



Assessing Indonesia's Nickel Export Ban and Its Implications Under WTO Dispute Settlement Mechanisms

Maria Angeline Putri, Emma Valentina Teresha Senewe*, Natalia Lana Lengkong

Faculty of Law, Sam Ratulangi University, Indonesia

* Corresponding author: emmasenewe@unsrat.ac.id

Abstract

This study explores the regulatory framework governing dispute settlement within the World Trade Organization (WTO) and examines the legal implications for Indonesia following a WTO ruling. The dispute in question involves Indonesia and the European Union (EU) over Indonesia's policy banning the export of raw nickel. Implemented as a strategic initiative to enhance the added value of natural resources through industrial downstreaming, this policy was perceived by the EU as harmful to its economic interests. Adopting a juridical-normative approach, the authors analyze legal documents and relevant case materials to understand the procedural dimensions of the WTO's dispute resolution process. The findings reveal that although the WTO's dispute settlement mechanisms are clearly outlined, the final ruling significantly influences the feasibility of Indonesia's nickel downstreaming strategy. Furthermore, the WTO's decision bears not only on Indonesia's trade policies but also on its diplomatic relations with the European Union. The study highlights the pivotal role played by international institutions in resolving global trade disputes, illustrating how international law—including key instruments such as the General Agreement on Tariffs and Trade (GATT), the Dispute Settlement Understanding (DSU), and the draft Indonesia–EU Comprehensive Economic Partnership Agreement (IEU-CEPA)—serves as a critical foundation in such legal proceedings.

Keywords: Dispute Settlement; International Law; Raw Nickel; WTO

1. Introduction

International dispute settlement represents a significant aspect of international law, which establishes the regulatory framework governing interactions between states and other subjects of international law. In the context of globalisation, where trade between countries is increasing, trade disputes are common. One concrete example of this is the ongoing dispute between Indonesia and the European Union regarding the export of raw nickel, which is currently being heard by the World Trade Organisation (WTO) Tribunal.¹ This dispute not only involves economic interests, but also reflects the dynamics of diplomatic relations between the two parties.

International law is a system that regulates interactions between states and other subjects of international law. In this context, international dispute settlement is one of

¹ Dewi, Yetty, and Mikaila Jessy Azzahra. "Re-examining Indonesia's Nickel Export Ban: Does it Violate the Prohibition to Quantitative Restriction?" *Padjadjaran Journal of International Law* 6, no. 2 (2022): 180-200.

the important aspects to be considered. According to Mochtar Kusumaatmadja, international law includes all legal rules and principles that govern relations between states, as well as issues that affect more than one state². This shows that international law is not only normative but also practical in resolving conflicts that may arise between countries.

States are one of the most recognised subjects of international law; however, there are also other subjects, including International Organisations, the International Committee of the Red Cross (ICRC), the Vatican, International Rebels, and individuals. International organisations play an important role in international relations, which is the main reason why they are considered subjects of international law. Their presence not only facilitates cooperation between states to address global issues such as peace, environment, health, and human rights, but also recognises that some problems require cross-border collaboration³.

International organizations play a crucial role as platforms where states engage, negotiate, and formalize treaties and conventions that bind their members. Their authority in shaping global policy underscores their legitimacy as key actors in specific domains. Through these functions, they contribute significantly to the establishment and maintenance of international norms and frameworks.

In accordance with the definition provided in Black's Law Dictionary, an international organization is an entity comprising independent states that collectively advance the cause of peace and diplomacy between other states⁴.

As globalisation progresses, the role of international organisations is becoming increasingly important. In addition to the United Nations (UN), which remains the foremost international organization, numerous other universal entities operate independently of the UN framework. Among these, the World Trade Organization (WTO) stands out for its role in facilitating international trade and fostering economic cooperation among nations⁵.

