Legal Consequences Dispute Settlement Body Decision 477-478 Concerning Protection and Empowerment of The Farmers

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ABSTRACT

Agriculture has an important role in providing food for the community. The increasing of open world trade, especially in food products, causes prices of domestic food products to be affected by the situation and conditions of international food prices. To protect farmers, the Law Number 19 of 2013 concerning Protection and Empowerment of Farmers has been enacted. In the implementation of the law, especially Article 30 Paragraph (1), received many complaints from Indonesian trading partners, such as the United States and New Zealand who stated that these rules were inconsistent with the GATT provisions. The research method in writing this journal is a normative juridical approach method. In summary, the conclusions from the results of the first discussion, the protection of farmers in addressing world trade is regulated in Article 30 Paragraph (1) of the article aimed at protecting farmers as food producers from loss of price risk due to uncontrolled import of agricultural commodities. Second, Responding to the DS 477-478 WTO ruling it is necessary to revise Article 30 Paragraph (1) because it is contrary to the principle of quantitative restrictive prohibition. Changes to the article should still be used as an instrument to protect farmers as food producers by harmonizing the provisions contained in the WTO.

Keywords: DSB; WTO; Protection; Empowerment; Farmers

INTRODUCTION

Indonesia is an agrarian-style developing country which the agricultural sector has a very strategic role in the national economy through its contribution to Gross Domestic Product (GDP), foreign exchange earnings, provision of food and industrial raw materials, poverty alleviation, provision of employment and increase in people's income, and preservation through environmentally friendly farming practices. In the form of indirect contribution, the agricultural sector also provides a multiplier effect, namely the interrelationship between input output between industries, consumption, and investment which is also quite large.
However, Indonesia's economic structure is still focused on the agricultural and industrial sectors that process natural products. In the agricultural sector there are three main components which include land, commodities and farmers. The three components are interrelated, so the regulation of each component will have an impact on the regulation of other components and the subjects of development in the agricultural sector that are at the forefront are farmers. Its existence has consequences for efforts to increase the production of agricultural commodities that are important for the survival of society, industry, and the country, so that the regulation of farmers will protect all important components in the agricultural sector.

An increasingly open world trade system, especially in food products, has caused domestic prices for food products to be affected by the situation and conditions of international food prices. These conditions and various problems in the availability and distribution system, caused the prices of food products, especially strategic foods such as rice, soybeans, beef, chili and shallots to fluctuate. Most of the trade in food products is still distorted, not much touched by the commitment to trade liberalization. Market distortion does not only occur in the domestic market, but also in the international market. By taking into account the high distortions of the domestic and international markets, several government policies on food products including food import policies are based on the idea of providing healthy competition for national food products.

The efforts in protecting and empowering Indonesian farmers are enacted by Law Number 19 of 2013 concerning the Protection and Empowerment of Farmers as a basis for implementing the protection and empowerment of farmers, with the aim of realizing the sovereignty and independence of farmers in order to improve the level of welfare, quality, and a better life; protect farmers from price risk; increase the ability and capacity of productive, advanced, modern, value-added, competitive, has a market share and is sustainable.

Farmers as agents of agricultural development need to be given protection and empowerment to support the fulfillment of food needs which are the basic rights of everyone in order to realize food sovereignty, food independence, and food security in a sustainable manner. Various efforts have been made to protect farmers, planters, and small scale business farmers, one of which is through the regulation of agricultural commodity imports in accordance with the harvest season and/or domestic consumption needs.

In the implementation, the Law on Farmer Protection and Empowerment Article 30 Paragraph (1) receives many complaints from Indonesian trading partners, such as United States and New Zealand who stated that the regulation is inconsistent with the provisions of the GATT. In this regard, the United States and New Zealand filed a lawsuit
to the Appelatte Body regarding the provisions of Article 30 of the Farmers Protection and Empowerment Act, considering that these provisions are to hinder international trade in agricultural commodities in Case Number WT / DS477 / AB / R and WT / DS478 / AB / R.

