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Foreign Direct Investment (FDI) post Covid-19: reforming beyond omnibus

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Covid-19 chaos on Global Value Chains

- China supply shock compounded by worldwide demand shock
- International trade will shrink by 13 – 32% (WTO), global FDI flows down by 30 – 40% in 2020 (UNCTAD)
- Silver lining in dark clouds: Corporations hurt by China shutdowns are looking elsewhere

Opportunity for Southeast Asia

TECHNOLOGY

Apple to produce millions of AirPods in Vietnam amid pandemic
[Nikkei Asian Review](#)

CORONAVIRUS

Google, Microsoft shift production from China faster due to virus
[Nikkei Asian Review](#)

'Made in Vietnam' Pixel phones and Surface laptops expected in 2020

Politics

Japan to Fund Firms to Shift Production Out of China
[Bloomberg](#)

Around 1000 Japanese companies are diversifying procurement outside China

\$2 bn assistance for companies to return processes to Japan

\$200 mn assistance for diversification to other countries, particularly

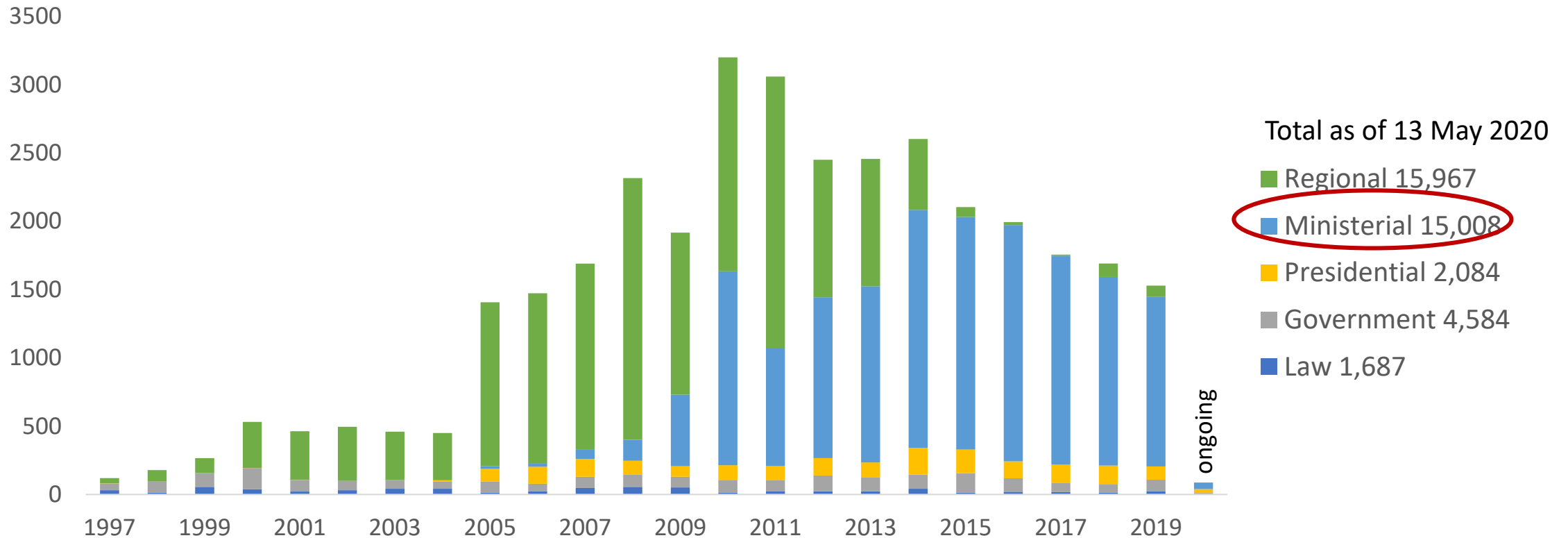
Southeast Asia

Indonesia FDI struggles even before Covid-19

- BKPM: FDI quarter-on-quarter growth near 0% since 2nd quarter 2019, 1st quarter of 2020 q-o-q growth is -7%
- World Bank: US-China trade war in 2019, 33 companies relocating from China – 0 to Indonesia. In 2017, 137 Japanese companies relocating to SEA – 10 to Indonesia
- Why? WB: Too many rules, President: “Regulatory obesity”
- Omnibus bill refers the 4,451 Government Regulations and 15,965 Regional Regulations as obesity
- But WB points out overlap of too many ministerial and regional regulations

