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Abstract

International trade is one of the essential pillars of the global economy. International trade can improve people's welfare through increased productivity, diversified production, and lower prices of goods and services. In international trade, it is not uncommon for disputes to occur between business actors from different countries. This study examines the international trade dispute settlement system in the World Trade Organization (WTO) and its benefits for Indonesia. This research uses normative legal research methods. The data collection technique used in this research is a literature study. The data analysis technique used in this research is qualitative analysis. The results show that the dispute settlement mechanism through the WTO is part of the WTO adjudication function as a world trade organization. The stages of dispute settlement involve consultations, panel formation, panel procedures, ratification of panel reports, judicial review, and implementation. For Indonesia, participation in the WTO dispute settlement system brings several benefits, such as increasing legal certainty in international trade, protecting Indonesia's trade interests, and increasing the competitiveness of Indonesian products in the international market.

Keywords: Dispute Settlement, Trade, International, World Trade Organization

INTRODUCTION

International trade can be explained as a series of buying and selling transactions between buyers and sellers, where these transactions occur between one country and another. This process involves export and import activities, where the main objective is to achieve optimal benefits for both parties involved (Tambun et al., 2023). International trade plays a crucial role in the dynamics of the global economy by involving economic transactions between countries. International trade has the potential to improve people's welfare through several mechanisms. First, international trade can spur productivity gains by encouraging economic specialization, where each country focuses on producing a particular good or service. Secondly, diversification of production can occur due to access to different types of products from different countries, reducing dependence on one type of production. In addition, international trade tends to lower the prices of goods and services, giving consumers access to products at a lower cost.

International trade is regulated by the World Trade Organization (WTO). The WTO is the only international institution that manages and regulates international trade. Established in 1995, the WTO operates under agreements negotiated and approved by many countries worldwide and then ratified through national legislation. The agreements contained in the WTO aim to support producers of goods and services, exporters, and importers in carrying out their trade activities (Hasudungan, 2022).

Conflicts or disputes between business actors from different countries are commonplace in international trade. These disputes can arise from differences in interpretation, breach of contract, or disputes over trade rules between countries. The complexity of international trade relations often triggers disputes, and their resolution requires effective mechanisms to ensure fairness and compliance with applicable regulations (Suherman, 2022). Therefore, the dispute settlement

system in international trade plays an important role in maintaining the stability and sustainability of economic relations between countries. Efforts in dealing with international trade disputes The WTO has a central role as an institution that provides dispute settlement mechanisms.

Previous research by Solikhin (2023) found that the WTO, in this case, is very important in law enforcement, especially as a forum for resolving disputes among WTO members. The dispute settlement mechanism through the WTO is the adjudication role of the WTO as a world trade organization whose dispute settlement stages consist of consultation, panel formation, panel procedures, ratification of panel reports, review, and implementation. Another study by Koesrianti (2015) shows that effective dispute settlement mechanisms must support the WTO trading system. Compliance with the Dispute Settlement Body (DSB) rulings is essential so that trade benefits can be felt by all WTO members, including developing countries. WTO Dispute Settlement Understanding (DSU) provides security and predictability for dispute processes in the WTO, which all WTO members need to provide broad opportunities for WTO member countries, including Indonesia, to participate in dispute settlement mechanisms at the WTO.

The novelty of this research is the object of his research, which examines the benefits of the international trade dispute settlement system in the WTO, which has never been studied before. This research can help strengthen arguments or thoughts regarding the effectiveness and superiority of the WTO dispute settlement system. It contributes to the literature and academic understanding of the role of the World Trade Organization in maintaining balance and fairness in international trade. This study examines the international trade dispute settlement system in the World Trade Organization (WTO) and its benefits for Indonesia.

LITERATURE REVIEW

International Trade Disputes

International trade disputes are disagreements between parties involved in an international trade contract or agreement. This dispute arises due to the non-fulfillment of obligations by one of the parties by the agreement made. In other words, the dispute can arise due to a violation of the content of the contract or agreement that has been agreed (Solikhin, 2023). From a theoretical point of view, there are two types of disputes: political or non-justiciable and legal or justiciable. The characteristics and differences of the two types of disputes can be explained as follows (Ahmad, 2022):

1. Disputes of a political nature have a broader meaning and meaning. In a narrower sense, political disputes can be interpreted as disputes that do not indicate a legal nature. In other words, political disputes cannot be resolved using existing legal principles.
2. The difference between legal and political disputes lies in the principles of dispute law and the authority to handle a dispute.

