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THE ROLE OF INTERNATIONAL LAW IN EXPORT IMPORT ARRANGEMENTS AND ITS IMPACT ON THE ECONOMY IN INDONESIA

Abstract

International law plays a crucial role in the lives of the international community. Its role is essential in the current era of globalization to bridge any existing issues. Through international legal provisions, states prevent disputes from arising and settle those that have already occurred. In practice, international trade is often equated with exports and imports. Considering the increasingly complex processes of export and import, it would be challenging to apply the regulations of only one country. That is why international law exists, to provide solutions in minimizing differences in regulations between parties. The processes of unification and harmonization of laws come into play. The research questions in this study are: What is the role of international law in regulating exports and imports in Indonesia, and what is the influence of export-import activities on Indonesia's national economic growth? The research method used is normative juridical with a descriptive-analytical research specification. From the results of this study, the following conclusion is obtained: The legal aspects of international trade agreements for exporting and importing goods in Indonesia involve contractual aspects in accordance with the Civil Code Book III on obligations and principles of international law regulated in the Vienna Convention of 1986 and UNIDROIT on the harmonization of international civil law. Meanwhile, the organization of exporting and importing goods follows the provisions issued by the Indonesian government regarding export-import payment procedures and implementation methods in accordance with foreign exchange laws.

Keywords : Conflict, Export, Import, International Law

Abstrak

Hukum internasional memainkan peranan yang sangat penting dalam kehidupan masyarakat internasional. Peran hukum internasional sangat diperlukan dalam era globalisasi sekarang ini guna menjembatani setiap permasalahan yang ada. Melalui ketentuan-ketentuan hukum internasional, negara-negara mencegah terjadinya sengketa dan menyelesaikan sengketa yang telah terjadi. Dalam praktiknya, perdagangan internasional sering sekali diasumsikan sama dengan ekspor dan impor. Melihat proses ekspor dan impor

sekarang ini yang semakin kompleks maka akan sangat sulit jika menerapkan aturan dari salah satu negara saja. Oleh karena itulah hukum internasional hadir, untuk memberikan solusi dalam meminimalisir perbedaan aturan antar para pihak. Proses-proses unifikasi dan harmonisasi hukum. Pertanyaan pada penelitian ini yaitu Bagaimana peran hukum internasional dalam pengaturan ekspor impor di Indonesia dan Bagaimana pengaruh kegiatan ekspor impor terhadap pertumbuhan ekonomi nasional Indonesia. Metode penelitian yang digunakan adalah yuridis normatif dengan spesifikasi penelitian deskriptif analitis. Dari hasil penelitian ini diperoleh kesimpulan yaitu Aspek hukum perjanjian internasional ekspor import barang di Indonesia yaitu aspek hukum perjanjian sesuai dengan Kitab Undang-Undang Hukum Perdata Buku III tentang perikatan dan sesuai dengan prinsip hukum Internasional yang diatur dalam Konvensi Wina 1986 dan Unidroit tentang harmonisasi hukum perdata Internasional, sedangkan untuk penyelenggaraan ekspor import barang mengikuti ketentuan yang dikeluarkan oleh pemerintah Indonesia tentang prosedur pembayaran ekspor import dan tata cara pelaksanaan ekspor import sesuai dengan undang-undang valuta asing.

Kata Kunci: Ekspor, Impor, Hukum Internasional, Konflik,

Introduction

The increasingly developing globalization has transformed into the demand of the times. The era of globalization, which grows day by day, has engulfed the lives of countries across the surface of the Earth. Economic globalization is one of the many waves of globalization that emanates, which has made the interdependence of the world economy stronger.(Juajir, 2012).

In international law, states are considered the primary subjects of law (J.G. Starke, 1989). International law is defined as a collection of rules and provisions that bind and regulate the relations between states and other legal subjects in the international community (Boer Mauna, 2011). International law governs the rights and obligations of international legal subjects. International legal subjects are holders or supporters of rights and obligations under international law, and every holder or supporter of rights and obligations under international law is an international legal subject (I Wayan Parthiana, 1990).

International law plays a crucial role in the lives of the international community. The role of international law is essential in the current era of globalization to bridge any existing issues. Through international law, states formulate principles of relations and cooperation in various fields of activity to achieve common goals. By means of international legal

provisions, states prevent disputes from arising and resolve those that have already occurred (I Wayan Parthiana, 1990).

