

Analisis terhadap putusan dispute settlement body world trade organization (WTO) pada kasus us clove cigarettes tobacco control ACT) 2012 dipandang dari penerapan prinsip national treatment perlakuan nasional = Analysis of the world trade organization dispute settlement body decision on the application of national treatment principle in us clove cigarettes tobacco control ACT 2012

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Abstrak

Pada bulan September 2009, Presiden Obama menandatangani Family Smoking Prevention and Tobacco Control Act (Bagian 907 (a) (1) (A)) yang berlaku di Amerika Serikat. Undang-undang tersebut bertujuan untuk menurunkan tingkat perokok muda di kalangan masyarakat AS, dengan melarang produksi dan perdagangan rokok beraroma, termasuk rokok kretek dan rokok beraroma buahbuahan. Setelah dilakukannya pengesahan terhadap UU tersebut, Indonesia mengalami dampak kerugian yang sangat besar terhadap bidang perdagangan, karena hampir 99% rokok kretek yang dijual di AS merupakan produk impor dari Indonesia. Dengan hal ini, Indonesia akhirnya mengajukan klaim kepada Dispute Settlement Body WTO bahwa Amerika Serikat telah melanggar ketentuan WTO mengenai prinsip Perlakuan Nasional (National Treatment). Kemudian, setelah melalui proses penyelesaian sengketa oleh Dispute Settlement Body WTO, maka Indonesia dimenangkan dalam kasus ini, dengan memutuskan bahwa Amerika Serikat telah melanggar prinsip National Treatment yang terdapat dalam Pasal 2.1 Technical Barrier to Trade Agreement. Prinsip National Treatment mengatur bahwa setiap negara anggota WTO berkewajiban untuk memberikan perlakuan yang sama terhadap produk sejenis, baik yang diproduksi di dalam negeri maupun yang berasal dari impor negara anggota WTO lainnya. Penelitian ini membahas kesesuaian interpretasi prinsip National Treatment menurut Pasal 2.1 Technical Barrier to Trade Agreement dalam kasus US-Clove Cigarettes (Tobacco Control Act) 2012 dengan pengaturan prinsip National Treatment secara umum dalam ketentuan WTO, sehingga penelitian ini menggunakan metode yuridis normatif dengan menggunakan beberapa perjanjian WTO yang berkaitan dengan prinsip National Treatment seperti General Agreement on Tariff and Trade 1994 dan Technical Barrier to Trade Agreement.

.....In June 2009, President Obama signed the Family Smoking Prevention and Tobacco Control Act that applied in United State of America. The Act aiming to reduce the youth smoker in United States America, by banning production and sale of the flavoured cigarettes, including clove cigarettes and fruit flavoured cigarettes. After the ratification of that Act, Indonesia suffered for major losses in the trade area, because almost 99% of the clove cigarettes that sold in United States America is the import product from Indonesia. Because of this treatment, Indonesia filed claim against United States of America to the Dispute Settlement Body WTO, that United States of America has violate the WTO Agreements related to the National Treatment principle. Furthermore, after held the dispute settlement process by Dispute Settlement Body WTO, therefore Dispute Settlement Body WTO ruled that United State of America violate the National Treatment principle in accordance to Article 2.1 Technical Barrier to Trade Agreement. The National Treatment principle requires the State parties to treat no less favourable to imported products than like products of national origin. This thesis discusses the compliance of the interpretation of the National

Treatment Principle in WTO case US-Clove Cigarettes (Tobacco Control Act) 2012 with the general regulations on the National Treatment Principle in the WTO, therefore this thesis using the normative juridical research method by utilizing some WTO agreements related to the National Treatment Principle, such as General Agreement on Tariff and Trade 1994 and Technical Barrier to Trade Agreement.