These organizations not only provide platforms for collaboration between countries but also act as mediators in resolving disputes. The WTO, as one of the most influential international organizations, exemplifies this dual function. By operating as both subjects

² Mochtar Kusumaatmadja and Ety R. Agoes, *Pengantar Hukum Internasional* (Penerbit Alumni, 2021). Pg. 1-2.

³ Boer Mauna, *Hukum Internasional: Pengertian, Peranan, Dan Fungsi Dalam Era Dinamika Global* (Bandung: PT. Alumni, 2000). Hlm. 49-57.

⁴ Henry Campbell Black and Joseph R. Nolan, *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern* (St. Paul, Minn.: West Publishing Company, 1990).

⁵ Chad Bown and Douglas Irwin, "The GATT's Starting Point: Tariff Levels circa 1947" (Cambridge, MA: National Bureau of Economic Research, December 2015), <http://dx.doi.org/10.3386/w21782>.

of international law and key actors in promoting global cooperation and peace⁶, international organizations contribute significantly to the stability and advancement of the international community.

The World Trade Organization (WTO) regulates trade relations between nations and offers a fair and transparent mechanism for dispute settlement. Established in 1995⁷, the WTO succeeded the General Agreement on Tariffs and Trade (GATT) in overseeing international trade⁸. Its primary aim is to facilitate trade by minimizing barriers such as tariffs and quotas, promoting a more open and predictable global trading system.

Emerging from the framework of the GATT, which governed global trade rules from 1948 to 1994⁹, the WTO builds upon its predecessor's foundation¹⁰. While the GATT focused on reducing trade barriers, the WTO expanded its scope to include services, intellectual property, and dispute settlement, making it a central institution in managing and resolving issues related to international trade relations¹¹.

The WTO plays an important role in resolving trade disputes between countries. With a well-defined dispute settlement mechanism¹², member countries can resolve conflicts without resorting to military force or harmful means. This mechanism allows countries to take legal action against other members who are deemed to have violated international trade rules. For example, Indonesia has been involved in several WTO disputes, including a dispute with the European Union over a ban on nickel ore exports.

The raw nickel dispute between Indonesia and the European Union exemplifies the manner in which domestic policies can impact international relations. Indonesia, the world's largest nickel producer, has a vested interest in the prudent management of its natural resources. Conversely, the European Union is driven by the objective of safeguarding its domestic industry from perceived unfair trade practices. The raw nickel export ban policy implemented by Indonesia in 2020 is designed to foster investment in

⁶ Boer Mauna, *Hukum Internasional: Pengertian, Peranan, Dan Fungsi Dalam Era Dinamika Global* (Bandung: PT. Alumni, 2000). Hlm 52.

⁷ Huala Adolf, *Hukum Ekonomi Internasional: Suatu Pengantar - Cetakan Ke-3* (1997; repr., Jakarta: PT RajaGrafindo Persada, 2003). Hlm. 105.

⁸ World Trade Organization, "WTO | The History of Multilateral Trading System," wto.org, accessed November 22, 2023, https://www.wto.org/english/thewto_e/history_e/history_e.htm.

⁹ Huala Adolf, *Hukum Perdagangan Internasional* (PT RajaGrafindo Persada, 2011). Hlm. 106.

¹⁰ World Trade Organization, "Fiftieth Anniversary GATT," wto.org, accessed November 22, 2023, https://www.wto.org/english/thewto_e/minist_e/min96_e/chrono.htm.

¹¹ Rubiyanto R., "Peran World Trade Organization (Wto) Dalam Menyelesaikan Sengketa Perdagangan Internasional," *Hukum Dan Dinamika Masyarakat* 17, no. 1 (October 30, 2019), <https://doi.org/10.36356/hdm.v17i1.1274>.

¹² Soedjono Dirdjosisworo, *Kaidah-Kaidah Hukum Perdagangan Internasional (Perdagangan Multilateral) Versi Organisasi Perdagangan Dunia (World Trade Organization)* (Bandung: CV. Utomo, 2004). Hlm. 100-101.

domestic mineral processing. However, this policy has also prompted protests from the European Union, which deems it to contravene WTO regulations.

