A Legal Policy Analysis of the One Belt One Road Initiatives (Indonesia legal interpretation perspective)

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ABSTRACT

China's One Belt One Road Silk Road is an initiative of Chinese President Xi Jinping to build infrastructure that can support or advance international trade through land and sea routes. One Belt One Road is also one way to increase the country's economic growth through which it passes by taking advantage of international trade barriers. The problems in this research are: how are the concept of One Belt One Road, the advantages and disadvantages of implementing One Belt One Road in Indonesia, and the legal aspects regarding One Belt One Road. This thesis research uses normative legal research methods using data from primary, secondary and tertiary legal materials. Data were collected through a literature study and analyzed in a normative-qualitative manner. The Indonesian government is very receptive to foreign investment as long as it has a positive social impact. With this as a guiding concept, the Chinese government's of One Belt One Road initiative offers Indonesia an alternate choice for developing the nation's infrastructure and ensuring the welfare of its citizens. This research illustrates how Indonesia embraced the One Belt One Road opportunity as one of the options it picked by using the case of China's investment in Indonesia as an example. Technically, this research provides an Indonesian legal framework that Chinese state investors can use as a road map to ensure that investment expansion proceeds smoothly inside the One Belt One Road framework.

1. Introduction

Every nation in the world has a goal and purpose for existing. Written declarations of the state's objectives that will be pursued for the benefit of its population are the vision and mission. Good international collaboration is one of the things that may be done to accomplish this goal. Countries may be invited by the international cooperation system to boost economic growth collectively. Economic growth is anticipated to give people the chance to benefit from national progress, enabling the realization of communal welfare in a system of competition in the marketplace.

In the G20, Indonesia currently ranks third in terms of growth, trailing only India and China G20 (Wicaksono, 2017). The export-import sectors accounted for the majority of this expansion. According to Law Number 7 of 2014 on Trade, export is defined as the activity of removing goods from the customs area. Meanwhile, import refers to the activity of bringing goods into the customs territory (Indonesia Patent No. 1 Number 16, 2014). The goal of these export-import activities is to become accustomed to competing in the international market in order to be prepared for the intense competition of international trade activities. However, these export-import activities were hampered by inadequate infrastructure. The limited state or regional budget for infrastructure construction has harmed Indonesia's international trade performance. Away from these issues, the central government began to seek assistance that has the potential to assist in the construction of infrastructure in Indonesia in order to secure the national economy and attract potential investors.

President Joko Widodo (Jokowi), on May 14 2017, attended the One Belt One Road (OBOR) Summit in China (People's Republic of China) (Utami, 2017). This visit was conducted to discuss cooperation between Indonesia and China regarding infrastructure development on the Chinese Silk Road. The China Silk Road or One Belt One Road has two sub-strategies. First, the "Silk Road" or "land strategy" stretches from the People's Republic of China (PRC) through Central Asia, South Asia, the Middle East, Southern Europe, Eastern Europe to Western Europe. The main instrument of the Silk Road is the policy of infrastructure development. Whether in the form of highways, freeways or railroads. (Sukmawan, 2017). The two strategies are the “Maritime Silk Road” or “sea strategy, " stretching from China through Southeast Asia, South Asia, Middle East, West Africa, and Southern Europe to Western Europe. In addition, the scope of the maritime silk route includes waters such as the Taiwan Strait, the South China Sea, the Malacca Strait, the Bay of Bengal, the Indian Ocean, the Persian Gulf, the Gulf of Aden, the Red Sea and the Mediterranean Sea. In contrast to the first strategy, the main instrument in the maritime route strategy is the policy of infrastructure development in the form of railways and ports. (Wibowo, 2017).

The Chinese Silk Road has the potential to increase trade, logistics, and investment opportunities for Indonesia and the countries that pass through it. Since the 15th century, China and Indonesia have had a relationship. This relationship is well-established, as evidenced by the ongoing trade cooperation between Indonesia and China (Yudilla, 2016). The number of Chinese companies investing in Indonesia demonstrates this. According to data from October 2016, 30 Chinese companies in the ferronickel processing industry invested in Indonesia for a total of US$ 6 billion, or Rp. 79.8 trillion (exchange rate of Rp. 13,300/US$) (Rahman, 2017).

Through One Belt One Road, the potential for investment from China in the form of infrastructure development that connects the ASEAN region will increase. Trade between countries and higher quality investment will create more jobs and increase a country's growth rate.

The One Belt One Road (China Silk Road) program is in line with the Indonesian government's program in developing the Indonesian economy, which is increasingly integrated into the global economy. For this reason, Indonesia needs to take advantage of the opportunity to revive the Chinese silk route to become a producing country that produces globally competitive products.

Another critical step that the government must take to encourage international trade activities in Indonesia and increase investor trust is to implement Trade Law No. 7 of 2014. It is already stated in Article 38 paragraph (3) letter c of the Trade Law that it is critical to develop facilities and infrastructure to support foreign trade. Departing from the spirit of the article, one of the solutions for developing infrastructure that can support economic activity in goods transactions and increase investment is the construction of the China Silk Road..

The Trade Law is here to accommodate legal certainty for Indonesia's sustainability of international trade practices in today's international trade, which requires speed and legal certainty. This is due to the importance of legal certainty for investors; as a result, investors can make several predictions about their business plans (Siregar, 2017). nternational trade is extremely complicated and complex when compared to domestic trade implementation. This complexity is caused by factors such as:

1. National boundaries separate buyers and sellers.
2. Goods must be sent and transported from one country to another through various regulations such as customs, which originate from restrictions issued by each government.
3. There are differences in language, currency, estimates and scales, laws in trade, etc.

