

## CHAPTER ONE

### INTRODUCTION

#### A. Background of the Research

The controversy over President Joko Widodo's statement of intention that Indonesia wants to join the Trans-Pacific Partnership (TPP) is yet to calm down. The sentence, practically crammed in the middle of a joint statement between President Widodo and President Barack Obama on October 26<sup>th</sup>, 2015, triggers a debate that almost neglects various achievements that President Widodo has brought home from Washington, D.C.<sup>1</sup>

Indeed, globalization is a major reality of the 21st Century. Currents of trade, finance, technology, and business cycles are bringing countries and economies closer together. The TPP is a major attempt to update the rules governing international trade to meet new challenges.<sup>2</sup>

The Trans-Pacific Partnership (TPP) is actually a comprehensive trade and investment agreement that would remove most tariffs, some tariff-rate quotas (TRQs),<sup>3</sup> and many non-tariff barriers to goods and services trade and investment between the parties to the agreement. The TPP also includes a wide range of regulatory provisions that would define rules for trade between the parties. These

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<sup>1</sup> Matthew Hanzel, 2016, "Indonesia Does Not Need the Trans-Pacific Partnership", taken from <https://matthewhanzel.com/2015/11/05/indonesia-does-not-need-the-trans-pacific-partnership/>, accessed on Thursday, November 2<sup>nd</sup>, 2016, at 10.27 p.m.

<sup>2</sup> William Krist and Kent Hughes, 2012, *Negotiations for a Trans-Pacific Partnership Agreement*, Washington D.C., Wilson Center, p. 3.

<sup>3</sup> Tariff-rate quotas impose a low tariff on imports up to a certain ceiling (a country's quota), but a high

involve investment, intellectual property, government procurement, rules of origin for trade in certain goods, customs facilitation, sanitary measures, technical barriers to trade, competition policy, and labor and environmental standards, among other issues.<sup>4</sup>

The TPP trade negotiation is basically the major trade initiative of the Obama Administration. With the addition of Canada and Mexico, there are now eleven countries from Asia and the Pacific Basin that are seeking to create trade agreements that take on some practices that have not been addressed by existing trade agreements.<sup>5</sup> Such international trade treaty will serve as a legal framework for free trade cooperation and liberalization in a number of economic sectors.

As a leading trade policy initiative of the Obama Administration, the TPP serves several strategic goals. It is a manifestation of the Administration's "rebalance" to the Asia-Pacific, and if concluded, may serve to shape the economic architecture of the region. It has the potential to harmonize existing agreements with U.S. Free Trade Agreement (FTA) partners, attract new participants, and establish regional rules on new policy issues facing the global economy, as well as possibly providing impetus to future multilateral liberalization under the World Trade Organization (WTO).<sup>6</sup>

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<sup>4</sup> United States International Trade Commission, 2016, *Trans-Pacific Partnership Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors*, Investigation No. TPA-105-001, USITC Publication 4607, May 2016, pp. 24 – 25.

<sup>5</sup> William Krist, and Kent Hughes, *op. cit.*, p. 1.

<sup>6</sup> Ian F. Fergusson, Mark A. McMinimy and Brock R. Williams, 2015, *The Trans-Pacific Partnership (TPP) Negotiations and Issues for Congress*, Congressional Research Service Report, March 20<sup>th</sup>

Due to the fact that the world has changed rapidly, it makes no states want to be left behind and be retarded. Economic sectors create a chance for a country to enter into wider trading area and to eliminate boundaries that lead to international free trade which is not running seamlessly. Joining the TPP might be the correct way in facing the third millennium era.

Take Viet Nam for instance; Joining TPP, Viet Nameese goods have opportunities to penetrate export markets in a lower taxes. Accordingly, Viet Nam attracts foreign investors more strongly than the countries in the region. The foreign investors, especially from China, and ASEAN will increase their investment in Viet Nam to take advantage of a TPP member.

