Supply Chain Practice by Corporations through Transfer Pricing Mechanisms in Indonesia

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Abstract- **This study aims to analyze legal certainty related to supply chain management on corporations that transfer pricing in transactions with related parties abroad and analyze corporate accountability for the practice of transfer pricing in the field of supply chain management in Indonesia. Transfer pricing carried out by multinational companies is an international world problem related to management strategy by diverting taxes to countries that have lower tax rates or countries that have a 0% tax rate. The research method used in this study by using a normative legal approach. The data used in this study uses primary legal materials and secondary legal materials. Primary legal documents are legal materials consisting of laws and regulations related to supply chain management in Indonesia and the OECD Guidelines. Meanwhile, secondary legal entities are materials that explain primary legal materials (legal science books, legal journals, print, and electronic media due to reports). Also, this study interviewed two informants who were experts in the field of international supply chain management and transfer pricing. This study concludes that the legislation in Indonesia is clear in regulating the implementation of transfer pricing carried out by multinational companies that have an impact on taxes collected by the Government of Indonesia. Supply chains are central to understanding wealth creation and capture in an increasingly globalized production system. The increasing disaggregation and dispersal of supply chains is profoundly affecting the geographical distribution of value added, input costs and profits of multinational firms.**

Keywords: *Supply Chain Management, Economy Development, Transfer Pricing*

1. Introduction

In the short term, existing supply chains are likely to be used to replenish stocks and re-establish the flow of goods. The central state expenditure is intended for routine expenses such as personnel costs, subsidies, debt payments, interest, and installments that are met from domestic revenues in the form of oil and gas (oil and gas) and non-oil and gas (tax and non-oil) revenues [1-5]. In the mid-term however, organizations are likely to diversify at least some of their procurement across suppliers and locations. It is the longer term, however, where governments have the most important part to play. There is already talk of re-shoring capabilities lost from nations through globalization, but for this to become reality governments must develop focused strategies. Attention should be directed to specific supply chains, particularly those supporting disaster recovery and critical national infrastructure. It may be necessary to legislate for industrial strategies in key areas, such as PPE, defense, national security, shipbuilding, crypto and micro-electronics. To finance all public interests, one of the things that are needed and most important is the active participation of the people to contribute to the state in the form of supply chain management so that all the country's development needs can be financed [6]. In some countries, state revenue from the tax sector is placed as an essential source of state revenue. The state in taxing its citizens or other individuals or entities that are not citizens, but who are related to the country, must have provisions governing it. In Indonesia, it is expressly stated in Article 23A of the Constitution of the Republic of Indonesia. Taxes and other levies that are forcing the State's requirements are regulated by law. The Government of Indonesia Agency, which has the duty and function for tax collection, is the Indonesia Tax Authority.

In its implementation, not all parties intend to carry out their tax obligations, so these parties make efforts to avoid tax. One management strategy mechanism carried out by corporations is tax planning. It aims to engineer so that the tax expenses can be reduced as low as possible by utilizing existing regulations. It is trying to maximize after-tax income, whether distributed to shareholders or being reinvested. Tax planning is one element of management that indirectly provides goals and direction to the organization, determines what will be done when it will be done, how to do it, and who will do it (Zain, 2008). Tax planning is an act of structuring related to the potential consequences of the tax, the emphasis being on controlling each transaction for which there are tax consequences. The aim is how these controls can streamline the amount of tax to be transferred to the government through what is referred to as management strategy and not tax evasion (Zain, 2008).

Transfer pricing as a tax planning is mostly conducted by multinational companies to shift their tax obligations to countries that have low tax rates from countries that have high tax rates so that it will generate profits for subsidiaries in low-tax collecting countries. Transfer pricing is not only conducted by medium-scale companies but also large companies such as the case that occurred Google and Amazon [7, 8]. Google.co.uk is a subsidiary that has a regional branch in Ireland so that profits from Google.co.uk may be transferred to Ireland. Still, the Google branch in Ireland has a subsidiary status, which then transfers the benefits to other companies in the Netherlands. The Netherlands (which is also a subsidiary), the profit may be moved again to a holding company in the Bermuda region [9]. Also, there is a tax dispute in the case of transfer pricing in Canada by Cameco (Canadian Mining and Energy Corporation), which is indicated to carry out transfer pricing worth C$ 2.2 billion involving its subsidiary in Switzerland (news.ddtc.co.id). Also, in the US, a tax

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dispute due to transfer pricing took place between the US Tax Authority and Coca Cola, where the Tax Authority's claim states that Coca Cola should have a tax debt due to transfer pricing worth the US $ 9.4 billion in the period 2007 to 2009 (news.ddtc.co.id). In Indonesia, the practice of transfer pricing has also been conducted by multinational companies. It is relevant to the statement from former The Indonesia Minister of Finance in 2013 [10].