To meet the needs for goods and services, human activities, including those of states, are closely intertwined with economic interests. Individuals and states have various economic motives in fulfilling their respective needs. Consequently, states engage in various economic activities in their relations and interactions with other countries. Economic activities by states have been ongoing since ancient times, even through barter as a means for meeting their needs. However, with the advancement of transportation technology, international trade began to be conducted in a modern and rapid manner. The once clearly delineated boundaries of states have become blurred, leading to a denser flow of international trade as states engage in activities to meet their needs and gain significant profits.

International trade is also known as world trade. It is divided into two parts: imports and exports, commonly referred to as import-export trade. International trade occurs due to the differing needs and capabilities of each country in producing goods and services. International trade also arises from a country's desire to expand the reach of its domestically produced products or services. The presence of international trade promotes industrialization, advances in transportation, globalization, and the presence of multinational corporations.

In practice, international trade is often assumed to be synonymous with exports and imports. However, upon closer examination, there are fundamental differences. This can be observed from the naming conventions within the organizational structure of companies involved in international trade, such as Shipping Agents, Banks, Exporters, Importers, or other multinational corporations. They establish divisions or departments with names like International Trade Department, Export Department, Import Department, Import Unit, Trade Department Finance, and some even have a department specifically for Letters of Credit (L/C).

As long as international trade exists, export and import activities are bound to be present, at least as it stands currently and can be anticipated to further develop in the future. This is due to the advancement of the global economy, leaving us with only one choice, which is to go international. Therefore, globalization, characterized by international trade, and the increasingly bustling and complex processes of export and import have become a necessity.

Cultural differences, technology, resources, language, geography, exchange mechanisms, and most importantly, legal differences in each country, are significant factors. Variations in rules and legal systems applicable to each country and region are crucial because nearly all aspects are regulated by legal provisions.

Considering the current complex processes of export and import, it would be extremely challenging to apply the rules of only one country. While it might be possible, the potential for conflicts would be substantial, given the cultural differences among the parties involved. That is why international law exists, to provide solutions in minimizing differences in rules between parties. Processes of legal unification and harmonization are carried out by various international organizations, both at the regional and global levels.

Based on the background previously explained, the problem formulation to be discussed in this paper is as follows:

1. What is the role of international law in regulating exports and imports in Indonesia?
2. What is the influence of export and import activities on the national economic growth of Indonesia?

Methods Research

The research method used is normative legal research, which refers to the norms found in legislation, international conventions, treaties, and norms that have emerged in society (Yetty Komala Sari, 2011). The data sources used to provide information to support this research are secondary data sources. Secondary data sources are indirect data obtained from journals, papers, books, libraries, or other publications (Bambang Sunggono, 2003). In secondary data, three types of legal materials are used, namely primary legal materials, secondary legal materials, and tertiary legal materials (Soerjono Soekanto, 1986). The primary legal materials used in this research include the Civil Code; Law No. 17 of 2006 concerning Customs; and the Minister of Trade Regulation No. 48/M-DAG/PER/7/2015 regarding general provisions in the field of imports.

Results and Discussion

1. Regulation of Export-Import in International Law in Indonesia

International agreements have various definitions put forth by experts. Boer Mauna argues that an international agreement is a juridical instrument that accommodates the will and consent of states or other subjects of international law to achieve common goals, which are created and regulated by international law and have legal consequences binding on the parties involved (Boer Mauna, 2011). Furthermore, the definition of international agreements is also stated in the national legal framework of Indonesia, specifically in Law Number 24 of 2000 concerning International Agreements Article 1 point a, which states that international agreements are agreements, in a specific form and name, regulated by international law, made in writing, and create rights and obligations in the field of public law. In conclusion, international agreements are agreements made between states in the form of an agreement signed in writing and regulated by international law, which then create rights and obligations among the parties to the agreement (Yordan Gunawan, 2021).

The relations between countries in the world occur due to mutual needs, resulting in demand and supply in terms of trade, manifested in the activities of export and import. International trade relations are not limited to government-to-government relations but also involve companies and even individuals. The relationships between companies, especially in trade involving multiple countries, are referred to as international trade or export-import transactions (International Trade) or international business.

Looking at its history, the relations between Indonesia and other countries in the past have been based on proper principles of international politics and law, with their implementation not significantly different from the current provisions. The goals of international relations are as follows: 1) Strengthening relations between countries, 2) Establishing cooperation for mutual assistance, 3) Clarifying and acknowledging sovereignty and territorial boundaries, 4) Establishing peace, negotiations, non-aggression

pacts, and others, 5) Trade and economic relations in accordance with respective interests (Yeti and Andre, 2017).