World Trade International

In 1995, the World Trade Organization (WTO) was established, an intergovernmental institution that aims to increase trade openness between countries by reducing or eliminating tariff and non-tariff barriers. The formation of the World Trade Organization began after the end of World War II, which left the world economy in a state of ruin. Major countries such as the United States, European countries, and Asian countries such as Japan are involved in the conflict. To restore the global economy, several countries agreed to establish trade institutions tasked with regulating international trade and supporting global economic recovery. Between 1948 and 1994, this institution was known as the General Agreement on Tariffs and Trade (GATT) (Herdiawan &

Sutrisno, 2023). To better understand the role and responsibilities of the WTO, here is a detailed explanation (Ardiansyah, 2021):

1. Minimize trade barriers: The WTO aims to reduce or eliminate international trade barriers through tariffs and non-tariffs. It aims to create a more open and fair trading environment.
2. Facilitation of international economic transactions: The WTO ensures smooth and secure economic transactions between countries. Thus, international trade activities can run efficiently and effectively.
3. International sale and purchase agreement regulation: The WTO regulates formal agreements of sale and purchase between countries to create fair and balanced rules in global trade.
4. Facilitation of negotiation forums: The WTO provides a platform for negotiations and negotiations between its member countries. This helps to reach mutually beneficial agreements in various aspects of trade.
5. Trade policy supervision: The WTO oversees the trade policies that its member countries implement. The goal is to ensure that the policy is by the agreed rules.
6. Assisting developing countries: The WTO is committed to helping developing countries become more active and competitive in international trade.
7. Cooperation with other world organizations: The WTO cooperates with international organizations, such as the World Bank and the International Monetary Fund (IMF), to achieve global development goals and economic stability.

RESEARCH METHODS

This study used normative legal research methods. The normative legal research method is a research approach that focuses on the analysis of legal texts, regulations, legal documents, and other legal literature. The main purpose of this method is to understand and interpret laws based on written legal norms. Normative legal research examines what should happen based on legal regulations and considers the legal and justice principles underlying these norms (Marune, 2023). The data collection technique used in this study is a literature study obtained from Google Scholar with a publication period of 2014-2024. Literature study data collection techniques involve searching and analyzing library materials or literature relevant to the research topic (Jailani, 2023). The type of data in this study uses secondary data. The data analysis technique used in this study is qualitative analysis.

RESULTS AND DISCUSSION

One of the international trade provisions mutually agreed upon by WTO members is that the WTO is agreed as a forum or institution for settling international trade disputes for its member countries based on international trade rules. Article 3, paragraph (3) of the Agreement of Establishing the World Trade Organization states that the WTO will regulate understanding of dispute settlement rules and procedures (Solikhin, 2023). The WTO was established on January 1, 1995, based on the *Marrakesh Agreement Establishing the World Trade Organization*. The basic laws of the WTO can be divided into 5 categories: regulations regarding non-discrimination, regulations regarding market access, regulations regarding unfair trade, regulation of the relationship between trade liberalization and other social values and interests, and regulations on harmonizing national legal instruments in particular fields. This means that the function of the WTO is broader in scope as an international trade organization than the GATT, which only regulates tariff-related issues (Hassanah, 2021).

The World Trade Organization (WTO) is the only international body regulating trade issues between countries. The WTO's multilateral trading system is governed by agreements containing basic international trade rules produced by member countries through negotiation. The agreement between member countries binds member state governments to comply with it in implementing their trade policies. The main objective of the WTO is to create healthy competition in international trade for its members⁹. Philosophically, the purpose of the WTO is to improve living standards and income, create jobs, increase production and trade, and optimize the use of world resources (Korah, 2016). The existence of the *World Trade Organization (WTO)* as an international organization has an important role in international trade traffic, especially in improving economic development and poverty reduction. More specifically, the existence of this organization must ensure that all needs and benefits of increasing welfare opportunities are met in the context of the multilateral trading system, especially for developing countries where most WTO member countries are in this category (Hidayati, 2014).