With the development of the business world so rapidly, often transnational and introduction of products and methods of new business which previously has not been known in the field of company (e.g., in the field of finance and banking), then forms and variations of transfer pricing can not be limited. Still, the setting further on the provisions of transactions between taxpayers who have a special relationship is expected to minimize or reduce the practice of management strategy with engineering through transfer pricing. Information limitations, gaps, and differences in tax regulations in each country where multinational companies are located are the main things that are used to manipulate the transfer pricing practice [11].

Member countries of the G-20 and the OECD (Organization for Economic Cooperation and Development) employ the issue of erosion of the tax base and the transfer of profits or the Base Erosion and Profit Shifting (BEPS) in explaining business practices undertaken by many multinationals to move profits of their business through transfer pricing scheme to countries that apply low / zero tax rates. In general, aside from transfer pricing, BEPS practices can also occur due to the existence of hybrid mismatches, namely the implementation of different transactions by each country to avoid taxes and the granting of special purpose entities (SPE) that have given multinational companies the flexibility to transfer their business profits to the state. Other [12]. The negative impact caused by BEPS is becoming increasingly clear with the discovery of indications that many multinational companies deliberately avoid their tax obligations by transferring corporate profits to other countries that apply lower tax rates or zero tax rates. This practice has led to the perception that BEPS has caused the government to lose much of its income from corporate tax revenues [13].

Research that examines transfer pricing activities carried out by companies from a legal perspective in Indonesia is still limited. In [14] reviewing corporate criminal acts that carry out transfer pricing. Meanwhile, [15] reviewed the legal certainty of the implementation of transfer pricing in Indonesia. Both studies only use documentation studies based on existing literature and regulations in Indonesia. Therefore, it should be there the study which review transfer pricing dispute comprehensively.

This study aims to legal certainty related to supply chain management of corporations conducting transfer pricing in transactions with related parties abroad and corporation responsibilities on the practice of transfer pricing under the rules of law in Indonesia. The selection of this case is based on the availability of the document of the Decision of the Supreme Court of the Republic of Indonesia and a summary of the Decision of the Judge of the Tax Court so that it can make it easier to carry out a case analysis legally.

2. Literature Review

For nation-states, as supply chains become more international and complex, critical measures such as gross domestic product, worker productivity etc. are becoming ever more imprecise. This study uses the supply chain strategy in transferring mechanism to amend the economy. In [16] argued that Liability means the obligation to give an answer, which is a calculation of all the things that happened and the responsibility to provide recovery for losses that may be caused. Every individual, group, or country that carries out an action that is detrimental to others may be prosecuted and bears responsibility. State responsibility in international law is defined as an obligation that must be carried out by the state to other countries based on international law order (Wallace, 2002). Liability means the obligation to provide an answer which is a calculation of an event that occurred, and the responsibility to provide recovery for losses that may be caused. In national law, differentiation between civil and criminal liability, as well as in international law, several provisions are similar to domestic law, but this is not prominent. Also, international law regarding accountability has not yet developed so rapidly. In the national legal system, criminal or civil liability is based on the wrongdoing conducted by someone. Likewise, in the international judicial order, every act that is blamed can be held accountable.

State Responsibility in international law is a principle in international law that regulates the onset of responsibility of a country to another country because of an error or omission of a country that has an impact on the state or others. Negligence or mistakes made by a country can affect if the effect is felt by another country. Therefore, the emergence of a responsibility which in international law is called the principle of international responsibility. The background to the emergence of a state's responsibility in international law is that no country can enjoy its rights without respecting other countries. Any violation of the rights of another country, causing the country to fix the breach of that right, means that the state must be held responsible [17]. Two terms refer to accountability in international law, namely liability and responsibility. Liability is a broad legal term that designates almost all the characteristics of risk or responsibility, which are specific, which depend or which may include all actual or potential characters of rights and obligations such as losses, threats, crime, costs or conditions that create the duty to carry out the law. Responsibility is a matter that can be accounted for by an obligation and includes decisions, skills, abilities, and abilities, including responsibilities for the laws implemented. In the sense and practical use, the term liability refers to legal liability, that is, accountability due to mistakes made by legal subjects. In contrast, the term responsibility refers to political accountability [18]. Liability refers to the matter of compensation for losses from other parties or damage repair. Meanwhile, responsibility refers to the responsibility that is regulated by law.

Laws regarding state responsibility related to state jurisdiction. The law about state jurisdiction is a law that regulates the power of the state to take action. Code on state responsibility is a law regarding state obligations that arise when the state has or has not taken action. The emergence of the concept of state responsibility can be traced to the principle of equality, state sovereignty, and peaceful relations in international law. Based on these principles, a country whose rights have been violated by another country can demand accountability or reparation [19]. The claim can be filed according to the losses incurred by the state, which feels disadvantaged. Every country should have the opportunity and the right are equal, then any country that feels has been infringed upon, it can be a protest or demands to the country concerned.

