT System	58,300,814	757,910,000,000
(Container Crane, 3 Units)		
(Rubber Tired Ganty Crane, 9 Units)		
(Head Truck & Chasis, 21 Units)		
INVESTMENT COST PHASE I	218,562,820	2,841,316,062,155
INTEREST DURING CONSTRUCTION	19,961,211	259,495,744,931
TOTAL INVESTMENT COST PHASE I	238,524,031	3,100,811,807,086

PHASE II (2020)		
Description	Investment Cost	
	USD	IDR
Purchase Container Crane 2 Units	26,708,892	347,215,601,507
Purchase Rubber Tired Ganty Crane 4 Units	10,635,215	138,257,796,075
Purchase Head Truck & Chasis 14 Units	4,229,915	54,988,896,166
INVESTMENT COST PHASE II	41,574,022	540,462,293,748
INTEREST DURING CONSTRUCTION	2,139,722	27,816,387,802
TOTAL INVESTMENT COST PHASE II	43,713,744	568,278,681,550
TOTAL INVESTMENT COST PHASE I & II	282,237,775	3,669,090,488,636

Source: Port Corporation 1 & AKA Consultant (2015)

Table 2. Fund Resources for Developing MPTKT

Fund Reousces		
Investment Loan Facility	70%	IDR 2,568,363,342,045
Equity	30%	IDR 1,100,727,246,591
Total		IDR 3,669,090,488,636

Source: Port Corporation 1 & AKA Consultant (2015)

After the list of withdrawals and loan repayments is made, then the interest cost calculation during the construction period (IDC = Interest During Construction) is made. IDC has been included as an additional element of investment costs in accordance with applicable regulations. To calculate the projected revenue at TMKT, various related data are used, starting from the market prospect in the Malacca Strait, the market prospect at the Indonesian port and finally the market prospect at the Kuala Tanjung port. The potential absorption of the container market at Kuala Tanjung port comes from the container market, which is based on the growth of container throughput at Belawan International Container Terminal (BICT) and Belawan Port as well as projected container needs based on the industry in the SEZ Sei Mangkei. The following table describes the projected absorption of the Kuala Tanjung port container market in 2017-2023.

Table 3. Projection of Container Absorption Based on BICT Throughput Growth and Belawan Port (TEU's)

Item	2017	2018	2019	2020	2021	2022	2023
***Excess Throughput* BICT and Belawan**	111.826	223.651	335.477	447.302	559.009	692.934	826.860
Projection of Potential Absorption (50%)	55.913	111.826	167.739	223.651	279.505	346.467	413.430

Source: Port Corporation 1 & AKA Consultant (2015).

From the excess throughput of BICT and Belawan in 2023 of 826,860 TEUs, the projected absorption of Containers for Kuala Tanjung Port is 413,430 TEUs

Cost Projection

Operating costs are variable costs so that the projected operating costs will generally be in line with projected revenues, or in other words, it can be said that the Operating Ratio is relatively constant. In this business proposal, it is assumed that the Operating Ratio is 62% and does not include maintenance costs and operational depreciation costs (it is assumed that maintenance costs are Rp. 125 billion per year for a period of 10 years and then increase by

10% every 5 years). The allocation of depreciation and amortization costs for facilities/equipment and Deferred Costs at TMKT uses the straight-line method with the asset age classification as follows:

Table 4. List of Asset Age

Description	Unit	Volume
Civil & Infrastructure		
Dock/Jetty	year	50
Container Yard	year	50
Equipment & IT System	year	15
Equipment Procurement Supervision Consultant	year	8
Container Crane	year	15
Rubber Tyred Gantry Crane	year	15
Head Truck and Chasis	year	5
IT System	year	15

Source: Port Corporation 1 & AKA Consultant (2015)

In this proposal, it is assumed that general and administrative costs are Rp. 62 billion per year for a period of 5 years and then increase by 10% every 3 years.

TMKT Concession Period Analysis

The analysis of the concession period is carried out using a financial model formula. First, a sensitivity analysis is made using several parameters, including IRR, NPV, and PP. The amount of IRR, NPV, and PP in some throughput conditions can be seen below.

