UNIVERSITAS GADJAH MADA
**JURISDICTIONAL CHALLENGES FOR SOVEREIGN WEALTH FUNDS UNDER ARTICLE 25 OF THE ICSID CONVENTION:
LESSONS FOR THE INDONESIA-UAE BIT**
Deja Mayna Sandyakhsa Wibowo, Irna Nurhayati S.H., M.Hum., LL.M., Ph.D.
Universitas Gadjah Mada, 2026 | Diunduh dari http://etd.repository.ugm.ac.id/

FOREWORD 1
CHAPTER I 1
INTRODUCTION 1
A. Background 1
B. Research Questions 12
C. Research Objectives 12
D. Benefits of Research 13
E. Originality of Research 14
CHAPTER II 18
THEORETICAL REVIEW 18
A. International Investment Law 18
B. Investor-State Dispute Settlement (ISDS) 22
C. International Centre for Settlement of Investment Disputes (ICSID) 23
D. Sovereign Wealth Fund (SWF) 27
CHAPTER III 30
RESEARCH METHOD 30
A. Types of Research 30
B. Research Data 30
C. Data Collection Method 31
D. Data Analysis 32
E. Limitations and Resolutions 32
CHAPTER IV 33
RESEARCH RESULTS AND ANALYSIS 34
A. Challenges in Determining Jurisdiction in Cases Involving Sovereign Wealth Funds, under Article 25 of the ICSID Convention 34
1. Absence of Definition under The Convention 35
2. Divergence of Definition 36
3. Challenges to State Controlled Entities 37
4. Issues Specific to SWFs 38
5. SWF and Portfolio Investment 39
B. Analysis on the Methods of UAE-based Entities with State Nexus in Establishing ICSID Jurisdiction in Disputes Involving Indonesia under the UAE–Indonesia BIT 40
1. Addressing the Challenges related to Jurisdiction Ratione Materiae 40
a. IIA Definition and Double-Barrelled Test 40
i. Abaclat and Others v Argentina 40
b. Salini Criteria 43
i. Fedax N.V. v Venezuela 44
ii. Salini v Morocco 46
iii. Joy Mining v Egypt 50
c. Applicable Criteria for the Current Research 53

UNIVERSITAS GADJAH MADA
**JURISDICTIONAL CHALLENGES FOR SOVEREIGN WEALTH FUNDS UNDER ARTICLE 25 OF THE ICSID CONVENTION:
LESSONS FOR THE INDONESIA-UAE BIT**
Deja Mayna Sandyakhsa Wibowo, Irna Nurhayati S.H., M.Hum., LL.M., Ph.D.
Universitas Gadjah Mada, 2026 | Diunduh dari http://etd.repository.ugm.ac.id/

2. Addressing the Challenges Related to Jurisdiction Ratione Personae Under Article 25 of the ICSID Convention 56
a. Double-barreled test in defining "Investor" 56
b. The Broches Test 57
i. CSOB v Slovakia 58
ii. Flughafen Zürich A.G. v Venezuela 60
c. ARSIWA Approach 61
i. BUCG v Yemen 63
ii. Masdar v Spain 65
d. The Applicable Approach 68
3. Jurisdiction Assessment of UAE Affiliated Investments in Indonesia under the Indonesia-UAE BIT 70
a. Investment Definition under the Indonesia-UAE BIT 70
b. UAE, Masdar and Mubadala 71
c. PT PMSE and PT Masdar Mitra Solar Radiance 74
d. Masdar Cirata Power Plant and B2B Solar Facility projects under MMSR 80
i. Corresponding Issues in Past Decisions 80
ii. Analysis under the Indonesia-UAE BIT 83
iii. Application of the Salini Criteria 85
e. Masdar's Status as a Claimant in a Dispute 87
i. Mubadala and SWF Nexus under the ICSID 87
ii. Investor Definition Under the Indonesia-UAE BIT 88
iii. The Broches Test 89
iv. The ARSIWA 91
f. Other Contentions 93
C. Lessons Learned Related to the Jurisdictional Challenges of UAE Affiliated Investments Under the Indonesia-UAE BIT 96
1. SWF as claimants under the ICSID 96
a. Precedences 96
b. Mubadala as a Claimant against Indonesia 97
i. Mubadala's Portfolio Investment 98
ii. Mubadala's State Nexus 99
2. Lessons for Future Investments 100
a. Shortcomings of The Current Method of Assessments of Jurisdiction 100
b. Attempts of Amelioration 103
CHAPTER V 107
CLOSURE 107
BIBLIOGRAPHY 111