It is expected that this complication in international trade will not be rediscovered on the Chinese silk route, as this route exists to facilitate access to cooperation among the countries it passes through. As cooperation in attracting investors via the Chinese silk route is established, any group of companies must be able to gain export sales or effectively compete with imports without having to leapfrog protectionists (Wikipedia, 2021).

Furthermore, the Investment Law was introduced as a significant supporting step in attracting investors to Indonesia. The Government's efforts to issue Law no. 25 of 2007 is one of the answers to Indonesia's trade needs.

Investment activities are extremely complex and are not governed by a single law. The investment law is not only concerned with Law No. 25 of 2007 and its accompanying regulations. It will, however, be related to other fields of law such as tax law, labor law, land law, trade law, and other legal fields related to national and international business transactions. This is required as a flexible legal reference when implementing the OBOR system.

Horikawa Shuji, an entrepreneur from Japan, explained that investment considerations are water flow. Water always flows from the highest place to the lowest place. Business people are always looking for it because entrepreneurs need peace of mind, hoping to get adequate incentives from the government where they invest and get opportunities to develop with their environment, employees, and partners. It is difficult for business people to develop without it (Siregar, 2017).

As one of the world's leading economies, Indonesia promotes trade in the areas of prosperity, security, and equality through the Trade Law, which promotes justice. In addition, there is legal certainty in the Indonesian trade sector. The Trade Law is also designed to help Indonesia overcome obstacles in future international trade transactions. Three legal issues arise in international trade transaction activities: the competence of the competent legal institution or jurisdiction, the choice of which legal issue to pursue, and the problem of implementing or implementing foreign court decisions (Khairady, 2013).

As a legal state, Indonesia ensures that the parties' rights are protected through norms that include sanctions. The parties involved in trading activities in Indonesia are no exception to meeting their objectives. A standard that regulates a business that does not always conflict with interests is required (Asyhadie, 2012). Infrastructure progress supported by the rule of law will create an orderly atmosphere for business people.

In addition, to ensure the business activities of both domestic and foreign traders, the government, through Law Number 5 of 1999 concerning the Prohibition of Monopoly and Unfair Competition, also regulates several rules related to the prohibition against dominating the market by one party.

According to Hamid S. Attamimi, since its founding, Indonesia was determined to establish itself as a country based on law, as Rechtstaat. Rechtstaat Indonesia is Rechtstaat that advances general welfare. This is indicated by including these as the nation's ideals in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia. The ideals themselves, realized through the idea of the rule of law (democracy), are intended to improve public welfare. This also underlies the importance of legal ideas in implementing activities in any field in the State of Indonesia. Thus, the development of the Indonesian state will not be trapped as just 'rule-driven', but still 'mission driven', but ' mission driven', which is still based on rules (Asshiddiqie, 2017).

Thus, the One Belt One Road (OBOR) route is an excellent opportunity for Indonesia, which requires infrastructure development to strengthen communication between its approximately 17,000 islands (Prasetyo B. , 2017). With the integration of trade activities through this infrastructure, it is hoped to support the development of industrial estates that can reduce poverty levels in Indonesia.

Through OBOR, several potential investments in Indonesia can be realized, namely the integrated economic corridor, connectivity, industry and tourism projects in North Sumatra in the form of Kuala Tanjung Port facilities and road access from Medan City to Sibolga. Indonesia is also trying to increase investment in North Sulawesi by improving infrastructure in Bitung-Manado-Gorontalo through the construction of access roads, railways and ports, and airports. In addition, investment in energy and power plant projects will be opened in North Kalimantan Province.

The One Belt One Road (OBOR) program is an opportunity to increase facilities and infrastructure development to support international trade activities in Indonesia. In addition, OBOR also opens up opportunities for workers to find work. This situation is due to the opportunity to open Chinese product factories in Indonesia, requiring workers.

This research was developed to release evidence of the Connection of The Implementation of International Trade in Indonesia Through The One Belt One Road System. The research also developed to fill the gap of literatures that discuss the impact of International Trade in Indonesia uder the implementation of OBOR in terms of international law theory.

2. Literature Review

2.1 History of The Belt and Road Initiatives

One Belt One Road (China Silk Road) is China's attempt to revive the ancient silk road or what is known as the Silk road. The Silk Road was long an ancient trade route 2000 thousand years ago initiated by the Han Dynasty (207 BC - 220 AD), where the land route crossed Eurasia. The sea route crossed Southeast Asia, the Middle East to Venice and Europe (Kampung Muslim, 2017).

The term "Silk Road" is never found in Chinese historical records. German geographer first used the term in the late 19th century, Ferdinand von Richtofen, who referred to the 6,000-kilometer-long trade route from China to Rome as the " Seidenstraße " or "Silk Road" (Wibowo A. , 2017). The Silk Road at that time played an essential role in the development of Chinese civilization, especially in terms of trade relations with other countries.

The history of the Silk Road dates back to the second century BC (BC) until the end of the 14th century AD. Starting from a significant trade route originating from Chang'an (now Xian) in the east and ending in the Mediterranean in the west, connecting China with the Roman Empire. Silk was the main trade product that made this journey, so the route was named the Silk Road in 1877 by Ferdinand von Richthofen - a famous German geographer. This ancient route is not only a route for shipping goods but also a route for exchanging the beautiful cultures of China, India, Persia, Arabia, Greece and Rome (Travel China Guide, 2017).