Table 5. IRR, NPV, and Payback Period at Several Alternative Throughput

Description	Normal	Throughput Decrease 10%	Throughput Decrease 20%	Throughput Decrease 30%
IRR	14.58%	13.72%	12.77%	11.73%
NPV	IDR 1,620,933,611,000	IDR 1,108,238,736,000	IDR 578,389,185,000	IDR 46,494,247,000
Payback Period	11 Years 5 Months	11 Years 11 Months	12 Years 5 Months	13 Years 2 Months
Payback Period (Discounted)	22 Years	25 Years 2 Months	30 Years 9 Months	46 Years 8 Months

Source: Port Corporation 1 & AKA Consultant (2015).

Throughput is the most sensitive factor in investment planning. The NPV value will decrease and the payback period (discounted) will be longer as the throughput decreases. The following is data regarding IRR and PI at normal throughput and 0.5% decrease in throughput.

Table 6. Throughput Normal

Year	IRR CF 2.5%	PI CF 2.5%	IRR	
			Minimum	Moderate
21	11.64%	1	11.64%	14.64%
58	14.64%	1.46	11.64%	14.64%

Source: Port Corporation 1 & AKA Consultant (2015)

When the throughput is normal, it can be seen that the IRR value in the period 21 year has a value of 11.64%, where the result is the same as the minimum IRR. Then in the 58th year, it shows an IRR value of 14.64%, where this value is the same as a moderate IRR value. The moderate IRR value is the limit where the investor has received a

return on investment and has earned a margin from the investment invested. The minimum concession period is IRR 14.64% and a margin of 3% from the minimum IRR of 11.64%.

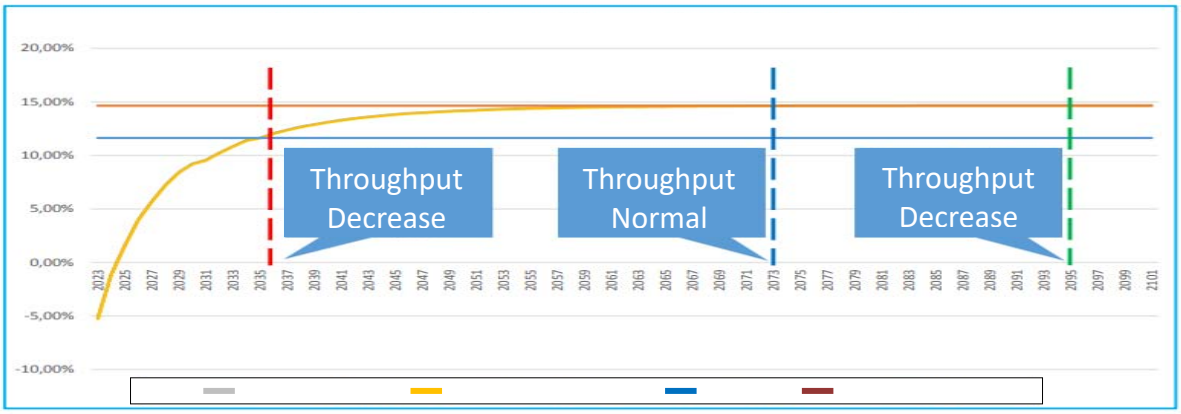
Table 7. Throughput Decrease 0.5%

Year	IRR CF 2.5%	PI CF 2.5%	IRR	
			Minimum	Moderate
22	12.01%	1.03	11.64%	14.64%
80	14.64%	1.48	11.64%	14.64%

Source: Port Corporation 1 & AKA Consultant (2015)

When the throughput drops by 0.5%, in the 22nd year the IRR value is 12.01% and the margin of IRR at this throughput rate is less than 3%. This would be very risky to invest. So the recommended concession range is between 58 years to 80 years. The following is a comparison chart of IRR by looking at several alternative concession periods.

Figure 5. Comparison of IRR with Several Alternative Concession Periods



Based on the graph above, when the throughput drops by 0.5% and the IRR is 12.01%, the concession period becomes 22 years. Then when the throughput is normal and the IRR is 14.64%, the concession period is 58 years. Finally, when the throughput decreases by 0.5% and the IRR is 14.64%, the concession period becomes 80 years. Thus, the concession period is between 58 years to 80 years, i.e. 69 years. So, the concession period for the Kuala Tanjung Multipurpose Terminal is set, as follows:

Table 8. Concession Period of TMKT

Item	Value/Year	Amount/Year	Description
Concession *Fee*	%	2,5%	From Gross Revenue
Concession period	Year	69 years	Since the signing of Contract

Source: Port Corporation 1 & AKA Consultant (2015)

With the stipulation that the concession period is the first 2 years as the construction preparation and construction period, the next 1 year is the pre-operation or socialization period, and 69 years is the commercial period.

