

Legal Analysis of Legal Protection of Investment License Holders of National Strategic Projects in Batam City (Study in Rempang Eco City, Batam City)

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Abstract. *Indonesia continues to strive to increase the interest of foreign investors so that their funds are invested in Indonesia in various ways and conveniences for foreign investors in investing. one of which is investment in the form of a national strategic project whose development receives direct attention from the government. To invest, legal protection is needed for investment holders so that in the future it can increase economic growth and comfort for investors. This thesis aims to study and analyze: First, how is the investment licensing mechanism for national strategic projects Second, how is the implementation of investment licensing for national strategic projects in Rempang eco city in Batam City. Third, what is the form of protection for holders of national strategic project permits, especially in Rempang eco city in Batam City. The approach method used in this study is a sociological legal approach, the research specifications used are analytical descriptive approach, primary and secondary data sources and using qualitative analysis. This writing is a Legal Analysis of the legal protection of investment permit holders for National Strategic Projects in Batam City (Study in Rempang Eco City). Based on the results of the study on legal protection for holders of investment permits for National Strategic Projects in Batam City (Study in Rempang Eco City) Investment permits must be in accordance with clear legal provisions and regulated through laws and government regulations.*

Keywords: *Legal; National; protection; Strategic.*

1. Introduction

The goals of the Indonesian nation are stated in the 4th paragraph of the 1945 Constitution, namely to protect all Indonesian people, advance public welfare, educate the nation's life, carry out world order based on social justice, eternal

peace, and independence to realize the goals of the Indonesian nation, namely to advance public welfare, of course the Indonesian government must have competitiveness in order to improve the economic level both nationally and internationally. In the provisions of the National Economic System, it is explained that Article 33 of the 1945 Constitution provides instructions on the economic structure and reflects the ideals that are firmly held and what is consistently fought for by government leaders. As one way to increase international competitiveness, Indonesia needs capital assistance from investors both from within and outside the country.

Investing will contribute greatly to the economic development of a country, because economic activities will be directly driven by investment both from within the country and from abroad. Indonesia continues to strive to increase the interest of foreign investors so that their funds are invested in Indonesia in various ways and conveniences for foreign investors in investing. Various efforts have been made by the Government so that investment can flow rapidly into Indonesia with several legal and economic policies that will later have an impact on economic development which will later be felt by all levels of society in Indonesia.

Indonesia is in the process of development that requires large capital. Investment activities have begun since 1967 with the issuance of Law Number 1 of 1967 concerning foreign investment and Law Number 6 of 1968 concerning domestic investment. Both laws aim to encourage investors, both foreign and domestic, to invest in Indonesia. Therefore, it is natural that every country tries to attract investors, especially foreign investors (Foreign Direct Investment or FDI), to invest in their country.¹

Investment in Indonesia is regulated in Law Number 25 of 2007 hereinafter referred to as the Investment Law, Article 1 number (1) which describes "all forms of investment activities, both by domestic investors and foreign investors to conduct business in the territory of the Republic of Indonesia". The definition above basically concludes that investment or capital investment is an investment activity in the form of money or other assets with the main objective of making a profit. Article 3 paragraph (2) of the Investment Law states the objectives of implementing capital investment, namely: "Increasing national economic growth, creating jobs, increasing sustainable economic development, increasing the competitiveness of the national business world, increasing national technological capacity and capability, encouraging the development of the people's economy, processing potential economics into real economic strength by using funds originating from both domestic and foreign sources, increasing community welfare".

¹H. Salim HS and Budi Sutrisno, *Investment Law in Indonesia*, Higher Education Division, PT Raja Grafindo Persada, Jakarta, 2014, h.

Investment is essentially also the initial step in economic development activities. Batam City is one of the industrial cities in Indonesia located in the Riau Islands Province in Indonesia. Batam City is also one of the cities with a very strategic location. In addition to being on the international shipping route, this city has a very close distance and borders directly with Singapore and Malaysia. The economic growth of Batam City is higher than the national economic growth rate, making this area a mainstay for driving economic growth nationally and for the Riau Islands Province. The existence of economic activities in this city is also in order to increase employment and community welfare. In addition to having a trade area and free port, Batam also prepares and carries out other strategies to attract investors.

