

Mekanisme penyelesaian sengketa dalam kerjasama asean di bidang ekonomi: analisis asean protocol on enhanced dispute settlement mechanism 2004 dan ASEAN comprehensive investment agreement 2009 = Dispute settlement mechanism in ASEAN' s economic cooperation an analysis of the ASEAN protocol on enhanced dispute settlement mechanism 2004 and ASEAN comprehensive investment agreement 2009 / Christopher Michael

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Abstrak

Skripsi ini memberikan penjelasan yang komprehensif mengenai bagaimana suatu sengketa yang timbul akibat interpretasi dan pelaksanaan perjanjian-perjanjian ekonomi ASEAN diselesaikan dengan ASEAN Protocol on Enhanced Dispute Settlement Mechanism 2004 dan ASEAN Comprehensive Investment Agreement 2009, berikut dengan penerapan dari kedua instrumen tersebut sejauh ini. Penulis melakukan perbandingan dari kedua instrumen tersebut dengan penyelesaian sengketa yang terdapat dalam World Trade Organization, dan International Centre for Settlement of Investment Disputes, dikarenakan mekanisme penyelesaian sengketa yang terdapat dalam ASEAN Comprehensive Investment Agreement 2009 dan ASEAN Protocol on Enhanced Dispute Settlement Mechanism 2004 memiliki kesamaan dengan mekanisme penyelesaian sengketa yang terdapat dalam International Centre for Settlement of Investment Disputes dan World Trade Organization, keempat mekanisme penyelesaian sengketa yang disediakan oleh masing-masing instrumen / organisasi tersebut dapat digunakan untuk menyelesaikan sengketa di bidang investasi. Dalam melakukan penelitian ini, Penulis menemukan bahwa sebenarnya ASEAN Protocol on Enhanced Dispute Settlement Mechanism 2004 menggunakan mekanisme penyelesaian sengketa yang terdapat dalam World Trade Organization sebagai model pembentukannya, begitu pula dengan penerapan dari ASEAN Protocol on Enhanced Dispute Settlement Mechanism 2004 dan mekanisme penyelesaian sengketa ASEAN Comprehensive Investment Agreement 2009 di ASEAN sejauh ini yang belum terwujud sesuai dengan yang diharapkan. Penulis juga menemukan bahwa ternyata penyelesaian sengketa yang disediakan oleh ASEAN Comprehensive Investment Agreement 2009 lebih variatif dibandingkan dengan yang disediakan dalam International Centre for Settlement of Investment Disputes. The focus of this mini-thesis is to give a comprehensive explanation on how does a dispute, which arises from ASEAN economic agreements, are settled using ASEAN Protocol on Enhanced Dispute Settlement Mechanism 2004 and ASEAN Comprehensive Investment Agreement 2009, as well as the application of both instruments, dispute settlement wise, in ASEAN by far. This study also compares the dispute settlement mechanisms provided in ASEAN Protocol on Enhanced Dispute Settlement Mechanism 2004 and ASEAN Comprehensive Investment Agreement 2009, with the dispute settlement mechanisms provided in the World Trade Organization and International Centre for Settlement of Investment Disputes, based on the fact that all of the dispute settlements above are applicable for investment dispute. In working on this research, it was revealed that the ASEAN Protocol on Enhanced Dispute Settlement Mechanism 2004 models on the dispute settlement mechanism in World Trade Organization, it was also found that the application of both instruments, dispute settlement wise, is so far, not as expected as it would've been. The thesis also reveals

that the dispute settlements provided by ASEAN Comprehensive Investment Agreement 2009 are more variative than the dispute settlements provided in International Centre for Settlement of Investment Disputes.