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BANI ARBITRATION CENTER

INDONESIA ARBITRATION QUARTERLY NEWSLETTER

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FINAL & BINDING

Main Topics :

Rendering BANI'S Arbitration Award
Kahardiman

Good Faith in Arbitration
Madjedi Hasan

Putusan Akhir dan Mengikat :
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International Arbitration in Australia

WIN-WIN SOLUTION

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From the Editor

Most contract includes arbitration clause that required both parties to arbitrate any dispute in the contract. It brings the consequences that all claims and disputes are to be settled by final and binding arbitration solution. An arbitration award may than be confirmed in a court of competent jurisdiction.

In this edition main topics, Mr. Kahardiman explains the legal status of final and binding arbitral award under the Indonesia Law. The next articles by Dr. Madjedi Hasan explains why good faith in arbitration is the substantial basic part before both parties agree to bring the disputes to an arbitration. In addition to that, A critical review on Arbitration Award vs Tax Court decision, is discussed in an elaborated manner by Dr. Tjip Ismail.

Finally, as side topic, a paper on International Arbitration Practice in Australia, presented in a joint event between BANI and ACICA (Australian Centre for International Commercial Arbitration) held on September 23rd , 2014 is reported.

Jakarta, September 2014

Born in Yogyakarta on May 1st, 1936, Kahardiman is a retired Vice Admiral in Indonesian Air Force. Started his career as secretary in the Military Court, Kahardiman has held various positions in the Indonesia's military, including in the Military High Court and Head of Legal Department at the Air Force. He later served as a Supreme Court Justice until June 2001, and upon his mandatory retirement he joined BANI as an Arbitrator.

RENDERING
BANI'S ARBITRATION AWARD

H. Kahardiman, S.H., FCBArb.

Abstrak

Putusan arbitrase bersifat final dan mempunyai kekuatan hukum tetap dan mengikat. Para pihak merupakan landasan yang paling mendasar yang selalu diingat dan menjiwai setiap arbiter dalam memutus.

Sejak awal setiap Arbiter/Majelis Arbitrase harus menyadari tingkat "kesaktian" kewenangannya, serta tanggung nuraninya yang dideklarasikan ; **batiniah**, dengan sikap mental independent yang kokoh, objektif dan secara mutlak tidak memihak; **lahiriah** : mengutamakan upaya perdamaian para pihak mencari titik-titik temu secara optimal selama proses arbitrase ; bersungguh-sungguh mendalami, menghayati, mencermati seluruh alat bukti dan keterangan-keterangan para pihak, profesional dalam menganalisa kasus secara utuh, rasional dan logis dalam menyimpulkan, memegang prinsip tidak ada pihak yang diuntungkan sekaligus tidak ada pihak yang dirugikan, tepat/persis meng-identitas kasus dan mampu secara akurat menentukan inti permasalahan dan menyelesaikan dengan kebulatan landas pikir tersebut diatas diharapkan setiap arbiter/Majelis Arbitrase dapat melahirkan Putusan Arbitrase yang seadil-adilnya.

Bahwa kesempurnaan menegakkan keadilan hanyalah milik Tuhan Yang Maha Adil, namun mendekati kesempurnaan dan keadilan adalah upaya dari setiap Arbiter/Majelis Arbitrase dalam memutus perkara arbitrase yang diyakini lahir batin.

Kata Kunci : Proses Arbitrase, Majelis Arbitrase, Kekuatan Hukum Tetap

Introduction

Article 60 of Law Nr. 30 of 1999 (Arbitration Law) states that arbitral award is final and legally binding the parties, which means that the award could not be corrected by an appeal, cassation and review. Formally, the arbitral award can only be annulled in accordance with the Article 70 of the arbitration law as outlined in Article 71 and 72; accordingly the arbitration award should always be able to resolve the private dispute. In essence, the quality is dependent on types of disputes and at the end is essentially determined by the parties' behavior in resolving the dispute. Nonetheless, in any case, it is necessary to maximize the efforts in rendering the award, so the disputed parties would recognize the sincerity and professionalism of the arbitrators who have worked optimum and given the legal considerations that are independent and impartial.

Legal Status of Final and Binding Arbitral Award

There are several types of award in the Indonesia's judicial system that is similar to arbitration award, namely:

1. Extraordinary Military Court' or Mahkamah Militer Luar Biasa (MAHMILUB)'s award, although they are absolutely different in principle, i.e. Mahmilub is prosecuting the criminal act, while Arbitration deals purely with the civil case. However, the MAHMILUB's verdict can still be changed, annulled and corrected by the President's Clemency Decision (Presidential Decree No. 16 Year 1993 / Law No. 5 of 1969, State Gazette No. 36 of 1969 on the establishment of the Extraordinary Military Court. Thus MAHMILUB's verdict cannot be expressed in absolute terms as the final Arbitration Award.
2. Cassation award in both civil and criminal cases that are readily executable can still be filed for reconsideration, provided it meets the requirement as stated in the law, so the Cassation Award cannot be considered as final in absolute terms.
3. Award resulting from the Judicial Review in a criminal case may be canceled by the Clemency Decisions, so the Judicial Review awards in criminal case is in absolute terms not final.
4. Award resulting from Judicial Review in a civil case that is readily executable may not be cancelled or modified, so the award is indeed judicially final and binding (refer to Law Nr. 4 of 2004 as amended by Law No. 48 of 2009 on Judicial Power, and the Criminal Procedure Code).

Given the fact that the status of Judicial Review's award is final, legally executable and binding, the arbitration award is essentially equivalent to Judicial Review's award in the case of civil case, however the process is principally different as follows:

1. The Judicial Review's award is derived from a long and stage process which requires a long time and is not predictable, starting with the process in the District Court, followed by appeal in

the High Court and cassation in the Supreme Court, and followed by appeals for Judicial Review in the Supreme Court, thereby the formal process is a long undertaking.

2. Referring to the Article 70, 71 and 72 of the Law Nr. 30 of 1999, the arbitral award is the first degree and final award that binding the parties. With respect to time, the Article 49 clearly states that the process of arbitration dispute shall be completed within 180 (one hundred eighty) days, since the appointment of Arbitrator of Arbitration Tribunal. The extension may only be granted by agreement by the parties, thereby the time for rendering the award has been determined firmly.