BP Batam, or Badan Pengusahaan Batam, is a central government agency responsible for managing, developing, and building areas in Batam City. This institution was established based on Government Regulation Number 46 of 2007. BP Batam has the task and authority to manage, develop, and build areas in Batam City, including business licensing and asset management. BP Batam plays an important role in the development of Batam, especially in attracting foreign investment and developing the economy through promotion and other activities. The development of Batam began in the 1970s as a logistics and operational base for the oil and gas industry by Pertamina. Then, based on Presidential Decree Number 41 of 1973, the development of Batam was entrusted to a government agency now known as BP Batam. BP Batam also created a Special Economic Zone to function as an economic or business area that has specialization in certain fields. Investors can specifically determine the fields they want to finance. The special economic zone also aims to improve the existing economy and to equalize development and also increase Batam's competitiveness.

The land dispute conflict on Rempang Island, Batam City, reflects a complex dilemma between local communities, the government, and private companies, in this case PT. Makmur Elok Graha This island is a witness to a dispute involving land rights, human rights, and government investment interests. The industrial area development program on Rempang Island, which aims to increase Indonesia's competitiveness against neighboring countries, triggered this conflict. This dispute arose because of conflicting views on land ownership. The people of Rempang Island consider the land to be an ancestral heritage that has existed since before independence. However, in reality the land will be used as a National Strategic Project. The granting of Rights feels that the land they claim as their ancestral heritage is no longer theirs (Ardhi, 2023).²The conflict raises complex issues around land rights. Fundamental questions about community ownership and rights to land passed down from generation to generation arise,

²Satria Ardhi. (2023, September 25). Examining the Rempang Conflict and Government Recognition of Indigenous Rights

along with debates about human rights. The community's right to remain on their ancestral land, which also involves the right to housing and cultural continuity, collides with the government's investment and development needs (Hartono, 2023).³

A balanced approach between economic development and environmental conservation requires strong regulation, strict law enforcement, public education, and investment in sustainable technologies and practices. With this approach, Rempang Island, and similar areas around the world, have the opportunity to achieve a good balance between sustainable economic growth and environmental conservation. Although the debate on globalization continues, globalization in the context of investment is inevitable.⁴The global investment phenomenon not only affects the domestic economy, but also plays an important role in strengthening relations between countries, facilitating cross-border capital flows, and supporting sustainable economic development for the sustainability of the country. However, amidst the increasingly complex dynamics of the global market, Legal Protection in National Strategic Projects is an increasingly urgent issue to be considered.

Everyone has the right to receive fair legal protection. Legal Protection in National Strategic Projects covers various aspects, including investor rights, market transparency, fair treatment, and effective law enforcement (Coffee Jr, 2006).⁵In the global investment environment, the challenges related to Legal Protection in National Strategic Projects are becoming more complex due to differences in legal systems, political and economic uncertainty, and lack of transparency in some markets. As a result, investors often face high risks and feel underprotected.

Legal Protection in National Strategic Projects in the global investment environment has important implications in ensuring security and fairness for investors. Based on the information found, Legal Protection in National Strategic Projects can cover various aspects, ranging from capital market regulations to their relation to environmental law. According to an article discussing Legal Protection in National Strategic Projects, this protection involves capital market regulations.

2. Research Methods

Research method is a method of working to be able to understand the object

³Mimin Dwi Hartono. (2023, September 25). Rempang Island Conflict and Evaluation of National Strategic Projects. Kompas. I

⁴Grandnaldo Yohanes Tindangen, "Legal Protection for Investors According to Law Number 25 of 2007 Concerning Investment", *Lex Administratum*, Vol. IV/No. 2, Feb 2016, p. 17

⁵Coffee Jr., J. C. (2006). "Law and the Market: The Impact of Enforcement." *The University of Chicago Law Review*, 73(1), 3-72

that is the target of the relevant science. Method is a guideline for how a scientist studies and understands the environments that are understood.⁶ While research is a way that is based on a systematic method and certain thoughts that aim to solve a scientific problem. The approach used in this study is sociological juridical. Sociological juridical is an approach based on binding norms or regulations, so that it is expected that from this approach it can be known how the law which is empirically a symptom of society can be studied as a causal variable that causes consequences in various aspects of social life. The type of sociological juridical research uses primary, secondary and tertiary data. Where the data is obtained directly from the source.