A country is said to be a country that has international responsibility if that country fulfills the elements of state responsibility. In [3] stated that the essential characteristics of the emergence of the responsibility of this country are influenced by several factors. First, there is an international legal obligation that applies between two specific countries. Second, the existence of an act or omission that violates international legal obligations that bear state responsibility. Third, damage or loss as a result of unlawful or negligent actions.

Based on these elements, if a country takes action whether it is carried out by the government or an agency or individual in a country that violates international law and violates or interferes with the rights of other countries in international law, then the participating country may be subject to the principle of accountability international. The birth of global responsibility is based on two theories, namely risk theory and fault theory. Risk theory determines that a country is responsible for every activity that has hazardous effects (dangerous effects of dangerous activities) even though the activity is an activity that has legal legality. This theory then gave birth to the principle of absolute responsibility (absolute liability or strict liability) or objective responsibility. Meanwhile, the theory of error states that state responsibility arises when the actions of the state can be proven to contain an element of error. This theory of error gave birth to the principle of subjective responsibility or liability based on fault. An action is said to contain the mistakes if the act was carried out intentionally in bad faith or with negligence that cannot be justified. In this case, the state becomes responsible without any obligation for those who demand accountability to prove the existence of errors in the country two theories certainly have two different views in determining state accountability in international law.

Related to the role of the government in imposing taxes for each tax subject in Indonesia, it can be explained by the theory of endurance. The theory of bearing power necessarily implies that the basis of justice in tax collection is located in the services provided by the state to its citizens, namely the protection of their lives and property. For this purpose, some costs must be borne by citizens in the form of taxes. The main theory is that tax pressure must be the same weight for everyone. Taxes must be paid according to someone's ability to measure. They can be seen from 2 (two) elements, namely the objective element (income, wealth and the amount of expenditure someone) and subjective elements, all the needs, especially material, by taking into account the size of the number of family dependents.

Furthermore, in addition to the theory of bearing power, the tax liability borne by the tax subject can be attributed to the beneficial owner. A beneficial owner is a person or individual who enjoys or benefits from the use of assets and income. Beneficial owners are introduced to distinguish between people who have the right or power over assets to be used and watched by themselves and people who have assets to be used and enjoyed by others. The issuance of beneficial owner provisions has caused mixed reactions from foreign investors and local and international investors. Some investors who have been using vehicle companies to merely use and enjoy the tax facilities provided in the tax treaty. Indonesia and its treaty partner countries - are forced to recalculate and wait and monitor the follow-up of the implementation of the beneficial owner's provisions. Detection of acts classified as "treaty abuse" means that the investor bears financial risks both in the commercial side (in the form of fiscal corrections on tax incentives that have been enjoyed), and the credibility and continuity of the business (if investors are subject to tax penalties).

In most countries, revenue from the tax sector is placed as an essential source of state revenue. For a state to tax its citizens or other individuals or entities that are not citizens, but who are related to the country, of course, there must be provisions governing it. For example, in Indonesia, it is explicitly stated in Article 23 paragraph (2) of the Republic of Indonesia Constitution that all taxes for state finances are determined based on the act. In connection with the international mobility of capital, services, and goods people, in line with the phenomenon of international supply chain management, personal supply chain management on a global basis by Indonesia can lead to international double supply chain management. Economically, the international double tax is considered an additional operating expense. Therefore, if no relief is given, international double supply chain management can hamper the global mobility of capital, people, goods, services, and science and technology, directly by private and public bodies and international organizations. Business entities can be established with foreign capital, ownership (shares) in an entity is transferred abroad, representatives of business branches are established overseas, and loans are available by creditors for debtors with different countries of residence. Science and technology also involve cross-border activities. It is evident in the increasing number of trademarks or patents, manufacturing processes, knowledge, and experience (know-how) from the fields of industry, science, and commerce become available across borders.

The Double Management strategy Agreement provides two sets of rules. First, regulating the supply chain management rights of source countries, sites (immovable property), and domicile countries over various income categories. The said supply chain management rights might be ceded exclusively to the domicile country (for example, gains over the movable property) or the site/source state (for example income from immovable property) or submitted with restrictions to the source and domicile country (for example dividends, interest, and royalties) if exclusive supply chain management rights are left to one country (domicile or source) because other countries have committed themselves not to tax. International double supply chain management arises when there is a conflict of supply chain management jurisdictions both inherent in the central (state) and local government. Thus, conflicting supply chain management jurisdictions in an international format (overlapping of tax jurisdiction in the global sphere), causes International Multiple Taxes.