Process of Rendering the BANI'S Arbitration Award

The BANI Arbitration Award here is referred to those made by Arbitration Tribunal and a single arbitrator, in accordance with the BANI Rules and Procedures. Presently, the Arbitrators listed in BANI are plural and heterogenic, thereby they are varying that may be divided as follows:

1. Their ages are varying from 40 to 80 years plus; also the experiences vary greatly, from the most experiences to those who still have to gain experiences, and those who have been long in BANI and the young newcomers who need to be ready for today challenges and facing the future and to be ready to replace the older ones.
2. The educational background also varies from BSc to Doctor's degree which means that there are arbitrators who are based solely on experiences and scholars that are specialized in their science; they all are used as a basic capital in the process of making the award. With respect to educational background, there are varying disciplines that are used rationally and proportionally in undertaking the various dispute cases; for example, in resolving the construction dispute the arbitrator who has engineering degree would be more suitable to serve as an arbitrator in resolving construction dispute.
3. BANI's Arbitrators have varying professional background, as many have come from varying professions such as university's lectures, government's officials, lawyers, retired judge and prosecutor with expertise from various disciplines and profession. There are theories or some believes that heterogeneity is discrepancy in thought but it is also a potential or richness when it is used in harmony, as they can fulfill each other the shortcoming/professionalism, so it will produce an analysis in resolving the dispute that the Tribunal must decide. The positive potential shall be preserved and maintained without any pretension who may feel superior, and all of these have certainly been recognized by the BANI's Arbitrators.

Reconciliation

Given the assumption that the most knowledge one on the dispute is basically the disputed parties, the BANI Arbitral Tribunal has always and constantly to support for the parties to make efforts for reconciliation. Such appeals have always be given to the parties for continued to renegotiate, mediate assisted by BANI's Arbitration Tribunal and at their own initiative, even for caucus in which each party can express its own view without the present of the other party.

The role of BANI's Arbitrators as a mediator among others is as follows:

1. Conditioning the party to atmosphere of cooperation that is based on the past for togetherness and optimism.
2. The Arbitration Tribunal shall try to find the root of the dispute and identification whether the dispute is rational heavy or emotional heavy. If it is due to emotional heavy, the Arbitration Tribunal has to find a gap to analyze the root for dispute so the parties may resolve the dispute with cold head and promote rational approach.
3. The presence of principal who will act as decision maker will affect the effort for reconciliation atau to find the meeting points. The attitude of legal representative of the party has often been found inhibit the achievement of peace, and under such circumstances the BANI's Arbitration Tribunal is expected to be able to control the legal principle. Patience and skill to use the moment for peace will help in finding the meeting points, or at least promoting the climate or non-confrontation condition is a capital for the BANI's Arbitration Tribunal to render the award.

Role and Contribution of Arbitrator

A united Arbitration Tribunal is the Tribunal that consisting of arbitrators who make efforts to studying the case in balance from its own professions. An attitude to leave the decision to the other arbitrators in the Tribunal is not recommended, as the reasoning from all arbitrators is always more complete and will render a better award. Deep optimum review of all evidences that have to be clarified and questioned to the parties in the proceeding will usually contribute so the Arbitration Tribunal may identify the global frame of the dispute case and take the core or essence of main issues; and also take the conclusion to resolve it with various alternatives by relevant and precise target.

The Arbitration Tribunal consisting of professionals from various disciplines works in harmony fulfilling each other's needs and do not a shame to ask matters that they are not familiar to their colleague arbitrators who are happened to be the same professional discipline of the case. The contribution to or role of each arbitrator is becoming relevant in cases that have to be decided by amicable compositeur or ex aequo et bono, that will be based on justice or fairness, including among others:

1. Computation of claim material, by considering the legal evidences facts that are proved in the hearing and could not technically be computed, however rationally it can be considered fair.
2. Specific detailed valuation of technical computation and numbers as shown in the evidences by determining which is logical and drawing the rational conclusion scientifically.
3. Combination of general methodology with percentage that is rational by specifically evaluating the items and technical analysis in drawing conclusion and presenting realistic numbers which easily are understandable by the parties

BANI Arbitration Statement

BANI's Rules and Procedures states that before signing, examining and rendering a case each BANI's Arbitrators will be requested to sign a form of willingness and a statement containing the following:

1. Arbitrator's willingness to examine and render a case that is requested by BANI's officer;
2. A true statement that:
   a. The Arbitrator has no interest what so ever with the disputing parties.
   b. The Arbitrator guarantees to preserves the neutrality, independency and will not influenced by anybody and by any method, and is willing to reserve the time necessary as required in every session.
   c. The Arbitrator shall not communicate, directly or non directly with the disputing parties or their attorney during the periods beginning the appointment until registration of the award in the District Court, except by knowledge of the parties and/or by its attorney and relevant Arbitration Tribunal in accordance with the procedure of meeting as stated in the prevailing BANI's Rules and Procedures.

Such a statement is morally serves as:

1. A promise that the Arbitrator will render the award with a heading which states For the Sake of Justice under The Al Mighty "DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA"; which means that the Arbitrator will work unanimously to examine and decide the case, and not for others;
2. A warning that the Arbitrator shall have a responsibility to examine and rendering the award which is final and binding the parties.
3. The award of the Civil Case in the Judicial Review has gone regularly and qualitatively through a stepwise filtering process from the District Court's award, High Court's appeal award and Supreme Court's cassation award. Note that the Arbitrator will render the award that is equivalent to the Judicial Review for the private case in the Supreme Court.
4. Supreme content that may be translated and meant that it requires the Arbitrator

to optimize its capability – technically and professionally, with a maturity in making the decision, all shall be based on spiritual religious. Therefore the output will be a legal supremacy or legal justice and fairness and has a value in settlement of the parties' dispute. Consequently, the BANI's arbitration award should be benefiting the disputed parties and problem solving.

Conclusion

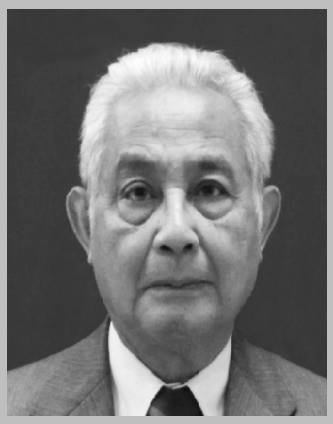
Given its limitation, the BANI's award has gone through a process involving technical proficiency competence and ability in identifying the case and finding the essence or core of the dispute and common ground, creating the non-confrontational atmosphere and making most appropriate conclusions, all are integrated based on spiritual – religious, so producing a BANI Award that is acceptable and understood by the parties.

