

# Rejection of International Arbitration Hindered Foreign Investment

Thursday, 28 April 2011 WIB, By: Marwati

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Execution of international arbitration's decision is still difficult to conduct even though Indonesia has ratified the New York Convention. Indonesian courts often reject the international arbitration's decision for numerous reasons, one of which that the decision is contrary to public order in force in Indonesia. This was stated by Herliana, SH, M.Comm.Law., UGM Lecturer of Faculty of Law at a press conference after the seminar entitled *Recognition and Enforcement of International Arbitration Awards Under the New York Convention in 1958 and Indonesia Arbitration Law*, Monday (25/4).

On the occasion, Herliana said the rejection of international arbitration execution can be made if the decision does not comply with three things, namely the unconcluded decision, contrary to legislation and public order, and the decision that under Indonesian law is not considered as trade disputes. "In Indonesia, numerous foreign arbitrations are rejected, as in the case of international arbitration rejection in Indonesia in the case of Pertamina against Karaha Bodas Company. Indonesian courts reviewed that the decision was not within the scope of trade and contrary to public order. This case shows that Indonesian courts still intervene at the international arbitration's decision," she explained.

According to Herliana, the application of the public order/public policy definition in concrete terms is not always clear, although the public order generally formulated as a stipulation and main principles of law and the national interests of a nation. International community view this as a legal uncertainty.

Herliana further said that the rejection of international arbitration will only hamper the entry of foreign investors to invest in Indonesia. "With so many unimplemented foreign arbitration decisions, the world perceives Indonesia as a country that does not support foreign investment," she said.

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