

A LEGAL ANALYSIS OF THE DRAFTING OF INTERNATIONAL COOPERATION DEEDS TO PREVENT BUSINESS DISPUTES (A Research Study in Batam City)

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Abstract

Globalization has driven an increase in the intensity of international business cooperation involving various cross-border entities. In this context, international cooperation agreements play a crucial role as legal instruments capable of regulating relations between parties and mitigating potential disputes. Batam City, as a strategic free trade and free port area (KPBPB), plays a vital role in supporting cross-border business cooperation. However, in practice, the drafting of international cooperation agreements faces complex challenges in terms of regulation, implementation, and harmonization of the legal system. This research focuses on three main research questions: how the drafting of international cooperation agreements is regulated in Indonesia, how the drafting of international cooperation agreements is implemented, specifically in Batam City, and the obstacles and solutions encountered in drafting such international cooperation agreements. These three aspects are examined to understand the extent to which national and local legal systems can anticipate and facilitate the need for equitable and effective cross-border cooperation. The research methods used are normative juridical and empirical. Data were obtained through a literature review of legal regulations, doctrines, and theories, as well as fieldwork through interviews with notaries, legal practitioners, and relevant agencies in Batam City. This research employed a descriptive-analytical approach with qualitative analysis to describe the reality of legal practice and evaluate the effectiveness of drafting international cooperation deeds. The results indicate that regulations for drafting international cooperation deeds in Indonesia are not yet specifically regulated, leading to differing interpretations in the field. Implementation in Batam City still faces limited human resource capacity and a lack of synchronization between government agencies. The main obstacles include differences in legal systems, language, and a lack of international contract drafting standards. Therefore, it is recommended that the government develop comprehensive technical regulations, increase training for notaries, and strengthen cross-agency coordination to create legal certainty and prevent disputes in international business cooperation.

Keywords: *Drafting Deeds, International Cooperation Deeds, and Business Dispute Prevention*

INTRODUCTION

Globalization has accelerated international business relations involving countries worldwide. This phenomenon not only opens up significant opportunities for market expansion and access to new resources, but also creates more complex legal challenges in cross-border transactions. Amidst this dynamic, international cooperation agreements have become a crucial legal tool to ensure smooth relations between countries or business entities and minimize the risk of potential disputes. One area that plays a strategic role in international trade in Indonesia is Batam City. As a free trade zone and free port (KPBPB), Batam offers various incentives to support foreign investment and cross-border trade. Batam's proximity to neighboring countries like Singapore and Malaysia makes it a vital logistics hub, bridging the Southeast Asian market with the global economy. However, the high intensity of international business transactions and cooperation has created various legal challenges, particularly in drafting international cooperation agreements that can prevent business disputes. The importance of a clear and structured international cooperation agreement becomes even more apparent in this context. This deed not only regulates the relationship between the parties involved but also serves as a means to ensure legal certainty and avoid potential future conflicts.

However, drafting such a deed is not without challenges. Complexities arise from differences in legal systems between countries, negotiation dynamics, and differing understandings of legal terms and cultures. Therefore, it is crucial for legal practitioners, particularly notaries and legal consultants, to have a thorough understanding of the procedures for drafting international cooperation deeds to mitigate the risk of disputes. In the complex context of international business, a cooperation agreement or contract plays a fundamental role as a legal basis governing the rights and obligations of the parties involved. A well-drafted contract not only facilitates smooth business transactions but also serves as a preventative mechanism to reduce the potential for future disputes. Furthermore, the trend of various countries strengthening their antitrust laws indicates a growing need for clarity and mechanisms in international cooperation agreements to prevent potential conflicts of interest and ensure consistent enforcement outcomes. The increasing prevalence of international transactions requires companies to understand not only their own country's antitrust laws but also the competition policies and antitrust enforcement regimes of other countries in which they operate, demonstrating the importance of a well-structured cooperation agreement.