Zhang Qian first opened the Silk Road in the Western Han Dynasty and its routes gradually formed throughout the Han Dynasty. This trade route was very famous in its time. With the establishment of this route, the community's economic development became rapid, so this trade route achieved prosperity in its history. The Silk Road also has the history of various other dynasties, including:

1. **The Silk Road in the Western Han Dynasty**

   From 139 BC to 129 BC, Zhang Qian embarked on his journey to the Western Regions twice to pioneer the world-famous route. Zhang Qian also won several wars trying to block trade routes on the Silk Road. One of them was the war against the Huns ordered by Wei Qing and Huo Qubing. The Great Wall was also built to the west to protect the security of trade routes. In 60 BC, the Han Dynasty established the Western Region Protectorate at Wulei to oversee trade routes in the northwestern region. It aims to keep the trade route successful and become a preferred route for traders.

2. **The Silk Road in the Eastern Han Dynasty**

   Ban Chao and Ban Yong made several expeditions to the Western Region to suppress the rebellion and rebuild the Western Region Protectorate, ensuring peace and trade along this critical route.

3. **The Silk Road during the Tang Dynasty**

   The establishment of the Tang Dynasty and supported by the great success during this time has created, the silk road is increasingly showing improvement in its history. Before the Anshi Rebellion (Pemberontakan An Shi, n.d.) (755-762) took place in the Tang Dynasty, this path also experienced its "Golden Age".

4. The Silk Road in the Yuan Dynasty

As the Mongolian Empire grew and the Yuan Dynasty formed, this route regained strength. In 1271, the great Mongol ruler, Kublai Khan, founded the powerful Mongol Empire in Dadu. The empire is listed as one of the largest empires in Chinese history, stretching as far as Mongolia and Siberia in the north, the South China Sea in the south, Tibet and Yunnan in the southwest, the Stanovoi Range (Outer Khingan) and Okhotsk in the northeast, Xinjiang and Asia. Central in the northwest. Even West Asia and Russia were under the control of this empire. The Mongol Empire made the trade on the Silk Road easier and safer to navigate at that time. It is because the emperor destroyed corrupt activities on the Silk Road. In addition, the Mongol Emperor welcomed Western travellers with open arms and issued a special VIP passport known as the "Golden Tablet". The card holder is entitled to food, horses and guides throughout the Khan area. Holders can also travel freely and trade between East and West directly. In the territory of the Mongol Empire (Travel China Guide, 2017).

Based on the history above, it can be seen that the concept of the Silk Road is not new. However, an old concept in the past is now being promoted again to build the economy and political stability of the countries it passes through by giving birth to a new Silk Road, namely 'One Belt, One Road'. OBOR)'.

OBOR consists of a “ New Silk Road economic belt ” that indicates stronger economic ties with Central Asia, focusing on trade. Then, Chinese leaders added another concept, namely the " 21st Century Maritime Silk Road ", which is seen to strengthen relations with South and Southeast Asia, focused on maritime trade security (Kartini, 2017).

One of the factors driving the issuance of the OBOR policy is the global economic crisis and domestic social problems that have resulted in an economic model. It relies on exports and Foreign Direct Investment (FDI) to become less effective, thus endangering China's economic situation. (Ibid). It was the primary basis that pushed Chinese leaders to promote the idea of the New Silk Road in order to find new markets that could promote development.

The idea of a New Silk Road was announced in 2013 by Chinese President Xi Jinping under the name One Belt One Road (OBOR). OBOR is a new way to encourage development. The development aims to expand links between Asia, Africa, Europe and other regions backed by billions of dollars in infrastructure investment.

At the One Belt One Road (OBOR) Summit, which took place on 14-15 May 2017 in Beijing, China, Xi Jinping invited the countries' leaders present at the forum to join in the project, which is expected to be a path to peace and prosperity. Prosperity for the world (Agustiyanti, 2017). OBOR is a new model of international cooperation that promotes connectivity in various sectors of trade, infrastructure development and human relations. The heyday of international trade via the ancient Silk Road can be restored through the TORCH project. In order to support this project, the Chinese government has also prepared aid funds from the China Development Bank (CDB) and the Export-Import Bank.

2.2 The concept of Belt and Road Initiative

One Belt One Road (China Silk Road) acts as an instrument that connects China with Asian countries to Europe in trade services. A small group then managed OBOR under Deputy Prime Minister Zhang Gaoli. The vision of OBOR is to increase prosperity and realize China's modernization in 2020 by increasing the intensity of trade by providing adequate infrastructure facilities, both land and sea, throughout the targeted area (Yasmin, 2017).

(Kartini, 2017) said there are 5 (five) main objectives of One Belt One Road (China Silk Road), namely:

1. Policy Coordination;

Policy coordination can help provide a “green light” for economic cooperation between countries. Through OBOR planning, cooperation with each party involved must be adjusted to their economic interests

2. Facility Connectivity

Facility Connectivity can be in the form of strengthening road or infrastructure connections. With the idea of forming a large transportation corridor from the Pacific to the Baltic Sea and from Central Asia to the Indian Ocean, then gradually building a network of transport connections between East Asia, West Asia and South Asia.

3. Free Trade

OBOR concerning free trade aims to strengthen trade facilities, focusing on removing trade barriers and taking steps to reduce trade and investment costs. It will facilitate trade routes between countries.

