

CHAPTER I

INTRODUCTION

1.1. Background

International trade, which includes import-export activities, is an important part for a country because no country in the world is able to meet all its needs without trading with other countries. Apart from that, there are several factors driving international trade, such as people in a country needing products that are not produced by their country, differences in each country's preferences for goods and services, and differences in technological capabilities (*Perdagangan Internasional - Wahono Diphayana - Google Buku*, n.d.). Therefore, trade liberalization has had several positive impacts, such as the relocation of natural resources, especially for commodities that are less able to compete and superior commodities that are excessive in a region. Apart from that, international trade can also increase state income, foreign exchange reserves, capital transactions and stimulate investment (Ngatikoh & Faqih, 2020). International trade not only has a positive impact on a country but also has negative impacts such as a country's dependence on other countries and a reduction in the country's foreign exchange.

The European Union is an organization that has an important role in international trade. The European Union's principle in terms of trade is to support the effectiveness of free trade and international trade. The European Union is active in discussions with countries or regional groups regarding trade agreement negotiations. The European Union's membership in the World Trade Organization (WTO) is concrete evidence that the European Union supports efforts to eliminate barriers to international trade, especially between WTO members (*EU Launches Consultation on Use of Enforcement Regulation on Indonesian Nickel Export Restrictions - European Commission*, n.d.). Apart from that, the European Union also carries out export and import activities to maintain economic prosperity and achieve its social interests. The European Union's trading partners are the United States, China, United

Kingdom, Switzerland, Russia, Indonesia and other countries (*The EU's Role in Global Trade - Consilium*, n.d.). Meanwhile, in terms of exports, the European Union exports several commodities such as machinery and transport equipment, chemicals and related products, miscellaneous manufactured articles, mineral fuels and lubricants, and etc. Machinery and transportation equipment are the result of the European Union's automotive industry, which is the most superior export commodity and has the highest percentage of export value. Apart from that, the European Union also carries out import activities to meet its domestic needs. One of the European Union's imported commodities is nickel, which is a raw material for the automotive industry. The European Union imports nickel from several countries, one of the nickel supplier countries for the European Union is Indonesia.

However, since January 1 2020 Indonesia has limited the volume of exports of mining commodities, especially nickel ore (Indonesia.go). Since 2021, Indonesia has tended to implement restrictive trade policies (trade dispute: news). Indonesia plans to downstream the nickel industry to increase the selling value of nickel on the global market. Apart from that, the facts show that Indonesia's nickel reserves will run out within 30 years. Therefore, Indonesia has implemented a policy of prohibiting nickel exports in accordance with article XX (g) GATT 1944 which states the urgency of conservation activities for natural resources that will be depleted and threatened with extinction. Indonesia stated that the policy of banning nickel ore exports was only implemented for a certain period of time. In accordance with Article XI:2 (a) GATT 1944 which reads "Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party", then Indonesia has the right to implement a nickel export ban policy.

However European Union sued Indonesia regarding the nickel ore export policy through World Trade Organization. As an importer of Indonesian nickel, the European Union rejects the policy of banning nickel ore exports policy. The European Union's rejection of Indonesia's policy was

followed up by the European Union filing a lawsuit against Indonesia through the WTO in 2021. The World Trade Organization (WTO) is the only international organization that handles all matters related to international trade or commerce between countries. The WTO is a forum for countries to negotiate and agree on trade agreements. In this case, the role of the WTO is as a forum for member countries to resolve trade disputes through dispute settlements WTO. Because the European Union and Indonesia are members of the WTO, international trade disputes are resolved using the multilateral principles of the WTO (Ministry of Finance).

1.2. Research Question

Based on the background explained above, the problem formulation of this research is:

"Why did the European Union sue Indonesia through the World Trade Organization regarding Indonesia's nickel ore export policy?".

1.3. Theoretical Framework

1.3.1 National Interest

To examine the research topic as a whole, the author uses theory as a reference for analytical studies, namely national interest theory. Therefore, to get a detailed and complete picture of the relevance of the research topic to the theory used, it is necessary to discuss the general definition of the theory based on the understanding of experts.

In the study of international relations, national interest theory is a framework for a country in carrying out its international relations. Joseph Frankel's argument regarding national interest states that the main objective of a country's foreign policy is related to the interests of that country. A country's national interest is in accordance with ideology, religion, and the preferences of a particular government or policy elite. Frankel also stated that the national interest conceptual framework is used to explain and analyze a country's foreign policy. Thus, in practice we can understand the goals to be achieved by a country's foreign policy by using national interest theory.