The Appelatte Body took the panel decision No. WT / DS477 / AB / R and WT / DS478 / AB / R dated 22 November 2017 stating that Indonesia must make adjustments to 18 measures which, among others, recommend changes to the substance of Article 30 Paragraph (1) of the Law Farmers' Protection and Empowerment which is considered to be in conflict with the provisions of the GATT 1994 specifically related to the Requirements where the import of horticultural products, animals and animal products depends on Indonesia’s determination of the adequacy of domestic supply and fulfillment of domestic demand (Measure 18). Based on the background outlined above, the problems that will be described by the author are as follows: How is the farmer protection regulation in Indonesia according to Law Number 19 of 2013 concerning Farmer Protection and Empowerment in an increasingly open world trade system? How is the government should react towards The WTO decision DS477-478 against Law number 19 of 2013 concerning the protection and Empowerment of Farmers?

RESEARCH METHODE

This research uses a normative approach as research methode, which tries to see the validity of the law based on aspects of its formation in a formal juridical manner.¹ This legal research will utilize the legal literature as a primary legal material to try to remain consistent in making legal scientific work as an outcome of this method. The limitations of this kind of written study are expected to be able to add legal references so that solutions to legal problems in the future can be formed in a holistic study.

DISCUSSION

A. The Farmers Protection Regulation under Law No. 19 of 2013 on the Protection and Empowerment of The Farmers in an Openly World Trade System

The agricultural development is directed to improve the welfare of farmers as the main actors in agricultural development. To realize such goal, farmers have the right and freedom to determine the choice of commodity and farming. In addition, the Government, regional government, community and private sector must strive to increase the capacity of farmers to become independent and sovereign farmers.

The protection and empowerment of farmers is part of the efforts to protect the entire Indonesian nation, promote public welfare, and educate the nation’s life

which supports the achievement of national development goals. One problem that is still faced by Indonesia today is the high number of poor farmers who need support from the government. The BPS survey in 2016 stated that of the total 27.76 million poor people in Indonesia, 62.24% or 17.28 million people were in rural areas while the remaining 37.76% or 10.49 million poor people were in urban areas.

An increasingly open world trade system, particularly in food products, has caused domestic prices for food products to be affected by the situation and conditions of international food prices. These conditions and various problems in the availability and distribution system, caused the prices of food products, especially strategic foods such as rice, soybeans, beef, chili and shallots to fluctuate. Most of the trade in food products is still distorted, not much touched by the commitment to trade liberalization. Market distortion does not only occur in the domestic market, but also in the international market. By taking into account the high distortions of the domestic and international markets, several government policies on food products including food import policies are based on the idea of providing healthy competition for national food products.

In other words, the foundation of import policy becomes the government's duty to correct market failures so that national food products can also compete fairly. Indonesia as an agricultural country produces a variety of strategic food products, even for certain products it has a surplus. In order for food production to be sustainable, and community food needs to be met, the government must protect the community and farmers from price fluctuations, such as prices falling during the main harvest, and prices soaring when outside harvest time.

In order to provide support for the independence and sovereignty of farmers, especially through ensuring the stability of agricultural commodity prices, it is necessary to develop a policy that can accommodate national interests in providing protection to farmers to achieve food security, increase income, and welfare of farmers, meet the interests of consumers and create stability national economy. Meanwhile, the level of welfare of small farmers in developing countries is increasingly marginalized due to the high level of volatility in the price of global agricultural products as a result of market openness.

Import is the last option made by the government as an effort to meet national food needs. The import mechanism is carried out by issuing import policies regulated by the Government through the Ministry of Trade and / or other relevant technical ministries. Some policies are issued in the form of laws and regulations.

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aimed at achieving food security, increasing farmers’ income and welfare, community interests and creating national economic stability.

One form of protection for farmers for the sustainability of farming is regulated in Article 30 Paragraph (1) of the Law on Farmer Protection and Empowerment.

"Everyone is prohibited from importing Agricultural Commodities when the availability of domestic Agricultural Commodities is sufficient to meet Government consumption needs and / or food reserves."

The substance of this article is that there are norms that are prosecuted by article 101 containing criminal penalties for those who violate them

"Every person who imports Agricultural Commodities when the availability of Agricultural Commodities in the country is sufficient to meet the needs of consumption and / or Government food reserves as referred to in Article 30 paragraph (1) shall be sentenced to a maximum of 2 (two) years imprisonment and a maximum fine of Rp 2,000,000.000.00 (two billion rupiah)."