4. Financial Integration

OBOR also aims to strengthen financial cooperation, with particular attention to currency settlements that can reduce transaction costs and reduce financial risk while enhancing a competitive economy; and

5. Bonds Between Communities

As a route that spans multiple countries, OBOR can strengthen people-to-people relations between entrepreneurs and buyers who are crossing the pathway. One part of the new Silk Road is the Maritime Silk Road. The track aims to strengthen South and Southeast Asia ties, emphasising maritime trade security. Another goal is to build efficient transportation routes between important ports in various countries, including constructing an economic corridor through the Indian Ocean, better connecting China, Southeast Asia, the Middle East, Africa and the Mediterranean Sea (Councill).

OBOR is expected to produce better total connectivity between countries that share the same line. For example, cargo trains now regularly link Guangzhou, a central hub in southeast China, with the logistics hub in the Vorsino industrial area near Kaluga. Freight takes just two weeks, saves a month compared to shipping by ship, and saves about 80% in costs compared to air cargo. (Allison, 2017).

The cooperation that China and Indonesia desperately need is infrastructure development to improve inter-island connectivity and improve the quality of port infrastructure. Therefore, the offer of investment assistance from China is in line with the goal of the State of Indonesia, namely to promote public welfare. The government is aware that to keep pace with rapid economic growth requires many funds.

The New Silk Road policy issued by the Chinese government is based on domestic and international factors. The global economic crisis and domestic social problems have resulted in an economic model that relies on exports and Foreign Direct Investment (FDI) to be less effective. To overcome this, China must find new export markets or maintain existing markets, narrow the development gap between affluent coastal areas and poor mainland areas, and maintain stability abroad. This was the primary basis for domestic factors that prompted Chinese leaders to promote the idea of the New Silk Road. Meanwhile, the international factor that pushed the Chinese government under Xi Jinping to earnestly seek to implement the New Silk Road policy was looking for partnerships, not alliances.

The Chinese government states that the New Silk Road is a partnership patterned cooperation and not an alliance with the countries. It invites us to partner because China has a Communist economic system vulnerable to being rejected for implementation in ASEAN countries, including Indonesia. The second reason is Pure because he wants to establish international trade cooperation with countries along the Silk Road. It aims to revive China's economic growth, which has weakened until in the third quarter of 2017, it only reached 6.8 percent (Rahma, 2018).

OBOR also aims to become a new market for Chinese products and services (Hermawan, 2015). Diversification of export markets, especially in developing countries, will prolong the life cycle of Chinese products and will enhance traditional industries. The Belt Road Initiative is significant to support the goals of infrastructure development which is expected to contribute to the welfare of the cooperating countries. Thus, another goal of OBOR is to become a new platform in establishing cooperation towards an open world economic growth and impacting global peace, security, and stability.

2.3 Understanding Belt and Road Initiatives Strategy

One Belt One Road (OBOR) or now known as Belt and Road Initiatives (BRI), is an initiative launched by President Xi Jinping in 2013. It focuses on improving and creating new trade routes, links, and business opportunities with China, passing through more than 60 countries, crossing Asia, Europe, the Middle East, and Africa (China Britain Council, 2017). BRI is the realization of the Chinese government's plan to target a broader range of exports and imports to many countries.

Definition of One Belt, One Road is a strategy and framework proposed by China's supreme leader Xi Jinping also focuses on connectivity and cooperation between countries. Especially the People's Republic of China and Eurasia consists of two main components, the “Silk Road Economic Belt” (SREB).) land-based and the sea-based “Maritime Silk Road” (MSR) (Kampung Muslim, 2017). The role of SREB is to improve and develop land routes such as: building a "Eurasia land bridge", which is a logistics chain from the east coast of China to Rotterdam / Western Europe. Meanwhile, one of the MSR elements in OBOR is to build a sea route that stretches from the west coast of China's east to Europe through the South China Sea and the Indian Ocean (China Britain Council, 2017).

BRI intends to strengthen trade facilities by removing trade barriers and taking steps or policies to reduce trade and investment costs. The Chinese Silk Road will cover both land and maritime areas. The land route starts from the People's Republic of China through Central Asia, South Asia, the Middle East, Southern Europe, Eastern Europe, and Western Europe. Meanwhile, the maritime route will pass through several ports along the route of the South China Sea, Indian Ocean, Persian Gulf, Red Sea, to the Gulf of Aden through Vietnam, Malaysia, Indonesia, India (Sari, 2017).

For the Chinese government, the Maritime Silk Road Master Plan or One Belt, One Road also started in Quanzhou in the province Fujian, through Guangzhou, Beihai and Haikou before heading towards the Malacca Strait. From Kuala Lumpur, the Maritime Silk Road leads to Calcutta, India and across the Indian Ocean to Nairobi, Kenya. The Maritime Route headed north around the African continent from Nairobi and travelled through the Dead Sea to the Mediterranean Sea, stopping at Athens, before meeting the Land Silk Road in Venice. This “One Belt, One Track ” strategy pushes China to take a more significant step in global affairs and requires capacity for cooperation in areas such as steel manufacturing (Kartini, 2017).

The BRI strategy can also be understood as a geopolitical and geoeconomic strategy that can be broken down into two sub-strategies. First, the 'Silk Road' or 'land strategy' stretches from the People's Republic of China (PRC) through Central Asia, South Asia, the Middle East, Southern Europe, Eastern Europe to Western Europe. The main instrument of the Silk Road strategy was the infrastructure development policy. Whether it is a highway, freeway or railroad track

Second, the 'Maritime Silk Road' or 'sea strategy' stretches from China through Southeast Asia, South Asia, the Middle East, West Africa, Southern Europe to Western Europe. In addition, the scope of the Maritime Silk Road (JSM) includes waters such as the Taiwan Strait, South China Sea, Malacca Strait, Bay of Bengal, Indian Ocean, Persian Gulf, Gulf of Aden, Red Sea and the Mediterranean Sea.

