

Pengaturan trade in goods dalam kerangka perjanjian ASEAN: studi perbandingan acfta akfta aifta dan aanzfta = Regulation of trade in goods in the framework of asean agreement comparative studies of acfta akfta aifta dan aanzfta

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Abstrak

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Tesis ini membahas mengenai perbandingan perjanjian perdagangan bebas yang diikuti oleh Indonesia dalam kerangka kerjasama antara ASEAN dan Keempat Mitra Wicara. Substansi yang diperbandingkan dalam penulisan ini adalah pengaturan perdagangan barang atau trade in goods. Keempat perjanjian ini memiliki persamaan dan perbedaan. Perbandingan yang menjadi fokus utama pembahasan adalah bagaimana tiap-tiap perjanjian memenuhi teori keadilan dalam perdagangan liberal. Berdasarkan hasil analisis, dicari upaya yang disediakan oleh setiap perjanjian perdagangan bebas bagi negara berkembang yang merasa tidak diuntungkan. Teori critical legal studies digunakan dalam menganalisa upaya dan merujuk pada ketentuan pada perjanjian perdagangan bebas yang diikuti oleh Indonesia. Penelitian merupakan penelitian yuridis normatif dengan metode analisa data kualitatif data diperoleh dengan melakukan studi kepustakaan.

Tidak ada perbedaan mendasar dalam pengaturan perdagangan barang dalam perjanjian-perjanjian perdagangan barang antara ASEAN dan keempat Mitra Wicara. Pengaturan perdagangan barang dalam keempat perjanjian perdagangan barang ini telah berusaha memenuhi prinsip keadilan dalam perdagangan liberal, namun bentuk keadilan berupa perlakuan berbeda bagi negara yang paling tidak diuntungkan dalam hal ini adalah negara berkembang, hanya bersifat sementara. Negara berkembang sebagai pengimpor sulit untuk melakukan negoisasi yang membutuhkan prosedur yang panjang. Terhitung pada tanggal pemberlakuan liberalisasi penuh special differential treatment ini akan dihapuskan. Terhadap perjanjian-perjanjian perdagangan bebas yang dirasa tidak adil atau tidak mampu untuk dilaksanakan oleh suatu negara seperti negara berkembang maka terdapat 2 langkah kebijakan yang dapat diambil oleh pemerintah negara yang bersangkutan.

Mengingat sulitnya upaya melakukan perubahan atas isi perjanjian yang disepakati. Pemerintah Indonesia harus lebih memperhatikan perjanjian-perjanjian perdagangan bebas yang akan ditandatangani nantinya. Pilihan yang paling realistis untuk saat ini bagi Indonesia adalah tetap memberlakukan perjanjian-perjanjian perdagangan bebas dalam Kerangka Kerjasama ASEAN yang telah disepakati. Demikian, dengan realitas kemampuan Indonesia saat ini hal yang dapat dilakukan adalah memfokuskan diri pada perbaikan kinerja industri lokal (modal, pendidikan, keahlian dan teknologi).

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ABSTRACT

This research discusses the comparison of the free trade agreements Indonesia enters into in the cooperative framework between ASEAN and the four Dialogue Partners. The substance upon which this research compares is the regulation of trade in goods. These four agreements share some similarities as well as differences. The comparison that serves as the main focus of the discussion is how every agreement satisfies the theory of justice in liberal trades. An analysis of each agreement is performed to look for the terms by which a disadvantaged developing country can seek to address the justice it perceives. The theory of critical legal studies is employed in analyzing and referring to the terms in the free trade agreements joined by Indonesia. This research is a legal-normative research with qualitative analysis of the data obtained from literature studies.

There are no fundamental differences in the regulation of trade in goods in the trade in goods agreements between ASEAN and the four Dialogue Partners. The regulation of the trade in goods within these four trade in goods agreements has sought to satisfy the principle of justice in liberal trades. However, the equity that takes form in the differential treatments for the most disadvantaged countries, which in this case are developing countries, is only temporary in nature. An importing developing country finds it difficult to be in a negotiation that undertakes long procedures. By the time the liberalization swings in full effect, this special differential treatment will be abolished. With regards to the free trade agreements perceived to be inequitable or unperformable by a country such as a developing country, there are two policy measures that the government of such country can take.

Taking into account the difficulty in amending the agreed-upon terms, the Government of Indonesia has to pay more attention to the free trade agreements it is about to enter into. The most realistic choice for Indonesia at this moment is to keep respecting the free trade agreements in the agreed ASEAN Cooperative Framework. With this reality in mind, Indonesia has to focus on the improvement of the performance of local industries (capital, education, skills and technology).; This research discusses the comparison of the free trade agreements Indonesia enters

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