

PEMBERLAKUAN KEBIJAKAN LARANGAN EKSPOR BATU BARA INDONESIA DITINJAU DARI PENGATURAN *GENERAL AGREEMENT ON TARIFF AND TRADE (GATT) 1994*

Vina Zahida¹ dan Paripurna Poerwoko Sugarda²

INTISARI

Penelitian ini bertujuan untuk mengetahui regulasi terkait ekspor batu bara Indonesia dengan syarat *Domestic Minimum Obligation* (DMO) terhadap ketentuan dalam GATT 1994 dan tindakan yang dapat diambil oleh Pemerintah Indonesia apabila kebijakan ekspor tersebut tidak sesuai dengan GATT 1994 berdasarkan mekanisme penyelesaian WTO.

Penelitian ini dilaksanakan menggunakan metode penelitian normatif yaitu penelitian yang datanya diperoleh melalui studi kepustakaan atau dokumen. Penelitian dilakukan dengan cara mengumpulkan dan meneliti bahan pustaka yang terdiri atas data sekunder. Data dianalisa dengan menggunakan metode deskriptif kualitatif yaitu menyusun kalimat secara sistematis, jelas, dan rinci sehingga dapat diinterpretasikan untuk memperoleh suatu kesimpulan jawaban pokok bahasan permasalahan penelitian ini.

Berdasarkan hasil pembahasan penelitian ini, dapat ditemukan hasil sebagai berikut: **Pertama**, bahwa terdapat beberapa pengaturan tentang ekspor batu bara Indonesia dengan syarat *Domestic Minimum Obligation* (DMO) yang berpotensi untuk digugat ke *Dispute Settlement Body* (DSB) WTO karena melanggar ketentuan Pasal X, Pasal XI, dan/atau Pasal XX GATT 1994 sehingga Indonesia perlu lebih hati-hati apalagi dengan kekalahan Indonesia dengan Uni Eropa pada produk nikel. **Kedua**, terdapat beberapa hal yang dapat dilakukan Indonesia dalam menghadapi gugatan yang diajukan negara lain dengan menjalankan kewajiban sesuai peraturan perdagangan internasional yang berlaku yaitu melakukan notifikasi, mengkaji, dan mereview kembali pengaturan terkait *quantitative restriction* atau kebijakan pembatasan kuantitatif, dan berhati-hati dalam menggunakan pasal pengecualian dalam GATT 1994 serta mengubah pengaturan dalam negeri dan menyiapkan instrumen hukum yang dapat melindungi negara Indonesia dari tindakan balas dendam negara lain.

Kata kunci: pengaturan Indonesia, pembatasan ekspor, batubara, GATT

¹ Penulis, Mahasiswa Fakultas Hukum Universitas Gadjah Mada

² Pembimbing, Dosen Fakultas Hukum Universitas Gadjah Mada

APPLICATION OF INDONESIA'S COAL EXPORT BAN POLICY VIEWED FROM THE 1994 GENERAL AGREEMENT ON TARIFF AND TRADE (GATT)

Vina Zahida³ dan Paripurna Poerwoko Sugarda⁴

ABSTRACT

This study aims to determine regulations related to Indonesian coal exports with Domestic Minimum Obligation (DMO) requirements against the provisions in the 1994 GATT and actions that the Indonesian government can take if the export policy is not under the 1994 GATT based on the WTO settlement mechanism.

This research was carried out using normative research methods, namely, research whose data were obtained through literature or document studies. The research was conducted by collecting and researching library materials consisting of secondary data. The data were analyzed using a qualitative descriptive method, namely by composing sentences in a systematic, clear, and detailed manner so that they could be interpreted to obtain a conclusion to answer the subject matter of this research. This research was carried out using normative research methods, namely, research whose data were obtained through literature or document studies. The research was conducted by collecting and researching library materials consisting of secondary data. The data were analyzed using a qualitative descriptive method, namely composing sentences in a systematic, clear, and detailed manner so that they could be interpreted to obtain a conclusion to answer the subject matter of this research.

Based on the results of the discussion of this study, the following results can be found: First, there are several regulations regarding Indonesian coal exports with the Domestic Minimum Obligation (DMO) requirement that have the potential to be sued by the WTO Dispute Settlement Body (DSB) for violating the provisions of Article X, Article XI, and/or Article XX of the GATT 1994, so that Indonesia needs to be more careful, especially with Indonesia's defeat by the European Union in nickel products. Second, there are several things that Indonesia can do in dealing with lawsuits filed by other countries by carrying out obligations following applicable international trade regulations, namely notification, review and review of arrangements related to quantitative restrictions or quantitative restriction policies, and being careful in using articles exceptions in GATT 1994 as well as changing domestic arrangements and preparing legal instruments that can protect the Indonesian state from acts of retaliation by other countries.

Keywords: Indonesian regulation, export restrictions, coal, GATT

³ Authors, Student of Faculty of Law Universitas Gadjah Mada

⁴ Advisor, Lecturer of Faculty of Law Universitas Gadjah Mada