Unlike the first strategy, the main instrument in the JSM strategy is the infrastructure development policy in the form of railways and ports. As well as military policies in building sea and air bases. It also carries out maritime patrols, especially in the South China Sea, the Bay of Bengal and the Indian Ocean. Several strategic points included in the plan to build a sea and air base are the Paracel Islands and the Spratly Islands in the South China Sea, Sittwe in Myanmar, Chittagong in Bangladesh, Gwadar in Pakistan and Djibouti in East Africa (Sukmawan D. I., 2017).

Concerning international trade, BRI emphasizes stronger economic cooperation, especially in infrastructure development cooperation (roads and railways) and technical and scientific cooperation on environmental issues. The project will involve port construction, upgrading, logistics service development, and establishing a free trade zone to increase trade and connectivity between international ports and waterways. Chinese President Xi Jinping also promised to help fund the US $ 124 billion or around Rp. 1,645 trillion for the construction of the modern Silk Road infrastructure, which the country calls the project of the century (Hosein, 2017).

One of the ambitions of the One Belt One Road (OBOR) initiative is to improve human relations. Connectivity goes beyond economic, financial and legal integration. This path is also about the interrelationships about cultures and the relationships that bind communities to the countries they pass through. Therefore, the proposed OBOR activity enables broad cultural exchanges between people in art, religion, philosophy, technology, language, science, architecture, and trade goods being transported from country to country.

Currently, 'One belt One Road' is the world's largest real economy infrastructure project which is not just the construction of a high-speed rail line to speed up the delivery time of goods from China across Eurasia to Europe. The construction of this line also improves the quality of infrastructure and infrastructure to bring industrial products to some remote areas. These minerals and other resources cannot be exploited without modern transportation infrastructure.

For China, OBOR is a new form of the ancient Silk Road. The concept of the New Silk Road (OBOR) was born as an effort to restore the old route, which was very famous since 200 BC. The new Silk Road used direct cross-continental rail lines to transport goods such as household appliances, bags, clothes and luggage. With the rise of the Silk Road, the export and import trade sector and investment will be more developed.

The potential of China and many countries on the modern silk route provides opportunities for increased trade transactions for export-import countries along the modern silk route, including Indonesia on the maritime silk route. One of them is an effort to increase port capacity. Indonesia welcomes the opportunity for the modern silk route, which offers some infrastructure projects in Indonesia to support the national maritime program, including the construction of Kuala Tanjung Port in North Sumatra and Bitung Port in North Sulawesi (Sari, 2017). Structured improvements to infrastructure can support increasing the competitiveness of superior products and open up the potential for better Indonesian exports in the future through OBOR cooperation.

International trade has a significant influence on economic growth, as demonstrated by the liberalization and integration of the trade process. While trade can increase national welfare, policies that reduce adjustment costs can increase total welfare more than regulating trade flows (Robertson, 2018). However, trade integration has not been evenly distributed across countries and societies. It is often concentrated among a few actors while any adverse effects on inclusivity and social and environmental dimensions seem like externalities. Without policies for sharing wealth, including trade and labour adjustment mechanisms, trade can increase inequality, increase social tensions, and lead to environmental degradation. (General, 2018).

International cooperation for development must go beyond traditional instruments to include new modalities, such as capacity building, innovative instruments for knowledge sharing, and technology transfer. In particular, sharing policy lessons to promote sustainable domestic resource mobilization is fundamental for developing countries in transition. In addition, a new set of financing modalities is required, including climate funds, mixed-finance, or debt-to-nature swaps, along with adequate monitoring and transparency of international development finance. (ECLAC/OECD, 2018: 37) .

3. Methodology

This type of research is normative juridical, where researchers examine legal materials, both primary, secondary, and tertiary, to answer the problems that are the focus of research. The approach method used in this research is:

a. Legislative approach (*statute-approach*), namely by reviewing the Legislation relating to trade, especially foreign trade (Marzuki, 2007).

b. Conceptual *approach*, namely by studying and understanding concepts international trade and cooperation agreement system (Ibrahim, 2007).

3.1 Research Data

The types of legal materials used in this study as the leading legal materials consist of:

a. Primary Legal Materials, namely in the form of statutory regulations, which include:

1) The 1945 Constitution of the Republic of Indonesia

2) Law Number 13 of 2003 concerning Manpower

3) Law Number 25 of 2007 concerning Investment

4) Law Number 7 of 2014 concerning Trade

5) Regulation of the Minister of Trade of the Republic of Indonesia Number: 23/M-DAG/PER/9/2011 concerning Amendments to Regulation of the Minister of Trade Number 44/M-DAG/PER/9/2009 concerning Procurement, Distribution and Control of Hazardous Materials

6) Regulation of the Minister of Trade of the Republic of Indonesia Number: 13/M-DAG/PER/3/2012 concerning General Provisions in the Export Sector.

b. Secondary Legal Materials includes literature related to the issues studied, originating from books, newspapers, legal expert opinions in literature, journals, theses, dissertations, expert presentations in seminars (papers), and internet articles.

c. Tertiary or supporting legal materials, in the form of dictionaries consisting of Indonesian language dictionaries, legal dictionaries, and other data needed to complete the materials for writers in this study.

