

## ABSTRACT

### THE ADOPTION OF INTERNATIONAL LEGAL PRINCIPLES ON FOREIGN INVESTMENT IN INDONESIA

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The central issue of this research is the adoption of international legal principles on foreign investment in Indonesia.

The type of this research is a legal research. In this research, two approaches are employed, statute approach and historical approach. Statute approach is taken at the beginning of this research for analyzing laws and regulations concerning foreign direct investment in Indonesia. Historical approach is carried out to observe the development of State Guidelines (GBHN) from time to time adopted as People's Consultative Assembly Decrees and National Development Program (PROPENAS). This kind of approach is also meaningful for studying a series of documents deriving from the Decrees. In addition, to support arguments as well as to put forward an idea presented in the dissertation, it is also used economics analysis of law.

From this research, it is found that international legal principles on foreign direct investment are derived from non-discriminatory principle. The principle is manifested into national treatment principle, most-favoured-nation (MFN) treatment principle, and transparency principle. Subsequently, those principles are complemented with principles concerning human rights and environmental protection. Yet, Indonesian Foreign Investment Law has not adopted those itemized principles. On the contrary, it is adopted principle of non-discrimination as a general principle. It can be found in the People's Consultative Assembly Decrees concerning State Guidelines (GBHN) and that in the National Development Program (PROPENAS). Explicitly, non-discriminatory principle is also a basis of bilateral agreements on investment entered into by and between Indonesia and other countries. In addition, Law No. 1 of 1967 on Foreign Investment in conjunction with Law No. 11 of 1970 on the Amendment and Addition to Law No. 1 of 1967 explicitly and implicitly adopts principles of independence and national utility, which are manifestation of national interest protection, and principles of security and incentive for international interests.

Key words:

- foreign investment
- foreign investment law
- international legal principles on foreign investment
- non-discriminatory principle, national treatment principle, most favoured nation (MFN) treatment principle, transparency principle
- bilateral agreements