

Sengketa perdagangan Indonesia - Amerika Serikat dalam kasus Family Smoking Prevention and Tobacco Control Act: analisis two-level games theory = Indonesia - United States Trade Disputes in the case of Family Smoking Prevention and Tobacco Control Act: analysis of two-level games theory

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Abstrak

Amerika Serikat mengesahkan Family Smoking Prevention and Tobacco Control Act (FSPTCA) di tahun 2009, dan UU ini menjadi awal mula sengketa perdagangan Indonesia-Amerika Serikat. Pasalnya FSPTCA ini merupakan tindakan diskriminasi yang dilakukan oleh Amerika Serikat terhadap rokok kretek asal Indonesia. Indonesia meresponnya dengan upaya diplomasi bilateral maupun multilateral dengan mensengketakannya ke dalam Dispute Settlement Body World Trade Organization (DSB WTO). Amerika Serikat diputus bersalah oleh panel maupun Badan Banding karena FSPTCA sebagai tindakan yang melanggar prinsip non-diskriminasi WTO serta agar Amerika Serikat segera mematuhi rekomendasi panel maupun Badan Banding. Namun hingga batas tertentu, Amerika Serikat tak kunjung mematuhinya, hingga Indonesia meminta otorisasi DSB WTO untuk melakukan retaliasi. Namun retaliasi sesuai dengan otorisasi DSB WTO tidak terjadi, melainkan yang terjadi adalah retaliasi dalam bentuk penandatanganan Moratorium of Understanding/MoU (mutually agreed solution) untuk mengakhiri sengketa perdagangan FSPTCA. Penelitian tesis ini bertujuan untuk menjelaskan alasan pemerintah Indonesia tidak melakukan retaliasi sesuai otorisasi DSB WTO tetapi memilih retaliasi dengan menandatangani MoU (mutually agreed solution). Dalam menjawab pertanyaan tersebut, tesis ini menggunakan model analisa dari two-level games theory. Penggunaan teori ini bertujuan untuk memahami interaksi antar aktor nasional (level II) dan internasional (level I) serta belum ada penelitian terdahulu dengan unit analisisnya Indonesia dianalisis menggunakan two-level games theory. Temuan dalam penelitian ini mengidentifikasi bahwa FSPTCA bersifat politis, totally banned, melanggar prinsip national treatment. Temuan penting lainnya adalah bahwa Indonesia tidak melakukan retaliasi sesuai otorisasi DSB WTO terhadap Amerika Serikat, dikarenakan Amerika Serikat menawarkan MoU dengan poin sesuai kebutuhan Indonesia yang dianggap lebih signifikan bagi Indonesia.

The United States ratified the Family Smoking Prevention and Tobacco Control Act (FSPTCA) in 2009, and this act became the beginning of the Indonesia-United States trade dispute. The FSPTCA is an act of discrimination carried out by the United States against Indonesian clove cigarettes. Indonesia responded with bilateral and multilateral diplomacy efforts by disputing it into the Dispute Settlement Body World Trade Organization (DSB WTO). The United States has been found guilty by panel and Appellate Body because the FSPTCA is an act that violates the WTO principle of non-discrimination and so that the United States immediately obey to the panel and Appellate Body recommendations. But to a certain extent, the United States has never obeyed it, so Indonesia has requested DSB WTO authorization to carry out retaliation. However, retaliation in accordance with DSB WTO authorization did not occur, but what happened was retaliation in the form of signing the Moratorium of Understanding/MoU (mutually agreed solution) to end the FSPTCA trade dispute. This

thesis research aims to explain the reason of the Indonesian government did not retaliate according to the DSB WTO authorization but chose retaliation in the form of signing the MoU (mutually agreed solution). In answering these questions, this thesis uses an analysis model from the two-level games theory. The use of this theory aims to understand the interactions between national (level II) and international (level I) actors and there have been no previous studies with Indonesia as a unit of analysis analyzed using two-level games theory. The findings in this study identified that FSPTCA was political, totally banned, violate the national treatment principle. Another important finding is that Indonesia did not retaliate according to the authorization of the DSB WTO against the United States, because the United States offered a MoU with points according to Indonesia`s needs which were considered more significant for Indonesia.