Past Events

SEMILOKA

GAPENRI Join BANI Arbitration Center
"Arbitrase dalam Proyek EPC "
Wednesday, June 4, 2014

Balai Kartini, Mawar Room 2nd floor, Jl. Gatot Subroto Kav. 37, Jakarta 12950



Experience in petroleum upstream activities and engineering education, including pioneering in establishment of the first School of Petroleum Engineering in Indonesia (1962). Fields of expertise include oil production operation, petroleum reservoir management, petroleum property valuation, and assessment of project proposal for financing and due diligence, oil and gas laws and contracts, geothermal development project and training development. Clients include oil and power companies, banks and financial institutions. Also had provided statement in court and arbitration forum regarding Oil and Gas Law and contract.

GOOD FAITH IN ARBITRATION

Dr. Madjedi Hasan, FCBArb

Abstrak

Itikad baik atau *good faith* adalah prinsip utama dalam bidang bisnis dan hukum. Dalam istilah bisnis, itikad baik yang berasal dari Latin, '*bona fide*'diartikan sebagai upaya untuk tidak mencari keuntungan yang tidak wajar atau tidak menipu pihak lain, bermaksud jujur untuk memenuhi kewajiban atau mentaati standar yang pantas dalam transaksi yang wajar (*observance of reasonable standards of fair dealing*). Sementara dalam istilah hukum, itikad baik adalah suatu istilah abstrak dan komprehensif yang meliputi kepercayaan (*sincere belief*) atau motif tanpa keinginan untuk menipu orang lain.

Di Indonesia asas itikad baik telah diakomodasikan dalam peraturan perundang-undangan di Indonesia. Di dalam Buku III KUHPerdata dikenal empat asas penting yang bersifat universal, yaitu asas kebebasan berkontrak, asas *pacta sunt servanda*, asas itikad baik dan asas konsensualisme. Tiga asas yang pertama (kebebasan berkontrak, *pacta sunt servanda* dan itikad baik) dapat disimpulkan dalam Pasal 1338 KUHPerdata yang menyatakan bahwa: "Semua persetujuan yang dibuat sesuai dengan undang-undang berlaku sebagai undang-undang bagi mereka yang membuatnya. Persetujuan itu tidak dapat ditarik kembali selain dengan kesepakatan kedua belah pihak atau karena alasan-alasan yang ditentukan oleh undang-undang. Persetujuan harus dilaksanakan dengan itikad baik."

Kata Kunci : Good Faith, Bonafide, Observance of reasonable standars of fair dealing, Sincere Belief, KUH Perdata, Pacta Sunt Servanda

Introduction

This paper discusses that the entering into and the performance of arbitration will also require *good faith* as a fundamental element of arbitration agreement. Deriving from the translation of the Latin term *bona fide,* good faith is a sincere belief or motive without the desire to defraud others or observance of reasonable standards of fair dealing. It requires that each party shall be fair and honest in negotiations and, once the agreement has been reached, that the parties also perform their respective obligations and enforcing their rights honestly and fairly. In fact, *good faith* has been identified as the essence of a contract, and the parties are expected to act in *good faith* in their dealings.

In Indonesia, good faith is provided in the Book III of Civil Code that stipulates four universal principles, namely freedom of contract, *pacta sunt servanda*, good faith and consensual. The first three are accomodated in the Article 1338 which states that all agreement that are made legally shall apply as the law of the parties thereto and is not revocable except with the consent of both parties, or for the reasons that by the law are sufficient therefor. An agreement must be performed in good faith. In Holland, the good faith involves reasonableness and fairness.

Application of good faith based on Article 1338 Civil Code is difficult as, the good faith is not *self evident*, but subject to various interpretation. As stated in the Black's Law Dictionary "The phrase good faith is a state of mind consisting (1) honesty in belief or purpose, (2) faithfulness to one's duty or obligation, (3) observance of reasonable commercial standards of fair dealing in a given trade or business, or (4) absence of intent of defraud or to see *unconscionable advantages*[1].

Another way to understand the good faith is to view it as ethics or moral princple which is a legal idea or doctrine that will create independetly the legal right and obligation. Good faith, as legal doctrine, provides protection for the parties in the contract by mutually respect and cooperation spirit. As Roy Goede said, *"one may acknowledge the power and attraction of a general idea but the idea may be so general that it is of no practical utility to the merchant"* [2]. Accordingly, the meaning of good faith is only viewed in court practices[3].

The scope of good faith in private law has usually been focused on the exceution of the contract, while the principle is also required in the contract's negotiation and drafting. Article 1337 of Italian Code provides that the application good faith is during negotiation and contract formation, while in the Netherland the principle has not been provided in the new private law and its application is left to the court.

Similar to France, Indonesia's court system does not apply *precedent*, as practiced in the common law countries. Subesequently,

[1] Black, H.C., *Black's Law Dictionary*, 7th. Edition, West Group, St Paul Minnesota, 1999, hlm 701:

there will no be obligation for a judge to follow the previous award for the same case, resulting in possibillities of having different awards for the same case. In summary, while the good faith is an universal principle, however in its implementation problems still exist in respect to the mean, standard and function.

Good Faith in Arbitration Agreement

Arbitration is a contract, which must be negotiated; agreed upon and performed therefore, *good faith* is also central to the arbitration. As required by the International Conventions and national legislation, all parties to arbitration, including lawyers, the arbitrators, the arbitration institution and the actual disputing parties themselves must enter into the arbitration with a mutual obligation to act in *good faith*. For example, a lawyer should not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial. The lawyer should raise and explore with his or her client the issue of settlement in every case as soon as enough is known about the case to make that discussion meaningful.

Where arbitration takes place, obligations and duties should always rise to the standard of utmost *good faith* and full disclosure. This would mean that from the beginning the parties should be fully prepared to discuss their respective interests. They should do so in a timely and effective manner and must make themselves, reasonably available and demonstrate a proactive desire to settle the dispute. As Hill & DeLacenserie said, *good faith* means that one must not suffocate the arbitration process with lengthy "legalisms", procedural niceties, and endless arrays of data that result in hearings with no focus and parties are advised to resist the urge to advance every conceivable argument and sub-issue"[4]. Without good faith, the claimed advantages of effective arbitration are lost.

Without good faith, the advantages of arbitration in resolving a dispute would not be effective or lost. For arbitrators, good faith means for not accepting to serve as an arbitrator when one's immediate calendar is full, and to fully disclose any prior dealings or relationships that might give rise to even an appearance of conflict of interest. Arbitrators before and during an arbitration, must therefore carry out an introspective consideration, as best they can of their own conducts, so that they do not render a biased award. The impartiality and/or independence of an arbitrator are essential features of this quasi-judicial process.