In every supply chain management, each sovereign country will carry out tax on subjects and objects that have fiscal ties with a country that is within its sovereign territory based on domestic provisions. If in the local regulations of the tax collection countries, there is an exemption or exemption from supply chain management on subjects or objects that are domiciled or outside their sovereign territory, there will be no international double supply chain management. Double supply chain management as a result of tax by two supply chain management provisions (from two countries) places additional burdens on employers. Meanwhile, expanding the business to foreign countries has invited other risks compared to domestic business, double supply chain management has increased the risk. If there is no effort to prevent or ease the tax expenses, international double supply chain management can contribute to triggering a high-cost global economy. Therefore, it is an international requirement between countries to strive for their tax policies to be neutral towards international competition. This neutrality is achieved by providing relief or elimination of international double supply chain management.

International double supply chain management is the imposition of the same type of tax by two or more countries on tax subjects and on the same object, as well as in the same periods. Besides, it can also be interpreted as the imposition of the same type of tax by two or more countries on different tax subjects on the same tax object. Therefore, to prevent misuse of the provisions contained in the Supply chain management Agreement, especially those concerning supply chain management facilities, for example, those concerning tariff reduction or tax exemption in the source country by an unauthorized state, to find out whether the Domestic Taxpayer of the treaty partner country is a beneficial owner, the Indonesia Tax Authority must carry out an exchange of information procedure with the partner country of the agreement. If the beneficial owner criteria cannot be met, the supply chain management facilities provided by P3B Indonesia cannot be applied, and the domestic tax provisions will be applied in full.

3. Research Methodology

Global supply chains are composed of trade in goods and trade in tasks because flows of content, knowledge-intensive work are separate from the flows of physical components, intermediates, and final goods. The method of approach used in this study is the normative approach method. The normative approach to law is conceptualized as what is written in the legislation or law is conceptualized as a rule or norm that is a benchmark for human behavior that is considered appropriate. This study examines the implementation or implementation of positive legal provisions (legislation) and factual contact on any particular legal event that occurs in the community to achieve predetermined goals. The study aims to ascertain whether the results of the application of the legal event are by or not by the provisions of the law. The specification of the research writing uses analytical descriptive that is to make a description of the results of research with complete data. Descriptive analysis aims to describe precisely the nature of an individual, a particular condition, symptom or group, or to determine the frequency of a symptom.

The data source used in this study uses primary and secondary legal materials. Primary legal material is legal material consisting of statutory regulations, official documents, minutes in the making of legislation, and judges' decisions relating to the subject matter. The primary legal sources in this study are (1) Indonesia Act Number 25 of 2007 concerning Investment, (2) Indonesia Act Number 28 of 2007 concerning the Third Amendment to Act Number 6 of 1983 concerning General Provisions and Tax Procedures, (3) Indonesia Act Number 36 of 2008 concerning the Fourth Amendment to Act Number 7 of 1983 concerning Income Tax, (4) Indonesia Act Number 42 of 2010 concerning Amendment to Act Number 8 of 1984 concerning Value Added Tax and Sales Tax on Luxury Goods, (5) the Indonesia Minister of Finance Decree Number 213/PMK.03/2016 concerning Types of Documents and Additional Information that Must Be Saved by Taxpayers Who Make Transactions With Parties with Special Relationships, and Management Procedures, (6) the Indonesia Minister of Finance Decree Number 70/PMK.03/2017 concerning Technical Instructions Regarding Financial Information for Supply chain management Purposes, (7) The Indonesia Tax Authority Decree Number PER-32/PJ/2011 concerning Amendment to the Regulation of the Director-General of Supply chain management Number PER-43/PJ/2010 concerning Application of Fairness and Business Principles in Transactions between Taxpayers and Related Parties, and OECD Transfer Pricing Guideline for 2017. Meanwhile, secondary legal entities are materials that provide explanations regarding primary legal documents (legal science books, legal journals, legal reports on print, and electronic media). Also, this study conducted interviews with two Indonesian Informants who understood international supply chain management and transfer pricing.

4. Discussion

Supply chain management of Corporations Conducting Transfer Pricing in Transactions with Related Parties Abroad.

The global value and supply chain literature have examined a wide variety of industries, ranging from textiles and electronics to food processing. In the State Liability Theory, the state regulates that the state has liability and responsibility. Liability designates almost all the characteristics of risk or responsibility, which are certain, which depend or which may include all actual or potential characters of rights and obligations such as losses, threats, crime, costs, or conditions that create the duty to carry out the law. While responsibility is a matter that can be accounted for by an obligation, including decisions, skills, and abilities, it also includes an obligation to be responsible for the law implemented. Liability refers to legal liability, that is, accountability due to mistakes made by legal subjects, while responsibilities refer to political accountability. The obligation refers more to the compensation for the loss of another party or repair damage. Responsibility refers to liability that is regulated by law. In this regard, one of the obligations of the state is to collect revenue from the supply chain management sector.

Concerning the administration of the state by referring to the theory of state accountability, the government should organize the government and protect the people. On the other hand, the government has the responsibility to collect taxes every year outlined in the Act on the State Budget. The responsibility of the Government in terms of collecting taxes is in line with the principle of supply chain management, namely the principle of the regulated and the budgeter. In line with this, the bearing power theory states that individuals and legal entities operating in Indonesia must pay taxes according to their abilities. Therefore, in the administration of government, individuals and legal entities that meet specific criteria are required to support government obligations in fulfilling their tax obligations.

