

Aplikasi upaya perlindungan lingkungan dalam hukum Organisasi Perdagangan Dunia (WTO) berdasarkan pengaturannya dalam Agreement on Technical Barriers to Trade (TBT Agreement) dan General Agreement on Tariffs and Trade (GATT) = Applying the means of environmental protection under WTO law based on the Agreement on Technical Barriers to Trade (TBT Agreement) and General Agreement on Tariffs and Trade (GATT)

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Abstrak

WTO adalah salah satu organisasi internasional yang memiliki peranan terpenting dalam mengatur pelaksanaan praktik perdagangan internasional. Dalam praktiknya, seringkali perdagangan internasional terutama yang melewati batasbatas suatu negara, menimbulkan dampak negatif bagi lingkungan hidup. Sebagai contoh dari dampak-dampak negatif tersebut adalah masalah deforestasi, pemanasan global, dan juga overfishing. Karena hal tersebut lah WTO sering kali dikritik sebagai organisasi internasional yang environmentally-biased. Untuk menghadapi berbagai kritik tersebut, sebagai salah satu upaya perlindungan lingkungan hidup dalam hukum perdagangan internasional, pada perjanjianperjanjian WTO dicantumkan ketentuan-ketentuan yang dapat digunakan oleh masing-masing negara anggota untuk melaksanakan perlindungan lingkungan. Beberapa ketentuan-ketentuan dalam perjanjian WTO tersebut antara lain adalah ketentuan dalam Agreement on Technical Barriers to Trade (TBT Agreement) dan juga General Agreement on Tariffs and Trade (GATT). Namun, penerapan ketentuan-ketentuan tersebut seiring perkembangannya menimbulkan sengketa antara negara-negara anggota. Dengan demikian penting untuk mengetahui bagaimana hubungan antara perlindungan lingkungan dnengan hukum perdagangan internasional, pengaturan mengenai perlindungan lingkungan dalam menurut hukum WTO, dan juga perkembangan keterkaitan antara perdagangan internasional dengan perlindungan lingkungan hidup dalam sengketa-sengketa dagang WTO berdasarkan TBT Agreement dan juga GATT. Permasalahanpermasalahan tersebut akan dijawab melalui penelitian yuridis-normatif sehingga diperoleh simpulan bahwa WTO pada intinya sudah cukup mengakomodir kepentingan masing-masing negara anggota untuk melaksanakan upaya perlindungan lingkungan dengan ketentuan-ketentuan dalam TBT Agreement dan GATT, sepanjang suatu tindakan perdagangan internasional yang diterapkan, tidak menimbulkan distorsi bagi perdagangan internasional.

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WTO plays an irrefutable role in supervising and regulating the practice of international trade. More often than not, international trade can be the cause of environmental degradation, such as forest degradation, global warming, and overfishing. For that matter, WTO is often criticized as an environmentally-biased international organization, due to the fact that there are still so few regulations in the WTO itself that rules on the issue of environmental protection. To face the growing criticisms from the international community, WTO had actually put some rules on many of WTO agreements, that can be imposed by its members as a means of protecting the environment. The two examples of the rules are the one incorporated under the Agreement on Technical Barriers to Trade (TBT Agreement) regarding products? standard (ecolabel and

process and production methods) and the general exception on Article XX (b) and XX (g) of the General Agreement of Tariffs and Trade (GATT). Nonetheless, the imposition of these regulations can arise an international trade dispute among WTO Members. Therefore, it is important to understand the relationship between international trade and the issue of environmental protection, the regulations regarding environmental protection under WTO law, and the development of the correlation between international trade law and environmental protection in WTO disputes based on TBT Agreement and the GATT. These problems will be reviewed using a juridical-normative research method until it can be concluded that WTO indeed had provided its Members with some provisions on its multilateral trade agreements, mainly the TBT Agreement and the GATT, that actually can be used by its Members. The usage of those provisions can be carried out by all of its Members as long as it meets the requirements required under the specific provisions, and as long as they don't create barriers on international trade.