

Kebijakan Larangan Ekspor Barang Mentah oleh Indonesia sebagai Anggota WTO Ditinjau dari Perspektif Hukum Nasional = Policy Prohibiting Exports of Raw Goods by Indonesia as a WTO Member Viewed from a Legal Perspective National

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Abstrak

Seiring dengan berjalannya waktu, keberadaan kerjasama multilateral semakin tergantikan oleh kerjasama melalui forum regional dan kerjasama bilateral, tingkat ketidakpercayaan yang semakin meningkat terhadap forum kerjasama multilateral seperti World Trade Organization (WTO) dan Asia Pacific Economic Cooperation (APEC) karena dinilai tidak efektif dalam peningkatan isu liberalisasi perdagangan global. Indonesia telah menunjukkan sikap positif terhadap pengaturan perdagangan multilateral yang dibuktikan dengan keanggotaan Indonesia dalam GATT sejak tanggal 24 Februari 1950 dan kemudian diratifikasi melalui Undang-Undang Nomor 7 Tahun 1994. Larangan ekspor mineral mentah berlaku terhadap penjualan bijih ke luar negeri tanpa proses pengolahan dan/atau pemurnian di dalam negeri, maka dari itu setiap bijih harus melalui pemurnian dan pengolahan sampai batasan tertentu yang diatur dalam Undang-Undang barulah dapat di ekspor. Penerapan kebijakan tersebut menimbulkan kecaman oleh Uni Eropa yang menilai kebijakan Indonesia melanggar sejumlah ketentuan dalam The General Agreement of Tariffs and Trade. Putusan Panel WTO terhadap sengketa nomor DS592 tersebut menyatakan Indonesia bersalah melanggar ketentuan dalam GATT. Ketentuan Pasal XI ayat 2 huruf a GATT 1994 tidak relevan lagi diterapkan dalam peradaban masyarakat internasional, mengingat ketika bijih nikel diproduksi maka cadangan nikel akan semakin berkurang.

.....Over time, the existence of multilateral cooperation is increasingly replaced by cooperation through regional forums and bilateral cooperation, the level of distrust is increasing towards multilateral cooperation forums such as the World Trade Organization and Asia Pacific Economic Cooperation because they are considered ineffective in increasing the issue of global trade liberalization. Indonesia has shown a positive attitude towards multilateral trade arrangements as evidenced by Indonesia's membership in GATT since February 24, 1950 and then ratified through Law Number 7 of 1994. The prohibition on the export of raw minerals applies to the sale of ore abroad without processing and/or refining in the country, therefore each ore must go through refining and processing to certain limits regulated in the law before it can be exported. The implementation of this policy has led to criticism by the European Union which views Indonesia's policy as violating a number of provisions in The General Agreement on Tariffs and Trade. The WTO Panel's decision on the dispute over the number DS592 stated that Indonesia was guilty of violating the provisions of the GATT. The provisions of Article XI paragraph 2 letter a GATT 1994 are no longer relevant to be applied in the civilization of the international community, bearing in mind that when nickel ore is produced, nickel reserves will decrease.