

**PENYELESAIAN SENGKETA PENANAMAN MODAL ASING (PMA)
MELALUI ARBITRASE INTERNASIONAL (Studi Kasus *Indian Metal Allays Ltd. melawan Pemerintah Republik Indonesia di Permanent Court of Arbitration*)**

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INTISARI

Tujuan Penelitian ini yaitu : (1) untuk mengidentifikasi upaya pemerintah Republik Indonesia dalam menghadapi sengketa penanaman modal asing melalui arbitrase internasional dalam perkara *Indian Metal Ferro Alloys Ltd. (IMFA)*, (2) untuk mengetahui dan mengkaji perlindungan hukum bagi investor dalam penyelesaian sengketa internasional penanaman modal asing di Indonesia.

Penelitian ini merupakan penelitian normatif - empiris yang mengkaji dan meneliti data sekunder dan data primer. Data sekunder terdiri dari bahan hukum primer berupa Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal, UNCITRAL *arbitration rules*, ICSID dan Undang-Undang Nomor 30 Tahun 1999 Tentang Penyelesaian Sengketa, menggunakan metode pendekatan kasus (*case approach*) dan Pendekatan perundang-undangan (*statute approach*). Bahan hukum sekunder berupa buku-buku dan jurnal ilmiah. Sedangkan data primer berupa penelitian lapangan berupa penelitian hukum normatif yang didukung dengan wawancara.

Hasil penelitian menunjukkan bahwa dalam penyelesaian sengketa arbitrase internasional di UNCITRAL *arbitration rules* dalam perkara *Indian Metal Ferro Alloys Ltd. (IMFA)*, terdapat minimal tiga lembaga yang mewakili pemerintah, yaitu Kementerian Hukum dan HAM, Kejaksaan Agung, dan Kementerian Perekonomian, ini memperlihatkan bahwa masih belum adanya otoritas tunggal lembaga atau kementerian yang akan mewakili pemerintah di hadapan forum arbitrase internasional. Sedangkan dari segi perlindungan hukum investor penyelesaian sengketa internasional penanaman modal asing di Indonesia sudah sangat jelas dalam Undang-Undang Nomor 25 tahun 2007 dan diatur lebih lajud dalam Undang- Undang Nomor 30 Tahun 1999 namun kepastian hukum bagi penanaman modal asing terkait penyelesaian sengketa internasional masih dilematis dalam hal pelaksanaan putusan arbitrase internasional yang dibuat di dalam wilayah Indonesia.

Kata Kunci : Penyelesaian Sengketa, UNCITRAL *Arbitration Rules*, ICSID, Penanaman Modal Asing

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**DISPUTE SETTLEMENT OF FOREIGN DIRECT INVESTMENT (PMA)
THROUGH INTERNATIONAL ARBITRATION COURT (Case Study
*Indian Metal Allays Ltd. Against The Government Of Republic Indonesia
At Permanent Court of Arbitration*)**

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ABSTRACT

The purposes of this research : (1) To identify the government of Republic Indonesia in faeing dispute of foreign direct Invesment through Internationaal arbitration in Indian Metal Ferro Alloys Ltd. (IMFA), Case (2) To comprehend and analize legal protection for foreign investor in resolving international dispute of foreign direct investment in indonesia.

This research is normatif-empiris research, analizing and researching primair and secondary data. Secondary data consists of primari legal resource in form of law of the republic of indonesia number 25 year 2007 concerning invesment, UNCITRAL arbitration rules, ICSID and law of the Republic Indonesia number 30 year 1999 concerning legal dispute settement. Applying case approach and statute approach method secondary legal resources in forms of books and scientific journal, meanwhile, primary data ini form of normative legal research that is supported by interview.

The result of research shows that in resolving international arbitation dispute in UNCITRAL arbitration rules in Indian Metal Ferro Alloys Ltd. (IMFA), There are thre institutions at minimun on behalf, of government, there are ministry of law and human rights, attorney general office, and ministey of economy, this presents that there is no single outhoruty institution or minister that will represents government before the international arbitration. However from legal protection prespective foreign investor in fereign direct investment international settlement of indonesia has been clearly provided in the law number 25 year 2007 and more in the law number 30 year 1999, eventhough legal certainty for foreign investors is still dilemmatic in exercising international arbitration dicision made in the territory of indonesia.

Keywords : Dispute Settlement, UNCTRAL Arbitration Rules, ICSID, Foreign Direct Investment

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