International trade or international business is primarily conducted through buying and selling agreements, commonly known as export-import agreements. In this type of trade, the selling activity is referred to as export, while the buying activity is called import. The seller is referred to as an exporter, and the buyer is called an importer. Exporter refers to the activity of taking goods out of the customs territory, while import is the activity of bringing goods into the customs territory of the Republic of Indonesia, which includes land areas, waters, and the airspace above them, as well as certain locations in the exclusive economic zone and the continental shelf (Regulation of the Minister of Trade of the Republic of Indonesia Number: 13/M-DAG/PER/3/2012 concerning General Provisions in the Field of Export).

In essence, export refers to the activity of taking goods out of the customs territory in accordance with applicable regulations and laws. On the other hand, import is the trading activity of bringing goods from abroad into the customs territory while complying with applicable provisions. According to Article 1 point 13 of Law Number 17 of 2006, import is defined as the activity of bringing goods into the customs territory. Meanwhile, point 14 defines export as the activity of taking goods out of the customs territory (Law Number 17 of 2006 concerning Customs and Excise). Thus, export is the act of sending, taking, or carrying goods in the context of trade. If it is not for trade purposes, even if goods are sent, taken, or carried from and to other countries, it cannot be considered as export-import activity according to the above definition. The definition of import covers the act of bringing goods into the customs area.

Regulations regarding export-import vary in each country according to the trade system governed by each country. Therefore, those involved in export-import transactions, such as entrepreneurs or bank officials, need to keep up with the developments in regulations and international trade systems, both in Indonesia and in other countries.

After undergoing several changes, the current general regulations on the implementation of export-import and foreign exchange transactions in Indonesia are governed by Government Regulation Number 1 of 1982 on the implementation of export-import and foreign exchange transactions. To enforce this government regulation, several implementing regulations have been issued by the authorized institutions, such as the Regulation of the Minister of Trade of the Republic of Indonesia Number: 13/MDAG/PER/3/2012 concerning general provisions in the field of export. Additionally, the Regulation of the Minister of Trade of the Republic of Indonesia Number: 48/MDAG/PER/7/2015 provides general provisions in the field of import.

Prior to the enactment of Government Regulation No. 1 of 1982 on the implementation of export-import and foreign exchange transactions, several government regulations were in place to regulate the implementation of export-import. However, with the development of society and the increasing activities of export-import, these old regulations were considered inadequate to meet the needs. The government's consideration in issuing Government Regulation No. 1 of 1982 was to promote economic development and facilitate foreign trade, thereby requiring the establishment of easy and practical procedures for implementing export-import.

With Government Regulation No. 1 of 1982, the government aimed to expand the payment methods in export-import transactions to provide freedom for exporters and importers to choose their preferred payment methods. Thus, exporters and importers are not limited to using only Letter of Credit (L/C) for payment in export-import transactions but can also utilize other commonly used payment methods in international trade, based on agreements between exporters and importers.

Government policies regarding export credits, export credit guarantees, and export insurance are regulated in Article 4 of Government Regulation No. 1 of 1982. Flexible requirements are provided for the increase of exports in sectors other than oil and natural gas. Furthermore, export credit and insurance facilities are provided by the government. For certain types of goods, export duties called export taxes and additional export taxes are imposed, as regulated in Article 5 of Government Regulation No. 1 of 1982. Additionally, according to the provisions of Article 7 of Government Regulation No. 1 of 1982, the Minister of Trade and Cooperatives determines certain goods that are prohibited from being imported, in line with the needs and development of the national economy and the general interests of the state.

The legal system in Indonesia regulates the procedures for import implementation. In the context of the implementation of Government Regulation No. 1 of 1982 on export-import and foreign exchange transactions, the government deemed it necessary to establish other legal provisions regarding import implementation, namely Minister of Trade Regulation No. 48/MDAG/PER/7/2015. Unlike exports, which are always aimed at increasing implementation by the government to boost state revenue for financing development, the government tries to minimize import activities based on the country's economic needs. Imports primarily involve goods that are difficult to produce or are not produced domestically.