Indonesia's ban on nickel ore exports began on 1 January 2020¹³ and has been a point of contention between Indonesia and the European Union. The EU sees the ban as damaging to its industry and in breach of international trade agreements. The Indonesian government, on the other hand, defended the policy, citing the need for independent management of natural resources and increased value added through nickel downstreaming. This case shows how the WTO serves as a platform to resolve disputes arising from national trade policies¹⁴.

The Indonesian government's nickel downstreaming policy is designed to enhance the value of mineral resources and generate employment opportunities¹⁵. By transforming nickel ore into more sophisticated products, the government aims to attract foreign investment and augment the domestic economy. However, this policy has also given rise to tensions with other countries, particularly the European Union, which has expressed discontent over the export ban.

The significance of this downstream policy extends beyond mere economic considerations to encompass the sustainable management of natural resources. In light of the mounting global demand for nickel for the production of electric batteries, Indonesia is keen to leverage this opportunity in a manner that serves its national interests. In this context, the WTO assumes the role of a mediator in resolving conflicts between Indonesia's national interests and international trade interests.

As a member of the WTO since 1995¹⁶, Indonesia has a responsibility to comply with international trade commitments. This membership confers benefits such as enhanced market access and reinforced legal protection for Indonesian products. However, this membership also entails the obligation to align with the rules that apply at the international level¹⁷. In this respect, Indonesia's role as a reporting or complainant country in several dispute cases demonstrates that the country is active in utilising the WTO dispute settlement mechanism to safeguard its interests.

¹³ Peraturan Menteri Energi dan Sumber Daya Mineral Nomor 11 Tahun 2019 tentang Perubahan Kedua Atas Peraturan Menteri Energi Dan Sumber Daya Mineral Nomor 25 Tahun 2018 Tentang Pengusahaan Pertambangan Mineral Dan Batubara

¹⁴ Chad Bown and Douglas Irwin, "The GATT's Starting Point: Tariff Levels circa 1947" (Cambridge, MA: National Bureau of Economic Research, December 2015), <http://dx.doi.org/10.3386/w21782>.

¹⁵ Kementerian ESDM RI, "Bijih Nikel Tidak Boleh Diekspor Lagi per Januari 2020," esdm.go.id, accessed August 20, 2024, <https://www.esdm.go.id/id/media-center/arsip-berita/bijih-nikel-tidak-boleh-diekspor-lagi-per-januari-2020>.

¹⁶ Soedjono Dirdjosisworo, *Loc cit.*, hlm 101.

¹⁷ Rubiyanto R., "Peran World Trade Organization (Wto) Dalam Menyelesaikan Sengketa Perdagangan Internasional," *Hukum Dan Dinamika Masyarakat* 17, no. 1 (October 30, 2019), <https://doi.org/10.36356/hdm.v17i1.1274>.

The raw nickel dispute is not merely an economic issue, it also reflects the challenges faced by developing countries in the context of their interactions with major economic powers such as the European Union. Consequently, a legal analysis of this dispute settlement is crucial to comprehend how international law can be employed as a means of ensuring fairness and balance in global trade relations.

This research focuses on the legal dimensions of the dispute between Indonesia and the European Union concerning raw nickel exports. It examines the application of international law in trade disputes and explores the role of the WTO as a key institution for dispute settlement. By analyzing this case, the study aims to shed light on how international legal frameworks influence national policies and shape global economic relations.

Through an in-depth analysis of the WTO tribunal process, this research seeks to provide insights into the interaction between international trade rules and national interests. The findings are expected to enhance understanding of dispute settlement mechanisms in the WTO and contribute to broader discussions on the role of international law in managing conflicts in an increasingly interconnected global economy.