3. Research Results

3.1. Investment licensing mechanism for the Rempang Eco City project

1) Ownership and Management Rights of Rempang Eco City

Land ownership requirements on Rempang Island, as in Indonesia in general, are regulated by the Basic Agrarian Law (UUPA) No. 5 of 1960. In general, land rights on Rempang Island can be obtained in several ways, including through customary law, government regulations, or statutory provisions. Legitimate proof of ownership is a land certificate, especially a Certificate of Ownership (SHM). How to obtain land rights where Land rights can be obtained through customary law mechanisms that apply in the local community. The government has determined land rights through procedures and requirements that have been determined in accordance with the law. Land rights can be obtained through provisions stipulated in the law, such as through the process of transferring rights or recognizing land rights to investment permit holders. A certificate of ownership is legal and strong evidence of land ownership, according to laws and regulations. The legal status of land on Rempang Island, especially regarding customary rights, may depend on the extent to which the customary community meets the requirements of the UUPA to obtain recognition of customary rights.

2) Legal Conflict of Investment Licensing Rempang Eco City

The Rempang Eco-City case began in 2001-2002 when the government gave authority to the company in the form of a Cultivation Rights (HGU). However, before the conflict, the land was not cultivated and visited by investors. After the issuance of the Regulation of the Coordinating Minister for Economic Affairs of the Republic of Indonesia Number 7 of 2023, the Rempang Eco-City development program is now part of the National Strategic Project and aims to attract investment of up to IDR 381 trillion by 2080. This project is estimated to take up around 7,572 hectares of Rempang Island, or 45.89 percent of the total area of the island of 16,500 hectares, according to the BP Batam website. However, in its

⁶Soerjono Soekanto, *Introduction to Legal Research*, Jakarta: UI Press, 1986, p. 14.

implementation, the community who had long lived in the area rejected the development when measurements were taken by BP Batam. The clash was marked by repressive actions from the government due to the unfavorable situation. The institution responsible for the development and administration of Batam Island is currently BP Batam. Initially, the management of Batam Island land was held by the Batam Authority but is currently replaced by BP Batam since the issuance of Government Regulation No. 46/2007 concerning the Batam Free Trade Zone and Free Port. The Batam area, which includes Batam Island, Tonton Island, Setokok Island, Nipah Island, Rempang Island, Galang Island, and Galang Baru, is designated as a free trade zone and free port by law for a period of 70 years. From a legal perspective, BP Batam does not yet hold a Management Rights certificate for Rempang Island. According to a report from the Indonesian Ombudsman website, the Land Management Rights (HPL) certificate for Rempang Island owned by the Batam Free Trade Zone and Free Port Authority (BP Batam) has not been issued on the grounds that the land is not yet free from legal problems (clean and clear). On the other hand, the regulations related to land registration for management rights have been clearly regulated in Article 11 paragraph (1) and (3) of Government Regulation Number 18 of 2021 concerning Land Registration which states that, "Management rights originating from State Land or Customary Land must be registered at the Land Office and given a certificate as proof of ownership." The Ombudsman also found that the Batam City Government had not yet determined the boundaries of all old villages on Batam Island. From this case, it can be seen that there was an error by the Government which caused conflict when land was cleared for investment projects. So in this case, BP Batam does not have a strong basis as the holder of Management Rights to clear land currently occupied by the community around Rempang Island, Batam for investment purposes. In addition, there is no legal basis related to the compensation budget, either in the form of compensation or other programs. Communities affected by the land clearing for the investment interests of the Rempang Eco-City Development Project should be given compensation or appropriate compensation. This is in accordance with the provisions of Article 5 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) which states that "for the public interest, land rights can be revoked by providing appropriate compensation." The Minister of Investment/Head of the Investment Coordinating Board (BKPM), Bahlil said that "communities affected by the clearing will be given 500 meters of land with a certificate of ownership. Then given a type 45 house worth 120 million, and the difference will be paid".