International business contracts are inherently more complex than domestic contracts due to differences in language, culture, and legal systems. Differences in laws regarding contract formation, interpretation, and enforcement can be a source of disputes. Challenges in areas such as employment law, intellectual property protection, and regulatory compliance also increase the risk of international business disputes. The number of potential legal pitfalls in international business expansion underscores the vital role of a strong international cooperation agreement in anticipating and mitigating these risks. However, behind these opportunities lies an equally significant challenge: the risk of business disputes that can arise from differences in legal culture, government policies, language differences, and contract interpretation. International business disputes often have detrimental impacts, including litigation costs, reputational damage, and operational disruptions. The drafting of international cooperation agreements also plays a crucial role in preventing disputes. These agreements must be carefully drafted, covering all relevant aspects, such as the rights and obligations of each party, dispute resolution provisions, and applicable laws. A clear agreement can reduce the potential for future conflict and provide guidance in the event of disagreements. Furthermore, understanding the laws and regulations of each country is also key in this process. By collaborating and involving competent legal experts, business actors can be better prepared to face the challenges ahead. Batam City has been designated a Free Trade Zone (KPBPB) and Free Port (Free Port) with the aim of attracting foreign investment and stimulating economic growth. Its strategic geographic location near major shipping lanes and neighboring countries like Singapore and Malaysia makes it a key economic hub in Southeast Asia. Batam offers various incentives for foreign investors, including tax exemptions, simplified procedures, and 100% foreign ownership permits. Government regulations such as Government Regulation Number 41 of 2021 and Batam City Regional Regulation Number 3 of 2021-2041 regulate and direct the development of the KPBPB.

Research on this topic can provide valuable guidance for business people, legal practitioners, and the local government in Batam. Given Batam's strategic importance and ongoing efforts to improve its investment climate, this research is timely and can contribute to the improvement of practical international business practices in the region. This research also aims to provide a deeper understanding of the strategic steps that must be taken in negotiating and drafting international cooperation deeds. Furthermore, it is hoped that it will provide practical recommendations that can be used by business people, lawyers, and other parties involved in international transactions to create mutually beneficial and conflict-free cooperation. This research is also relevant to the increasing need for international cooperation in various sectors, which emphasizes the importance of a thorough understanding of cross-cultural negotiations and the applicable international legal framework. The primary focus of this research is an in-depth analysis of notarial deeds specifically governing international cooperation between countries and located in Batam City. Considering Batam's strategic position as a free trade area with significant cross-border economic activities, this study aims to identify, classify, and analyze various types of notarial deeds that facilitate legal relations between parties from different countries in the context of business, investment, and cross-border transactions in the Batam area. In this context, Batam City serves as an interesting case study due to its status as an economic zone with numerous cross-border transactions. This region's presence raises the importance of drafting international cooperation deeds to support business collaboration between local and foreign companies. However, despite the existence of regulations, the implementation of international cooperation deeds in Batam still faces challenges, such as a lack of synchronization between government agencies, limited human resources, and other technical obstacles. This research focuses on the regulation and implementation of international cooperation agreements in Batam City with the aim of preventing international business disputes. Therefore, the research questions are as follows:

1. What are the legal regulations for international cooperation agreements to prevent business disputes in Indonesia, particularly in Batam City?
2. How is the implementation of international cooperation agreements in Batam City?
3. What are the obstacles encountered in the preparation of international cooperation agreements, and what solutions can be taken to overcome them?

This research aims to:

1. Understand and analyze the legal regulations for drafting international cooperation deeds to prevent business disputes.
2. Understand and analyze the implementation of drafting international cooperation deeds, particularly in Batam City.
3. Understand and analyze the obstacles in drafting international cooperation deeds and provide recommended solutions to address these issues.

This research is expected to provide both theoretical and practical benefits. Theoretically, this research will enrich the literature on drafting international cooperation deeds and contribute to the development of international business law. Practically, this research can provide guidance for legal practitioners, notaries, and business actors in drafting clear international cooperation deeds that can minimize future disputes. This research is highly original, focusing on the analysis of international cooperation agreements in Batam City, a strategic region in Indonesia with the status of a Free Port and a Free Port. While several studies have addressed international agreements, this research offers a new perspective by highlighting the practical challenges faced by Batam as an international trade hub in Indonesia. The conceptual framework in this study focuses on the drafting of effective international cooperation agreements. This includes an analysis of important elements in drafting an agreement, such as the use of clear language, important clauses covering the choice of law, the choice of dispute resolution forum, and the regulation of the rights and obligations of the parties. This study will also identify basic principles of international law, such as the principle of *pacta sunt servanda*, the principle of good faith, and the principle of freedom of contract, which form the basis for drafting international cooperation agreements.

