

Tinjauan yuridis ketentuan rules of origin dalam perjanjian "Asean trade in goods - atiga" terkait konflik pelaksanaannya dengan regulasi domestik = Judicial review on provision of rules of origin under asean trade in goods agreement atiga related to implementation conflicts with the domestic regulation / Dedi Nuryana Firdaus

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Abstrak

ABSTRAK

Rules Origin dalam ATIGA merupakan ketentuan asal barang yang digunakan untuk tujuan mendapatkan preferensi tarif bea-masuk dalam perdagangan internasional, khususnya berlaku bagi negara-negara anggota ASEAN. Tesis ini membahas tinjauan yuridis ketentuan rules of origin ATIGA terkait dengan konflik pelaksanaannya dengan kebijakan/regulasi domestik Indonesia terutama yang terjadi di kawasan perdagangan bebas (FTZ) BATAM. Pemerintah Indonesia menganggap Form-D back-to-back yang dikeluarkan otoritas Singapura sebagai bentuk lain dari pengeluaran produk Batam ke pasar domestik Indonesia. Tidak ada ketentuan rules of origin ATIGA yang dilanggar dalam kasus tersebut, sehingga Pengadilan Sengketa Pajak memenangkan pihak pengguna Form-D back-to-back, sebaliknya kebijakan pemerintah di kawasan perdagangan bebas Batam yang menerapkan pengembalian pajak menjadi terkesan restriktif bagi produk Batam untuk memasuki pasar domestik Indonesia. Untuk mendapatkan nilai keadilan dalam ATIGA, Indonesia dapat mengajukan review atas Operating Certification Procedure ? OCP rules of origin ATIGA atau mengkaji ulang kebijakan domestik di kawasan perdagangan bebas agar produk Indonesia bisa lebih kompetitif di pasar domestiknya

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ABSTRACT

ATIGA rules of origin is origin criterion provided for enjoying tariff preference offer in international agreement, particularly implemented in ASEAN Member States. This thesis discuss on implementing rules of origin of ATIGA, which related to its conflicted with Indonesia domestic regulations/policies, especially imposed in free trade zone (FTZ) of Batam. Indonesian Government has a perpective that Form-D back-to-back from Singapore, which the goods originating from Batam is another form of sent the manufacture?s goods from Batam to Indonesia?s domestic market and in accordance with fiscal policy in free trade zone of Batam had caused to potential loose of fiscal tax revenue. No violation encountered to the rules of origin of ATIGA in accordance with the decision of the tax court, therefore the tax court had decided the Form-D back-toback won the case. On the contrary Government policy in free trade zone of Batam that imposed the suspended tax on importation of raw materials seems

restrictive to their own goods produce in Batam to enter the Indonesia domestic market. Indonesia may request for review of ATIGA rules of origin for its justice from ATIGA or review its policy in free trade zone to make Indonesia's goods be more competitive in their domestic market.