Law 12/2011: ministries and agencies can initiate own regulations

Regulations issued in Indonesia every year

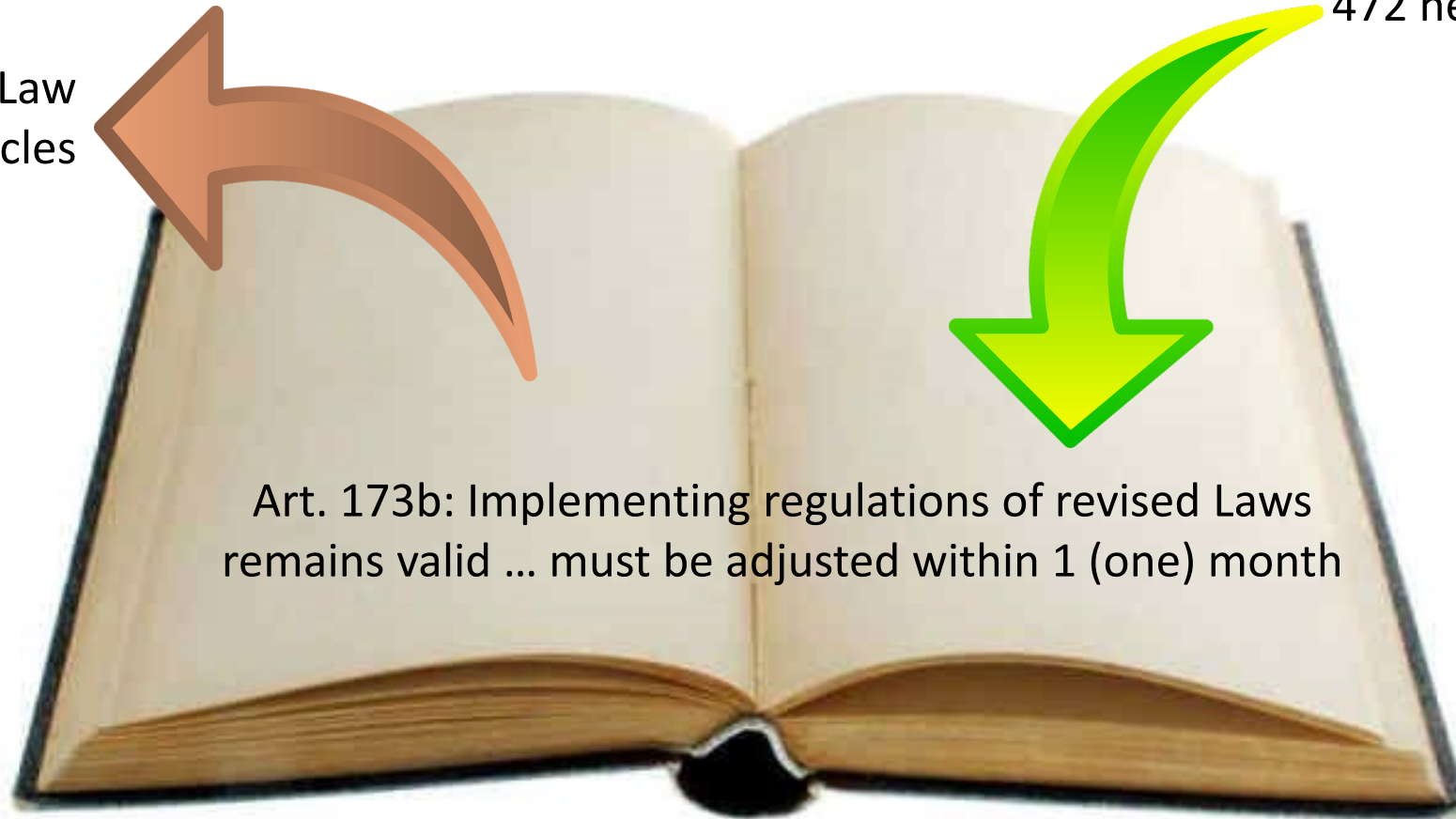


Source: peraturan.go.id

Omnibus the diet pill?