2. Method

This paper adopts a juridical-normative (doctrinal) approach, which emphasizes the analysis of written legal norms and their implementation in actual legal disputes. The study examines relevant statutory provisions and regulatory frameworks from both Indonesian national law and the body of international law applicable under the World Trade Organization (WTO) system.

The research is grounded in secondary data sources, including legislation, legal regulations, scholarly literature (such as academic books, journal articles, and legal commentaries), expert interpretations, and official WTO rulings related to Indonesia's trade disputes. In addition, the analysis incorporates negotiation documents from the Indonesia–European Union Comprehensive Economic Partnership Agreement (IEU-CEPA), specifically referencing drafts from Rounds 1, 14, and 19, along with proposed texts on Energy and Raw Materials and the Dispute Settlement Mechanism.

3. Analysis and Discussion

3.1. Dispute Settlement Arrangements Through the World Trade Organisation (WTO)

The settlement of international trade disputes is a crucial element in maintaining the stability of trade relations between member countries of the World Trade Organisation (WTO). As an international organisation that oversees global trade, the WTO provides a

structured and impartial dispute settlement mechanism through the Dispute Settlement Understanding (DSU) ¹⁸. This mechanism is designed to ensure that member countries comply with WTO agreements, facilitate the amicable and efficient settlement of trade violations, and prevent unilateral actions that could jeopardise the international trade order.

The dispute settlement mechanism is set forth in the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), which constitutes an integral part of the 1994 Marrakesh Agreement¹⁹. The DSU provides WTO members with a set of guidelines for the settlement of disputes that may arise from the application of international trade rules. In this regard, the WTO fulfils the role of impartial arbiter, ensuring that the procedures employed reflect the principles of fairness, transparency, and efficiency.

Furthermore, the DSU is supported by the General Agreement on Tariffs and Trade (GATT) 1994, specifically Articles XXII and XXIII²⁰. These articles grant member countries the right to request consultations or file formal complaints in the event of perceived infringements upon international trade regulations by other member countries²¹.

The WTO dispute settlement mechanism comprises a series of structured stages. The objective of each stage is to provide the parties in dispute with an opportunity to resolve the matter amicably prior to resorting to formal adjudication. The stages are as follows:

a. Consultation²²

The initial stage of the WTO dispute settlement process is the consultation phase. In accordance with Article 4 of the DSU, the disputing parties are obliged to conduct the consultations within a period of 60 days following the submission of the request. The objective of consultations is to identify a solution that is mutually acceptable to all parties involved, without the need for a third party to intervene. During this period, the respondent country is obliged to respond to the request for consultations within ten days and to initiate substantive discussions within thirty days. In the event that the consultations fail to reach an agreement, the claimant is entitled to request the establishment of a panel.

b. Good Offices, Mediation, and Conciliation

In the event that consultations prove unsuccessful, the DSU offers the possibility of utilising alternative mechanisms, namely good offices, mediation and conciliation, in

¹⁸ Huala Adolf, *Hukum Penyelesaian Sengketa Internasional* (Jakarta: Sinar Grafika, 2004). Hlm 105.

¹⁹ Marrakesh Agreement Establishing the World Trade Organization, April 15, 1994.

²⁰ The General Agreement on Tariffs and Trade (GATT), 1947.

²¹ *Ibid.*

²² Dispute Settlement Understanding (DSU), World Trade Organization, 1994.

accordance with Article 5 of the DSU²³. These mechanisms are voluntary and are designed to foster a more conducive environment for the settlement of disputes.

c. Establishment of Panel

In the event that the initial two mechanisms prove ineffective, the claimant is entitled to request the formation of a panel in accordance with Article 6 of the DSU²⁴. The panel is constituted by three or five independent experts, selected by the WTO Secretariat with the consent of the parties involved. Its mandate is to examine the pertinent facts, apply the principles of WTO law, and present recommendations in the form of a panel report. The process typically lasts six months, although in cases of urgency, the report can be issued within three months.

