

ANALISIS INTERAKSI PRINSIP *COMMON BUT DIFFERENTIATED RESPONSIBILITIES AND RESPECTIVE CAPABILITIES* (CBDR-RC) DAN WTO LAW TERHADAP KEBIJAKAN *PHASE-OUT CRUDE PALM OIL* (CPO) DALAM EU DIRECTIVE 2018/2001

Lely Frilia Melisa Dwi Nanda¹, Dr. Heribertus Jaka Triyana, S.H., LL.M., M.A.²

INTISARI

Dalam memenuhi komitmen di Paris Agreement, EU menetapkan serangkaian kebijakan energi, salah satunya adalah Renewable Energy Directive (RED) II yang mengakselerasi penggunaan energi terbarukan. RED II dan peraturan pelaksanaannya, yakni Delegated Act, menetapkan CPO sebagai bahan baku *biofuel* dengan kategori *high-indirect land use change-risk* sehingga berlaku ketentuan *phase-out* CPO pada 2023 sampai dengan 2030. Indonesia mengajukan gugatan kepada WTO karena menganggap RED II inkonsisten dengan GATT 1994. Di sisi lain, dalam rezim iklim berdasarkan Paris Agreement, terdapat prinsip CBDR-RC yang memberikan diferensiasi tanggung jawab pencapaian mitigasi perubahan iklim. Penelitian ini bertujuan untuk menganalisis sejauh mana prinsip CBDR-RC berinteraksi dengan WTO Law dalam penyelesaian perselisihan mengenai kebijakan iklim dalam perdagangan internasional.

Penelitian ini dilakukan dengan menggunakan metode penelitian hukum normatif. Data yang digunakan dalam penelitian ini merupakan data sekunder yang diperoleh dari studi kepustakaan. Data yang telah diperoleh dianalisis komprehensif dan lengkap secara kualitatif. Hasil penelitian diuraikan secara deskriptif dengan metode deduktif.

Hasil penelitian yang telah dilakukan menunjukkan bahwa WTO Law secara konsep memiliki hubungan yang koheren dengan prinsip CBDR-RC, namun terdapat perbedaan maksud dan tujuan sehingga berimplikasi pada peran prinsip CBDR-RC dalam penyelesaian perselisihan di WTO tidak dapat dielaborasi sebagai alat interpretasi karena memunculkan konflik antar norma.

Kata Kunci: Renewable Energy Directive (RED) II, *Crude Palm Oil* (CPO), Prinsip *Common but Differentiated Responsibilities and Respective Capabilities* (CBDR-RC), World Trade Organizations (WTO) Law.

¹ Mahasiswa Program Sarjana pada Departemen Hukum Internasional Fakultas Hukum Universitas Gadjah Mada, Yogyakarta.

² Dosen Departemen Hukum Internasional Fakultas Hukum Universitas Gadjah Mada, Yogyakarta.

AN INTERACTION ANALYSIS BETWEEN THE PRINCIPLE OF COMMON BUT DIFFERENTIATED RESPONSIBILITIES AND RESPECTIVE CAPABILITIES (CBDR-RC) AND WTO LAW IN THE CASE OF PHASE-OUT CRUDE PALM OIL (CPO) POLICY IN EU DIRECTIVE 2018/2001

Lely Frilia Melisa Dwi Nanda¹, Dr. Heribertus Jaka Triyana, S.H., LL.M., M.A.²

ABSTRACT

In fulfilling the commitments in the Paris Agreement, the EU has set a series of energy policies, one of which is the Renewable Energy Directive (RED) II which accelerates the use of renewable energy. RED II and its implementing regulations, namely the Delegated Act, stipulates CPO as a biofuel raw material with the high-indirect land use change-risk category so that the CPO phase-out provisions apply in 2023 to 2030. Indonesia filed a lawsuit against the WTO because it considered RED II inconsistent with the GATT 1944. Meanwhile, in the climate regime based on the Paris Agreement, there is a Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) principle that provides differentiation of responsibilities for achieving climate change mitigations. This study aims to analyze the legality of RED II in relationship to WTO Law and determine the degree to which the CBDR-RC principle is welcomed by WTO Law.

This research uses normative legal research method. The data used is a secondary data collected through literature study, which then analyzed comprehensive and qualitatively. This research describes the results of the study descriptively using the deductive method.

The result of the research show that WTO Law conceptually has a coherent relationship with the CBDR-RC principle, but there are differences in the aims and objectives that the implications for the role of the CBDR-RC principle in dispute resolution in the WTO cannot be elaborated as a tool of interpretation because it creates conflicts between norms.

Keywords: *Renewable Energy Directive (RED) II, Crude Palm Oil (CPO), Prinsip Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), World Trade Organizations (WTO) Law.*

¹ Undergraduate Student at the Department of International Law, Faculty of Law, Universitas Gadjah Mada, Yogyakarta.

² Lecturer of the Department of International Law, Faculty of Law, Universitas Gadjah Mada, Yogyakarta.