

Kajian yuridis atas tindakan pemberlakuan bea masuk anti dumping oleh Uni Eropa terhadap ekspor biodiesel Indonesia pada tahun 2013 = Juridical studies on the enactment of anti dumping measures by the european union against Indonesia's biodiesel exports in 2013

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Abstrak

Tesis ini menganalisa mengenai konsistensi kebijakan dan metodologi/ tindakan Uni Eropa dalam memberlakukan tindakan anti-dumping (BMAD) terhadap ekspor biodiesel Indonesia, terhadap ketentuan hukum WTO, khususnya ADA (Anti-Dumping Agreement). Penulisan ini menggunakan metode penelitian hukum normatif dengan hasil penelitian preskriptif. Hasil penelitian menyarankan agar memastikan adanya konsistensi regulasi nasional dengan seluruh ketentuan ADA demi meminimalisir pemberlakuan kebijakan maupun tindakan anti-dumping yang menyimpang dari ketentuan ADA dan ketentuan hukum WTO lainnya, dan dengan demikian menjaga kepentingan perdagangan internasional negara-negara sebagai sesama anggota WTO. WTO perlu melakukan peninjauan kembali atas legislasi anti-dumping nasional (misalnya, sebagaimana yang dilakukan terhadap komitmen anggota WTO melalui Trade Policy Review Mechanism), dengan tujuan menemukan atau mencegah inkonsistensi regulasi "as rules" terhadap ketentuan hukum ADA, sehingga jika terdapat inkonsistensi tersebut, tidak sampai berlanjut diberlakukan "as conduct" terhadap negara-negara lain dalam praktek perdagangan internasional. Selain itu, negara-negara berkembang juga perlu mendapat perhatian khusus dari WTO sehubungan dengan isu dominasi negara-negara maju (developed country) dalam menerapkan tindakan anti-dumping terhadap negara-negara berkembang (developing country) yang berpotensi memiliki latar belakang proteksionisme terhadap industri domestik negara maju tersebut.

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This thesis analyzes the consistency of policies and methodologies as well as EU's action in imposing anti-dumping measures (BMAD) against Indonesia's biodiesel exports, in accordance with the WTO law, especially the ADA (Anti-Dumping Agreement). This thesis uses the method of normative legal research as to result in a prescriptive advice. The results of this study suggest that a country (WTO Member) ensures consistency of their national legislation, in accordance with the WTO laws in general and the provisions of ADA in particular, in order to minimize the implementation of anti-dumping measures that deviate from the provisions of the ADA and the WTO laws in general, and thus will save the trade interests of countries as fellow members of the WTO. It is also important for the WTO to conduct a review towards the national anti-dumping legislation (such as, the Trade Policy Review Mechanism which is implemented upon the accession commitments of the WTO Members), in regard to find as well as prevent inconsistency "as rules" to the provisions of ADA, and in the event of such inconsistency, the inconsistent rules shall not be executed "as conduct" as misconducts towards any countries within the international trade practice. Moreover, developing countries need special concern from the WTO in respect of the issue of domination by the developed countries regarding the implementation of anti-dumping measures against the developing countries, which is potentially based on protectionism to their domestic industries.