d. Appeals Process

In the event that a party is dissatisfied with the outcome of the panel, they may appeal to the Appellate Body, as provided for in Article 17 of the DSU. The appeal process is limited to a review of the legal aspects decided by the panel, rather than the facts in dispute²⁵. The decision of the Appellate Body is final and binding, and must be adopted by the Dispute Settlement Body (DSB).

e. Implementation and Enforcement of the Decision²⁶

Once the panel or Appellate Body report has been adopted by the DSB, the losing party is obliged to implement the award. In the event of non-compliance with the award, the DSB may authorise the claimant to take retaliatory measures, including the imposition of trade sanctions.

The case of the raw nickel ore export dispute between Indonesia and the European Union exemplifies the implementation of the WTO dispute settlement mechanism. The dispute originated in November 2019, when the European Union initiated a complaint against Indonesia concerning the export prohibition on nickel ore enacted by the Indonesian government. The European Union advanced the argument that this policy contravened international trade provisions, particularly Article XI:1 of GATT 1994, which prohibits the imposition of quantitative restrictions on exports or imports.

In this instance, the European Union initially submitted a request for consultation on 22 November 2019²⁷. The consultations were conducted in accordance with the provisions set forth in Article 4 of the DSU, yet they proved unsuccessful in achieving an agreement.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ World Trade Organization, "Indonesia – Measures Relating to Raw Materials," WT/DS592, diakses 8 November 2024.

Consequently, the European Union requested the constitution of a panel in January 2021²⁸. The panel was subsequently tasked with reviewing the case and issued a final report on 30 November 2022, in which it was determined that Indonesia had been unsuccessful.

In response to this ruling, Indonesia sought an appeal to the WTO Appellate Body in December 2022²⁹. However, the appeal process remains pending due to the current non-functioning status of the Appellate Body³⁰, which has been affected by a blockade on member appointments by the United States³¹. As a result, there is currently no clear timeline for settlement.

Despite the WTO's sturdy and well-defined dispute settlement framework, there are several obstacles that interfere with the efficacy of this system. One of the challenges is the non-functioning of the Appellate Body since 2019. The crisis originated from the United States' obstruction of the appointment of new members to the Appellate Body, which has resulted in a paralysis of second-level adjudicatory functions. This has a direct impact on the Indonesia-European Union case, where the appeal process is currently suspended.

Moreover, the time taken to resolve disputes frequently exceeds the optimal timeframe prescribed by the DSU. In the raw nickel case, for instance, the interval between the establishment of the panel and the issuance of the final report reached 19 months, a duration that far exceeds the optimal period of six months. While this can be attributed to the complexity of the case and the volume of documents that require review, these delays underscore the necessity for enhancements in the efficiency of the dispute settlement process.

Regardless of the difficulties, including the partial paralysis of the Appellate Body, the WTO dispute settlement mechanism remains a vital tool for maintaining the stability of international trade. The procedures outlined in the Dispute Settlement Understanding (DSU) provide assurance that trade disputes are resolved based on transparent legal principles, helping to mitigate the risk of larger conflicts. For Indonesia, participation in the WTO mechanism not only demonstrates a commitment to international law but also offers a platform to advocate for its national interests within the global trading system.

Active engagement with the WTO dispute settlement mechanism also reinforces Indonesia's legal standing and diplomatic influence on the international stage. Beyond

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ "Setahun Berlalu, Banding RI Ke WTO Soal Nikel Terganjil ASI," Kementerian Perdagangan Republik Indonesia, accessed November 8, 2024, <https://www.kemendag.go.id/berita/pojok-media/setahun-berlalu-banding-ri-ke-wto-soal-nikel-terganjal-as>.

addressing the intricacies of global trade, this involvement serves as a strategic move to protect Indonesia's economic interests while contributing to the overall framework of international trade governance.