Equally relevant to the good faith in arbitration is a right to appeal on any question of law that arose out of the arbitral award. Given agreement to arbitrate would mean accepting as final the decision of the arbitrators, therefore to then proceed before the courts and to question the findings of the arbitrators may be considered as an act of not good faith. Article 70 of Law

[2] Goode, Roy, *The Concept of "Good Faith" in English Law*, Centro di studi e ricerche di diritto comparato e straniero (Rome 1992), No. 2 (visited Apr. 16, 2000) http://www.cnr.it/CRDCS/goode.htm:

[3] J. Satrio, *Hukum Perikatan, Perikatan Yang Lahir Dari Perjanjian*, Buku II, Citra Aditya Bakti, Bandung, 1995, hlm 166.

[4] M.F. Hill, Jr. & E. DeLacenserie, *Interest Criteria in Fact-Finding and Arbitration: Evidentiary and Substantive Considerations,* 74 Marquette Law Review 399, 1991, p. 444.

Nr. 30/1990 states that the request for annulment of an arbitration award can only be granted if the award is rendered based on false documents and fraud. Annulment could only be made for those that have been registered and reasons for annulment shall be proved by court award.

While the article 34 of UNCITRAL Model Law provides cases in which applications to set aside an award are permitted, namely in cases of:

(a) Incapacity of the parties to arbitrate;

(b) Lack of notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case;

(c) The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside;

(d) The composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Law from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Law; or

(e) The court finds that the subject-matter of the dispute is not capable of settlement by arbitration under the law of the State or the award is in conflict with the public policy of the State.

Indeed, some countries have provided some restrictions however the right to appeal has been a threat for arbitration award. On the other side, the right to appeal should be a stimulus for the arbitrator to work diligently and fairly, thereby the arbitrator shall observe the good faith in settling the dispute.

Good Faith in BANI's Arbitration

Article 4.6 of the BANI's Rules and Procedures require that all parties to arbitration must enter into the arbitration with a mutual obligation to act in *good faith*, endeavoring at all times to effecting resolution of the dispute as quickly and efficiently as possible. Also, based on the Arbitration Law, the Article 4.7 of the said Rules and Procedures specify that 'unless specifically agreed upon by the parties, the proceeding shall be completed within a period of not longer than 180 days from the date of composition of the full Tribunal'. However, in special circumstances where the dispute is of a highly complex, the Tribunal has also a power to extend the deadline upon notice to the parties. The Tribunal's power also includes the Tribunal's right to impose sanctions on any party which fails to comply with a ruling it makes or otherwise engages in conduct which impedes the smooth adjudication of the dispute.

For arbitrators, BANI has also issued Code of Ethics and Conduct, which defines the model attitude and conduct that, shall be the professional norm and guide in Arbitration Tribunals administered by BANI or governed by the BANI Rules and Procedures. Only those arbitrators who are either on the BANI list of arbitrators or who hold an ADR/arbitration certificate recognized by BANI can be chosen by the parties to act as arbitrators in disputes to be settled under the BANI arbitration rules. Under the Code of Ethics and Conduct, arbitrators upon nomination must disclose (in writing and to all the parties and arbitrators) all facts or circumstances that may give rise to a credible doubt as to his/her impartiality or as to his/her independence, not limited to social relationships, business/professional relationships both direct and indirect, including prior appointments as arbitrators with all disputing parties, or the fact that the main witness is a person known to him/her.

If an arbitrator has a conflict of interests with the case or the parties, they are obliged to resign under the Article 12.2; otherwise, arbitrator should remain unless he (she) is challenged. In the examination and hearing sessions, the arbitrators shall conduct and act in accordance with the guidelines set forth in the prevailing Rules and Procedures and with due regard to good principles of arbitration, including respect for every person's right to a decision, regard for the disputing parties equal rights to receive equal treatment in hearing, submitting evidences, and impartial judgment without bias.

Since its establishment, such principle of *good faith* has consistently been observed in the BANI's arbitration proceeding, resulted in that the arbitration awards have been made with due consideration to propriety and the importance of issuing the decision within the stipulated time frame and in accordance with what has been agreed upon by the parties concerned. As shown in the following statistical data, between 2008 and 2012 there were a total of 165 cases, of which 43 cases (or 26% of the total) were settled in less than 90 days, 57 cases (34% of the total) were settled between 90 to 150 days, 29 cases (18% of the total) were settled between 150 to 180 days and only 36 cases (22% of the total) the settlement exceeded 180 days.

In terms of finality, that represents basic characteristics of arbitration and main stimulation for selecting arbitration is award enforcement in the public court. As shown in the following statistics, from 2008 and 2012 a total of 51 cases have been submitted for annulment in the District Court, 38 of which were not granted by Supreme Court, while two were annulled and the rest are still in the process. Also five requests of annulment have been submitted two times by various means. As almost all requests for annulment have been declined by the Supreme Court, this suggests that many parties have failed to apply the principle of good faith in the

arbitration proceeding. Subsequently, the benefit of arbitration as a forum to settle the dispute has not been completely accomplished. On the other side, this is a reminder for the arbitrator in rendering the award based on good faith, so it will narrowing the opportunity for request to annul the award after it is rendered.

In terms of awards rendered, the number of challenges to the award tended to decline. For example, between 1977 and 2007, BANI has rendered 194 awards, 21 of which were challenged and of these 21 challenged awards only one BANI's award was annulled. In the past five years between 2004 and 2007 of the 63 awards rendered, three challenges were made to the court against an arbitral award and of these three, two recourses of the awards were rejected by the court (or BANI's awards were confirmed) while at this writing one is still awaiting the Supreme Court's decision.

In conclusion, good faith is an essential element in all aspects of life. All agreement shall be based on good faith. Although traditionally common law countries did not observe good faith in the contract, however, the recent development shows that they have included good faith in all forms of contract as the most important principle. The absence of good faith during contract negotiation and execution may result in disputes among the parties. Arbitration - in its proceeding requires *good faith* on the part of the parties and the arbitrators. Arbitration without good faith is not viable alternative dispute resolution.

Past Events

Mediation Workshop for BANI Arbitration Center

The Indonesian Mediation Center (PMN)
Jakarta, July 16 2014

Gedung Adi Puri, Wisma Ubud,
Jl. RS. Fatmawati No. 52, Cilandak Barat,
Jakarta

The Mediation Workshop was held by BANI Arbitration Center in cooperation with The Indonesian Mediation Ccenter (PMN, Pusat Mediasi Nasional). The workshop was aimed to improve and refresh the mediation knowledge of the arbitrators of BANI Arbitration Center.

