

# Analisis hukum bantuan pembiayaan pemerintah melalui restrukturisasi permesinan industri tekstil berdasarkan agreement on subsidies and countervailing measures = Legal analysis government financing assistance through textile industry machinery restructuring based on agreement on subsidies and countervailing measures

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## Abstrak

Sektor industri atau disebut pengolahan non migas merupakan kontributor terbesar pendapatan ekonomi dan penyerapan tenaga kerja di Indonesia. Jumlah penduduk Indonesia yang lebih dari 250 juta mengindikasikan besarnya potensi pasar domestik sekaligus jaminan sektor industri Indonesia terus bertumbuh. Namun demikian, komitmen liberalisasi perdagangan antar negara yang semakin tinggi sejak berdirinya World Trade Organization (WTO), memaksa sektor industri Indonesia bersaing dengan Industri negara-negara berteknologi maju.

Dalam persaingan itu, industri Indonesia terus mengalami pelemahan daya saing baik di pasar domestik maupun ekspor. Hal ini sangat terlihat nyata terjadi pada Industri Tekstil dan Produk Tekstil (ITPT). Menghadapi situasi yang dinilai banyak pihak sebagai de-industrialisasi tersebut, Pemerintah Indonesia mengambil langkah strategis menggunakan bantuan finansial (financial contribution) sebagai salah satu instrumen kebijakan peningkatan daya saing industri. Pada praktiknya, komitmen Indonesia sebagai anggota WTO tidak bisa dikesampingkan. Beberapa perjanjian yang dicakup (covered agreement) dalam pembentukan WTO, seperti General Agreement on Tariffs and Trade 1994 (GATT) dan Agreement on Subsidies and Countervailing Measures mengatur batasan bantuan finansial yang dapat atau dilarang untuk diberikan pemerintah. Perspektif pengaturan subsidi dalam WTO adalah pemberian subsidi lazim dilakukan pemerintah suatu negara untuk peningkatan kemakmuran dan perlindungan kepentingan domestik, namun juga berpotensi mendistorsi perdagangan internasional apabila menimbulkan keuntungan kompetitif bagi sektor swasta secara tidak adil.

Dengan menggunakan perspektif itu, dilakukan studi hukum pelaksanaan program restrukturisasi mesin/peralatan ITPT yang memuat kebijakan pembiayaan pemerintah untuk peningkatan daya saing ITPT. Diharapkan ditemukan pemahaman kritis akan desain kebijakan penggunaan instrumen subsidi oleh pemerintah dengan tetap mengindahkan komitmen Indonesia dalam WTO. Momentum penulisan tesis diperkuat dengan Pasal 45 dan Pasal 47 Undang-Undang Nomor 3 Tahun 2014 tentang Perindustrian yang mengatur bahwa pemerintah dapat memberikan pembiayaan kepada perusahaan industri swasta dalam rangka peningkatan daya saing industri dalam negeri atau pembangunan industri pionir. Bentuk pembiayaan dimaksud dapat berupa keringanan bunga pinjaman, potongan harga pembelian mesin dan peralatan, serta bantuan mesin dan peralatan.

.....The industry sector, or called with non oil and gas manufacturing sector, is the largest contributor to economic income and employment in Indonesia. Indonesia's population of over 250 million indicates the potential of the domestic market as well as the guarantee of Indonesia's industrial sector continues to grow.

Nevertheless, the increasing commitment of trade liberalization between countries since the establishment of the World Trade Organization (WTO) has forced the Indonesian industrial sector to compete with industries from countries with advanced technology.

In that competition, Indonesia's industrial competitiveness continues to weaken both in domestic and export markets. Significant impacts occurred in the Textile and Textile Products Industry (ITPT). Faced with the situation that many considered as de-industrialization, the Government of Indonesia took a strategic step to use financial assistance as one of the policy instruments to increase the competitiveness of industry. In practice, Indonesia's commitment to WTO membership can not be ruled out. Some covered agreements in the establishment of the WTO, such as the General Agreement on Tariffs and Trade 1994 (GATT) and Agreement on Subsidies and Countervailing Measures provide provisions for financial assistance that can be granted or prohibited by the government. The perspective of the subsidy provisions in the WTO is that subsidies are commonly applied by a country's government to increase prosperity and protection of domestic interests, but also potentially distort international trade if it causes unfairly competitive advantage for the private sector.

By using that perspective, the authors conducted a legal study on the implementation of the ITPT machine / equipment restructuring program which contains a government financing policy to improve the competitiveness of ITPT. It is expected to find a critical understanding of the policy design of the use of subsidized instruments by the government by taking into account Indonesia's commitment to the WTO. The momentum of thesis writing is reinforced by Article 45 and Article 47 of Law No. 3 of 2014 on Industrial Matters which contains provisions that the government can provide financing to private industrial companies in order to increase the competitiveness of domestic industry or the development of pioneer industries. The financing stated in Article 47 covers three forms of financing, which include: loan interest rate, discounted purchase of machinery and equipment, and machinery and equipment assistance.