3.2. Legal Consequences of the WTO Tribunal's Decision on the Raw Nickel Export Dispute between Indonesia and the European Union

The regulation concerning the export ban on raw nickel in Indonesia was established by Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara (UU Minerba – Minerba Law). The objective of this legislation is to guarantee that the management of Indonesia's mineral resources is conducted in a sustainable manner, with the aim of maximising added value and supporting the development of domestic processing industries. One of the key provisions of the Minerba Law is the obligation for mining companies to refine their mineral products domestically prior to exportation³². This policy not only serves to safeguard Indonesia's mineral reserves but also supports the country's industrialisation agenda through the downstream processing of natural resources.

In alignment with these objectives, Peraturan Pemerintah Nomor 1 Tahun 2014 serves to reinforce the provisions of the Minerba Law, imposing restrictions on the export of raw minerals and mandating the refinement of mineral products prior to their marketing abroad. This measure is designed to guarantee that Indonesia will cease to be merely a global supplier of raw materials and instead become a prominent contributor to high-value-added industrial supply chains. With regard to nickel, this policy paves the way for the establishment of smelters and industries that utilise nickel as a raw material, such as those engaged in the production of batteries for electric vehicles.

The significance of domestic nickel processing is becoming increasingly evident in the context of Peraturan Presiden Nomor 55 Tahun 2019 concerning the acceleration of battery-based electric motor vehicle programmes³³. This regulation provides a legal foundation for the advancement of the electric vehicle industry, which relies on nickel as a primary raw material in battery production. This policy aligns with the government's objective to reinforce Indonesia's position as a global hub in the electric vehicle supply chain while also enhancing the economic value of nickel through downstream processing.

³² Undang-Undang Republik Indonesia Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara, 2009.

³³ Dhiana Puspitawati et al., *Hukum Organisasi Internasional* (Universitas Brawijaya Press, 2023), <http://dx.doi.org/10.11594/ubpress9786232967434>.

However, the strategic policy of Indonesia is not without challenges. The prohibition on the export of raw nickel, as stipulated by Peraturan Menteri Energi dan Sumber Daya Mineral (Permen ESDM) Nomor 11 Tahun 2019, has emerged as a key point of contention for the European Union at the World Trade Organization (WTO). The regulation prohibits the export of nickel ore with a content below 1.7%³⁴, which the European Union argues violates Article XI:1 of GATT 1994 regarding quantitative restrictions in international trade. The European Union's position is that Indonesia's policy provides unfair advantages to domestic industries at the expense of market access for European nickel producers.

This export ban is complemented by the Permen ESDM Nomor 7 Tahun 2020, which regulates the procedures for granting licenses and reporting on mineral and coal mining business activities. This regulation has become part of the European Union's complaint, which states that Indonesia's policy is in contravention of the principles of international trade that uphold openness and non-discrimination.

In this dispute, the WTO ruling stated that the export ban imposed by Indonesia violates the provisions of GATT 1994. Nevertheless, the Indonesian government has argued that the policy is essential for protecting national interests, particularly in terms of managing strategic natural resources. In response to the decision, Indonesia appealed to the WTO Appellate Body in December 2022, in accordance with the provisions of Articles 16 and 17 of the DSU³⁵.

The right of appeal is a prerogative of all WTO member countries, enabling them to challenge panel decisions they consider unfavourable. The Appellate Body is responsible for assessing the panel's decision and offering recommendations aligned with WTO legal principles during the appeal process.

The WTO decision in this dispute has a number of significant legal consequences for Indonesia. In the event that Indonesia's appeal is unsuccessful, the government will be obliged to modify its policies concerning the export ban on raw nickel in order to ensure compliance with WTO provisions. This encompasses the potential for amending Permen ESDM Nomor 11 Tahun 2019, in addition to evaluating other policies that may be deemed inconsistent with international norms³⁶.