Tjip Ismail was born in Cirebon. He was graduated his bachelor degree from Diponegoro University, faculty of Law in 1970, and advanced to Master Business Administration, European University in 1992, Master of Management from the University of Indonesia Esa Unggul, Master of Law from University of Indonesia in 2003 and doctoral program at the University of Indonesian cum laude in 2005.

His professional working experiences are quite diverse. He worked as an advisor in multinational foreign company, started an LBH (Lembaga Bantuan Hukum) organization in Cirebon 1970, and appointed as a Judge in Majene, South Sulawesi in 1973. Over time, he was quickly transformed his career paths into bureaucrats in Finance Minister and the Tax Court Judiciary. Various overseas assignments had been accomplished in Chinese, Korean, Japanese, Hungarian, Czech, Switzerland, Netherlands and France related to the Government and Local government revenues including taxes, charges, transfer pricing, fiscal decentralization, loan, mediation, administrative and etc.

Over time, various positions had been appointed to him such as Head of Legal Aid Directorate General of Taxation, Head of the Tax Service Office in Jakarta, Director of Region Revenues, Head of Evaluation taxes and Levies on Budget Office Ministry of Finance, Commissioner of PT Asuransi Jasa Indonesia . Besides, along with the establishment of the Tax Court, he was appointed as a judge and served as Chief of the Tax Court which ended in 2011.

Currently, he is working as Fiscal Advisor at the Regional Representative Council of the Republic of Indonesia, Senior Lecturer at the University of Indonesia, Padjadjaran University, Indonesia Open University and Indonesian Police Science Universisty. Also, he is a part of the expertise team at Badan Pembinaan Hukum Nasional (BPHN) Ministry of Justice and Human Rights.

Tjip Ismail has specialization at State Administration Law, Fiscal Law, Fiscal Decentralization, the State Finance Law, Insurance, Intellectual Property Rights, and Mediation.

PUTUSAN AKHIR DAN MENGIKAT:

Perbandingan Putusan Arbitrase dan Pengadilan Pajak

Dr. Tjip Ismail, SH, MBA, MM, FCBArb.

Abstract

Arbitration is a well-established and widely used means to end disputes. It is one of several kinds of Alternative Dispute Resolution, which provide parties to a controversy with a choice other than litigation. Unlike litigation, arbitration takes place out of court: the two sides select an impartial third party, known as an arbitrator; agree in advance to comply with the arbitrator's award; and then participate in a hearing at which both sides can present evidence and testimony.

In theory, arbitration has many advantages over litigation. Efficiency is perhaps the greatest. Also, finality is a fundamental characteristic of arbitration and a key factor that attracts many parties to choose arbitration when providing for a contractual dispute resolution mechanism. The arbitrator's decision is considered final and binding; parties who agree to arbitration are bound to that agreement and also bound to satisfy any award determined by the arbitrator.

While the Indonesian Arbitration Law is clear that arbitral awards are final and binding and they may not be appealed, but in practice, it is not uncommon for parties facing an unfavourable arbitral award or the likelihood of an unfavourable arbitral award to attempt to commence court proceedings grounded on theories of an unlawful act. Similar situation is happening within the Tax Court, in which the award is also final and binding, but in reality is also

subject to cassation and judicial review, as many have been taking advantages of the law that provides judicial review by the higher court, although at the end the Supreme Court reaffirmed the Tax Court's award.

The paper recommends that a review be made to limit the extraordinary legal means to defer the execution of the award. Failures to do so would result in that Alternative Dispute Resolution through arbitration would be useless.

Key Words : Alternative Dispute Resolution, Litigation, Arbitration Supreme Court, Tax Court Award.

Pendahuluan

Kemajuan teknologi yang tanpa tirai dan batas, demikian juga era perdagangan saat ini ditandai dengan iklim kebebasan berbisnis di antara pengusaha di berbagai negara belahan dunia. Politik menutup diri seperti zaman negeri tirai bambu tempo dulu sudah ditinggalkan. Misalnya, negeri Tiongkok yang dahulu dikenal sebagai panutan dengan filosofi berdiri di atas kaki sendiri pantang berbisnis dengan negara luar, justru sekarang ini menjadi contoh dan pelopor perdagangan bebas antar negeri (*business globalization*).

Demikian pula dengan kesepakatan *Asean Free Trade Area* (AFTA) adanya perdagangan bebas diantara negara-negara ASEAN yang akan dimulai pada pada tahun 2015 akan meningkatkan perdagangan tanpa hambatan. Era perdagangan global ini merupakan suatu tuntutan yang tidak dapat dicegah seiring dengan kemajuan teknologi komunikasi yang telah berkembang pesat. Meningkatnya perdagangan bebas pada giliranya juga akan meningkatkan peluang terjadinya konflik atau sengketa antara para pihak.

Selain melalui litigasi peradilan (*ordinary court*), penyelesaian sengketa dapat pula dilakukan melalui non-litigasi, yaitu *Alternate Dispute Resolution* atau ADR yang meliputi negosiasi, mediasi dan arbitrase[1]. Penyelesaian sengketa secara litigasi tetap dipergunakan manakala penyelesaian secara non-litigasi tersebut tidak membuahkan hasil. Dengan demikian penggunaan ADR adalah sebagai salah satu mekanisme penyelesaian sengketa di luar pengadilan dengan mempertimbangkan segala bentuk efisiensinya dan untuk tujuan masa yang akan datang sekaligus menguntungkan bagi para pihak yang bersengketa[2].

Penyelesaian Sengketa Melalui Peradilan

Sengketa dalam perdagangan/bisnis dikualifikasikan dalam Peradilan Umum sebagai sengketa perdata. Pada lazimnya, di dalam gugatan perdata diperiksa dan diputus melalui empat tahapan secara berjenjang. Pada tingkat *pertama* pihak yang merasa dirugikan akan mengajukan gugatan di Pengadilan Negeri dan gugatan

[1] Nugroho Wahyu, Penggunaan Mediasi dalam Penyelesaian Sengketa Bisnis, News Letter No.21 Juni 1995.
[2] Basuki Rekso Wibowo, Studi Perbandingan Beberapa Model Alternatif Penyelesaian Sengketa Bisnis, Pro Justitia No.4, Tahun 1996, hal 25.

tersebut akan diperiksa dan diputuskan oleh Majelis Hakim di Pengadilan Negeri (PN). Selanjutnya pada tingkat *kedua* apabila pihak Penggugat atau Tergugat tidak puas terhadap putusan Majelis Hakim di PN, maka diajukan upaya hukum banding ke Pengadilan Tinggi (PT). Sebagai tahapan *ketiga,* dalam hal salah satu pihak tidak puas terhadap putusan PT, maka ia dapat mengajukan kasasi ke Mahkamah Agung. Pengajuan kasasi tersebut adalah berkaitan dengan peradilan[3]:

1) Tidak berwenang atau melampaui batas wewenang;
2) Salah menerapkan atau melanggar hukum yang berlaku;
3) Lalai memenuhi syarat-syarat yang diwajibkan oleh peraturan perundang-undangan, dan kelalaian itu membatalkan putusan yang dijatuhkan.