3) Government Solution to the Rempang Eco City Project Conflict

The Rempang Eco City Project conflict resolution involves negotiation, compensation, and local transmigration efforts, with the aim of ensuring that the rights of indigenous peoples and their welfare are fulfilled. The government is

negotiating with the affected communities to find a joint solution, including compensation in the form of land, houses, and other assistance. This compensation aims to provide compensation for the land used for the construction of the project and ensure that the community gets a decent place to live. The government also offers a local transmigration program as an option for people who want to move to the location that has been provided. This transmigration aims to provide opportunities for people to get a better life and not be forced to live in the affected area. The government promises to guarantee the rights of indigenous peoples and provide legal certainty in the development process. The government will also pay attention to the social and environmental impacts of the project and ensure that development does not harm the community. The government will strive to develop projects that are environmentally friendly and do not damage the ecosystem. The government will also provide solutions for communities whose livelihoods are threatened by development. The government is trying to involve local communities in the planning and development of the project. The community is also expected to provide input and contributions in the development of the project, so that development can benefit them. The resolution of the Rempang Eco City Project conflict is still ongoing and requires continuous efforts. The government must continue to communicate and dialogue with the community to ensure that the solution found is the best for all parties. It is important to maintain the rights of indigenous peoples and ensure that development does not damage the environment. The steps taken by the government are:

- a. Reorganization of Plans: The government is reconsidering the plan to relocate residents and placing more emphasis on reorganizing settlements.
- b. Citizen Data Collection: BP Batam conducts data collection on affected residents using a humanist approach.
- c. Formation of a Socialization Team: BP Batam, TNI, and Polri deployed a socialization team to explain the development plan to the community.
- d. Compensation: Affected residents will receive compensation in the form of land, houses and other costs.
- e. Community Empowerment: The government seeks to involve the community in the development of Rempang Eco City.
- f. The resolution of the Rempang conflict involves a humanist approach and dialogue with communities affected by the development of Rempang Eco City. The government seeks to ensure adequate compensation and involve communities in investment, as well as refrain from the use of violence in conflict management.

3.2. Implementation of the Rempang Eco City Project

1) Progress on the implementation of the Rempang Eco City Project

The Rempang Eco City project is currently still in the implementation stage, with a number of developments such as relocation of residents, construction of new houses, and socialization. This project, which is included in the list of National Strategic Programs, aims to develop Rempang Island into an integrated industrial, trade, and tourism area. However, this development process has also caused several conflicts and concerns among the local community. Here are some details related to the implementation process of the Rempang Eco City project:

a. Development and Relocation:

BP Batam is building 350 new housing units in Tanjung Banon, with progress reaching 71.17 percent.

b. Relocation of Residents:

A total of 5 heads of families (KK) have moved to new houses in Tanjung Banon, so that the total number of residents who have moved is 47 KK.

c. Development Target:

BP Batam targets 100 new houses to be built in Tanjung Banon by September 2024.

d. Socialization and Consultation:

BP Batam continues to consult with affected residents, with a total of 598 families having been consulted.

e. Humanist Approach:

The Rempang Task Force Team took a persuasive approach during the socialization.

The Rempang Eco City project, which is part of the National Strategic Project (PSN), continues to develop, despite facing rejection from some residents. To date, 87 heads of families have accepted relocation to new houses in Tanjung Banon. The construction of 350 new housing units in Tanjung Banon is also ongoing, with progress of 71.17%. This project aims to become an Integrated Area with complete public and social facilities. BP Batam has relocated 87 heads of families to new houses in Tanjung Banon. This is part of an effort to move affected residents to better new housing. The construction of 350 new housing units in Tanjung Banon is ongoing, with progress of 71.17%. These houses are built on 500 square meters of land with building type 45 and equipped with a

certificate of ownership (SHM). A total of 5 heads of families (KK) from Rempang have again moved from temporary housing to new houses in the Tanjung Banon area. This number adds to the total number of residents affected by the development of Rempang Eco-City who have occupied new houses to 47 KK. "Through the Rempang Eco-City project, BP Batam is trying to prepare an Integrated Area located in Tanjung Banon complete with public facilities and social facilities. BP Batam also continues to urge the construction of 350 new housing units whose construction has reached 71.17 percent. This new house stands on a 500 square meter land with a building type of 45 equipped with a certificate of ownership (SHM).