Revoke: 283 Law articles

Revise: 935 Law articles,
472 need new GR or PR



Art. 173b: Implementing regulations of revised Laws remains valid ... must be adjusted within 1 (one) month

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How about MR discretion?



Fast and furious reform

- Art. 173a & b: 1 month for 900+ adjustments and new regulations
- Such massive quantity can create legal vacuum
- Risk due to vacuum → e.g. Law 24/2009 and PR 63/2019: 10 years gap and 2 multi-million \$ lawsuits in between.

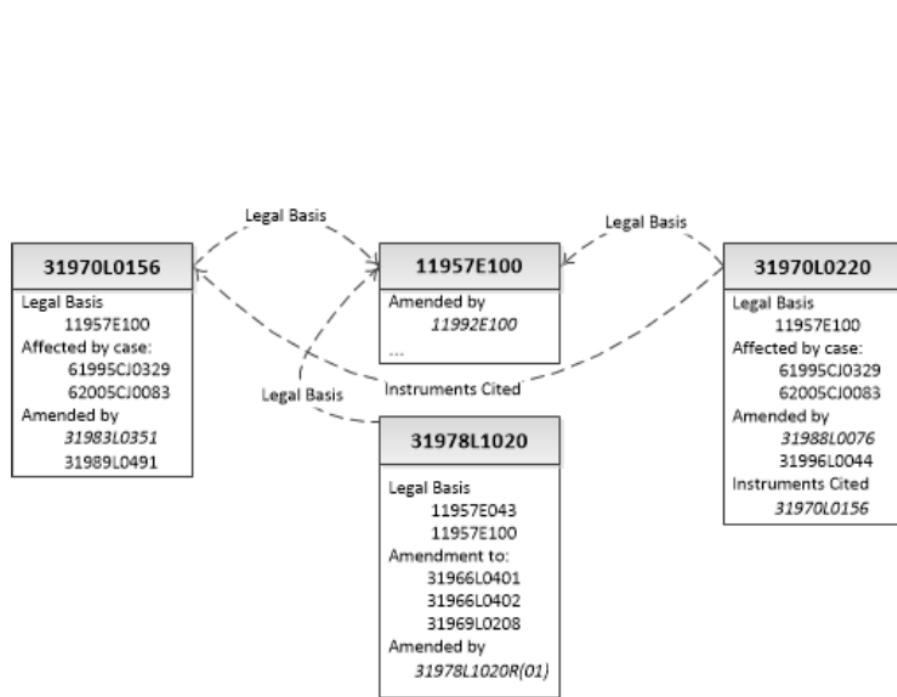
Crisis crystallizes need for reform

- Omnibus is good start but should continue momentum
- South Korean experience post-1997 crisis (Kim & Choi, 2016):
 - 1998 - 2000: 22,144 reviewed; 6,134 abolished; 5,026 revised
- Ministry of Justice and Human Rights database (peraturan.go.id) is a good tool but difficult to capture the relationship of all 40 thousand+ regulations