Putusan Kasasi oleh Mahkamah Agung merupakan putusan akhir yang mempunyai kekuatan hukum tetap (*inkracht van gewijsde*)[4]. Namun demikian, Undang-undang masih juga memberikan kesempatan upaya hukum *ke empat* atau terakhir yaitu Peninjauan Kembali (PK), yang merupakan upaya hukum luar biasa yang diajukan oleh para pihak yang tidak puas terhadap putusan kasasi oleh Mahkamah Agung. PK hanya dapat diajukan berdasarkan alasan-alasan sebagai berikut:[5]

1. Apabila putusan didasarkan pada suatu kebohongan atau tipu muslihat pihak lawan yang diketahui setelah perkaranya diputus atau disasarkan pada bukti-bukti yang kemudian oleh hakim pidanya dinyatakan palsu;
2. Apabila setelah perkara diputus, ditemukan surat-surat bukti yang bersifat menentukan yang pada waktu perkara diperiksa tidak dapat ditemukan;
3. Apabila telah dikabulkan suatu hal yang tidak dituntut atau lebih dari pada yang dituntut;
4. Apabila mengenai sesuatu bagian dari tuntutan belum diputus tanpa dipertimbangkan sebab-sebabnya;
5. Apabila antara pihak-pihak yang sama mengenai suatu soal yang sama, atas dasar yang sama oleh Pengadilan yang sama atau sama tingkatannya telah diberikan putusan yang bertentangan satu dengan lain;
6. Apabila dalam suatu putusan terdapat suatu kekhilafan Hakim atau suatu kekeliruan yang nyata.

Berdasarkan Pasal 66 UU Mahkamah Agung upaya hukum PK hanya dapat diajukan satu kali dan dalam proses PK tersebut tidak menangguhkan atau menghentikan pelaksanaan putusan Pengadilan. Disamping itu permohonan PK dapat dicabut oleh yang mengajukan PK selama belum diputus, dan dalam hal demikian maka permohonan PK itu tidak dapat diajukan kembali.

[3] Pasal 30 UU Nomor 14 tahun 1985 tentang Mahkamah Agung sebagaimana telah diubah terakhir dengan UU Nomor 3 tahun 2009.
[4] Pasal 33 UU Nomor 14 tahun 1985 tentang Mahkamah Agung sebagaimana telah diubah terakhir dengan UU Nomor 3 tahun 2009.
[5] Pasal 67 UU No. 3 Tahun 2009 tentang Mahkamah Agung.

Putusan Arbitrase

Dalam teori, arbitrase memiliki banyak keunggulan dibandingkan dengan litigasi dengan efisiensi barangkali merupakan yang terbesar. Juga putusan yang bersifat terakhir dan mengikat merupakan keunggulan utama penyelesaian sengketa melalui arbitrase (Pasal 60 UU Nr. 30/1999 tentang Arbitrase). Namun dalam faktanya ditemukan berbagai upaya hukum terhadap putusan arbitrase yang berupa hak ingkar dan permohonan pembatalan yang dilakukan oleh salah satu pihak yang bersengketa sebelum dan/atau dalam proses persidangan serta putusan arbitrase sebagai berikut:

1. Sebelum atau dalam proses persidangan arbitrase

   Para pihak dapat mengajukan tuntutan hak ingkar (*right of recusal*), yang diajukan dalam hal terdapat cukup alasan dan cukup bukti otentik yang menimbulkan keraguan bahwa arbiter akan melakukan tugasnya tidak secara bebas dan akan berpihak dalam mengambil putusan[6]. Oleh karena itu walaupun arbiter pada dasarnya ditunjuk oleh para pihak yang bersengketa sebelum mengangkat arbiter, para pihak tentunya harus memperhitungkan adanya kemungkinan yang menjadi alasan untuk mempergunakan hak ingkar. Namun apabila arbiter tetap diangkat oleh para pihak, maka para pihak dianggap telah sepakat untuk tidak menggunakan hak ingkar berdasarkan fakta-fakta yang mereka ketahui ketika mengangkat abiter tersebut. Namun, hal ini tidak menutup kemungkinan munculnya fakta- fakta baru yang tidak diketahui sebelumnya, sehingga memberikan hak kepada para pihak untuk mempergunakan hak ingkar berdasarkan fakta-fakta baru tersebut. Hak ingkar dimaksud, diajukan kepada:

   a) Pengadilan Negeri, terhadap arbiter yang diangkat oleh Ketua Pengadilan Negeri.

   b) Arbiter tunggal.

   c) Majelis Arbitrase (seluruhnya atau salah satu anggota majelis).

2. Setelah putusan arbitrase

   Terhadap putusan arbitrase para pihak dapat mengajukan permohonan pembatalan kepada Ketua Pengadilan Negeri dan/atau putusan tersebut dapat diajukan permohonan banding ke Mahkamah Agung. Permohonan pembatalan diajukan apabila putusan tersebut diduga mengandung unsur-unsur sebagai berikut:[7]

   a) Surat atau dokumen yang diajuan dalam pemeriksaan, setelah putusan dijatuhkan, diakui palsu atau dinyatakan palsu;

   b) Setelah putusan diambil ditemukan dokumen yang bersifat menentukan, yang disembunyikan oleh pihak

[6] Pasal 22 ayat (1) UU No. 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa.
[7] Pasal 70 UU No. 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa.

lawan; atau putusan diambil dari hasil tipu muslihat yang dilakuan oleh salah satu pihak dalam pemeriksaan sengketa.

Berdasarkan catatan sekretariat BANI, pada tahun 1977 sampai dengan tahun 2013, sejumlah 60 putusan arbitrase BANI diajukan permohonan pembatalan sampai dengan tingkat kasasi, namun hampir seluruhnya putusan Peradilan menguatkan putusan BANI. Beberapa dari putusan tersebut kemudian dimohonkan Peninjauan Kembali, yang sebenarnya hanya dapat digunakan dalam keadaan luar biasa. Fenomena upaya hukum terhadap putusan Arbitrase yang final and binding tersebut juga dialami dengan putusan Pengadilan Pajak yang terakhir dan mengikat (*inkracht van gewijsde*), dan dengan demikian merupakan upaya hukum luar biasa, sebagaimana akan diuraikan berikut.