3.2. The role of the government in the Rempang Eco City project

The central and regional governments have an important role in supervising the implementation of the Rempang Eco City Project. This role includes ensuring that development is in line with human rights, environmental balance, and respect for local communities, as well as carrying out strict supervision of acts of violence, criminalization, and violations of the law. The Role of the Government in Supervising the Rempang Eco City Project:

1) Protection of Human Rights (HAM):

The government is obliged to guarantee the rights of the people of Rempang Island, including the right to land and housing. Development must be in line with human rights principles and must not have a negative impact on the community.

2) Environmental Balance:

The development of Rempang Eco City must consider environmental impacts and maintain the sustainability of the ecosystem. The government needs to ensure that development does not damage the environment and maintains the balance of nature.

3) Respect for Local Communities:

The government must respect the values and traditions of the Rempang community. Development must involve the community and consider their aspirations. There must be no action that ignores the rights of the community or ignores their voices.

4) Strict Supervision:

The government must carry out strict supervision of the implementation of the Rempang Eco City Project, including ensuring that there are no acts of violence, criminalization, and violations of the law. Supervision must include actions by security forces, such as the TNI.

5) Conflict Resolution:

The government must play an active role in resolving conflicts arising from the Rempang Eco City Project, including resolving land issues, relocation, and land disputes.

6) Community Empowerment:

The government must support the empowerment of the Rempang community, including in economic, social, and cultural aspects. Development must bring real benefits to the community and not only benefit investors.

7) Improvement of Welfare:

The government must ensure that the development of Rempang Eco City brings increased welfare to the community. Development must be in line with the state's goal of advancing public welfare.

8) Role of Security Forces:

TNI involvement in this project must be closely monitored to prevent human rights violations and violence. Internal supervision within the TNI is also necessary.

9) Follow-up:

The government must take firm action against parties who commit violations of the law and human rights related to the Rempang Eco City Project.

10) Evaluation and Monitoring:

The Ombudsman is one of the government institutions that can be contacted by the public to get help in implementing programs or policies of institutions that interfere with the rights of local communities, including the case of Rempang Island. This Ombudsman program has Long-Term Care which aims to protect and improve the quality of life for people who need help. This Ombudsman seeks to address the problems of each citizen and implement changes at the local, state, and national levels. Regarding the problem on Rempang Island, the Ombudsman asked the government to prioritize the interests of the community rather than encouraging development. Because the government must guarantee and prioritize the rights of the people of Rempang Island because Rempang Island, which is intended to be used as Rempang Eco City, is the place where the community lives, and even Rempang Island is the property of the Rempang community. If the government wants to make Rempang Island a Rempang Eco City, the government should involve its people in decision-making regarding the Rempang Eco City development plan. Instead, the government immediately makes unilateral decisions without listening to the aspirations and decisions of

the Rempang Island community. So the government should pay attention to the interests of the people and ensure that their rights are not disturbed, because that way peace and justice will be created in the country. So as not to cause concern about the philosophy of Pancasila and Democracy in Indonesia.

3.3. Updates to government regulations regarding the status of Rempang Eco City

BP Batam ensures that the Rempang Eco-City Integrated Area Development is still one of the national strategic projects. This is as stated in the Direction of Regional Development in Attachment IV of Presidential Regulation of the Republic of Indonesia Number 12 of 2025 concerning the National Medium-Term Development Plan (RPJMN) for 2025-2029. The Rempang Eco-City Integrated Area aims to support the industrial corridor development plan in Batam. Hopefully, the area can become a new center of economic growth for the community. So, residents there also get a great opportunity in the industrial ecosystem that will be built. One of them is by increasing the absorption of labor. Accelerating the realization of the Rempang Eco-City Project requires support from the central government and all regional components. Communication between the government and the community can be well maintained. Development of the Rempang Eco-City Integrated Area, the government has also determined several other strategic projects such as the Development of Batuampar Port and Kabil Port; Development of the Tanjungpinggir Outer Ring Road, Jodoh; Development of the Galang Maritime City Integrated Area; Development of Batam Aero Technic Special Economic Zone, Nongsa Special Economic Zone, Sekupang Special Economic Zone, Tanjungsauh Special Economic Zone; Development of Batam Regional SPAM; Development of Batam Urban and Industrial Sewerage System Development Project; as well as Planning, Preparation and Construction of Batam LRT Trase Hang Nadim Airport-Batam Center-Batu Ampar and BRT Trans Batam Trase Batam Center-Tanjung Uncang, which are integrated with TOD.