Concession to PT Pelabuhan Indonesia I (Persero) Existing

Overview

PT Pelindo I (Persero) existing is consists of ports in the Provinces of Aceh, North Sumatra, Riau and Riau Islands, where the assets already existed and were operated before the issuance of the Minister of Transportation Regulation

Number 15 of 2015. Example: Belawan Port. The old Belawan Port was included in the existing PT Pelindo I (Persero) group. Meanwhile, Belawan Container Terminal for Phase I and Phase II development is not included in this group because its existence was after the issuance of the Minister of Transportation Regulation Number 15 of 2015.

Concession Agreement Making Process, Calculation of Concession Period and Fees.

The stages of making a concession agreement can be described as follows: (i). No business proposal was made because the amount of investment invested in the port is difficult to estimate and calculate, considering that the construction took a long time and the source of funds also consisted of various sources, not only funds from the BUP itself; (ii). There is still a joint discussion between BUP and OP to get an agreement; and (iii). The concession agreement was signed by both parties, namely between PT Pelabuhan Indonesia I (Persero) and OP Belawan

The concession period for the existing Pelindo I group existing is not calculated because the amount of investment in each port is difficult to estimate and determine. In addition, the concession for this group does not recognize the term termination of the concession because the assets in each port are still separate state assets. So it is not possible at the time of termination there will be transfer of assets to the state/government. However, in the discussion between the OP and the BUP, it was agreed that in the concession agreement letter, the concession period would still be included with a note that it could be extended as long as the BUP was still carrying out port business activities in the concession area. As for the concession fee, because the BUP does use the concession area for its business activities, it is still subject to a minimum tariff according to the Regulation of the Minister of Transportation Number 15 of 2015 article 43 paragraph 1.

In the Concession Agreement Letter Number: HK.107/1/2/OP.BLW-2015 and Number: US.12/2/9/PI-15TU dated November 9, 2015, article 5 states that the term of the agreement is 30 (thirty) years, from the date of signing this agreement and extended as long as the Concession Area is used as a Port Facility and the BUP is still carrying out port business activities in the Concession Area. In Article 7 of the Concession Agreement, it is stated that the amount of the concession fee is 2.5% per year of gross/gross income.

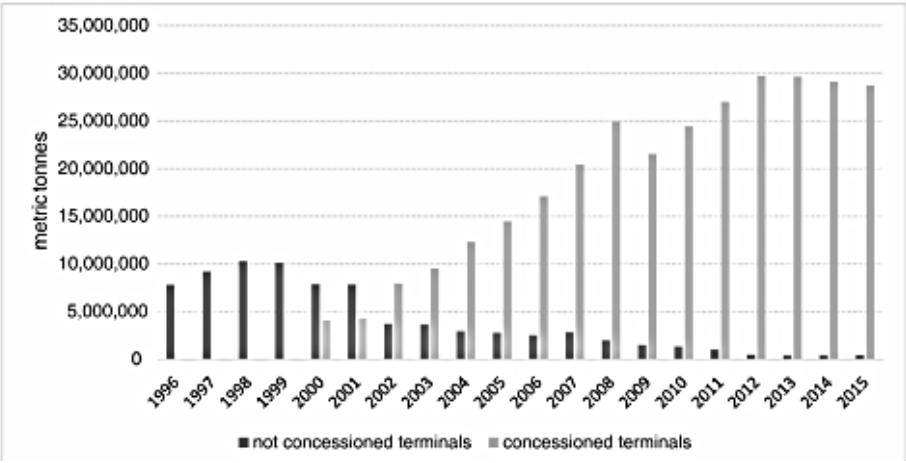
Port Concessions in Other Countries and Their Analysis

Port Concessions in Several Countries

Chile

Research conducted at two container terminals, namely San Antonio and Valparaiso, shows the development of container throughput in Chile, as shown in the following figure.

