

Analisis hukum keterkaitan Pasal 2.1 dan Pasal 2.2 Technical Barriers to Trade dalam penyelesaian sengketa antarnegara anggota GATT/WTO : studi kasus Sale of Clove Cigarettes, Tuna and Tuna Products, dan Certain Country of Origin Labelling = A legal analysis on the relation between Art. 2.1 and Art 2.2 regarding Technical Barriers to Trade in interstate dispute settlement among GATT/WTO member : a case study of Sale of Clove Cigarettes, Tuna and Tuna Products, and Certain Country of Origin Labelling

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Abstrak

Tesis ini membahas mengenai penerapan Pasal 2.1 dan Pasal 2.2 TBT Agreement sebagai acuan dalam penyelesaian sengketa antarnegara, yaitu Indonesia dengan kasus Sale of Clove Cigarettes, Tuna and Tuna Products, dan Certain Country of Origin Labelling. Klaim Indonesia kepada Amerika Serikat tidak ditanggapi, karena AS menggunakan isu kesehatan melalui Framework Convention on Tobacco Control (FCTC) untuk menghambat perdagangan rokok beraroma dalam negerinya. Sedangkan dalam kasus Tuna and Tuna Products, Meksiko mengajukan klaim kepada AS yang telah melakukan embargo terhadap tuna asal Meksiko. Disini AS menggunakan isu lingkungan melalui Marine Mammal Protection Act 1972 (MMPA) dengan label dolphin-safe. Kasus yang terakhir, Certain Country of Origin Labeling Requirement dengan Kanada. Dalam kasus ini AS menggunakan isu asal barang dengan aturan Rules of Origin yang mewajibkan negara pengekspor mencantumkan informasi komoditi dan asal barang. Terhadap ketiga kasus tersebut Amerika dianggap melanggar Pasal 2.1 dan Pasal 2.2 TBT Agreement sebagai klaim utama para anggota WTO.

.....This thesis discusses about the application of Article 2.1 and Article 2.2 TBT Agreement as a reference in the resolution of the disputes between countries about Sale of Clove Cigarettes (Indonesia's case), Tuna and Tuna Products (Mexico's case), and Certain Country of Origin Labelling (Canada's case). United States did not respond to Indonesia's claim because the U.S. uses health issues based on Framework Convention on Tobacco Control (FCTC) to restrain flavored cigarettes trading. In the case of Tuna and Tuna Products, Mexico filed a claim to the U.S. about embargo that has made to counter the tuna from Mexico. In this case, the U.S. using environmental issues based on Marine Mammal Protection Act (MMPA) 1972 about the dolphin-safe label. The last case is about The Origin Labeling Requirements. In this case the U.S. using the rules about Rules of Origin which requires exporting countries for attaching the label information about the origin of goods and commodities. Against these cases, the U.S considered to violate Article 2.1 and Article 2.2 TBT Agreement as the main claims of the members of the WTO.