

ABSTRACT

The idea of this research is based on the idea of the importance of finding the national interest principle based on the Constitution, especially in the shares divestment policy of foreign direct investment in the mineral and coal mining sector. The Indonesian mining industry has a strategic position in the eyes of foreign investors. The shares divestment policy in the Indonesian mining sector still holds a major problem regarding the price of the divested shares it should be set. This regulation regarding the divestment of the shares which is still problematic has several negative impacts.

In this research, national interests are principles that promote social justice as mandated in the fifth principle of Pancasila, which must be put forward above other interests. National interests constitute the interests of a country which can be interpreted as "all matters relating both directly and indirectly to the achievement of the objectives of the State as in the 1945 Constitution of the Republic of Indonesia". National interests not only pay attention to the interests of their own country but should also pay attention to the interests of other countries. The scope of national interests generally constitutes the order and welfare of a country which guarantees that its citizens have a good quality of life. National interests in the natural resources sector based on the constitution are State control over natural resources, which includes policies and management actions, regulation, supervision, and management, guaranteeing that the mining sector policy aimed at the greatest prosperity of the people and maximizing the role of foreign investors in the country's economy. The theory and principle that have been found and can be used by the Government in making decisions about shares divestment in the mining sector are Public Choice Theory (PCT) and Rational Choice Theory (RCT). To support the argumentation in the decision making using PCT and RCT, the principle found and used in the scheme of shares divestment in the mining sector is the principle of State sovereignty, the principle of Sovereignty over Natural Resources (SONR) and the Principle of Protection of Interest (PPKK).

This is legal research. The approaches to the problem used are the conceptual, statute, case, comparative and historical approach, and also economic analysis of law. The primary legal materials in this study are all laws and regulations including implementing regulations, international conventions and court decisions related to investment and mining in Indonesia, while the secondary legal materials are in the form of literature and teaching materials related to investment law and mining law, as well as the results of previous studies related to these problems.

Keywords: *Investment law, mining law, national interest, shares divestment, public choice theory, rational choice theory*