

ABSTRACT

The disobedience of the United States to implement the WTO Appellate Body Decision in the case of applying anti-dumping methodology with China has prompted China to request authorization from the DSB to retaliate against United States's anti-dumping practice. In the application of retaliation, a WTO Arbitration decision is needed to determine the equivalent level of suspension of concession. This study was conducted to analyze whether the application of retaliation efforts due to the non-compliance of the WTO Appellate Body award can be applied unilaterally or must go through an Arbitration award and to analyze the character of the WTO arbitration award. From the data analysis, it can be concluded that retaliation may only be carried out through WTO rules and procedures regulated in the WTO DSU. Unilateral retaliation is prohibited for violating Articles 21 and 23 of the DSU and the Most Favored Nation principle. Arbitration award in this case is only used to determine specific problems so that the nature of the award from the arbitration is in a form of declaratoir award. The WTO should have specific rules and adequate sanctions against non-compliance party of the DSB decision (Panel, Appellate Body, Arbitration) as well as a particular supervisory body to oversee the implementation of the DSB decision and retaliation.

Key words: *Retalliation, Anti Dumping, WTO Arbitration, DSB*

ABSTRAK

Ketidaktaatan Amerika Serikat untuk melaksanakan Putusan *Appellate Body* WTO dalam kasus penerapan metodologi *anti dumping* dengan China telah mendorong China untuk meminta otorisasi dari DSB agar dapat meretaliasi Amerika Serikat. Dalam ketentuan yang diatur oleh DSU dibutuhkan putusan Arbitrase WTO untuk menentukan tingkat penanggungan konsensi yang setara dengan *nullification* dan *impairment* yang dialami oleh China. Penelitian ini dilakukan untuk menganalisis apakah penerapan upaya retaliasi akibat tidak dilaksanakannya putusan *Appellate Body* WTO dapat diterapkan secara unilateral atau harus melalui putusan Arbitrase dan menganalisis karakter dari putusan arbitrase WTO. Praktik retaliasi bagi negara anggota WTO hanya boleh dilakukan melalui aturan dan prosedur WTO yang diatur dalam DSU WTO karena melanggar Pasal 21 dan 23 DSU serta prinsip *Most Favoured Nation*. Kemudian putusan abitrarse dalam kasus ini hanya digunakan untuk menentukan masalah-masalah spesifik sehingga sifat putusan dari arbitrase ini hanya berupa penetapan. Sebaiknya, WTO memiliki aturan khusus dan sanksi akibat tidak dilaksanakannya putusan DSB (*Panel, Appellate Body, Arbitrase*) serta badan pengawas khusus untuk mengawasi implementasi putusan DSB dan retaliasi.

Kata kunci: *Retaliasi, Anti Dumping, Arbitrase WTO, DSB*