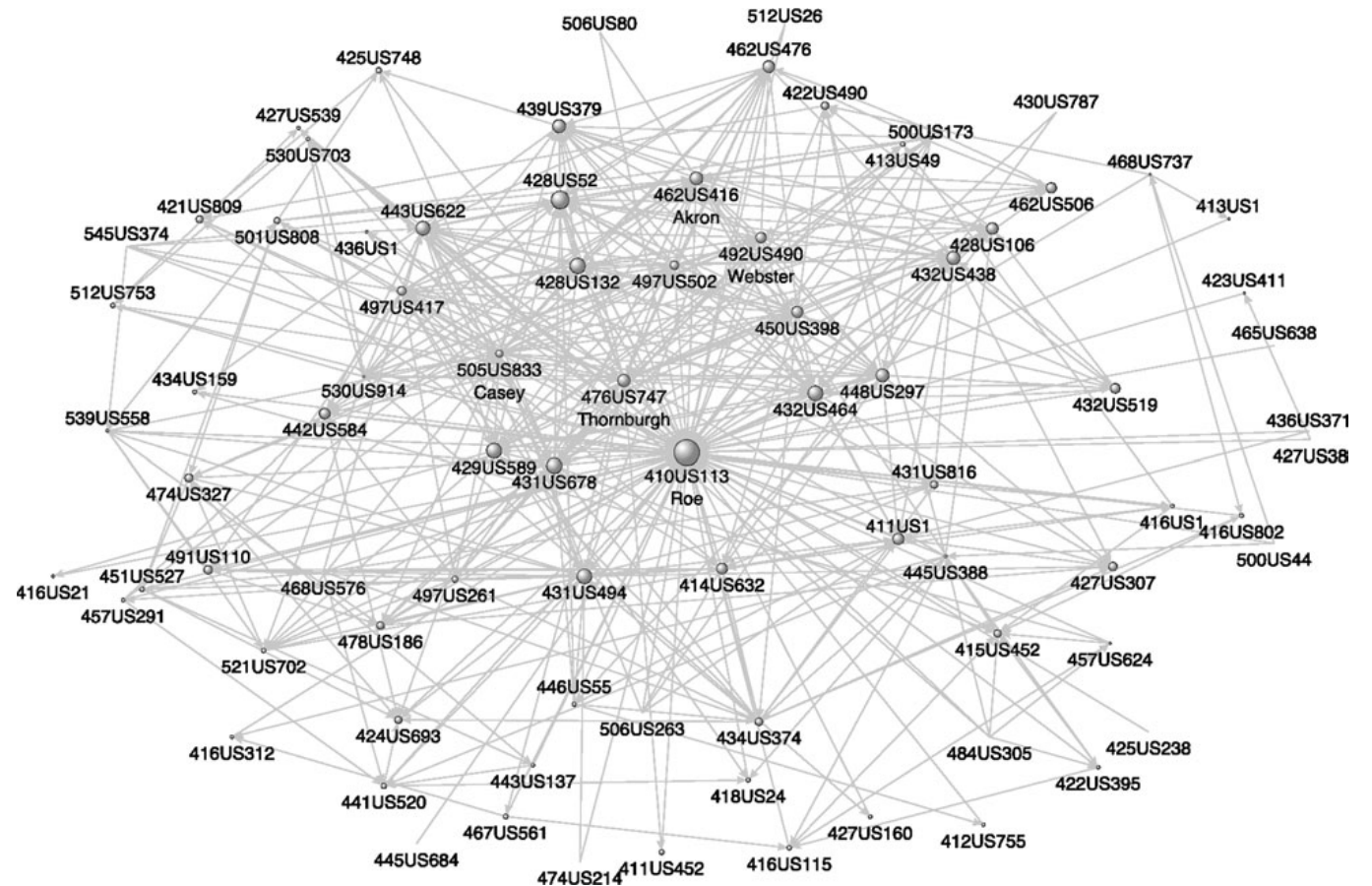
Preparing beyond Covid-19

- Reform is critical, but don't rush it
 - Allow 3-6 months for the implementing regulations. This is for extensive research (*Naskah Akademik*) and intensive public consultation.
- Tighter control over ministerial regulations
 - Have simplification ratio linked to ministerial budget drawdown. Also consider revising article 8 of Law 12/2011.
- Conduct periodic review of regulations
 - Make reform a regular process. Build requirement for review milestones into Law 12/2011.
- Develop a visual map of the regulatory framework
 - Legislation Network mapping can uncover links that are not visible in a table format