Figure 6. Throughput Container Development in Chile



Source: INE, 2016

From 1996 to 1999, there were no concessions at the terminal or port. The years 2000 and 2001 were transitional, where in some terminals the government was still the controller of the terminals. 2002 to 2007 was a growth phase for concession terminals, where container movement in Chile increased from around 8 million TEUs to 15 million TEUs in 2007. In 2008 to 2010 was an economic crisis that resulted in a decrease in the number of container movements in Chile. After going through the crisis phase, the concession terminal in Chile continued to experience an increase in container movement to reach 30 million TEUs in 2012. In terms of volume (metric tons) Chile's throughput more than tripled in 1996 compared to 2015. With the ever-increasing demand for port capacity over the last few decades, port authorities and concessionaires have responded with local expansion plans and port development plans (MOP, 2005). However, port expansion faces challenges, due to natural and geographical barriers within the perimeter of the current port or new ports near Valparaiso and San Antonio.

Italy

Italy has several concession ports. These ports have varying policies adopted by port authorities. As stated above, concessions are an important port planning tool and the selection of activities to be undertaken in each area has a decisive effect both on production output and on the revenue composition of the port authority. Through the analysis of the revenues obtained, it is seen that the ports with the largest revenues (Genoa, Trieste and Venice) are the ports with the highest diversification of the traffic portfolio; on the other hand, ports that specialize in certain markets or are unable to exploit the port sector for value-added activities (eg: logistics, shipbuilding, etc.) record lower revenues (Ferretti, et al, 2018).

A symbolic case is Gioia Tauro, the largest Italian port in terms of container throughput and one of the main transhipment centers in Southern Europe, which shows very low revenues. This situation can be traced back to the higher elasticity of demand for transshipment services resulting in lower handling rates, as confirmed also by the low cost per square meter at Taranto port (average fare in Taranto is less than 1 Euro/square meter, while in Trieste around 11 Euro/square meter). On the other hand, the average fee paid at Gioia Tauro is also influenced by the policy of incentives for initial investment made by terminal operators in places where there are no shipping nodes, and in times of great uncertainty. The end result is that the average cost of a square meter is lower than in other Italian ports. The above picture has an impact on the costing of concessions which, without general rules at the national level (only general principles), vary widely for different ports and loading and unloading activities.

Belgium

In 2004, the Port Authority of Antwerp, the Public Authority in Belgium managing the Port of Antwerp, concluded concession agreements with two container terminal operators, PSA Antwerp NV and Antwerp Gateway NV. Concession contract for the provision of services related to the transshipment of containers in the Deurganckdok area of the Port. Completed for a period of 42 years - until 2046. The agreement between the port authority and the two concessionaires, similar to the concession contract granted by the authority to other container terminal operators, includes a requirement for a minimum number of containers handled at each terminal each year. The Port Authority of Antwerp also determines the concession period based on the following criteria: The concession period is a maximum of 40 years for port activities and a maximum of 30 years for service provision activities. A concession period of more than 40 years is basically not granted.

If the investment decides, the fork system will be used to determine the term of the agreement. In this case, the Port Authority of Antwerp will consider certain areas that can be used within the concession, in particular those that can be used for development. The Port Authority of Antwerp assumes that on average 70% of a concession can be used for development. The Port Authority of Antwerp can deviate from this only if the site specifications indicate that 70% of the area suitable for buildings is not possible.

Table 9. Concession Period in Antwerp

Investment fork	Term (extension)
Investment >= 375 EUR/m² built-on area	40 years (5)
225 EUR <= investment < 375 EUR/m² built-on area	35 years (5)
175 EUR <= investment < 225 EUR/m² built-on area	30 years (5)
150 EUR <= investment < 175 EUR/m² built-on area	25 years (5)
125 EUR <= investment < 150 EUR/m² built-on area	20 years (5)
100 EUR <= investment < 125 EUR/m² built-on area	15 years (5)
25 EUR/m² <= investment < 100 EUR/m² built-on area	10 years (3)
0 EUR/m² <= investment < 25 EUR/m² built-on area	Quarter (0)

Source: INE, 2016

The Port Authority always intends to provide a reasonable timeframe, during which deviations from the above system are possible, subject to clear motivation and approval from the Management Committee. At the end of the concession, the Port Authority of Antwerp will grant an extension for a renewable period of 1 to 5 years, without prejudice to the law in force at the time, if the Permit Holder fulfills the objectives of the concession. normally and if the site in question is not located in a zone where the Port Authority of Antwerp intends to implement a new strategic objective.

