

CHAPTER V

CONCLUSION AND RECOMMENDATION

5.1 Conclusion

1. The decision of the Indonesian court especially in adjudicating SIAC Interim Award No. 062 of 2009 (ARB062 / 08JL) has proven that there is still lack of legal certainty in assuring the International Interim Award could be properly enforced in Indonesia. Issues on the violation of public order, finality and binding effect of the Award, and whether or not the Award is within the scope of commercial law will always be the legal reasoning used by the court as the basis to reject the enforcement of any International Interim Award with the condition that our Indonesian Arbitration Law has not provided yet a comprehensive and specific regulation to maximize the legal certainty for the enforcement.
2. There is sort of complexity in the process of enforcing international arbitration awards in Indonesia, although regulations have been established regarding the procedure for enforcement, but it is still confusing. Moreover, it cannot be denied, the effectiveness of the implementation of international arbitration awards in Indonesia is still classified low. Some of the problems faced are the absence of a specific regulation regarding international arbitration and the understanding of the International Arbitration Award according to the Indonesian Arbitration Law which is still creating multiple interpretations.

5.2 Suggestion

1. In this thesis, the author emphasizes more on the issue of finality of the Interim Award knowing that there is still uncertainty and it absolutely contradicts with Article 60 of the Indonesian Arbitration Law regarding the final and binding principle. There must be at least a comprehensive definition of an award as well as international arbitration award which includes what types of that could be enforced under the arbitration regime. With the clearer definition of an award, it will give the legal certainty for the finality of an interim award where the legislators must make sure that it will happen under the condition either interim or final award will not affect one another. In order to answer the urgency by avoiding the long process of legislation, the author suggest the Supreme Court to issue a *Surat Edaran Mahkamah Agung* (“SEMA”) or Circular Letter to include the comprehensive definition of an award and international award to our Indonesian Arbitration Law. It will pave a way to the notion of interim award to be included as one type of awards by virtue of the definition of an award itself. Moreover, it will guarantee the finality and binding effect toward an interim award.
2. Indonesia currently needs a special regulation in the form of separated an act from Indonesian Arbitration Law to regulate international arbitration. The Government needs to consider adopting the UNCITRAL Model Law into Indonesian legal system in the form of International Arbitration Act with the exception of Chapter VIII (since Indonesia has become a signatory

of New York Convention 1958). So, there will be two system in one arbitration regime, namely domestic and international arbitration law. International Arbitration Law will serve as an effective basis and mechanism to ensure the enforcement of international interim award or any kinds of international arbitration awards will be properly recognized and enforced in Indonesia.