3.2 Data Collection Techniques

The technique used in data collection is library research or literature study. This is done to get a foundation in analyzing data - data obtained from various sources that can be trusted, directly or indirectly (internet). Thus it will obtain a conclusion that is more focused on the subject. Tool The data collection used in this paper is a document study related to writing.

3.3 Data Analysis

All data were collected, inventoried, classified, and analyzed using descriptive analysis to describe the various problems. So that solution is obtained that can lead to increased economic growth.

Descriptive methods are used to study the problems in society and procedures that apply in everyday society and specific situations (Nazir, 2005). This descriptive writing aims to make a systematic, factual and accurate picture or painting of the facts, characteristics, and relationships between phenomena that are thorough in getting a solution. After the analysis process, a synthesis process is carried out by drawing and connecting the problem formulation, purpose of writing, and discussion. Next, general conclusions are drawn, and then some recommendations are made to transfer ideas.

3.4 Legal Policy Analysis

The research design incorporates a detailed legal policy and analysis of the Indonesian context. It was essential to outline the social and political context on the current practice. Chapter 3 Substantive Equality and Disability 23 regulation, as well as government regulation. However, there were a number of challenges in delivering the Indonesian context into English. Firstly, Indonesia has its own unique social and political structure shaping the context of the right to work and disability. For example, the 'informal' sectors may not really appear in equivalent ways in more developed countries. As discussed in Chapter 6, the informal sector is a significant driver of the Indonesian economy. Secondly, when analysing legislation (law/Acts) I found not all the legislation has an official translation in English. Some Acts have an unofficial translation (for example coming from a body such as the ILO, UNESCO, etc), while some cannot be traced at all. In this situation, I tried to translate as best I could to deliver the meaning in the relevant context. Thirdly, there are some words from English that have been used or adapted in the disability field in particular in reviewing rights enshrined in the constitution. For example, the use of 'affirmative action' in the decisions of the Constitutional Court on the rights of persons with disabilities generally means a positive or preferential treatment of any kind. The term 'affirmative action' has been understood commonly in this way for a long period of time especially in the human rights field when it deals with the rights of vulnerable groups. These things were challenging to contextualize the specific circumstances of Indonesia to a general theoretical framework of a universal context.

4. Discussion

4.1 Legal Regulation of the *One Belt One Road* (China Silk Road) System Against International Trade in Indonesia.

Since Indonesia's independence on August 17, 1945, trade regulations in Indonesia were only formed in 2014. The enactment of Law Number 7 of 2014 concerning Trade synchronizes all laws and regulations in the field of trade so far to respond to the development of the current trade situation and future. The establishment of this Law is also to carry out national development in the economic sector as mandated in Article 33 of the 1945 Constitution of the Republic of Indonesia.

One of the essential elements that have been regulated in this Law is foreign trade. With these elements regulated, investor interest will also increase because Indonesia has provided a solid legal basis in international trade. According to article 1 point 3 of the Trade Law, foreign trade includes export and import activities of goods and services that exceed the boundaries of the country's territory. Both foreign trade activities are significant to encourage the progress of Indonesia's national income.

One of the projects of foreign trade activities that aims to advance the economy by strengthening trade facilities and focusing on removing trade barriers at this time is One Belt One Road (China Silk Road). Indonesia supports the OBOR initiative because This program is in line with the Government's program to improve infrastructure development in Indonesia. This activity is, of course, also related to investment efforts by China for Indonesia. The OBOR system is expected to accelerate Indonesia's national development through international trade activities driven by increased capital flows from China.

Harmonization of law in the regulation of the OBOR system should be carried out in a balance between national laws and regulations with the provisions of international trade law. OBOR is a form of international trade agreement that brings strong investment flows. Regarding international trade and investment agreements, since the Uruguay Round (Uruguay Round, 1986-1994), international trade and investment have become 2 (two) inseparable disciplines. Even the national regulations of member countries in the field of investment are not allowed to conflict with international trade agreements related to investment. One such agreement is Trade-Related Investment Measures (TRIMs) (Siregar, 2017).

TRIMs are investment agreements. This agreement requires foreign investors to comply with various regulations supporting development goals such as industrialization, import substitution and export growth (Arifin S. , 2004). Therefore, this TRIMs provision requires that member countries of the General Agreement on Tariffs and Trade (GATT) / World Trade Organization (WTO) not practice investment trading, which is not followed Article III (National Treatment) and Article XI (General Elimination of Quantitative Restrictions or Prohibition of Quantitative Restrictions) GATT.

The principles of National Treatment contained in Article III of the GATT are broad. This principle also applies to all taxes and other levies. This principle becomes the central principle compared to other principles (Jened, 2016). At the same time, the principle of General Elimination of Quantitative Restrictions does not justify the existence of prohibition or other trade barriers except tariffs (Siregar, 2017). This is because such practices interfere with everyday trading practices.

Investment requirements with the principle of National Treatment are fundamental principles in the international trading system. According to Mosler, a judge at the International Court of Justice explained that the principle of National Treatment contained the following elements:

1. There are interests of more than one country
2. The interest is located in the territory and includes the jurisdiction of a country. The host country must give equal treatment to the interests of other countries in its territory.
3. Such treatment shall not and harm the interests of other countries (Binus, 2017)
4. With this principle, fair competition between imported products and domestic products will be realized so that there is an improvement in the performance of domestic production to be more efficient so that they can compete with imported products. At the same time, it will be more profitable for consumers because it is possible to obtain better goods and prices, which is more reasonable (Binus, 2017).