LITERATURE REVIEW

Grand Theory in Legal Science

Grand theory in law serves as a basic framework for understanding law as a whole, encompassing the nature, purpose, and function of the legal system in society. In the context of international treaties, grand theory explains how law plays a role in regulating relations between states and bridging different legal systems. These theories provide a philosophical foundation for the development of more specific legal theories, such as in the drafting and implementation of international treaties. Some relevant theories include the Theory of Justice and the Theory of Legal Systems. The Theory of Justice, particularly in the context of the purpose of law according to Radbruch, emphasizes the importance of a balance between legal certainty, morality, and humanity in international treaties. On the other hand, the Theory of Legal Systems emphasizes the importance of consistency between norms and the coherence of the international legal system. In the specific context of international cooperation agreements, precise definitions of the identities of the parties involved, clear and measurable articulation of the objectives of the cooperation, clear and limited scope of cooperation, and comprehensive details of the rights and obligations of each party are absolutely crucial elements. As an illustration, a cooperation agreement between universities may include the holding of joint conferences and the exchange of expert speakers. Similarly, a cooperation MoU ideally includes basic elements such as the philosophical and legal basis of the cooperation, the objectives to be achieved, the scope of activities, details of each party's obligations, and the mechanism for resolving differences or disputes that may arise. Failure to formulate these basic elements carefully and thoroughly will open the door to ambiguous interpretation and become potential seeds for disputes in the future.

Legal Principles in Drafting International Treaties

Drafting international treaties relies not only on an understanding of national law but also on international principles. Some key principles that must be considered when drafting international treaties are: *Pacta Sunt Servanda*: The principle that a valid treaty must be respected by the parties involved. *Good Faith*: Parties to an international treaty must carry out their obligations in good faith, aiming to maintain harmonious relations. *Consensualism*: International treaties can be formed based on free agreement between the parties involved. These principles serve as a fundamental legal basis for reducing the potential for disputes in international treaties. Given the risks arising from language differences and the potential for mistranslation, the choice of the official language to be used in an

international cooperation agreement, as well as the inclusion of a clause regarding which language will be deemed to prevail in the event of differences in interpretation between the different language versions (prevailing language clause), is crucial. However, ironically, this prevailing language clause itself can become a source of new disputes if not formulated with great care and precision. The selection of one language as the most authoritative can be a politically or practically sensitive issue, especially if one or more parties do not have an equivalent level of proficiency in the chosen language. Furthermore, the process of determining whether there are inconsistencies or significant differences in meaning between the different language versions, and how the prevailing language clause itself will be interpreted, can open up space for complex and protracted legal debate.

Other Legal Concepts in International Agreements

In addition to the basic principles, there are other important legal concepts, such as Choice of Law and Choice of Forum. These concepts determine which law and court will be used to resolve disputes arising from international agreements. A good understanding of these concepts is crucial to ensuring the successful implementation of international agreements and avoiding future conflicts. A well-drafted international cooperation agreement plays a crucial role in minimizing the potential for business disputes. A comprehensive and clear agreement provides legal certainty and prevents misunderstandings between parties with different legal backgrounds. Furthermore, an international cooperation agreement also plays a crucial role in minimizing business disputes. This is because it serves as a guideline for the parties involved in the collaboration, thus preventing misunderstandings and future conflicts.

METHOD

This study employs both normative and empirical juridical research. The normative juridical study was conducted by reviewing and analyzing applicable regulations and legal doctrines in Indonesia regarding the drafting of international cooperation deeds. Meanwhile, the empirical study was conducted by gathering data and information through interviews with legal practitioners, notaries, and relevant institutions in Batam City. The method used in this research is a descriptive-analytical approach. This approach aims to describe the practices and procedures for drafting international cooperation deeds implemented in Batam City and to critically analyze them to determine their effectiveness in preventing business disputes.