Multinational companies in the form of entities have been included as tax subjects as long as they have operated in Indonesia by the provisions in the Indonesia Income Tax Act and Indonesia General Provisions and Tax Procedures Act. The establishment of multinational companies in Indonesia is regulated in Indonesia Act Number 25 of 2007 concerning Investment with the aim of which is to increase national economic growths and create employments. On the other hand, multinational companies, which are limited liability companies or legal entities operating in Indonesia, are required to fulfill their tax obligations as stipulated in the Indonesia Income Tax Act, Indonesia General Provisions and Tax Procedures Act, and the Indonesia Value Added Tax Act. The legal basis for supply chain management in Indonesia is regulated in Article 2 paragraph (1) of the Indonesia Income Tax Act. However, Article 2 paragraph (3) of the Act stipulates that Domestic Tax Subjects are Bodies that are established or domiciled in Indonesia. Furthermore, Indonesia General Provisions and Tax Procedures Act regulates that the Agency is a group of people or capital that constitutes a unit, both those carrying out business or that does not do business, which includes limited liability companies, limited liability companies, other companies, state-owned or regionally-owned enterprises of any name and form, firms, partnerships, cooperatives, pension funds, associations, associations, foundations, foundations, mass organizations, socio-political organizations, other organizations, institutions and other forms of agency, including collective investment contracts and permanent establishments.

Indonesia Income Tax Act and Indonesia General Provisions and Tax Procedures Act serve as the basis for the Government as a basis to impose a tax on the taxpayer in Indonesia, one of which is the taxpayer Agency in Indonesia. In the implementation of tax collection by the state, the Indonesia Tax Authority has a function as an administrator in the tax sector both in terms of the amount and quantity of the tax amount, as well as from the tax revenue collected. Associated with the activities of multinational companies as tax subjects conducting transfer pricing transactions operating in Indonesia related to their tax obligations have been regulated in Indonesian laws and regulations. Article 2 paragraph (4) of the Indonesia Income Tax Act regulates that Foreign Tax Subjects are individuals who do not reside in Indonesia, individuals who are present in Indonesia for no more than 183 days within twelve months and entities that are not established and not domiciled in Indonesia that run businesses or carry out activities through a permanent establishment in Indonesia and who can receive or obtain income from Indonesia not from conducting business or conducting activities through a permanent establishment in Indonesia. From these rules, the Foreign Tax Subject has nothing to do with citizenship. As long as the Foreign Tax Subject has been established in Indonesia, it must refer to positive law in Indonesia or legal provisions for legal entities operating in Indonesia, which are categorized as Taxpayers in the Country.

Furthermore, the principle in international supply chain management, authorities in each country must treat fairly, and there is no discrimination against taxpayers in the country. Foreign taxpayers and domestic taxpayers, as long as they have income in a country, should be taxed. However, the supply chain management between the two can be given different rates or specialized treatment of these differences. Related to transactions carried out by multinational companies, it needs to be seen from the perspective side first. However, long-established by Indonesian laws in the form of a limited liability company as stipulated in the Indonesia Investment Act or the established use of foreign law but operates in Indonesia, the multinational companies that pitch into the category of taxpayer Agency. Also, as long as a multinational company operates in Indonesia and has an income, the multinational company must follow the supply chain management provisions in Indonesia. These provisions can be excluded for tax cases that are subject to Final Income Tax, namely the imposition of Indonesia Income Tax that is not based on net income and does not calculate the number of expenses, but based on the revenue basis multiplied by the tax rate so that the amount becomes the amount of tax liability.

his suggests that, given the significant number of firms that have built global supply chains and the many more that will do so in the future, today's trade statistics may be seriously misleading and in the future, they may become even more misleading. If, in the future, there is a dispute in the imposition of a tax base between the Indonesia Tax Authority and multinational companies, it is more related to the problem of differences in perspective on supply chain management rules.

Furthermore, the tax function includes tax functions include budgetary and regulatory purposes. Budgetary function, as a source of state revenue, taxes function to finance state expenditures by state accountability theory. To carry out routine tasks of the state and carry out development, the country needs funds. These costs can be obtained from tax revenue, which is further enshrined in the Act of State Budget, which is stipulated annually. Tax revenue is used for conventional financing such as employee expenditure, goods expenditure, maintenance, and so forth. For development financing, money is spent on government savings, that is, domestic revenues less routine expenses. These government savings must be increased from year to year according to the increasing development financing needs, and this is primarily expected from the tax sector. Meanwhile, based on the regulatory function, the Government can regulate economic growth through tax policy.