On the other hand, Indonesia's ability to implement international trade agreements in the National Rules can already be felt in connection with the ratification of the Trade Law. The Trade Law is the basis for all international trade activities on the Chinese Silk Road. Indonesia can take advantage of the benefits promised in this cooperation with the Chinese government.

The legal arrangements related to the One Belt One Road system in the Trade Law are regulated in article 82 on International Trade Cooperation. Although the word One Belt One Road has never been found directly, Law Number 7 of 2014 is a new milestone that regulates and legalizes the issue of international trade agreements. Provisions governing international trade cooperation are regulated in Articles 82 to 87 of the Trade Law.

As referred to in article 82 of the Trade Law, Holding International Trade Cooperation is to increase market access. Such cooperation can be carried out with other countries and international organizations. However, the Indonesian government can cancel this cooperation agreement if the national interest is disturbed, as stated in Article 85 paragraph (2) of the Trade Law.

China's OBOR initiative is an initiative that will bring about significant changes in the level of connectivity and trade cooperation among countries from China and across the Asian continent to Europe and Africa. So Indonesia needs to take advantage of this situation by developing export activities to increase the country's foreign exchange. These export activities must also comply with applicable regulations to not harm the State. One of the reference provisions in the export sector is the Regulation of the Minister of Trade of the Republic of Indonesia Number: 13/M-DAG/PER/3/2012 concerning General Provisions in the Export Sector.

Regulation of the Minister of Trade of the Republic of Indonesia Number: 13/M-DAG/PER/3/2012 concerning General Provisions in the Export Sector is an additional provision outside Law Number 7 of 2014 concerning Trade. The matters regulated in this ministerial regulation concern the requirements that must be met when carrying out export activities, including sanctions for parties who violate them. (Wikipedia, 2018) China as a WTO member of Indonesia, it is necessary to pay attention to the above provisions as partners in international trade activities. In addition, in the context of national laws and regulations that can regulate various provisions that do not add to problems in international trade routes in Indonesia.

4.2 Implementation of the *One Belt One Road* (China Silk Road) System in Indonesia Based on Law Number 7 of 2014 concerning Trade.

Foreign trade activities aim to expedite the distribution of necessities and important stuff not available in any of the trading partner countries. So Law Number 7 of 2014 concerning Trade has the policy to properly realize the smooth distribution and availability of the goods. According to article 38 paragraph (3) of the Trade Law, foreign trade policies cover at least:

a. Increasing the number and types and added value of export products;
b. Harmonizing standards and procedures for trading activities with trading partner countries.
c. Institutional strengthening in the Foreign Trade sector
d. Development of facilities and infrastructure supporting Foreign Trade; and
e. Protection and security of national interests from the negative impacts of Foreign Trade.

As has been expressly stated in Article 38 paragraph (3) letter d of Trade, one of the foreign trade policies to encourage smooth trade is to develop facilities and infrastructure to support trade activities. The availability of good quality facilities and infrastructure is needed to achieve the objectives of the One Belt One Road System trading activity (China Silk Road) is one of the foreign trade policy projects that helps improve facilities and infrastructure aimed at increasing the effectiveness of trade between countries.

Facilities and infrastructure are often referred to as infrastructure, which means the physical facilities of a city or country. Infrastructure is a vital aspect of accelerating the national development process. Infrastructure also plays an essential role as one of the driving wheels of economic growth.

Regarding infrastructure, the weak infrastructure factor was also confirmed by a survey by the International Institute for Management Development (IMD). The results of his survey in 2011 placed Indonesia at 37th rank out of 59 countries, with the weak point of Indonesia's competitiveness level being in the infrastructure aspect, which includes basic infrastructure, technical infrastructure, science infrastructure, health and the environment and education. (Maryaningsih, 2014) More specifically, infrastructure constraints stem from, among others, the low quality of roads, ports, airports, and trains.

Regarding the improvement of infrastructure conditions, the obstacles faced are funding problems and legal problems so far. The allocation of Government spending for Government infrastructure development in the last eight years has averaged only around 1.6% of GDP. This ratio is relatively low compared to other countries such as China and India, which account for 5.3% and 7.3% of GDP, respectively. (Binus, 2017) Infrastructure improvements have contributed to increasing productivity and are expected to support long-term economic growth.

After efforts to improve infrastructure through the One Belt One Road program, it is also necessary to have rules to avoid obstacles as long as trading activities take place on the Silk Road that crosses the Indonesian state. The Government of Indonesia in the Trade Law has regulated that exporters and importers are required to have permits in the form of approval, registration, determination and acknowledgement to specific agencies that have been regulated in Article 49 of the Trade Law. So that in the implementation of OBOR, export and import activities on the Chinese Silk Road can run smoothly. The existence of clear permits also does not hinder the business development of the parties. Government action in granting permits is a process of supervision activities in international trade activities aimed at providing protection and legal certainty for investors.

The licensing obligation strategy regulated in the Act aims to create an orderly and safe trading atmosphere. An inspection process at each port or other trade entry route by officers can reduce the risks that generally occur. This is evidenced by the decreasing percentage of high-risk imports, which are no more than 5 per cent of all import/export activities in Indonesia. In addition, high-risk importers who carry out daily activities decreased by an average of 66 per cent. Imports by high-risk importers also decreased by 70 per cent.