The purpose of the formulation and regulation of this article is to protect farmers as food producers from price risk losses due to uncontrolled imports of agricultural commodities. This article is expected to become an instrument of controlling imports of agricultural commodities to protect and provide opportunities for farmers to enjoy the harvest from the massive foreign competition.

B. The Government actions that must be taken in relation to the WTO decision DS 477-478 against Law number 19 of 2013 concerning the protection and Empowerment of Farmers.
c. Improve human living standards.

d. Increase employment.

e. Develop a multilateral trade system, not one side of a particular country, which will implement an open trade policy that is beneficial for countries.

f. Increasing the use of world resources and increasing products and buying and selling goods.\(^3\)

After the negotiations in Geneva there were several rounds of negotiations held in various countries with the addition of several countries which resulted in several new tariff and non-tariff agreements. In 1988 in Montreal, Canada, a drip-level meeting known as the Mid-Term Ministerial Meeting was held to review some of the points that had been achieved in the previous negotiations. At the trial progress was made in 11 fields except agriculture. In this period, Indonesia began to play an active role in the Uruguay Round.

In April 1989 there were negotiations aimed at resuming the discussion of agricultural issues that were deadlocked in the previous negotiations. Negotiations continued in Brussels in 1990 but no agreement was reached because the United States and the European Union as the main countries refused to ratify their fields of agriculture.

The Directorate General of GATT was always the chair of the Trade Negotiations Committee (TNC) at the level of high-level officials in December 1991 having submitted the Draft Final Act (DFA) as the final result of the Uruguay Round. On January 1992, TNC convened to accommodate the reaction of participating countries and determine the next steps in the negotiations. Participating countries expressed difficulties in implementing DFA in various fields including the obligation to eliminate agricultural subsidies and protection systems for several types of commodities. In the negotiations that took place in Geneva, discussions were held including; tariffs and non-tariffs, trade in services, intellectual property rights (copyright), textile commodities, and agriculture. During this period it was agreed to establish a framework for the World Trade Organization (WTO) which was a continuation of GATT. On December 14, 1993, Indonesia had stated its commitment to gradually opening market access to the telecommunications, industry, sea transportation, tourism and financial services sectors.

On April 15, 1994 in Marrakech an agreement was reached on the outcome of negotiations from the Uruguay Round as a package signed by the

participating countries which later gave birth to the WTO. While in the same year, Indonesia completed the ratification procedure with the DPR in October 1994. So that Indonesia is ready to enforce the treaty obligations in accordance with the provisions of the agreement, among others, protection of intellectual property rights, trade in services, tourism, telecommunications and several other sectors.

In accordance with the results of the agreement from the Uruguay Round, then on January 1, 1995 in Geneva, Switzerland, the WTO was officially established with a membership of 146 countries including Indonesia. Based on the results of the Uruguay Round agreement, there are several things that are new issues, including; trade in services, intellectual property rights, and trade-related investment measures (TRIMs). Some things that concern Indonesia as a logical consequence of its participation in the WTO include; tariff issues, market access, textile commodities, agricultural products, regulation and dispute resolution, intellectual property rights, services and investment.

One of the agreements that must be obeyed and implemented by Indonesia is the Agreement on Agriculture (AoA) which is part of the WTO expansion on issues outside traditional trade. By placing agricultural agreements in the WTO, the WTO naturally now has a primary role as a controller and determinant of the agricultural sector in its member countries.\(^4\)

With this AoA, the WTO requires its members to: (1) open their domestic markets for entry of agricultural commodities from outside, and vice versa (referred to as market access); (2) reducing support and subsidies to farmers (referred to as domestic support); and (3) reducing support and subsidies for farmers to export (referred to as competition competition). These three problems are taken care of by AoA.\(^5\)

1. **Indonesia’s involvement in the WTO**

Indonesia as part of the international community declares itself to carry out world order based on independence, eternal peace and social justice in accordance with the fourth paragraph of the Preamble of the 1945 Constitution. Indonesia became a member of the WTO through the ratification of the WTO Formation Agreement through Law Number 7 of 1994 concerning Ratification of the Agreement on Establishing the World Trade Organization. This has the

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\(^5\) WWF, "Agriculture In The Uruguay Round: Implications For Sustainable Development In Developing Countries", didalam Third World resurgence No. 100/101 dec. 98/jan.99, The WTO, Agriculture and Food Security, pp. 34-35
consequence that Indonesia must comply with the WTO forum agreement in order to form an orderly and fair free trade.