RESULTS AND DISCUSSION

Legal Regulations for Drafting International Cooperation Deeds to Prevent Business Disputes

The regulation of the drafting of international cooperation agreements in Indonesia is a fundamental pillar in the implementation of foreign policy and national development. A comprehensive legal framework, structured procedures, and clear institutional roles form the basis for every international commitment made by the Government of the Republic of Indonesia. This section will outline in depth the legal basis, definition and classification of cooperation agreements, procedural stages, and the roles of relevant ministries/agencies. The drafting of international cooperation agreements in Indonesia is regulated through various national legal instruments and general principles of international treaty law. The primary legal basis includes the Civil Code, specifically Articles 1320 and 1338, and Law No. 24 of 2000 concerning International Treaties. These articles affirm the principles of freedom of contract and good faith as the basis for legal binding between parties.

In substance, international cooperation agreements can take the form of a Memorandum of Understanding (MoU) or a cooperation agreement, which in their implementation often involves a notary to authenticate the agreement. The emphasis on the principle of *pacta sunt servanda* ensures that every agreement reached must be implemented in good faith by the parties. Meanwhile, Law No. 24 of 2000 and Presidential Regulation No. 63 of 2019 mandate the mandatory use of Indonesian in all agreements, including those with foreign parties, to ensure understanding and legal protection. According to Lawrence M. Friedman's legal system approach, the drafting of international cooperation agreements in Indonesia encompasses structure (government, notaries), substance (statutory regulations), and legal culture (professional practices). International cooperation agreements in Indonesia are highly diverse, extending beyond formal "International Agreements" as defined by Law No. 24 of 2000. Various instruments are used, each with distinct legal characteristics and procedural requirements. Drafting international cooperation deeds in Indonesia is a crucial part of foreign policy and national development. Clear legal procedures and structured institutions are essential for every international agreement entered into by the Indonesian government. The laws used to draft these deeds include the Civil Code (KUHPdata), particularly Articles 1320 and 1338, which regulate freedom of contract and good faith. Furthermore, Law No. 24 of 2000 and Presidential Regulation No. 63

of 2019 also provide guidance regarding the use of the Indonesian language in international agreements. International cooperation deeds, such as Memoranda of Understanding (MoUs) or agreements, often involve a notary to authenticate them. The principle of "pacta sunt servanda" ensures that every agreement is executed in good faith. This legal implementation aims to prevent future disputes.

Implementation of International Cooperation Deed Preparation in Batam

Batam City, with its status as a Free Trade and Free Port Zone (KPBPB), plays a significant role in international business cooperation. However, in practice, the preparation of international cooperation deed in Batam faces certain challenges, both in legal and institutional aspects. The process of preparing international cooperation deed involves various institutions and regulations, such as Law No. 37/1999 and Government Regulation No. 28/2018, but there are often discrepancies in their implementation. In Batam, the Batam City Government (Pemko) and the Batam Business Entity (BP Batam) have different authorities, which can lead to overlapping decision-making. Formal procedures for cooperation with foreign parties require coordination between institutions, but this process is sometimes more complex than necessary. Field studies show that the Batam City Government and BP Batam consistently involve legal teams and notaries when drafting cooperation agreements. This practice reflects the application of legal certainty, freedom of contract, and legal risk management through carefully formulated choice of law clauses, dispute resolution, and guarantees of each party's obligations. However, despite the consistent involvement of legal teams and notaries, formal notarial deeds are rarely used to formalize these agreements. According to Notary Bun Hai, the majority of international cooperation agreements are often formalized in the form of Memorandums of Understanding (MoUs), Letters of Intent (LoIs), Letters of Agreement (LoAs), Technical Academic Agreements (TAAs), and Material Transfer Agreements (MTAs).