The obligation to comply with WTO rulings reflects the principle of *pacta sunt servanda*, which states that promises must be honoured. As a member of the WTO, Indonesia has

³⁴ Peraturan Menteri Energi dan Sumber Daya Mineral Nomor 11 Tahun 2019 tentang Perubahan Kedua Atas Peraturan Menteri Energi Dan Sumber Daya Mineral Nomor 25 Tahun 2018 Tentang Pengusahaan Pertambangan Mineral Dan Batubara

³⁵ Dispute Settlement Understanding (DSU), World Trade Organization, 1994.

³⁶ "Pembatasan Ekspor Nikel: Kebijakan Nasional Vs Unfairness Treatment Hukum Investasi Internasional – LAN RI," accessed November 5, 2024, <https://lan.go.id/?p=10221>.

undertaken to comply with all the provisions of this organisation, including those relating to dispute settlement and the adoption of decisions. This principle underscores that while Indonesia exercises sovereign authority over the management of its natural resources, international commitments that have been ratified impose certain limitations. In this regard, Undang-Undang No. 24 Tahun 2000 concerning International Treaties provides the basis for Indonesia to align its national legislation with its international obligations.

In the event of Indonesia's failure to comply with WTO rulings, the European Union is entitled to pursue compensation or impose retaliatory measures, including additional tariffs or restrictions on Indonesian export products. Such actions have the potential to negatively impact trade relations between the two parties, particularly given that the European Union represents one of Indonesia's primary trading partners. Moreover, non-compliance with WTO rulings could result in reputational damage for Indonesia in international forums, a reduction in trust among trading partners, and impeded access to global markets.

Furthermore, Indonesia's defeat in this dispute may also have an impact on the efforts to process nickel and develop domestic industries. In the event of the government being compelled to lift the export ban, Indonesia may forfeit the opportunity to optimise the added value of nickel through domestic processing. Such an outcome could have a detrimental impact on investments in smelter development, impede the growth of the battery industry, and diminish Indonesia's competitiveness in global supply chains.

Consequently, it is imperative for the government to devise effective mitigation strategies to minimise the adverse effects of the WTO ruling. One potential avenue for consideration is diversifying export markets, thereby reducing reliance on the European Union. Furthermore, it is crucial for Indonesia to enhance the competitiveness of nickel products by ensuring that quality standards and processing efficiency align with international market requirements.

Compliance with WTO rulings is not only a legal obligation but also a strategic step to maintain favourable relations with trading partners and sustain market access. Indonesia can continue to develop its natural resource potential without neglecting its commitments to global trade if it employs a prudent approach based on international legal principles.

4. Conclusion

The dispute settlement mechanism in the WTO is a reflection of the collective efforts of the international community to establish a fair, transparent, and law-based trading system. In the WTO, the rights of member countries to file complaints regarding actions

by other countries that are detrimental are governed by Articles XXII and XXIII of GATT 1994. The WTO provides a structured forum for member countries to peacefully resolve their disputes in accordance with global trade principles. The dispute settlement between Indonesia and the European Union regarding the raw nickel export ban is based on the legal framework set forth in Articles 4-17 of the DSU. Furthermore, the draft agreement of IEU-CEPA also assigns a role to the WTO in this dispute settlement, affirming the WTO's authority in addressing the issue.

The WTO decision regarding the raw nickel export dispute between Indonesia and the European Union serves to illustrate the challenges faced by Indonesia in attempting to reconcile its national interests with its international obligations. The WTO ruling has significant legal implications for Indonesia, particularly in the event of an unfavourable outcome in the dispute. As a member of the WTO, Indonesia is obliged to comply with the panel's ruling, including the lifting of the ban on raw nickel exports and the adjustment of national regulations that conflict with international provisions. In the event of non-compliance, the European Union may take retaliatory action, such as the imposition of additional tariffs or trade restrictions, which would have a detrimental impact on Indonesia's economy. Consequently, it is imperative for Indonesia to align its trade and industrial policies with international provisions in order to maintain cordial relations with its partner countries.