Perbandingan Putusan Arbitrase dan Pengadilan Pajak

Pengadilan Pajak merupakan pengadilan khusus di lingkungan Peradilan Tata Usaha Negara[8], yang keberadaannya diatur dalam UU No. 14 Tahun 2002 tentang Pengadilan Pajak. Putusan Pengadilan Pajak berbeda dengan badan peradilan secara umum bahkan putusan pengadilan khusus lainnya. Karena atas dasar alasan bahwa sengketa pajak berkaitan dengan penerimaan negara dalam APBN dan APBD, maka terhadap sengketa pajak yang meliputi pungutan pajak pusat dan cukai dan pajak daerah harus diputus sesegera mungkin. Oleh karena itu dalam UU Pengadilan Pajak menyatakan bahwa putusan Pengadilan Pajak merupakan putusan akhir dan mempunyai kekuatan hukum tetap[9], yang tidak dapat lagi diajukan gugatan, banding, atau kasasi. Dengan demikian putusan Pengadilan Pajak sama/setara dengan putusan Kasasi pada Mahkamah Agung sebagai putusan akhir yang mempunyai kekuatan hukum tetap (*inkracht van gewijsde*).

Namun demikian putusan pengadilan pajak yang telah berkekuatan hukum tersebut, masih juga dapat diajukan upaya hukum Peninjauan Kembali ke Mahkamah Agung, walaupun PK menangguhkan atau menghentikan pelaksanaan putusan Pengadilan Pajak. Dalam perkembangannya ternyata PK dalam sengketa pajak bukan lagi sebagai upaya hukum luar biasa, tetapi dimanfaatkan sebagai peluang para pihak untuk mengajukan upaya hukum. Mahkamah Agung menjadi kewalahan karena hampir semua putusan Pengadilan Pajak diajukan PK baik oleh Pemerintah selaku terbanding maupun para Wajib Pajak selaku Pemohon Banding, walaupun pada akhirnya Mahkamah Agung akan memutuskan mempertahankan putusan Pengadilan Pajak.

Kesimpulan

Bertolak dari uraian tersebut diatas dapat

[8] Pasal 9A UU No. 51 Tahun 2009 tentang Perubahan Kedua atas UU No.5 Tahun 1986 tentang Peradilan Tata Usaha Negara.
[9] Pasal 77 ayat (1) juncto Pasal 80 ayat (2) UU No. 14 Tahun 2002 tentang Pengadilan Pajak.

disimpulkan bahwa dalam dunia bisnis arbitrase merupakan pilihan para pihak sebagai lembaga yang menangani sengketa. Selain putusannya bersifat final (akhir) dan mengikat, alasan utama pilihan tersebut karena dapat menyelesaikan sengketa dalam waktu yang cepat yang ditangani oleh tenaga professional yang dipilih oleh para pihak. Namun demikian, dalam pelaksanaan putusan para pihak sering memanfaatkan kekurangan dalam UU No.30 Tahun 1999 yang memberikan peluang kepada para pihak untuk melakukan upaya hukum luar biasa dengan hak ingkar dan/atau mengajukan permohonan pembatalan yang dilakukan sebelum dan dalam proses persidangan serta setelah putusan Arbitrase. Hal yang serupa juga terjadi dalam penyelesaian perkara di Pengadilan Pajak yang putusannya merupakan putusan akhir dan mempunyai kekuatan hukum tetap (*inkracht van gewijsde*).

Disarankan agar pengkajian ulang dilakukan untuk membatasi upaya hukum luar biasa, yang sering disalahgunakan untuk menunda eksekusi putusan. Apabila tidak, pilihan lembaga Arbitrase sebagai penyelesaian sengketa alternatif diluar badan Peradilan menjadi mubazir keberadaannya.

Past Events

REGIONAL ARBITRAL INSTITUTES FORUM ("RAIF") CONFERENCE 2014

Friday, 1 August 2014, Hillton Hotel Singapore

The RAIF is a regional arbitral organisation founded in 2007 by the Singapore Institute of Arbitrators, the Malaysian Institutes of Arbitrators Australia, the Hong Kong Institute of Arbitrators, the BANI Arbitration Centre and the Arbitration Association of Brunei Darussalam.

The RAIF was established to allow its members to collaborate on certain common objectives, including serving the educational and social needs of members of the arbitral institutes, facilitating the exchange and dissemination of information on arbitration and promoting understanding and co-operation between their respective institutes.

INTERNATIONAL ARBITRATION
IN AUSTRALIA

Reported by : Dr. Madjedi Hasan, FCBArb

In cooperation with ACICA (Australian Centre for International Commercial Arbitration) on 23 September 2014 BANI hosted one half day seminar to discuss the Role of Arbitration in Indonesia and Australia. The seminar was instigated by the increasing trend in the trade between the two countries and also in facing the ASEAN Open Economic Community. Chaired by DR. Chaidir Anwar Makarim & Messrs. Anangga W. Roosdiono, four speakers, Messrs. Khory Mc Cormick (ACICA), David Fairlie (Australian International Disputes Centre/ AIDC) and Messrs. Husseyn Umar and Madjedi Hasan from BANI, discussed the arbitration rule and practices, including the enforcement of international arbitration in both countries. For the benefits of the reader, here are some items that are pertinent and discussed regarding International Arbitration in Australia.

Like BANI, ACICA is a not-for-profit public company which was established in 1985 and its membership includes world leading practitioners and academics expert in the field of international and domestic dispute resolution. ACICA has been confirmed by the Australian Government as the sole default appointing authority competent to perform the arbitrator appointment functions under the Arbitration Act. Headquartered at the AIDC in Sydney ACICA also has registries in Melbourne and Perth.

ACICA is a signatory to co-operation agreements with over 30 global arbitral bodies (including BANI), a founding member of the Asia Pacific Regional Arbitration Group (APRAG). ACICA supports and facilitates international arbitration and to promote Sydney and Australia as a venue for international commercial arbitrations. ACICA maintains a panel of international arbitrators and a list of experienced arbitration practitioners. It provides information on the international arbitration and is involved in education through the provision of seminars.

