

Abstrak

Amerika Serikat (AS) menetapkan label “*dolphin safe*” terhadap produk tuna yang diimpor melalui peraturan *Marine Mammal Protection Act of 1972* (MMPA) yang mulai berlaku pada tahun 2001. Kebijakan ini dinyatakan sebagai peraturan teknis yang bersifat diskriminatif, sehingga melanggar Pasal 2.1 Perjanjian *Technical Barrier to Trade* TBT oleh *World Trade Organization* (WTO). Kemudian, AS melakukan penyesuaian melalui *Tuna Measures 2013* atas rekomendasi putusan WTO. Namun, Meksiko mengajukan pengawasan atau *compliance proceedings* karena adanya perbedaan sertifikasi di dalam dan di luar wilayah *eastern tropical Pacific* (ETP). Tulisan ini akan dibahas melalui studi kepustakaan menggunakan artikel ilmiah/jurnal, perjanjian internasional, dan yurisprudensi WTO. Hasil pemeriksaan WTO atas permintaan perbedaan sertifikasi adalah melanggar Pasal 2.1 Perjanjian TBT dan Pasal I:1 dan Pasal III:4 GATT 1994. Permasalahan tersebut dinyatakan selesai pada tahun 2018 oleh WTO setelah AS mewajibkan persamaan sertifikasi antara wilayah ETP dan luar wilayah ETP, tetapi tetap memberikan perlakuan berbeda jika terdapat risiko tinggi terhadap lumba-lumba. Tulisan ini berbentuk pendapat hukum atau legal memoranda dengan melakukan analisis hukum terhadap dasar WTO memutuskan sengketa antara Meksiko dan AS pada pelabelan “*dolphin safe*” melalui produk tuna.

Abstract

The United States (US) with the *Marine Mammal Protection Act of 1972* (MMPA) has established a “*dolphin safe*” label for tuna products imported since 2001. The *World Trade Organization* stated that the policy has been claimed as a technical regulation that was headed to be discriminative and breached Article 2.1 agreement on *Technical Barrier to Trade*. Later on, the US adjusted the policy through *Tuna Measures 2013* to execute WTO recommendations. Nevertheless, Mexico proposed compliance because there was a different certification inside the *Eastern Tropical Pacific* area and outside the *Eastern Tropical Pacific* area. This issue will be discussed through a literature study using articles/journals, international agreements, and WTO jurisprudence. The WTO concluded that the different certifications of the “*dolphin-safe*” label have breached Article 2.1 TBT Agreement and Article I:1 including Article III:4 GATT 1994. The issue itself has been concluded and finished since 2018 by WTO after the US was obligated same certifications for the ETP and outer ETP area, but it still provided different treatment according to the risk resulting to dolphins. This writing will be written in legal memoranda through legal analysis on “how WTO decided the issue appearing by “*dolphin-safe*” label on tuna products between Mexico and US”.