An agreement may be considered void if there are defects in consent or mutual agreement due to circumstances such as: (1) coercion (*Dwang*), (2) mistake or misrepresentation (*Dwaling*), (3) fraud (*Bedrog*), (4) abuse of circumstances (*Misbruik Van Omstandighederi*), or defects in consent (*Auliah Mutiah*, 2016). According to Article 1324 of the Indonesian Civil Code, coercion occurs when an act is carried out in such a way that it can intimidate a person of sound mind, and if the act can create a belief in that person that they or their property are under a clear and real threat of harm. Coercion involves physical force or a threat that is legally permissible, resulting in the person entering into an agreement.

The basis of export-import agreements still refers to Book III of the Indonesian Civil Code concerning obligations. Article 1313 of the Indonesian Civil Code states that an agreement is an act whereby one or more persons bind themselves to one or more other persons. An agreement is an event where one person promises another or where two people mutually promise to perform a certain action. In general, no one can bind themselves on behalf of another or request the establishment of a promise, except for their own behalf. An agreement is only valid between the parties who make it.

2. The Benefits of International Trade for the Indonesian Economy

Here are some benefits of international trade for the Indonesian economy:

- a. **Foreign Exchange Earnings:** The first benefit of international trade for the Indonesian economy is as a source of foreign exchange. In addition to obtaining foreign exchange from foreign workers, it can also be acquired through international trade, as it allows the country to acquire foreign currencies (Kusumaatmadja et al., 2021). International trade also fulfills the country's needs and increases its income. Therefore, with this increase, the country's prosperity will also increase.
 - b. **Expanding Employment Opportunities:** The second benefit of international trade for the Indonesian economy is to help expand employment opportunities. The process of international trade, particularly exports, requires a workforce. International trade helps generate more job opportunities through the development of new industries to meet the demand for products in various countries. This also contributes to reducing unemployment rates (Latipulhayat, 2021).
 - c. **Improving Consumption Quality:** The third benefit of international trade for the Indonesian economy is to enhance the quality of consumption for the society. International trade enables domestic industries to improve the quality of goods in order to compete in the free market. This, in turn, raises the standards of the society towards goods and services (Kusumaatmadja et al., 2021).
 - d. **Improving Consumption Quality:** The third benefit of international trade for the Indonesian economy is to enhance the quality of consumption for the society. International trade enables domestic industries to improve the quality of goods in order to compete in the free market. This, in turn, raises the standards of the society towards goods and services (Kusumaatmadja et al., 2021).
 - e. **Technological Advancement:** The fifth benefit of international trade for the Indonesian economy is technological advancement. In developing countries, the technology level is often not as advanced as in developed nations. Therefore, international trade provides an opportunity for training and catching up with the technological advancements of other countries (Mangku, 2020).
 - f. **Good Relations Between Countries:** Another benefit of international trade for the Indonesian economy is the establishment of good relations between countries, which in turn also influences economic cooperation. Good relations are fostered among participating nations. Additionally, other forms of collaboration can be pursued by the respective countries (Ni Kadek et al., 2022).
3. **The Influence of Export-Import Activities on the National Economic Growth of Indonesia.**

Economic growth can be defined as the development of economic activities that lead to an increase in the production of goods and services by the society (Sukirno, 2012). With the presence of a free trade area as part of international trade, each country can meet its needs that cannot be produced domestically (Sadono Sukirno, 2008). Similarly, in the case of Indonesia, with the ASEAN-China free trade agreement, Indonesia can meet its needs that cannot be produced domestically. Likewise, China also needs Indonesia to fulfill its domestic needs. As a result, exports from Indonesia to China indirectly contribute to the economic growth in Indonesia. Febriyanti, D. (2019) explains that theoretically, independent variables such as exports and imports have a positive simultaneous effect on Indonesia's Gross Domestic Product. Partially, exports have a positive effect on Indonesia's Gross

Domestic Product, while imports have a negative effect on Indonesia's Gross Domestic Product (Febriyanti, 2019).

The positive impact of export activities conducted by Indonesian businesses is the increase in exports/world market share from Indonesia (Tulus. T.H., 2004). Moreover, Indonesian entrepreneurs sometimes do not operate their production machinery to the fullest extent due to concerns about overproduction, which leads to a decrease in the prices of their products. With international trade, entrepreneurs can maximize the use of their machinery and sell the surplus production abroad (Tulus. T.H., 2004).