Like many countries, Australia distinguishes national and international arbitration. Legislation regulating Arbitration in Australia consists of two acts. The domestic arbitration is governed by the states and territories, namely Uniform Commercial Arbitration Acts 2000. The international arbitration is governed by federal legislation, the International Arbitration Act 1974 (amended in June 2010). The International Arbitration Act incorporates the UNCITRAL Model Law on International Commercial Arbitration. They have been designed with party autonomy, fairness, simplicity and flexibility as underlying philosophies. They provide for a significant degree of supervision and support from ACICA in order to assist parties and guarantee quality control. Upon request,

ACICA can make available or arrange for such facilities and assistance for the conduct of arbitral proceedings as may be required, including the suitable accommodation in AIDC for sittings of arbitral tribunals, secretarial assistance and interpretation facilities.

Some of the key features of Australia International Arbitration include supportive judiciary, enforcement of awards, right to representation by counsel of choice, established facilities and logistic support and modest comparative cost. In supportive judiciary, the courts empowered to assist with the taking of evidence, enforce and order interim measures and appoint an arbitrator. Courts must stay proceedings if there is a valid arbitration agreement and the dispute may resolved by arbitration. In addition to giving force of law in Australia to the UNCITRAL Model Law, the International Arbitration Act has adopted the pro-enforcement policy of the New York Convention. Under the convention, international arbitral award can be enforced in Australia without the need to reopen the substance of the dispute in court.

As the sole default appointing authority competent to perform the arbitrator appointment functions under the amended International Arbitration Act 1974, ACICA has developed the Appointment of Arbitrators Rule 2011which establish a streamlined process through which a party can apply to have an arbitrator appointed to a dispute seated in Australia in circumstances, where the arbitration is not being conducted under the ACICA Arbitration Rules or ACICA's Expedited Rules.

Under the ACICA Arbitration Rules, parties are free to nominate their choice of seat and language. Parties may be represented by persons of their choice, whether from Australia or a foreign jurisdiction. In the context of an international arbitration an overseas-registered foreign lawyers, will not be subject to the general prohibition on practicing laws in Australia. Under the "fly-in, fly-out" rule, a foreign lawyer would be entitled to come to Australia with his or her clients and act for them without the need to first become an Australian-registered foreign lawyer.

Also, under the ACICA rules Parties and the Arbitral Tribunal are required to treat all matters relating to the arbitration, including the award and materials presented in the proceedings and documents produced by other party, as confidential. Parties calling witnesses are also responsible for the maintenance, by that witness, of confidentiality with regard to any evidence or other information obtain in the arbitration that the witness is given access to.

While ACICA arbitration shares many of the features commonly found in institutional arbitration, it has some distinguishing features. One of them is emergency arbitration, which will allow a party to apply to ACICA for emergency interim measures

of protection (e.g. orders preventing dissipation of assets) prior to the constitution of the arbitral tribunal. The application for emergency arbitration may be made at the same time, or following the filing of the notice of arbitration. ACICA will use its best endeavors to appoint an emergency arbitrator within one business day. Once appointed, the emergency arbitrator is required to decide the application within five business days. The emergency interim measure is binding on the parties.

Separate from the Arbitration Rules, ACICA also has Expedited Arbitration Rules, which provide a simplified arbitration procedure whereby a sole arbitrator determines the dispute based on documents, without the need for a hearing unless exceptional circumstances exist, and renders a final award within four or five months.

ACICA MODEL ARBITRATION CLAUSE

Any dispute, controversy or claim arising out, relating to or in connection with the contract, including any question regarding its existence, validity or determination, shall be resolved by arbitration in accordance with the ACICA Arbitration Rules. The seat of the arbitration shall be Sydney, Australia **or [choose another city]**. The language of the arbitration shall be English **[or choose another language]**. The number of arbitrators shall be one **[or three, or delete this sentence and rely on Article 8 of the ACICA Arbitration Rules]**.

Past Events

ACICA-BANI Joint Seminar

'The Asean Open Economic Community, The Role of Arbitration in Indonesia and Australia"

Millenium Hotel Sirih Jakarta, Jalan Fachrudin 3, Jakarta 10250
Tuesday, 23 September 2014

The alliance between the Australian and Indonesian business and finance sectors has reinforced the rich relationship between the two countries. With both countries turning more towards the Asia-Pacific region there will be opportunities arising from increased trade and investment. For parties engaged in cross-border transactions, international dispute resolution is an integral part of good business practice.

Hosted by the Badan Arbitrase Nasional Indonesia, **'The Asean Open Economic Community, The Role of Arbitration in Indonesia and Australia'** forum will showcase the benefits of arbitration and use of the named institutions in resolution of disputes and opportunities for Indonesian entities who may consider Australia a neutral venue for international arbitration, providing as it does a modern international arbitration law, supportive judiciary and a premier hearing facility.

This Joint Seminar is hold by BANI Arbitration Center and the Australian Centre for International Commercial Arbitration (ACICA) (supported by: Australian Government Attorney-General's Department), and the Australian International Disputes Centre.

News & Events

Upcoming Events

1. Wolters Kluwer 2nd Annual Arbitration Summit – Indonesia

12 Desember 2014
Jakarta

Wolters Kluwer 2nd Annual Arbitration Summit is designed to be interactive and to provide on opportunity in the field of international commercial arbitration.

2. Seminar Regional

"PENYELESAIAN SENGKETA BISNIS DI LUAR PENGADILAN MELALUI ARBITRASE DAN ALTERNATIF PENYELESAIAN SENGKETA (APS)"

Mengenal dan Memanfaatkan Badan Arbitrase Nasional Indonesia (BANI Arbitration Center) Dalam Penyelesaian Sengketa Bisnis di Provinsi Riau

Selasa, 25 November 2014
Balairung Hotel Pangeran
Jl. Jend. Sudirman Pekanbaru

Past Events

Singapore International Arbitration Center (SIAC)

SIAC Arbitration Training Video Workshop

Practical Guide to International Arbitration
Thursday, 21 August 2014
Mandarin Oriental, Jakarta, Indonesia

This workshop aims to demystify international arbitration. The training session uses a combination of the SIAC Training Video and panel discussions to provide a practical guide to all the key aspects of international arbitration. Arbitrations are confidential so the SIAC Arbitration Training Video has been designed to demonstrate the arbitral process and give an insight into the role of an arbitral institution. Panellists share their views and expertise on the various stages of an arbitration, and offer both regional and global perspectives on current issues and hot topics in international arbitration. This session will be an unparalleled opportunity for in-house counsel, legal practitioners and arbitrators to gain a broader and deeper understanding of international arbitration.