This situation in Batam reflects the challenges and opportunities for international cooperation in Indonesia as a whole. Despite Batam's strategic position and attractiveness to various partnerships, systemic issues persist, such as a preference for less formal MoUs despite the involvement of notaries, as well as bureaucratic and coordination challenges, which will be discussed further. This demonstrates a gap between rigorous legal due diligence practices and the final formalization of agreements. Despite a clear understanding of best legal practices and risk management, formalization into an authentic notarial deed is often neglected. This may be due to the perceived flexibility of the MoU, the speed of negotiations, or even a lack of full appreciation of the greater legal certainty afforded by a formal notarial deed, particularly when dealing with foreign entities. This gap has the potential to lead to future disputes or challenges in the legal enforcement process, despite initial legal scrutiny. It also indicates a cultural preference for less formal agreements in certain diplomatic or business contexts, even when legal expertise has been utilized. According to Anly Cenggana, S.H., the still-minimal implementation, as seen from the notarial deeds in circulation, is a reflection of the continuing disharmony between the rules and the objects they regulate. This indicates that the existing regulations, namely the UUJN, are still unable to accommodate the interests of parties seeking to enter into international cooperation agreements.

Obstacles and Solutions in Drafting International Cooperation Deeds

Some obstacles that arise in drafting international cooperation deeds include:

1. Limited understanding of international law by notaries.
2. Inconsistency of international contract formats with national notarial practices.
3. Differences in legal systems between partner countries.
4. Uncertainty regarding jurisdiction and dispute resolution.

To address these issues, it is recommended that notaries be trained in international contract law and global legal language. The government also needs to issue clearer technical guidelines regarding the drafting of international cooperation deeds. The development of international deed standards referenced by professional organizations, such as the Indonesian Notaries Association (INI), could also help reduce ambiguity in international contracts. The observation that Law No. 24 of 2000 is "not particularly clear" regarding whether ratification is automatically binding under national law and the need for other laws for implementation (e.g., UNCLOS 1982) highlights persistent challenges in legal certainty and domestic implementation. If the domestic legal effect or enforceability of a ratified treaty remains contingent on further and subsequent legislative action (i.e., the enactment of a separate implementing law), this will create a significant gap between Indonesia's international commitments and their practical domestic application. This delay could lead to a lack of legal certainty for citizens, businesses, and government institutions, hinder the timely and effective implementation of treaty obligations, and potentially damage Indonesia's credibility as a reliable and efficient partner in the international community if its commitments are not translated into domestic

practice expeditiously. Furthermore, the inherent diversity and differences in national contract laws across countries pose significant challenges for international commercial contracts, often leading to potential conflict and uncertainty. This underscores the ongoing need for harmonization efforts, often facilitated by international organizations such as UNIDROIT and through conventions such as the 1980 CISG, to bridge these legal disparities. Cyber Notary and uneven technological infrastructure across Indonesia remain obstacles. It's important to understand that an Apostille only validates the authenticity of an official's signature, stamp, and/or seal, and the authority of the signing official. It doesn't address the document's contents or explain its legal consequences. Furthermore, an Apostille certificate is valid only in countries that have ratified the convention; for non-participating countries, the general legalization process still applies.

CONCLUSION

This study examines the legal analysis of the drafting of international cooperation deeds as a means of preventing business disputes in Batam City. The study reveals that international cooperation deeds play a crucial role in providing legal certainty and protecting the rights of parties in cross-border business relationships. While crucial, the drafting of these deeds still faces various challenges, such as limited understanding of international law by notaries and differences in legal systems across countries, which often lead to potential disputes. In Batam City, known as a free trade zone, the process of drafting international cooperation deeds involves notaries, who often have to adapt to various regulations and legal systems. In practice, although notaries have played an active role in drafting various types of international agreement deeds, these deeds often do not fully meet international standards, both in terms of substance and drafting procedures. The conclusion of this study is that, despite the challenges in implementing international cooperation deeds in Batam, there is significant potential to improve the quality and compliance of these deeds with international legal principles. Strengthening notary competency through training and improving regulations by the government is important to encourage better drafting of deeds and minimize the potential for international business disputes.

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Rahaditya Reza Christiano **et al**

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