

Tinjauan yuridis sengketa transfer of technology dalam hukum perdagangan internasional = Legal analysis on transfer of technology disputes under international trade law

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Abstrak

Seiring dengan perkembangan zaman, teknologi memiliki peranan penting dalam memajukan perekonomian, utamanya bagi negara berkembang dan negara terbelakang yang belum menguasai teknologi tepat guna bagi perindustrian. Untuk mengadakan akses terhadap teknologi bagi negara-negara berkembang dan negara-negara terbelakang, dilakukanlah transfer of technology dari negara maju agar negara berkembang dan negara terbelakang dapat menguasai teknologi-teknologi yang meningkatkan daya saing mereka dalam perdagangan internasional. Namun, kerjasama transfer of technology seringkali menimbulkan sengketa, khususnya terkait hak dan kewajiban para pihak (termasuk hak kekayaan intelektual pengalih teknologi dan perbedaan kepentingan antara negara berkembang dan negara maju). Untuk itu, dalam skripsi ini penulis meninjau sengketa-sengketa terkait transfer of technology dari perspektif hukum perdagangan internasional. Penulis menggunakan metode penelitian yuridis normatif, dimana penulis menganalisis sengketa transfer of technology dari berbagai perjanjian antarnegara, peraturan perundang-undangan dan kasus-kasus. Dari penelitian tersebut, penulis menemukan bahwa sengketa transfer of technology pada umumnya mencakup pelanggaran hak kekayaan intelektual pengalih teknologi dan aspek-aspek lain dalam perdagangan internasional. Kemudian, penulis menemukan bahwa sejatinya instrumen-instrumen hukum perdagangan internasional telah mengakomodasi kepentingan negara berkembang dan negara terbelakang untuk menguasai teknologi yang dapat memajukan perekonomian serta kepentingan negara maju terkait perlindungan hak kekayaan intelektual.

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As the world advances to a new era, technology remains at the corner stone of economic development, especially for developing and the least-developed nations, which have yet to possess viable technological base for their industries. To provide access for such technology, transfer of technology from the developed to the developing and least-developed countries is necessary, as it would lead the recipients to a more competitive position in the international trade. This, however, is not without its issues. Transfer of technology often sparks dispute between the parties involved, mainly with respect to their rights and obligations (including, but not limited to, the intellectual property rights of the transferor and competing interests of developing and developed nation). For that reason, the author will thoroughly observe the legal aspects of such disputes from international trade law standpoint. In doing so, the author implements the normative-juridical method, of which the author will analyze those disputes based on treaties, laws and regulations, and case laws. From this observation, the author found that transfer of technology disputes strongly connects with intellectual property issues and other aspects of international trade. Furthermore, the author found that international trade law instruments have sufficiently accommodate the interests of developing and the least-developed nations with respect to technology dissemination, as well as developed countries interest on intellectual property rights protection.