



The Business Competition Supervisory Commission (KPPU) ruled on March 3 that Pertamina, Frontline (one of the largest independent operators of supertankers in the world) and Goldman Sachs (a global investment bank) have colluded in the sale of two supertankers. As a result the state lost up to US\$20-50 million.

Since then, various opinion leaders have applauded the KPPU for uncovering this 'corruption case' and assisting the government in its fight against KKN (corruption, collusion and nepotism).

This is where the fairy tale ends. The sad news is that the KPPU-ruling is clearly politically motivated and is not based on facts or common accepted legal principles.

Worse, the team of KPPU uncovered nothing. The case is baseless. There is no loss to Pertamina or to the state in this case. In fact the state made a healthy profit of \$54 million on the sale. The math is easy, Pertamina bought the two supertankers for \$130 million. It sold them for \$184 million. In most calculations this would be considered a profit of \$54 million.

One can very well defend the position that the state made a profit of \$184 million on the sale of the supertankers. Because Pertamina would have lost the tankers if it had tried to get them delivered. Karaha Bodas Company (KBC) had threatened to seize the tankers upon name transfer from Hyundai, the shipbuilder. Hyundai even wrote Pertamina that it was extremely concerned if it would still have to deliver the supertankers to Pertamina.

In other words; Hyundai could no longer deliver the tankers to Pertamina. This was no empty threat. KBC succeeded in seizing assets of Pertamina in the United States, Hong Kong and Singapore. And it almost succeeded in South Korea. KBC was keen to get their hands on the ships. These supertankers were Pertamina's only major assets left outside Indonesia.

Pertamina's board of directors and Commissioners and Goldman Sachs should be applauded for successfully concluding the sales process, which would otherwise have led to a possible loss of \$184 million to our national oil company and the Indonesian state.

There is more that doesn't make sense in the ruling. According to the KPPU, Pertamina, Goldman Sachs and Frontline colluded to defraud the state. How can you defraud the state by organizing an international tender and declaring the highest bidder as the winner? If the winning bid by Frontline, a Norwegian company, was artificially low, as the KPPU alleges, tender submit higher bids. Did all 43 shipping companies collude?

The KPPU claims that the real value of the two supertankers was not \$184 million (Frontline's winning bid) but between \$204 million and \$240 million. In other words the KPPU claims to know that operate supertankers.

It is untenable to argue that an international auction with 43 invited bidders from all over the world would result in a sale at less than the perceived fair value. In any event, it was Pertamina's decision to auction the oil tankers and accept the highest offer tendered after an extensive transparent international auction process.

And finally, what would be the interest of Goldman Sachs in engineering this so called collusion. Goldman Sachs as the financial advisor to Pertamina was paid a percentage of the sales prices as a commission for organizing a transparent auction. So, the higher the price for the tankers the higher the commission for Goldman Sachs.

This leads us to the question: Why did the KPPU give this logic-defying verdict. The answer is that Frontline and Goldman Sachs are the innocent bystanders in a political battle between two factions within Pertamina. Let's call them the pro and the anti supertanker faction.

The case started when under the leadership of Baihaki Hakim the cash-strapped national oil company decided to become the biggest operator of supertankers in the world. Why not? Pertamina's objective was to ultimately own a fleet of 38 of these gigantic and expensive ships. Frontline currently the biggest operator owns 35 supertankers. Pertamina awarded the order to build the first two to Hyundai.

But the new CEO, Ariffi Nawawi, who took over in October 2003, decided to sell the tankers. Pertamina, virtually without cash needed the money to develop oil and gas fields instead of attempting to become a shipping company.

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