Scott Burchill in his book entitled "The National Interest in International Relations Theory" states that national interest is a state's interests which are based on the strength of that state. Hans J. Morgenthau also has a similar view to Burchill, Morgenthau stated that state behavior in international relations is a way to maintain elements of a state's power to guarantee its sovereignty among other states. Morgenthau classifies national interest into two parts, namely primary national interest and secondary national interest. Primary national interests include the protection of a country's physical, political, cultural identity, security and survival. A country does not hesitate to wage war to achieve vital interests. Meanwhile, secondary interests are interests that are achieved by negotiating with other countries.

Donald E. Nuechterlein also has an argument regarding national interest which states that every country has basic interests that underlie a country to carry out its international relations. In more detail, Nuechterlein classifies national interest into four basic interests, namely:

1. Defense interests: interests that include protecting a country's citizens and its political system from threats from other countries.
2. Economic interest: the interest in improving a country's economy by building cooperation and creating relations with other countries
3. World order interest: the interest of a country to maintain or create a political and economic system that is profitable for its country.
4. Ideologic interest: this interest seeks to protect and defend the ideological values of a country from threats from the ideology of other countries.

This research analyzes the interests of the European Union behind its lawsuit against Indonesia regarding the policy of banning nickel exports through the World Trade Organization using two of the four basic interests according to Nuechterlein, namely world order interest and economic interest. Based on the European Union's Rome Treaty which aims to create a common market among its member countries, it can be seen that the European Union's

national interest is to remove all trade barriers for its member countries. The Treaty of Rome also explicitly emphasizes the ideals of the European nation which are reflected in a policy, namely the European Economic Commission, which states efforts to create a common market among European Union member countries in several ways, such as eliminating import duties for European Union members, eliminating quotas. imports and the elimination of various other trade barriers. Based on this explanation, if classified according to Nuechterlein's view, the European Union's interests behind its lawsuit against Indonesia regarding the nickel export ban policy through the WTO are world basic interests and economic interests. The European Union strives to realize its nation's ideals, namely eliminating trade barriers for its countries in order to realize the economic prosperity of European Union member countries.

In this research, researchers use the National Interest theory as the key to understanding the interests of the European Union behind its lawsuit against its policy of banning Indonesian nickel exports. Even though the European Union is not a country, it is a supra nation union. The member countries in the supra nation union give some authority and sovereignty to the group, in this case the European Union member countries give up their sovereignty to the European Union. Therefore, in this research the national interest theory can still be used to analyze the interests of the European Union behind its lawsuit against Indonesia's nickel export ban policy through the WTO.

1.4. Hypothesis

Based on the analysis of the problem formulation and using the theoretical framework above, a hypothesis can be drawn that the European Union does not agree with Indonesia's policy to discontinue nickel ore exports because it could hamper production in the automotive industry in European Union countries which would have an impact on the European Union economy.

1.5. Purpose of Research

The general aim of this writing is as follows:

- Analyze the basis, the systematics, and the final results of the European Union's lawsuit against Indonesia through the World Trade Organization.
- Analyzing the factors driving the European Union to sue Indonesia through the World Trade Organization regarding the policy of stopping nickel exports.

1.6. Research Methodology

The research method used in this research is a qualitative method that focuses on library research techniques. This method uses data sources obtained from print media such as books, articles, journals, newspapers, and relevant documents. Other data sources are also obtained from Internet media in the form of official websites of institutions and news sites. Documents are important records that can explain a phenomenon completely, legally, and not just based on estimates. Qualitative methods produce data from written words.

1.7. Scope of Research

In this research, the author limits the scope of discussion to several things such as the dynamics of cooperation between the European Union and Indonesia, especially the dynamics of trade in nickel commodities from the initial period of cooperation until shortly before the European Union sued Indonesia regarding the policy of banning nickel ore exports through the WTO, namely in 2020, the basis for the law underlying the European Union's lawsuit against Indonesia and the motive for the European Union's lawsuit against Indonesia's nickel export policy through the World Trade Organization.

1.8. Writing System

The writing systematics used in this research are:

CHAPTER I: This chapter contains several things such as background, problem formulation, theoretical framework, hypothesis, research methods, and systematic writing.

CHAPTER II: This chapter discusses the dynamics of the European Union-Indonesia cooperative relationship regarding nickel and also discusses trade disputes and lawsuits of the European Union against Indonesia through the WTO regarding the nickel export ban policy.

CHAPTER III: This chapter explains the driving factors behind the European Union's lawsuit to Indonesia through the WTO regarding the nickel export ban policy.

CHAPTER IV: This chapter contains the conclusions of all the research that has been carried out.