Indonesia officially became a member of the World Trade Organization with Law No. 7 of 1994 concerning the Ratification of the *Agreement Establishing the World Trade Organization* or WTO Ratification Law. The WTO requires fair, free trade and protective measures against domestic products under certain conditions. Trade protection of a country remains open to the possibility of being sued by other countries and ends up resolving trade disputes (Anggraeni, 2018). The role of the World Trade Organization in regulating the course of international trade transactions is very important (Fauzi, 2023).

According to Kuriawardhani (2021), the WTO itself has five basic principles, including:

1. Fair treatment for all members (*Most Favoured Nations Treatment-MFN*). This principle is set out in Article I of the 1994 GATT, which states that the requirements of commitments made or signed must be unconditionally treated equally thoroughly to all WTO member states (the principle of non-discrimination).
2. Tariff binding (Tariff binding)
This principle is stipulated in Article II of GATT 1994, which states that each member state of GATT or WTO must have a list of products whose import duty or tariff level must be legally *bound*.
3. National Treatment
The principle stipulated in Article III of GATT 1994 states that a country's requirements cannot discriminate between imported and domestic products. The actions prohibited under this provision include domestic levies, laws, regulations, and others.
4. Protection is only through tariffs.
This principle is stipulated in Article 11, which requires that the protection of domestic industry is only allowed through tariffs.
5. *Special and Differential Treatment for developing countries (S&D)*.

Disputes in international trade are generally resolved through negotiation first. If this settlement method fails or does not work, other ways are used, such as settlement through court or arbitration. The WTO dispute settlement system clarifies and enforces member obligations under the WTO Agreement. Dispute resolution is not the main activity in the performance of the WTO organization, but it is a very important part of its performance. Dispute resolution is the responsibility of the *Dispute Settlement Body (DSB)*, the incarnation of the *General Council (GC)*. DSB is the only body with the authority to form a Panel of experts to review cases (Rubiyanto, 2019).

Rules related to Dispute Settlement *are contained in the* WTO Dispute Settlement Understanding (DSU), which establishes a set of rules and procedures and provides a forum for resolving trade disputes between WTO member countries. Under article 4.11 of the DSU, when a country faces a trade action that appears to violate the WTO Agreement, the first action usually taken is to raise the matter directly with the country concerned. In many cases, informal bilateral consultations resolve this issue. However, if the issue is more complex and cannot be resolved by informal consultation, the complainant has the right to take the matter to the WTO for resolution and decision (Awanis et al., 2023).

DSU/Disputes Settlement ¹⁷ Understanding is a dispute settlement procedure in the WTO system. This procedure elaborates Article XXII (*Consultation*) and Article XXIII (*Nullification or Impairment*) of GATT 1994. This procedure is used for all disputes between WTO members arising from non-compliance with obligations as stipulated in WTO agreements (Jamilus, 2017).

With the WTO agreement, international trade dispute settlement arrangements have been complemented by more comprehensive rules to form a quite reliable system as a dispute settlement tool. A dispute settlement institution has also strengthened this fairly complete arrangement as a permanent institution of the WTO. In analyzing the dispute resolution provisions of Article XXII and Article XXIII of GATT 1994, which refer to the provisions of GATT 1947, it is necessary to pay attention to the changes that occur due to the new provisions. With the change in the status of the 1947 GATT agreement, becoming one of the WTO instruments, the 1947 GATT changed the terms used in the 1947 GATT, namely the term "*contracting parties*" to members and the executive secretary of GATT with the director general of the WTO (Sinaga, 2014).

The WTO's DSB (*Dispute Settlement Body*) can resolve trade disputes between disputing member states through litigation processes. There are four phases of WTO dispute settlement procedures: consultation, panel procedures, appellate procedures, and implementation (Pinem, 2014). The benefits for Indonesia of participating in dispute resolution are:

- a. Increased legal certainty in international trade
- b. Protection of Indonesia's trade interests
- c. Increasing the competitiveness of Indonesian products in the global market.

CONCLUSION

As revealed in the study results, the dispute settlement mechanism through the WTO proved to be an integral part of the adjudication function exercised by the World Trade Organization (WTO) as a global trading entity. The dispute resolution process involves several stages: consultation, panel formation, panel procedures, attestation of panel reports, judicial review, and implementation. For Indonesia, participation in the WTO dispute settlement system brings several benefits, such as increased legal certainty in international trade, protection of Indonesia's trade interests, and increased competitiveness of Indonesian products in the global market.

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