Concerning regulations for taxes related to transfer pricing transactions carried out by multinational companies regulated explicitly in article 10 of the Indonesia Income Tax Act related to sales transactions at fair prices or market prices. Article 18 paragraph 3 of the Act stipulates that the Indonesia Tax Authority has the authority to redetermine the amount of income and reduction and determine debt as capital to calculate the amount of taxable income for taxpayers who have a special relationship with other taxpayers by the fairness and custom of business which is not influenced by a special relationship using the price comparison method between independent parties, the resale price method, the cost-plus method, or other methods. The regulation stipulates the arm length principle in transfer pricing transactions that are commonly carried out by multinational companies. Multinational companies, as corporate taxpayers, should calculate taxes, calculate taxes, deposit taxes, and report taxes. Article 7 of the Indonesia General Provisions and Tax Procedures Act regulates that taxpayers must report tax correctly, ultimately, clearly, and signed. It indicates that the tax reporting must be accurate, and nothing is covered and removed by the financial statements.

The multinational company, as a taxpayer residing in Indonesia already aware, will tax obligations to the state. Therefore, the transfer pricing activity is not an activity in falsifying documents and is not a criminal act because the transaction is by the provisions of the law. The disputes between multinational companies as Corporate Taxpayers and Director General of Taxes as stipulated in the Decision of the Supreme Court of the Republic of Indonesia No. 372/B/PK/ PJK/2017, and Tax Court Decision No. Put.48365/PP/M.XI/15/2013, occurred because of perceptions of the imposition of a tax base due to transfer pricing transactions. The objection of the Indonesia Tax Authority is based on tax legislation and the legal framework in force in Indonesia. One of the differences in perceptions is due to the pattern of supply chain management in Indonesia carried out by self-assessment. In the Indonesia Income Tax Act Article 18, paragraph 3, The Indonesia Tax Authority has the authority to determine to recalculate if the Corporate Taxpayer has transactions with related party transactions. Also, Article 10 of the Indonesia Income Tax Act provides guidelines for taxpayers to carry out their tax obligations. The acquisition price or selling price in the event of a sale and purchase of assets not affected by a special relationship as referred to in Article 18 paragraph (4) is the amount issued or received, whereas if there is a special relationship is the amount that should be issued or received. The acquisition value or sales value in the event of an exchange of assets is the amount that should be issued or received based on market prices. The value of acquisition or transfer of assets transferred in the context of liquidation, merger, consolidation, expansion, splitting, or acquisition of a business is the amount that should be issued or received based on market prices unless otherwise stipulated by the Indonesia Minister of Finance.

In Indonesia, Value Added Tax Act, Article 2, substantially transactions carried out by limited liability companies must use fair prices. Each taxpayer provides flexibility for the transactions carried out, including transfer pricing transactions. Not all taxes carried out by multinational companies that have affiliations always experience disputes and are considered reasonable by the Indonesia Tax Authority as a tax collector in Indonesia. Not all transfer pricing transactions with affiliated companies are corrected by the Director-General of Tax because if the transaction is deemed acceptable, then the transaction does not need to be reexamined by the Authority. Multinational companies, as Corporate Taxpayers, report transactions with related parties to the Tax Service Office for further testing the reasonableness of the transaction based on the arm's length principle.

Related to the tax dispute due to transfer pricing by multinational companies in this case, PT Kraft Indonesia is not tax evasion or tax evasion because there are no laws and regulations that are violated by the corporation. As for the tax dispute that occurs due to transfer pricing transactions due to differences in perspective between the Authority and Taxpayers, because the operations carried out by PT Kraft Indonesia, there are no tax rules that are violated so that the country is not harmed due to transfer pricing. Transfer pricing activities are an essential part of accounting that is possible for companies that have relations with related parties.

Transfer pricing is applied in many countries, including Indonesia, where the application and interpretation of the arm's length principle in Indonesia have its problems in applying these principles. There are still weaknesses in the implementation of tax regulations related to transactions with related parties abroad, which include the rules of transfer pricing and arm's length principle, so that multinational companies are considered able to avoid tax by transferring profits to certain countries at low tax rates or even not imposing a tax which is often called a tax haven or management strategy by shifting functions, assets, risks to intangible assets to a country whose tax regulation is more profitable. Management strategy carried out through the transfer pricing mechanism is not a violation of the law by multinational companies. Problems that occur because of differences in perspective between multinational companies as taxpayers in Indonesia and the Director-General of Tax as a tax officer.

The arm's length principle is the basis, which becomes an international standard, for determining transfer prices for tax purposes, which are used in Article 9 of the OECD Model Tax Convention, as conditions created or enforced between the two parties in a different trade or financial relations with which is made between independent companies, then every profit that should have been recognized by one company under certain conditions, but with the reason that certain conditions have not been verified, the said profit can be included in the company's profit and be subject to tax. Application of the arm's length principle may vary from one country to another even though the OECD Transfer Pricing Guidelines referenced in almost all countries because there are other countries like the United States and Brazil, which have different method transfer pricing. Other than that the United Nations has issued a United Nations Practical Manual on Transfer Pricing for Developing Countries which also contains practices for applying arm's length principle that varies in each country, especially in Brazil, China, India, and South Africa as in the method of transfer pricing, location saving, calculation of royalties to marketing intangibles.