The Permit Holder is granted an initial concession period under the project development conditions as described in the Special Conditions of the concession agreement. The Permit Holder must submit evidence, preferably an official invoice or document from an independent auditor, clearly certifying that the investment made to the Port Authority of Antwerp on its own initiative, within a period of five years, calculated from the concession start date. If this is not submitted on its own initiative, it is implicitly concluded that the project has not yet been developed after a one-time request by the Port Authority of Antwerp to submit it.

Nigeria

Prior to 2006, all ports in Nigeria practiced the ToolPort model, except for Onne port, which leaned towards the Landlord model. The Tool port model creates operational problems and inefficiencies. To reduce general dissatisfaction with the Port system, major port reforms were initiated from 2003-2005, culminating in the adoption of the Landlord port administration model and the handing over of terminal operations to the private sector in May 2006. The port reform policy was designed to achieve the following objectives: (i). To improve port operation efficiency; (ii). To reduce Port service costs; (iii). To reduce the flow of funds from limited Government resources; (iv). To increase economic activity and accelerate development; and (v). To make Nigeria the center of international shipping and trade in West and Central Africa (Pallis et al., 2015; Akinyemi, 2016; Babatunde & Perera, 2017).

Analysis of Port Concessions in Several Countries and Concession Fees

Based on the information above, each country has different characteristics regarding port concessions. In Belgium, the Port Authority (OP) of Antwerp, sets the time period based on the amount of investment made by the concession licensee in terms of size per square meter. This is based on the increasing amount of investment invested. Ports in Chile where more than 90% of their transactions are carried out through ports carry out concession policies. With the concession policy, the throughput has increased by 3 times from 10,000,000 TEUs to 30,000,000 TEUs within 20 years. The magnitude of the impact of port concessions on port activities makes the OP plan for port expansion and development. Concessions in Italy are not only related to terminal operations, but involve all port areas which are exclusively leased to concessionaires for certain activities. The determination of concession rates in each region has differences, the difference in tariffs aims to increase the potential income from activities at the port. Furthermore, in determining the duration of the concession granted, it also varies in each region. At Genoa, currently, the maximum concession duration that can be granted to the private sector is 26 years. Then in the La Spezia region for 33 years. For the territory of Naples, the maximum term is 50 years.

Nigeria carried out port reform with various activities. Among them is the enactment of the Port Act in 1999 retaining the Nigeria Port Authority as a public entity, but has the authority in some activities to be passed on to the private sector. Next is the port concession that relies on the Public Private Partnership (PPP), where port activities are given to the private sector, while the ownership of the port belongs to the NPA as a public entity. With this port reform, the Nigerian government has a variety of goals. Among them is to improve port operational efficiency and reduce port service costs.

From the application of port concessions in Chile, Italy, Belgium, and Nigeria, there is very little mention of concession fees. Indeed, concession fees are less strategic to discuss because they do not have a direct impact on the performance of the concession business. However, under certain conditions, the concession fee can become a burden for investors, namely if new operations start running or operating activities in newly opened/pioneer areas (Karlis & Polemis, 2018; Han, et al, 2020; and Liu, et al, 2018).

Ideally, the concession fee will not be a heavy burden for investors because the investor basically already bears the heavy burden of the project's operating costs and investment risks. In addition, from the definition it is clear that the concession fee is a cost because someone is given the right to be able to carry out activities in a certain area. So the concession fee, which consists of an entry fee and a performance fee, should not be burdensome for investors.

Result Analysis and Discussion

Results of Focus Group Discussion (FGD)

As explained in the previous chapter, the informants in this study were divided into 3 categories, namely Operators, Regulators and Associations. The coding process is carried out through a transcript of the FGD conducted with stakeholders. As for in this case there are about 3 transcripts that are processed by coding.

Operators

Informants categorized as operators are divided into 3 informants. The explanation made by Informant 1 (Budiyono Doel Rachman) generally refers to the concept of concessions fundamentally, both in terms of regulations, to the tariffs imposed. Based on the statement, the main purpose of implementing the concession is the reason for the need for funding. In terms of the term, it is agreed that the maximum port concession is 80 years with a tariff of 2.5% imposed on the BUP. Furthermore, the informant also touched on the issue of competition between Private Business Entities and Pelindo in the Port business.