One of the agreements signed within the ASEAN-China free trade is the Agreement on Trade in Services, which includes the tourism sector (Article 7, Paragraph 2, Framework Agreement on Comprehensive Economic Cooperation between ASEAN and the People's Republic of China). With this Agreement on Trade in Services, Indonesia can further develop its tourism sector. Income from tourism is a source of foreign exchange, the largest and strongest source of economic financing (I Putu Gelgel, 2009).

Considering that export activities conducted by the country support Indonesia's economy, it creates job opportunities and reduces unemployment, leading to the well-being of the people. Undeniably, economic development is closely related to the role of human resources. Human resources or the workforce are essential factors in supporting the smooth progress of economic development in a region (Santa Wardana, Bagus et al., 2014).

Meanwhile, the main challenge faced by Indonesia in foreign trade is how to enhance its competitiveness against the growing economies of other countries in the region. Among the countries in East Asia, China has a significantly large economy, with strong growth and competitiveness. Due to its size, China poses a challenge not only to Indonesia but also to the entire region and even the world. Here are some obstacles that Indonesia faces in competing with industries from other countries (Andri Gilang, 2010) :

- a. Indonesia's industry is highly dependent on importing technological resources from other countries, particularly technologically and industrially developed countries. This high dependence on technology imports is one of the hidden factors contributing to the failure of various industrial and economic systems in Indonesia;
- b. At the national and international levels, the Indonesian industrial system lacks independent responsiveness and adaptability. Therefore, it is weak in anticipating changes and unable to take preventive actions to address such changes. The demands of market changes and global industrial competition not only involve changes in patterns, characteristics, quality, and pricing of traded commodities but also include other demands arising from the development of global society's ideals regarding human rights, environmental preservation, trade liberalization, and so on.;
- c. The Indonesian economy heavily relies on the inflow of foreign capital and the size of foreign exchange reserves accumulated through trade and overseas investments;
- d. The composition of Indonesia's export commodities, in general, does not consist of competitive commodities but rather relies on comparative advantages associated with (i) the availability of natural resources such as fisheries, coffee, rubber, and timber; and (ii) the availability of cheap labor, particularly in the textile, footwear, and electronics industries. It is the comparative advantage, not competitive advantage, that serves as a reference to attract investors;

- e. The relatively low quality of human resources remains a challenge. This is greatly influenced by the formal education system and training practices that tend to be generalized and lack orientation towards the evolving needs of the business world. Furthermore, the low quality of human resources is a result of past labor absorption patterns that prioritized the quantity of absorbed workforce (labor-intensive) over the quality of human resources (labor efficiency).

With the existence of legal principles centered around justice and truth, it is expected to support fair and productive economic growth and development, a democratic socio-political culture, as well as secure and support national development that provides economic and social welfare to the people in an environment that is multi-dimensional, stable, balanced, harmonious, safe, and orderly (Sudarsono, 1998).

Conclusion

Based on the description provided, the conclusions from the problem formulation are as follows:

1. International legal regulations govern interconnected and complementary export and import activities. Each aspect of the export and import process has its own specific regulations, requiring exporters and importers to understand the interrelation between these regulations and comply with them. The legal aspects of international trade agreements for exporting and importing goods in Indonesia involve contractual aspects in accordance with the Civil Code Book III on obligations and principles of international law regulated in the Vienna Convention of 1986 and UNIDROIT on the harmonization of international civil law. The implementation of export and import activities follows the provisions issued by the Indonesian government concerning export-import payment procedures and implementation methods in accordance with foreign exchange laws.
2. Export-import activities have an impact on Indonesia's national economic growth, as they play a crucial role in driving the country's economic growth. Through exports, Indonesia can generate income from the sale of goods and services to other countries, which stimulates domestic production, investment, and job creation. On the other hand, imports allow Indonesia to meet domestic demand for goods and services that cannot be efficiently produced or are not available domestically. Thus, exports and imports are mutually supportive and contribute to national economic growth. Additionally, Indonesia can fulfill its needs through import activities for goods that cannot be domestically produced, thanks to international cooperation agreements. This has a positive impact on the Indonesian economy.

Suggestion

To establish legal certainty in international trade agreements for the export and import of goods in Indonesia, specific regulations are required both at the central and regional levels regarding the implementation of export-import agreements, thereby ensuring legal certainty. Additionally, many factors determine the level of competitiveness, and one of them is the role of trade and industrial strategies. Without trade and industrial strategies, a country cannot build competitive and productive industries. In this regard, the role of society is crucial in providing aspirations to representatives to ensure that regulations and policies issued align with the existing societal conditions.

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