The OECD, supported by the G20 countries, issued a final report on BEPS in October 2015. The issue of BEPS is not only a matter of transfer pricing but also other issues such as international tax planning, management strategy to a tax treaty. For the arm's length principle, its application becomes a highlight in BEPS because it has been proven as a standard used by tax authorities and taxpayers to test transfer prices from parties who have a special relationship. Emphasis on transfer pricing issues in BEPS is specifically given to intangible assets, risk allocation that is not always related to the activities carried out, the rate of return on financing that is not always related to the level of lender activity, the re-characterization of commercially irrational transactions, payment of services, commodity transactions and transfer pricing documentation.

The Arm's length principle is also applied in Indonesia. It is interpreted as the principle of business fairness and customization used by article 18 (3) of the Indonesia Income Tax Act which states that the Indonesia Tax Authority has the authority to redetermine the amount of income and reduction as well as to determine debt as capital to calculate the amount of taxable income Taxes for taxpayers who have a special relationship with other taxpayers by the fairness and prevalence of a business that is not affected by a special relationship using the price comparison method between independent parties, the resale price method, the cost-plus method, or other methods. In the application of article 18 (3) of the Indonesia Income Tax Act, the Indonesia Tax Authority may have a particular interpretation of the arm's length principle, which may be different from the application of the arm's length principle compared to other countries in terms of income tax. Likewise, with the implementation of the arm's length principle for Value Added Tax, which is based on Article 2 of the Value Added Tax Act.

The Indonesia Tax Authority's interpretation of the application of the arm's length principle, based on Article 18 (3) of the Indonesia Income Tax Act is to determine the income or reasonable profit of the taxpayer, determine which costs can be deducted as income, the application of the arm's length principle for loans from shareholders to the application of the transfer pricing method in a special relationship transaction. In brief, the application of the arm’s length principle by DGT can be in the form of reasonable income and reasonable costs.

To apply the transfer pricing method in special domestic transaction transactions, in practice, certain industry reports can be used to determine the average profit from that industry. The application of the arm's length principle in Indonesia may have a different approach in practice, as can be seen in the interpretation of the arm's length principle in the calculation of fair profits for intermediary companies and printing companies, commodity transactions to domestic transfer pricing. The application of the arm's length principle is in addition to income from special relationship transactions. For the application of the arm's length principle in determining the fair price or fair profit, a comparative analysis is needed, determining the comparison, determining the appropriate transfer price method to the application of the transfer price method to obtain the price or fair profit of the taxpayer reflecting fair market value. For the calculation of a fair price, a comparative analysis of functional analysis is needed to determine the most appropriate transfer pricing method that needs to be done by taxpayers and tax officials. Several approaches used by the authority can be seen in several transfer pricing disputes that have occurred, such as Fair return on sales to intermediary companies. The taxpayer must prove that the sale price is made up of sales to intermediaries must use reasonable price, where the method of the resale price (resale price) may be a method of transfer pricing that is most appropriate to examine how reasonable price from the sale of goods produced taxpayer to companies affiliated. The problem is that information on the selling price of affiliated companies is needed, which is generally a sales company like in other countries, where the selling price information from intermediary companies to end buyers cannot always be available or obtained by the Authority. The difference in perspective is due to Authority's opinion that the fair price of sales to overseas sales companies should be the same as the selling price to affiliated parties in the country and even though the resale price method should be used, the cost-plus method can still be used as a method of transfer pricing right.

PT Kraft Indonesia has implemented a high policy in the application of tax compliance because PT Kraft Indonesia has complied with all aspects of tax regulations and provisions as well as international requirements relating to the principle of Transfer Pricing and related requirements such as the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. The Appellant has conducted a detailed analysis to ensure that the transfer pricing has been carried out correctly. PT Kraft Indonesia has also explained in detail and provided accurate evidence to the Authority. PT Kraft Indonesia has made benchmarking analysis from 2005 documenting searches an international database that is used to identify companies in the Asia Pacific and North America that can be used for comparison, m arouses level benchmark Net cost plus profit results can reflect the functions that have been carried out by the company, the assets/assets used and risks that arise in the export market sale from the Appellant.

The scope of benchmarking analysis conducted by KPMG by using an international database includes the identification of a group of companies that have the potential to be compared to export market sales with PT Kraft Indonesia, namely companies that have the same function, the same assets and have the same risk. These companies were identified by some quantitative and qualitative screening to ensure an appropriate standard of comparison. In addition, PT Kraft Indonesia has sought the Financial Statements used by companies to be compared and calculated the net cost plus mark-up results of all these companies. The results of this qualitative and quantitative screening resulted in 15 companies in the Asia Pacific and one company in North America.