Informant 2 (Mulyono) generally also discussed the fundamental concept of concessions, from the aspect of the objective to the size of the concession. Informant 2 also touched on other matters in more detail, namely the proposals for improvements in port concessions. There are several points regarding Port concessions, namely: (i). Classification of port development from the time of greenfield; (ii). Sensitivity to port potential per region; and (iii). Termination clause. For the first and second points, this leads to the granting of concession fees, time periods, to fiscal incentives (tax holidays), especially to investors who invest in pioneer ports. Then, related to the termination clause, it relates to the return of assets to the government. These returns relate to purchases by the government at fair prices or at market prices of the assets.

Furthermore, the presentation made by Informant 3 (Ari Sunayono), in general also discussed concessions, but in this case, the informant made comparisons with concessions on toll roads, both in terms of business models, tariffs, concession fees, time periods, incentives, to to the classification of potential areas. The toll road business is very dependent on the existing vehicle traffic. This is also indirectly related to the disparity of potentials between regions. In addition, business on toll roads is considered relatively easier when compared to ports. In addition, the informant clearly stated that there was no concession fee for the toll road business.

Furthermore, related to the potential disparity possessed by each region, in the toll road business, the government provides a number of alternative business opportunities (rest areas) for investors, this is another difference in the port and toll road business and at the same time makes business on the toll road is relatively easier and more attractive than the port.

Regulator

Informants categorized as regulator/informant 4 (Wisnu Handoko), generally refer to the map of the condition of existing concessions that are already running, aspects of synergy (both with the private sector and the government, in developing ports), the amount of concession fees to potential disparities in each. region. Furthermore, Informant 4 stated that the proceeds from the concession fee (2.5%) will be used again for port development, especially in the 3TP areas. This indicates that, indirectly, the concession fee charged to the operator is related to the continuity of the port business in remote areas, and indirectly reduces the potential disparity of existing ports.

Association

There are also 2 informants in the association category, namely Dani Rusli and Wahyono Bimarso. The presentation made by Informant 5 (Dani Rusli) also generally refers to the concession issues that have occurred, both from the history of the implementation of concessions, port development, and the search for strategic partners. In terms of investment competitiveness, informants compare the percentage of the burden on the concession fee, which is between 0.5% and 2.5%. This is indirectly considered burdensome and can have an impact on investment competitiveness. Informant 6 (Wahyu Bimarso) also generally refers to issues of port concessions in Indonesia and emphasizes the condition of ports, the condition of shipping companies, the implementation of concessions and PPPs in Indonesia, and licensing constraints. In relation to the implementation of concessions and PPPs in Indonesia, the informant also compared with the toll road business which has a Toll Road Regulatory Agency (BPJT) which should also be applied to the port sector by having a Port Regulatory Agency (BPP). In addition, related to the shipping company aspect, the informant also said it was necessary to maintain the business continuity of small shipping companies. This is because shipping companies are a vital part of the port business ecosystem.

A general conclusion can be drawn that both Regulators, Operators and Associations all touch on the same theme, which is related to concession issues, although some of them cover broader topics.

NVivo Results

The following table represents the number of references in the aggregate (including sub-nodes), as follows:

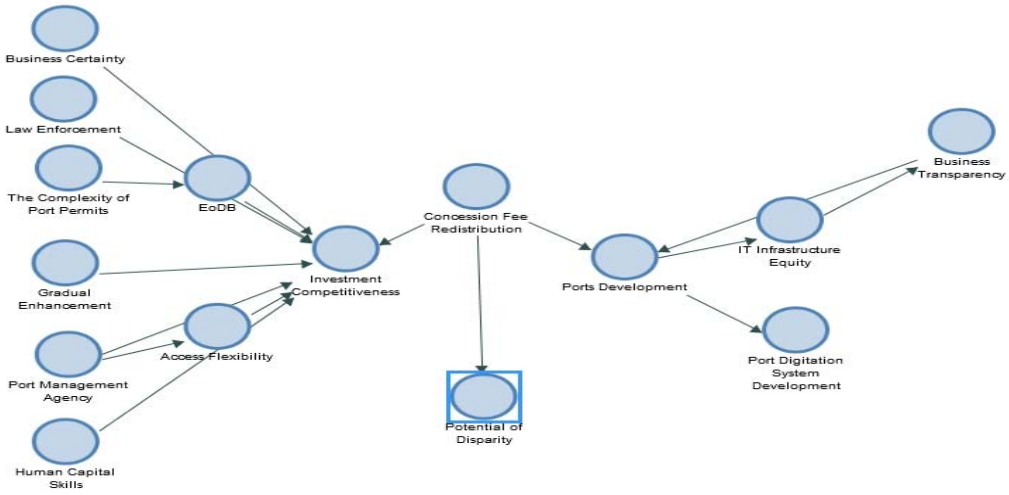
Table 10. Aggregate Nodes Reference

No.	Nodes	Reference
1	Ports Business	119
2	Partnership	85
3	Concession	82
4	Ports Development	60
5	Competitiveness of Investment	52
6	Concession Fee	35
7	Keterlibatan Swasta	32
8	Concession Period	16
9	Potential of Disparity	14
10	Tol Road Investment	11
11	The Complicated of Ports Permits	10
12	Law Enforcement	10
13	KPBU	10
14	SOC Domination	10
15	Stakeholders Synergy	9
16	Regulation	9
17	The Slow Concession Practical	9
18	Budget Constraint	9
19	Byrocration Simplify	8
20	Redistribution of Concession Fee	8

Source: NVivo (2022)

Overall (3 Categories of Informants), both implicitly and explicitly, alluded to port business issues, partnerships, and concessions, each of which has a number of references of 119, 85, and 82, as the main thing mentioned at least in the data source (transcript) that exists compared to other things. Furthermore, nodes that support this are also obtained, which can be summarized into a concept map form as follows:

Figure 7. Concept Map



Source: NVivo (2022)

Based on Figure 7., it can be seen that several existing nodes are connected to each other by connectors. Investment Competitiveness Nodes have the most inbound connectors than others. The concept map is built based on the development of ideas. This means: (i). issues regarding ease of doing business, legal certainty, business certainty, gradual determination of concession fees, BPP (Institutional Access flexibility), and complicated port permit processes (ease of doing business) will have an impact on Indonesia's investment competitiveness, especially in the port sector; (ii). The redistribution of concession fees will have an impact on two things, namely on the aspect of investment competitiveness and port development. This illustrates the dilemma that occurs in determining the amount of the concession fee, either gradually or directly at 2.5%, which has an impact (trade-off) between investment competitiveness and port development; (iii). Port development is also related to the maturity of Information Technology aspects to support business process transparency, including port supervision, so that it will have an impact on further port development.

Conclusion of Policy Recommendations

Conclusion

1. The port concession policy has become an instrument of attraction for investors to invest their capital because the concession policy has been stated in the concession agreement between the Government and the Port Business Entity/investor, which will provide legal certainty, business certainty, location certainty and certainty of return to be obtained;

2. Based on the results of the FGD it was found that (i). issues regarding ease of doing business, legal certainty, business certainty, gradual determination of concession fees, the flexibility of institutional access, and complicated port permit process (ease of doing business) will have an impact on the competitiveness of Indonesian port investment; (ii). The determination of the concession fee will have an impact on two things, namely on the aspect of investment competitiveness and port development; and (iii). Port development is also related to the maturity of Information Technology aspects to support business process transparency so that trade-offs that occur will be reduced.

Policy Recommendations

1. To realize the port as a locomotive for development and national welfare in the Indonesian archipelago, the State Budget and the State-Owned Enterprise Budget alone are not sufficient, so it is recommended that national/foreign private investors are interested in investing by providing conveniences in licensing procedures, requirements, tax obligations, obligations pay concession fees and so on;

2. Determination of the concession period even though it has been calculated fairly, professionally, and measurably but needs to be considered if there is a request for an additional concession period when the concession has expired;

3. At the beginning of operations, usually the business is not running normally so investors still experience losses (still below the Break-Even Point). It is recommended that at the beginning of operations (maximum 3 years) a grace period is given, during which investors are freed from paying concession fees;

4. At the end of the concession, usually the port facilities and equipment built/purchased by investors still have economic value. This is called capital gain for investors. According to the applicable provisions, if the cooperation scheme used is Built Operation Transfer, the port facilities and equipment at the end of the concession period are handed over to the Government (Port Authority).

5. It is necessary to immediately determine the shipping route for ships that will support the Sea Toll Roadmap in Indonesia so that investors can immediately plan which port to invest in.

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