However, in the Rempang Eco-City Project, the involvement of the Kampung Tua customary law community in the two-way dialogue process was very minimal, the management only conducted socialization twice and the socialization was carried out one way, in fact, with the dialogue process at the public consultation stage, it should involve the participation of the affected community. In fact, it is regulated in Article 33 paragraph (1) of PP No. 19 of 2021, if there is no agreement in the public consultation on the location of the planned development, then a public consultation will be carried out again, within a maximum period of 30 days. This means that if the results of the first public consultation do not reach an agreement, a public consultation can be carried out again while still involving the participation of the customary law community affected by the development. After there is an agreement between the manager

and the community regarding the location of the new development, it can be processed to the next stage. In addition, the agency that will carry out the development must involve customary law community leaders to obtain an agreement, based on Article 41 paragraph (3) of PP No. 19 of 2021. As regulated in Article 13 paragraph (2) of PP No. 19 of 2021, direct notification is carried out by means of socialization, face-to-face, or using a notification letter. If the notification is carried out indirectly, based on Article 13 paragraph (3) of PP No. 19 of 2021, it can be through print media or electronic media. In the Rempang EcoCity Development, notification to the public is carried out only through electronic media. Then, the initial data collection stage is carried out on the location of the planned development, carried out by collecting initial data on the entitled parties and land acquisition objects, the entitled parties based on Article 18 paragraph (2) letter e of PP No. 19 of 2021, including customary law communities. The results of the data collection contain a temporary list of entitled parties and land acquisition objects used to carry out public consultations. After the initial data collection, a public consultation is held to obtain an agreement on the location of the planned development and involve the entitled parties, managers of goods, users of goods, and affected communities in accordance with Article 29 of PP No. 19 of 2021. The implementation of public consultations can be carried out in stages with a maximum period of 60 days. The preparation team, invites the entitled parties to attend the public consultation, based on Article 30 paragraph (2) of PP No. 19 of 2021, the invitation is submitted through the village apparatus no later than three days before the implementation of the public consultation event. According to Article 32 paragraph (1) of PP No. 19 of 2021, in the implementation of public consultation, a dialogic process is carried out between the Preparation team and the entitled parties or the community affected by the development. The dialogic process means two-way, there is a discussion between the agency and the customary law community affected by the development. However, in the Rempang Eco-City Project, the involvement of the Kampung Tua customary law community in the two-way dialogue process was very minimal, the management only conducted socialization twice and the socialization was carried out one way, in fact, with the dialogue process at the public consultation stage, it should involve the participation of the affected community. In fact, it is regulated in Article 33 paragraph (1) of PP No. 19 of 2021, if there is no agreement in the public consultation on the location of the planned development, then a public consultation will be carried out again, within a maximum period of 30 days. This means that if the results of the first public consultation do not reach an agreement, a public consultation can be carried out again while still involving the participation of the customary law community affected by the development. After there is an agreement between the manager and the community regarding the location of the new development, it can be processed to the next stage. In addition, the agency that will carry out the

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4. Conclusion

PT Makmur Elok Graha (MEG) has exclusive rights to develop the area for 80 years. On July 28, 2023, PT MEG signed an agreement with Xinyi Group in Chengdu, right in front of President Joko Widodo. The Rempang Eco City project, as part of the National Strategic Project (PSN), aims to develop Rempang Island into an integrated industrial and environmentally friendly tourism area. This project has the potential to boost the economy, but has also caused controversy, especially related to the relocation of indigenous peoples and environmental impacts. The government's policy to build legal protection for investment permit holders is in accordance with Government Regulation (PP) Number 42 of 2021 concerning facilities and conveniences for PSN, including legal protection for investors, Presidential Regulation (Perpres) Number 3 of 2016 concerning the Acceleration of the Implementation of National Strategic Projects, including the mechanism for resolving legal problems that arise, and the Regulation of the Coordinating Minister for Economic Affairs regulating the List of National Strategic Projects, which serves to ensure that projects included in the PSN have met strict criteria. through Presidential Decree (Keppres) Number 41 of 1973. The Presidential Decree authorized BP Batam to fully manage land in Batam. As stipulated in Article 6 Paragraph 2 Letter a of the Presidential Decree, all areas located on Batam Island were handed over with management rights (HPL) status to the Batam Authority.

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