Benchmarking Analysis proves and confirms that the 6% margin applied by PT Kraft Indonesia is correct and falls within reasonable limits. Details of the matrix of comparability, which shows analyzes related to PT Kraft Indonesia's export market sales and local market sales that are useful for financial and economic analysis of export market sales compared to local market sales, analysis of functions, assets used, risk analysis of sales export. Consideration and confirmation of compliance with the OECD Guidelines, and consideration of the method used by PT Kraft Indonesia and confirmation of the correctness of the chosen method (Net cost plus method / NCPM).

The analysis of this matrix of comparability supports the transfer pricing policy and the position adopted by PT Kraft Indonesia, which has also submitted documents and analysis to the Director-General of Taxes. PT Kraft Indonesia submitted the Global Pricing Policy document to the Director-General of Tax at the first meeting. Mark up 6% does not only apply to export sales from Indonesia alone, however, apply to the purchase of imports from other countries to Indonesia. Thus, it is evident that operations in Indonesia are not affected by profit shifting in any form.

PT Kraft Indonesia has submitted all the evidence and documents to and provided an explanation to the Indonesia Tax Authority regarding the type of business, business activities, and all facts available to the Comparable during the examination process and the objection process. In addition, PT Kraft Indonesia has submitted a Transfer pricing and Documentation Review. In the provisions of the applicable Tax Law, there is no specific form of document that must be prepared and kept by the Taxpayer. Of all internationally recognized documents and processes to support Transfer Pricing (as contained in the OECD Guidelines) references, there are certain documents and reports that are recognized, such as benchmarking analysis, functional and risk analysis, and comparability reviews. PT Kraft Indonesia has complied with all Tax Laws in Indonesia, as well as international criteria relating to documents for transfer pricing. The obstacle is the database information used by the Director-General of Taxes, where the information used for filtering data alone is not supported by reasons or analyzes and is not based on selected substantive criteria. Database information of the Authority is also considered not to include information. Analysis and reasons as contained in the Appellant Report regarding benchmarking analysis and matrix of comparability's such as function and risk analysis and method selection.

5. Conclusions

In this paper, we have identified and illustrated the need for new measures of trade statistics in the industrial era of the second unbundling: trade-in-added-value measures can be further subdivided into trade-in input costs and trade-in profits to understand the manner in which MNEs actually operate in global supply chains. Furthermore, we have identified and illustrated the role of transfer pricing by parsing added value into input costs and profits in the different stages of global manufacturing networks and their locations. State responsibility theory that the state has an obligation and responsibility to answer. This theory can be reflected in the issue of tax justice for corporations where the tax function includes the budget function and the regulated function. Budgetary function, as a source of state revenue, taxes function to finance state expenditures by state accountability theory. To carry out routine tasks of the state and carry out development, the country needs funds. These costs can be obtained from tax revenue, which is further contained in the Government's Revenue and Expenditure Budget, which is set every year. Tax revenue is used for conventional financing such as employee expenditure, goods expenditure, maintenance, and so forth.

Meanwhile, the regulated function, the Government can regulate economic growth through tax policy. Implementation of state obligations in tax collection includes the stipulation of the Indonesia Income Tax Act, the Indonesia General Provisions and Tax Procedures Act, and the Value Added Tax Act. These Acts stipulate that one of the Domestic Tax Subjects is an Agency established or domiciled in Indonesia. The Acts serve as the basis for the Government as the basis for imposing taxes on tax subjects in Indonesia, one of which is Corporate Taxpayers in Indonesia, including multinational companies operating in Indonesia. In carrying out its operations, multinational companies often carry out transfer pricing activities, which are often the basis of tax disputes. The Acts and regulations in Indonesia have been evident in regulating the implementation of transfer pricing carried out by multinational companies that have an impact on taxes collected by the Government. The Indonesia Income Tax Act which is supported by the OECD Guidelines in view transaction transfer pricing conducted by multinational companies should use the arm length principle which considers that the transactions carried out by the entity/ b a and the law must be implemented with fairness or the predominance of business

Tax disputes due to transfer pricing transactions occur due to differences in interpretation of the legal rules between multinational companies and the Indonesia Tax Authority. Most multinational companies have fulfilled their obligations to document all transfer pricing transaction activities properly and report them to the Indonesia Tax Authority. However, differences in perceptions of the reasonableness of transactions between multinational companies and the Authority may lead to tax disputes. Therefore, there is a need for legislation that sees the transfer pricing transaction not from the fairness of the transaction, but the net profit of the operation. Based on the findings in this study, it is necessary to have an Advanced Pricing Agreement between multinational companies and the Authority or affiliated countries where the center is multinational companies with the Authority to avoid tax disputes due to transfer pricing activities because there is an initial price agreement.

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