

SKRIPSI

**TINJAUAN TERHADAP PENYELESAIAN SENGKETA PERDAGANGAN
ELEKTRONIK (E-COMMERCE) BERDASARKAN UNITED NATIONS
COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL)
ARBITRATION RULES DAN IMPLEMENTASINYA DI INDONESIA**

*Diajukan Untuk Memenuhi Persyaratan
Guna Memperoleh Gelar Sarjana Hukum*



Prof. Dr. Zainul Daulay, S.H., M.H

Dr. Delfiyanti, S.H., M.H

FAKULTAS HUKUM

UNIVERSITAS ANDALAS

PADANG

2018

**TINJAUAN TERHADAP PENYELESAIAN SENGKETA PERDAGANGAN
ELEKTRONIK (E-COMMERCE) BERDASARKAN UNITED NATIONS
COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL)
ARBITRATION RULES DAN IMPLEMENTASINYA DI INDONESIA**

(Hamda Satria Yudda, 1210112113, Fakultas Hukum Universitas Andalas, 73
Halaman, Tahun 2018)

ABSTRAK

Perkembangan teknologi informasi dan komunikasi dalam konteks perdagangan harus diyakini sebagai salah satu perkembangan peradaban dunia modern. Dalam kaitannya mengenai penyelesaian sengketa, *UNCITRAL* telah membuat suatu aturan yang dinamakan *UNCITRAL Arbitration Rules*. Pengaturan terkait Perdagangan Elektronik di Indonesia tertuang dalam beberapa instrumen hukum, diantaranya Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik, Undang-Undang Nomor 7 Tahun 2014 tentang Perdagangan, Peraturan Pemerintah Nomor 82 Tahun 2012 tentang Penyelenggaraan Sistem dan Transaksi Elektronik. Berdasarkan dari latar belakang diatas maka rumusan masalah yaitu: 1. Bagaimakah bentuk penyelesaian sengketa perdagangan elektronik menurut *UNCITRAL Arbitration Rules*? 2. Bagaimakah implemetasi penyelesaian sengketa perdagangan elektronik menurut *UNCITRAL Arbitration Rules* dalam hukum nasional?. Penelitian ini menggunakan metode penelitian yuridis normatif, dengan menggunakan analisa data secara kualitatif. Hasil penelitian menunjukkan yaitu *UNCITRAL Arbitration Rules* merupakan ketentuan hukum internasional yang mengkaji persoalan penyelesaian sengketa. Bentuk penyelesaian sengketa yang diatur *UNCITRAL Arbitration Rules* diatur untuk memudahkan para pihak yang bersengketa untuk menyelesaikan sengketa perdagangan elektronik. Implementasinya di Indonesia diatur dalam Undang-Undang Informasi dan Transaksi Elektronik (ITE) Pasal 17 Ayat (1) yang menyatakan bahwa sengketa transaksi elektronik dapat berbentuk publik dan privat. Bentuk penyelesaian sengketa non litigasi dalam Undang-Undang Informasi dan Transaksi Elektronik (ITE) diatur dalam Pasal 38 Ayat (2) yang intinya adalah memberikan pengaturan lebih lanjut dalam bentuk penyelesaian sengketa kedalam Undang-Undang Arbitrase dan Alternatif Penyelesaian Sengketa. Penyelesaian sengketa dalam perdagangan elektronik hendaknya diselesaikan terlebih dahulu dalam lingkup non litigasi, karena sebagaimana karakteristik perdagangan elektronik yang tidak mengenal batas wilayah hukum, penyelesaian sengketa non litigasi menjadi lebih fleksibel, praktis, serta efektif.

Kata kunci : Penyelesaian Sengketa, Perdagangan Elektronik, *UNCITRAL Arbitration Rules*

**ELECTRONIC COMMERCE (E-COMMERCE) DISPUTE RESOLUTION
REVIEWED FROM UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW (*UNCITRAL*) ARBITRATION RULES
AND ITS IMPLEMENTATION IN INDONESIA**

(Hamda Satria Yudda, 1210112113, Faculty of Law Andalas University, 73

Pages, Year 2018)

ABSTRACT

The development of information and communication technology in the context of trade must be believed as one of the modern civilization development. In the relation on Dispute Resolution, UNCITRAL has created a rules called UNCITRAL Arbitration Rules. The regulation related to the Electronic Commerce in Indonesia is contained in several legal instruments, such as Act Number 19 of 2016 on Amendment to Act Number 11 of 2008 on Information and Electronic Transactions, Act Number 7 of 2014 on Trade, Government Regulation No. 82 Year 2012 on Operation of System and Electronic Transaction. Based on the background of the problem above, bring the formulation of the problem, namely : 1. What is the form of electronic commerce dispute resolution according to UNCITRAL Arbitration Rules? 2. How is implementation of the form of electronic commerce dispute resolution according to UNCITRAL Arbitration Rules in national law ? This research uses normative juridical research method, by using qualitative data analysis. The results show UNCITRAL Arbitration Rules is international law provisions examine the issue of dispute resolution. The form of dispute settlement that is regulated UNCITRAL Arbitration Rules is set up to facilitate the disputing parties to resolve electronic trading disputes. Its implementation in Indonesia regulated in the Constitution of electronic information and transaction (ITE) Article 17 Paragraph (1) stating that electronic transaction disputes may be public and private. The form of non-litigation dispute resolution in the Constitution of electronic information and transaction (ITE) Act is regulated in Article 38 Paragraph (2) which in essence is to provide further arrangements in the form of non-litigation dispute resolution into the Arbitration Law and Alternative Dispute Resolution. Dispute resolution in electronic commerce should be resolved first in the non-litigation scope, because as the electronic commerce characteristic does not recognize the legal boundaries, non-litigation dispute resolution becomes more flexible, practical, and effective.

Key words : Dispute Resolution, Electronic Commerce, UNCITRAL Arbitration Rules.