Furthermore, in Indonesia, at least the Indonesian National Standard (SNI) and Indonesian language labels on goods are essential instruments that can be used as benchmarks for consumers in choosing products. SNI must be applied to trade goods related to the interests of safety, security, public health or the preservation of environmental functions and or economic considerations. Business actors who trade goods in Indonesia that do not meet SNI have been subject to a maximum imprisonment of 5 (five) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah). So that foreign traders who will market their products in Indonesia should comply with the provisions of SNI so that the goods are safe for use by the public.

Export and import activities carried out by Indonesia to China and vice versa through the Chinese Silk Road must also pay attention to the provisions of the host country. Article 50 of the Trade Law expressly stipulates that the Indonesian government prohibits the import or export of goods for the national interest for the following reasons:

1. To protect national security or the public interest, including social, cultural and moral community
2. To protect intellectual property rights and
3. To protect the health and safety of humans, animals, fish, plants and the environment.

In addition, in article 51 of the Trade Law, it has been determined that exporters are prohibited from exporting goods designated as prohibited goods for export and importers are prohibited from importing these goods. Exporters and Importers who violate the provisions referred to in Article 51 will be subject to a maximum imprisonment of 5 (five) years and a maximum fine of Rp. 5,000,000,000.00, - (Five billion rupiah).

In addition, the government also has the authority to determine trade protection and security policies. The forms of policy and trade security according to Article 67 paragraph (3) include:

1. Defence on charges of dumping;
2. Imposition of countermeasures for unfair trading practices
3. Defending national policies related to trade, which are opposed by other countries.

Article 99 paragraph (2) of the Trade Law has determined the authority of the Minister in carrying out supervision as follows:

1. Prohibition of temporarily circulating and orders to withdraw Goods from Distribution or stop the activities of Services which are traded not following the provisions of laws and regulations in the field of Trade and;
2. Revocation of licensing in the trade sector; Furthermore, Article 100 of the Trade Law stipulates that in carrying out supervisory duties, the Minister appoints supervisory officers who have the authority to:
    1. Licensing in the trade sector;
    2. Trade-in goods that are supervised, prohibited and regulated;
    3. Distribution of Goods and Services;
    4. Registration of Domestic Products and imported goods related to security, safety, health and the environment;
    5. Compulsory enforcement of SNI, technical requirements, or qualifications;
    6. Warehouse Registration;
    7. Storage of goods for basic needs and essential goods.

Furthermore, related to the existence of freedom of trade on the Chinese Silk Road, there will be unfair competition between parties in international trade to pursue profit. Through Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, it has been regulated that everyone who does business in Indonesia must be in a fair and fair competition not to cause a concentration of economic power in certain business actors. In addition, Article 19 of the Business Competition Law also regulates regarding Market Control as follows: This form of protection is given to protect and secure international trade activities, which are the activities most vulnerable to various crimes from before the goods arrive in the destination country.

The government has duties in the trade sector, including carrying out International Trade Cooperation. This International Trade Cooperation aims to increase market access. The implementation of OBOR is a concrete form of cooperation between Indonesia and China that must be based on applicable legal provisions, one of which is the Trade Law, the legal basis for all forms of trade activities.

The presence of OBOR will automatically take over the role in international trade activities in Indonesia together with the government and local governments who will supervise trade activities. In Article 99 paragraph (1) of the Trade Law, it has been determined that (Kementerian Perdagangan, n.d.) the Minister is the party authorized in carrying out the task of supervising Business actors are prohibited from carrying out one or several activities, either alone or with other business actors, which may result in monopolistic practices and or unfair business competition:

a. refuse and or prevent certain business actors from carrying out the same business activities in the relevant market;
b. It was alternatively shutting down its competitors' business in the relevant market to result in monopolistic practices and unfair business competition.

With clear regulations regarding the prohibition of unfair competitive behaviour that can be carried out by business actors participating in the Chinese Silk Road, it can minimize losses to other parties. This law also seeks to create a conducive business climate for all parties because the business competition climate must continue benefiting consumers and providing certainty for investors.

Some of the legal rules governing international trade activities above are evidence of legal certainty for investors who come to Indonesia via the China Silk Road. Thus, implementing the One Belt One Road system in Indonesia will have an accommodative legal framework following the goals of cooperation offered by the Chinese government to Indonesia.

5. Conclusion

Based on the descriptions in the previous sections, the following conclusions can be formulated:

1. The concept of *One Belt One Road* (OBOR), or the Chinese Silk Road, originated from the desire of the Chinese president, Xi Jinping, to revive the ancient trade route 2000 thousand years ago initiated by the Han Dynasty (207 BC – 220 AD). OBOR consists of two main components, the land-based “Silk Road Economic Belt” (SREB) and the sea-based “Maritime Silk Road” (MSR). OBOR aims to strengthen trade facilities, focusing on removing *trade barriers* and taking steps or policies to reduce trade and investment costs. The OBOR concept emphasizes stronger economic cooperation, especially in infrastructure development cooperation.
2. The current form of the legal framework that accommodates all provisions in trade in Indonesia is Law Number 7 of 2014 concerning Trade. This law is the leading legal umbrella for investors who will carry out international trade activities in Indonesia through the *One Belt One Road route.* This is because this law has regulated all aspects of needs that support the smooth running of International Trade. The Trade Law has regulated aspects of trade licensing for parties, security and supervision while carrying out trading activities in the territory of Indonesia and the prohibition of goods that can threaten national security. In addition, there is a Business Competition Law that helps accommodate the behaviour of parties who engage in unfair trading activities. Freedom of trade supported by clear regulations will undoubtedly impact increasing investment in Indonesia.

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