References

- Adolf, Huala. *Hukum Ekonomi Internasional: Suatu Pengantar - Cetakan Ke-3*. 1997. Reprint, Jakarta: PT RajaGrafindo Persada, 2003.
- Adolf, Huala. *Hukum Penyelesaian Sengketa Internasional*. Jakarta: Sinar Grafika, 2004.
- Adolf, Huala. *Hukum Perdagangan Internasional*. Jakarta: PT RajaGrafindo Persada, 2011.
- Bown, Chad, and Douglas Irwin. "The GATT's Starting Point: Tariff Levels circa 1947." Cambridge, MA: National Bureau of Economic Research, December 2015. <http://dx.doi.org/10.3386/w21782>.
- Dewi, Yetty, and Mikaila Jessy Azzahra. "Re-examining Indonesia's Nickel Export Ban: Does it Violate the Prohibition to Quantitative Restriction?." *Padjadjaran Journal of International Law* 6, no. 2 (2022): 180-200.
- Dirdjosisworo, Soedjono. *Kaidah-Kaidah Hukum Perdagangan Internasional (Perdagangan Multilateral) Versi Organisasi Perdagangan Dunia (World Trade Organization)*. Bandung: CV. Utomo, 2004.

- Kementerian ESDM RI. "Bijih Nikel Tidak Boleh Diekspor Lagi per Januari 2020." esdm.go.id. Accessed August 20, 2024. <https://www.esdm.go.id/id/media-center/arsip-berita/bijih-nikel-tidak-boleh-diekspor-lagi-per-januari-2020>.
- Kementerian Perdagangan Republik Indonesia. "Setahun Berlalu, Banding RI Ke WTO Soal Nikel Terganjil AS!" Accessed November 8, 2024. <https://www.kemendag.go.id/berita/pojok-media/setahun-berlalu-banding-ri-ke-wto-soal-nikel-terganjal-as>.
- Kusumaatmadja, Mochtar, and Eddy R. Agoes. *Pengantar Hukum Internasional*. Penerbit Alumni, 2021.
- LAN RI. "Pembatasan Ekspor Nikel: Kebijakan Nasional Vs Unfairness Treatment Hukum Investasi Internasional – LAN RI." Accessed November 5, 2024. <https://lan.go.id/?p=10221>.
- Mauna, Boer. *Hukum Internasional: Pengertian, Peranan, Dan Fungsi Dalam Era Dinamika Global*. Bandung: PT. Alumni, 2000.
- Puspitawati, Dhiana, Adi Kusumaningrum, Rika Kurniaty, Patricia Audrey Ruslijanto, Hikmatul Ula, Yasniar Rachmawati Madjid, Fransiska Ayulistya Susanto, and Setyo Widagdo. *Hukum Organisasi Internasional*. Universitas Brawijaya Press, 2023. <http://dx.doi.org/10.11594/ubpress9786232967434>.
- R., Rubiyanto. "Peran World Trade Organization (Wto) Dalam Menyelesaikan Sengketa Perdagangan Internasional." *Hukum Dan Dinamika Masyarakat* 17, no. 1 (October 30, 2019). <https://doi.org/10.36356/hdm.v17i1.1274>.
- World Trade Organization. "Indonesia – Measures Relating to Raw Materials." WT/DS592. 30 November 2022. https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds592_e.htm.
- WTO. "Fiftieth Anniversary GATT." wto.org. Accessed November 22, 2023. https://www.wto.org/english/thewto_e/minist_e/min96_e/chrono.htm.
- WTO. "WTO | The History of Multilateral Trading System." wto.org. Accessed November 22, 2023. https://www.wto.org/english/thewto_e/history_e/history_e.htm.
- WTO. "WTO." Understanding the WTO - A unique contribution. Accessed November 8, 2024. https://www.wto.org/english/thewto_e/whatis_e/tif_e/disp1_e.htm.