Joining the TPP with many provisions and high level requirements in liberalization of trade and market of products, services and environment also demonstrates the determination and commitment to reform and change strongly the Viet Nam's Administration. Thereby, it increases the attractiveness of Viet Nam's market in particular and the prestige of Viet Nam in general for investors and international community, contributing to raising Viet Nam's position.<sup>7</sup>

For Indonesia, TPP represents an opportunity to participate in one of the most important trade agreements globally, and certainly the most important trade agreement in the Asia-Pacific region in terms of size and impact. As we seek to open new export markets, integrate trade, and support the creation and retention

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<sup>7</sup> Phan Quan Viet, 2015, "Opportunities and Challenges when Viet Nam Joins TPP", *Global Journal of Management and Business Research: B Economics and Commerce*, Vol. 15 Issue 10, 2015, Online ISSN 2249-4588 & Print ISSN 0975-5853, USA, Global Journals Inc., p. 8.

of high-quality jobs, by increasing exports in a region that includes some of the world's most robust economies and that represents nearly 40% of global gross domestic product (GDP).<sup>8</sup> TPP will become one of the largest commercial areas in the world with over 800 million people, contributing over 40% of the world GDP and about 30% of global trade turnover.<sup>9</sup>

Although the Treaty has not been signed yet, the discourse on the possibility of Indonesia joining the TPP has caught both media and public attention. This is indeed a discourse that needs to be addressed thoughtfully. Indonesian accession to the TPP may potentially hamper the vision of the Jokowi Administration to realize national economic independence. The decision to join the TPP should be built upon a very deep consideration, with particular scrutiny on the political, economic and legal aspects. These three aspects are critical to the decision to accede to the Treaty.<sup>10</sup>

However, the intention of Indonesia to join the Trans-Pacific Partnership could be reached after meeting all standards that the free trade agreement has set. The TPP will absolutely give a platform for Indonesia to enhance the rules governing the trade agreement run by the United States and 11 Asian-Pacific states.

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<sup>8</sup> Fithra Faisal Hastiadi, 2016, "Indonesia on TPP: to Join or not to Join", p. 3, taken from <http://www.feb.ui.ac.id/wp-content/uploads/2014/12/Should-Indonesia-Join-TPP.pdf>, downloaded on Sunday, November 6<sup>th</sup>, 2016, at 9.05 a.m.

<sup>9</sup> Phan Quan Viet, *op. cit.*, p. 4.

<sup>10</sup> Third World Network, 2016, "Indonesia and the Treaty on Trans-Pacific Partnership", taken from <http://www.twn.my/title2/FTAs/info.service/2015/fta308.htm>, accessed on Thursday, November 2<sup>nd</sup>,

## **B. Problem of the Research**

Based on the mentioned background, the issue to be examined in this study is: What are the importance of joining the Trans-Pacific Partnership for the Republic of Indonesia?

## **C. Objective of the Research**

The study aims to identify and to assess the importance of joining the Trans-Pacific Partnership for the Republic of Indonesia.

## **D. Benefits of the Research**

The study is expected to contribute in the scientific aspects and practical aspects.

1. In the aspect of science, the research is expected to provide brainstorming ideas for the development of the repertoire of social sciences.
2. In the practical aspect, the research is expected to provide input to the government and the public on the significance of joining the Trans-Pacific Partnership for Indonesia; its challenges and opportunities could be taken as

## **E. Overview of the Chapters**

The research consists of five chapters, namely Chapter One Introduction, Chapter Two Literature Review, Chapter Three Research Method, Chapter Four Finding and Analysis, and Chapter Five Conclusion and Suggestion. These chapters are reported descriptively since it uses the descriptive-qualitative method.

In Chapter One, the researcher tries to explain the discourse of Indonesia joining the TPP. In this introduction, the researcher also delivers the research problem which will be discussed in the next chapter. There will be the objective and benefit of this research as well in this chapter.

Chapter Two explains the Trans-Pacific Partnership itself, joining the Trans-Pacific Partnership, and the discourse of Indonesia joining the Trans-Pacific Partnership. While in Chapter Three, the researcher discusses the method used in the study. This research method consists of type of research, source of information, collection of data, and data analysis. The type of this study is a normative-empirical legal research. This study also uses source taken from some literatures consisting of primary sources, and secondary sources. Then, in the study, the data collection is conducted through library research as well as interview with International Law expert, and finally, it is analyzed systematically and academically through descriptive-qualitative method.

In Chapter Four researcher analyzes whether the Trans-Pacific Partnership run by 12 member-states could be the correct option for Indonesia in

joining free trade agreement. It consists of an overview of the TPP which explains the TPP in brief and the TPP Agreement as the Constitution of International Organization. The next topic is about the opportunities and challenges of the FTA and also the TPP itself is discussed afterwards. Then, the perspective of National Legal System towards the rules on the TPP is discussed as well. It has subtopic, namely the theory of monism and dualism, and also the Indonesian legal system perspective towards the TPP provisions is a great issue to discuss as the last subtopic.

In the last chapter, researcher concludes what has been discussed in the previous chapter on the importance of joining the Trans-Pacific Partnership for Indonesia, and answer the research problem in the conclusion. The suggestion is also proposed after the conclusion.