CHAPTER I
INTRODUCTION

1.1. Background

Economic of Indonesia overcame a financial crisis in 1990 and had entered the high growth orbit with 6% of annual average growth in mid-2000[1]. After BRICs (Brazil, Russia, India, China and South Africa), Indonesia as a member of G20 get the spotlight as the most potential economic in developing countries other than being the biggest Southeast Asia's economy.[2] Thus, the status of Indonesia in world economic stage has grown higher over the years.

After 1980's, Indonesia could enter the condition of full-scale economic growth and made acceleration of industrial structure regardless of the absolute shortage of capital and technology as compared to rich natural resource and labor force. Foreign direct investment ("**FDI**") presumably played an important role to the industrial structure of Indonesia with luxuriant capital, same like other developing countries which heavily depend on FDI. FDI in Indonesia has also the tendency to be an important part of economic policy to attract foreign investors. As Indonesia is among top 20 countries in the world with highest FDI attraction and has a high rank among many countries as a promising country for investment

[1] . "Indonesia GDP Annual Growth Rate ." TRADING ECONOMICS. <http://www.tradingeconomics.com/indonesia/gdp-growth-annual>, Accessed July 11, 2016.
[2] "Indonesia Profile – Overview." BBC. <http://www.bbc.co.uk/news/world-asia-pacific-14921239>, Accessed 10 September 2016.

by multi-national enterprises ("**MNEs**")[3], the fame of Indonesia is very promising for prospective MNEs and FDI, and a successful investment policy by the Indonesian government could provide opportunities for greater economic benefits.

Many developing countries, Indonesia included, competitively started to establish investment treaties in order to draw foreign investment.[4] Around the globe, the number of BITs for the promotion and protection of foreign investments increased dramatically in 1900's, and their number rose from 385 at the end of the 1980s to a total of 1,857, involving 173 countries, at the end of the 1990s. In Indonesia alone, has signed BITs with more than 60 countries as a one of its economic policy.[5]

On March 2014, however, Indonesia informed the Embassy of the Netherlands in Jakarta its intension to terminate its BIT with the Netherlands from 1 July 2015. According to a statement issued by the Embassy, Indonesia also indicated that "it intend[ed] to terminate all of its 67 bilateral investment treaties". Indonesia currently has BITs with, among others, Australia China, France, Germany, Italy, Singapore, Spain, and Sweden. [6] This announcement of terminations could have a big implication on Indonesia's FDI environment because BITs promotes the protection of foreign investments by investors of the

[3] "World Investment Report 2014". UNCTAD. Page. 8. <http://unctad.org/en/PublicationsLibrary/wir2014_en>, Accessed September 15, 2016.
[4]"BILATERAL INVESTMENT TREATIES QUINTUPLED DURING THE 1990S" UNCTAD. <http://unctad.org/en/pages/PressReleaseArchive.aspx?ReferenceDocId=2655>, Accessed 10 September 2016.
[5] "Indonesia to terminate more than 60 bilateral investment treaties." FINANCIAL TIMES. <https://www.ft.com/content/3755c1b2-b4e2-11e3-af92-00144feabdc0>, Accessed September 11, 2016.
[6] "Termination Bilateral Investment Treaty" Netherlands Embassy in Jakarta Indonesia. <http://indonesia.nlembassy.org/organization/departments/economic-affairs/termination-bilateral-investment-treaty.html>, Accessed September 15, 2016.

contracting parties. Thus, this sudden announcement can have negative factors on its promising investment environment.

In this context, this paper will provide an analysis of the changes of the investment policy of Indonesia and the prospect of Indonesia's policy after termination of investment treaties.

1.2. Research Questions

Based on the above discussion, two issues that will be discussed in this paper are:

1. The changes of Indonesia's foreign investment policy in the last decade; and
2. The background of and the reasons for the possible termination of BITs by the Indonesian government.

1.3. Objectives of the Paper

This paper aims to analyze certain issues raised in this paper and provide a recommendation for the Indonesian government in implementing legal policies. Therefore, the objectives of this paper are:

1. To analyze the changes of Indonesian policies on foreign investment treaties in the last decade until the announcement of BITs termination.

2. To determine the reasons of Indonesia government for having the intention to terminate the BITs and analyze the background thereof, along with the analysis of which option is more favorable to Indonesia.

1.4. Research Methodology

In doing research for this paper, the writer used qualitative method of collecting data. The data collected in this paper is done mostly by literature study. Relevant books on the issue discussed, journals, laws, and regulations were the main source of the data. Some online articles, reviews, or publications were also used to strengthen the data collected.

Websites of institutions such as ICSID (International Centre for Settlement of Investment Disputes), UNCTAD (United Nations Conference on Trade and Development), World Bank, or other related organizations were used to check the definition, and changes of numbers.

Lectures, presentation and paper from a discussion forum held by Ministry of Foreign Affairs of Indonesia also cited as the source.

Different bodies such as Embassy of Netherland, Embassy of Japan, and KOTRA South Korea (Korea Trade-Investment Promotion Agency) were delivering their views on Indonesia's investment treaties.