Examples



Source: Koniaris et al., 2017



Source: Fowler et al., 2007



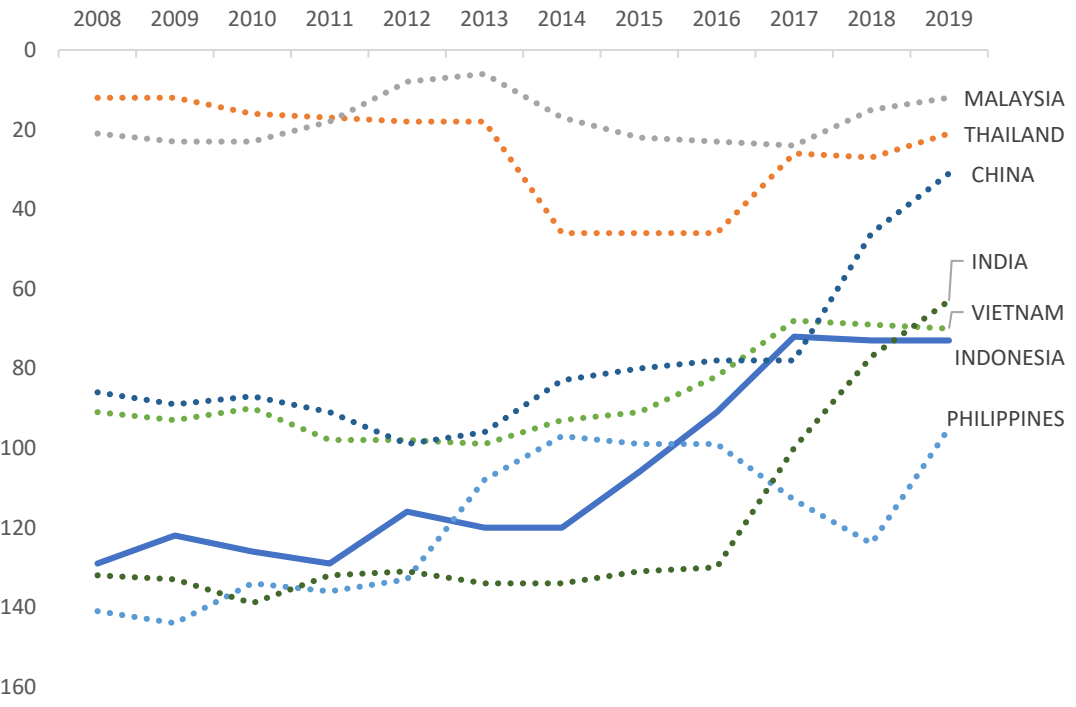
Thank You

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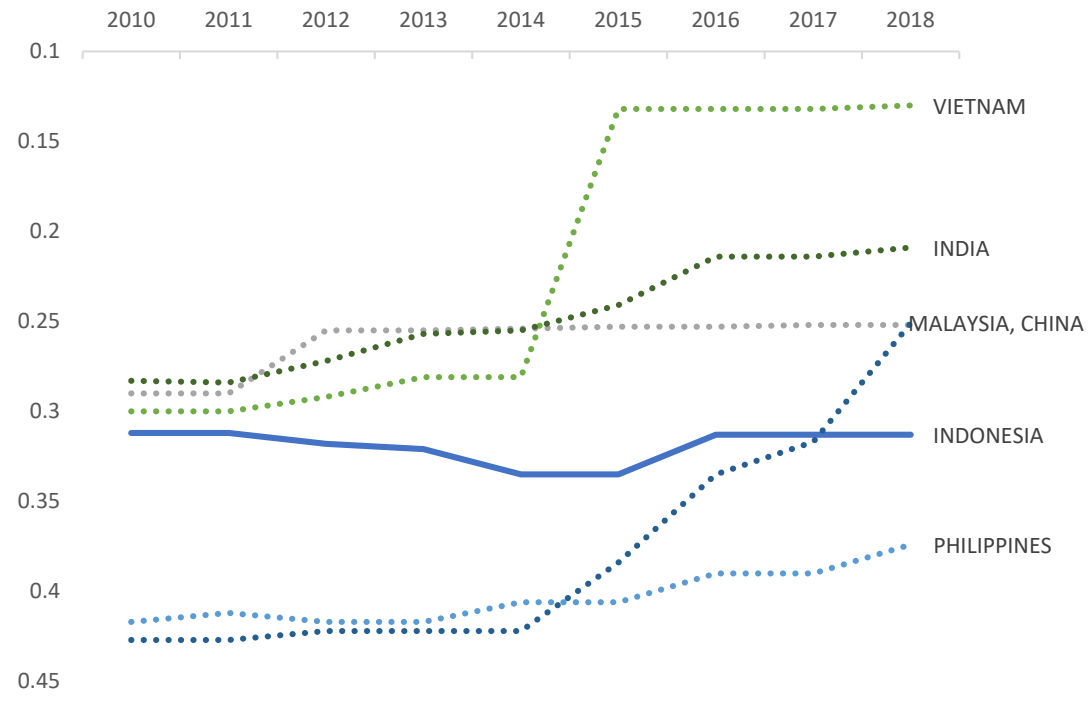
Difficult and restrictive

Ease of Doing Business Rankings (out of 190)



Source: The World Bank via Trading Economics

FDI Restrictiveness Index (0 = open, 1 = restrictive)



Source: OECD