

# Tinjauan Yuridis Mengenai Ketiadaan Mekanisme Investor-State Dispute Settlement (ISDS) dalam Perjanjian Regional Comprehensive Economic Partnership (RCEP) = Juridical Review Regarding the Exclusion of the Investor-State Dispute Settlement (ISDS) Mechanism in the Regional Comprehensive Economic Partnership (RCEP) Agreement

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## Abstrak

Dengan adanya tujuan untuk menegaskan kembali komitmen untuk membentuk rezim perdagangan internasional yang liberal, fasilitatif, kompetitif serta dapat berkontribusi pada pertumbuhan dan pembangunan ekonomi global, negara-negara anggota ASEAN bersama dengan Selandia Baru, Australia, China, Jepang dan Korea Selatan menandatangani perjanjian Regional Comprehensive Economic Partnership (RCEP) pada tanggal 15 November 2019 secara virtual pada Konferensi Tingkat Tinggi ASEAN ke-36 yang diselenggarakan di Vietnam. Bersama dengan negara Filipina yang telah resmi bergabung menjadi anggota dan meratifikasi perjanjian RCEP pada tanggal 21 Februari 2023 lalu, perjanjian yang memuat pengaturan mengenai pengurangan pajak tarif kepabeanan ini diharapkan dapat merealisasikan intensi utamanya dalam mengurangi hambatan kegiatan transaksi perdagangan internasional. Keberhasilan eksistensi dari RCEP sangatlah berpangkal pada rincian substansi perjanjian yang ekstensif maupun fasilitatif dan aturan penyelesaian sengketa yang akan ditemui. Sedangkan berbeda dengan perjanjian perdagangan bebas multilateral pada umumnya, RCEP tidak memuat mekanisme penyelesaian sengketa antara investor dengan negara tujuan investasi (host country). Sebagai perjanjian yang mencakup seperempat dari Foreign Direct Investment (FDI) dunia, pengaturan mengenai investasi asing menjadi penting dan perlu diperhatikan.

.....With the sole purpose as to reaffirm their commitment to form a liberal, facilitative, and competitive international trade regime that can furthermore contribute in the interest of global economic growth and development, ASEAN member countries along with New Zealand, Australia, China, Japan and South Korea through its delegates signed the Regional Comprehensive Economic Partnership agreement on November 1th 2019 virtually at the 36th ASEAN Summit hosted by Vietnam. Together with the Philippines which has officially joined as a member and ratified the RCEP agreement that covers provisions concerning the reduction of customs tax rates on February 21st 2023, RCEP is expected to achieve its main objective in reducing barriers to international trade. The default of the existence of RCEP is very much based on the details of the substance of the provisions in terms to provide an extensive and facilitative substance of the agreement, as well as the dispute resolution mechanism that will be encountered in the future. Whereas, in contrast to multilateral free trade agreements in general, RCEP does not include a dispute resolution mechanism between investors and host country. As an agreement that covers a quarter of the world's Foreign Direct Investment (FDI), regulations regarding foreign investment are essential and need to be paid attention to.