

Analisis Hukum Pembentukan Multi-Party Interim Appeal Arbitration Arrangement Sebagai Alternatif Mekanisme Banding Dalam Sistem Penyelesaian Sengketa WTO = Legal Analysis On The Establishment Of The Multi-Party Interim Appeal Arbitration Arrangement As An Alternative Appeal Mechanism In The WTO Dispute Settlement System

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Abstrak

World Trade Organization (WTO) memiliki sistem penyelesaian sengketa yang dalam perkembangannya cukup efektif dalam menyelesaikan sengketa-sengketa perdagangan antar negara anggotanya. Namun sejak tahun 2017 Amerika Serikat terus menerus memblokir penunjukan anggota Appellate Body. Penolakan tersebut dilakukan atas dasar kinerja anggota Appellate Body yang semakin tidak efisien dalam menangani sengketa. Pada tahun 2020 WTO mengalami krisis penyelesaian sengketa karena WTO secara resmi tidak memiliki Appellate Body yang beroperasi. Hal tersebut dikarenakan tidak adanya anggota Appellate Body yang dapat menangani proses banding. Dalam upaya untuk mengatasi krisis tersebut, beberapa negara anggota WTO membentuk perjanjian plurilateral yang disebut sebagai Multi-Party Interim Appeal Arbitration Arrangement (MPIA). Melalui MPIA, proses banding dilakukan dengan mekanisme arbitrase yang didasari oleh Pasal 25 Dispute Settlement Understanding. Akan tetapi, apakah MPIA dapat dikatakan sebagai solusi untuk mengatasi krisis penyelesaian sengketa yang dialami WTO? Pada penelitian ini, penulis menganalisis kinerja anggota Appellate Body yang dinilai tidak efisien dan implikasinya terhadap sistem perdagangan multilateral. Selain itu, penulis juga menganalisis efektifitas dari pembentukan MPIA sebagai upaya untuk menyelesaikan krisis penyelesaian sengketa.

.....The World Trade Organization (WTO) has a dispute settlement system that in its development was quite effective in resolving trade disputes between its members. However, since 2017 the United States has continuously blocked the appointment of members of the Appellate Body. The refusal was made based on the Appellate Body member's increasingly inefficient performance in handling disputes. In 2020 the WTO experienced a dispute settlement crisis as the WTO officially did not have an operating Appellate Body. This is because there are currently no Appellate Body members who can hear any appeal process. In an effort to overcome the crisis, several WTO members formed a plurilateral agreement known as the Multi-Party Interim Appeal Arbitration Arrangement (MPIA). Through the MPIA, appeal processes are carried out through an arbitration mechanism based on Article 25 of the Dispute Settlement Understanding. However, can the MPIA be considered a solution to overcoming the dispute settlement crisis of the WTO? In this research, the authors analyze the performance of the previous Appellate Body members which was considered inefficient, and its implications for the multilateral trading system. In addition, the author also analyzes the effectiveness of the MPIA as an effort to resolve the dispute settlement crisis.