The ratification of an agreement has both external and internal legal consequences for the country that did it. The consequence of external law is that through these actions means the country concerned has accepted all obligations imposed. While the consequences of internal law is an obligation for the country concerned to change its national law to comply with the provisions of the relevant international agreement. So by ratifying the agreement, the rules in Indonesia must adjust to the WTO rules.

International treaties are one of the references for countries or other international law subjects to solve various problems that occur in international relations in addition to international customs, general legal principles, and jurisprudence. International treaties are agreements that are held between members of the community of nations and aim to make certain laws come into force. International agreements are based on the principle of Pacta sunt servanda which is paired with the principle of good faith. This international agreement raises obligations for the parties in it.7

The form of action that states a country is bound by international treaties, namely:

a. Signature

The consent of the State to be bound by the agreement is stated by the representative’s signature if:8

1) The agreement states that the signature will have the effect of binding the agreement.
2) If not specified, the country involved in the negotiation agrees that the signature must have the effect of binding on the state in international treaties.
3) The signature effect arises from the full power of its representative.

b. Exchange of instruments constituting a treaty

The agreement of a country to be bound by an agreement is based on the instrument being exchanged if the instrument stipulates that the exchange will have the effect of binding international agreements or if the countries agree that the exchange of instruments is stated as a condition of binding international agreements.

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Exchange of Instruments is defined as the exchange of documents of agreements or diplomatic notes signed by ambassadors or diplomats, and also by the head of state or head of government. The existence of an exchange of this treaty document can be in addition to another international agreement. Countries do this if their existence is agreed or stated to be done as a form of agreement that can be valid. Usually done in a bilateral agreement.

c. Ratification, acceptance or approval

Approval to be bound by an agreement that is disclosed by ratification, acceptance or approval. Approval from the state to be bound by the agreement stated with ratification if:

1) The agreement itself determines this.
2) The negotiating country agrees that the agreement must be ratified.
3) Representatives from the State have signed an agreement on the subject of ratification.
4) The intention of the State to sign an agreement subject to ratification arises from the full power of its representatives or is disclosed during negotiations.

The Approval from a State to be bound by an agreement is stated by acceptance or approval under conditions similar to those applicable to ratification. The "entry into force" of an international agreements is started after all countries involved in the process of making agreements and have entered into international agreements in the form of signing by the representatives of the designated countries, then if determined by the agreement itself when the clause The last thing that must be fulfilled before the agreement is declared effective is the process of submitting the ratification to the agency / institution appointed to receive the results of the ratification. If all the conditions required have been fulfilled then since then the international agreement is declared valid.

Ratification is the ratification of an international treaty by the country that signed the agreement, in accordance with the provisions of the laws of the country concerned. The Government of Indonesia has committed itself to international agreements in the following ways:

1) Signing;

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11 UU Nomor 24 Tahun 2000 tentang Perjanjian Internasional (Lembaran Negara Republik Indonesia Tahun 2000 Nomor 185, Tambahan Lembaran Negara Republik Indonesia Nomor 4012).
2) Ratification;
3) Exchange of diplomatic agreement / memorandum documents;
4) Other ways as agreed by the parties in international treaties, for example simplified procedure, which is the automatic attachment to international treaties if in a certain period does not submit written notification to refuse its attachment to an international agreement.

Indonesia's participation in the WTO must also comply with internationally applicable principles, namely:

a. **Pacta sunt servanda Principle**

   This principle becomes the basis of International Law because it is contained in Article 26 of the 1969 Vienna Convention on the Laws of Treaties which states that "every treaty in force is binding upon parties to it and must be performed by them in good faith".

   Basically this principle relates to contracts or agreements made between individuals, which implies that: Agreement is the law for the parties who made it. Indicating that breaking the obligations in the agreement is an act of violating a promise or default.\(^\text{12}\)

   Hans Kelsen even concludes that international treaties are also law creating fact, as is international custom. Law creating fact means that an agreement gives rise to rights and obligations, or in other words the agreement has binding power. The existence of the binding power of the agreement is caused by a customary international law that is incarnated in the formula of *pacta sunt servanda*. Thus as a basis for binding both customary international law and conventional international law (international law based on treaties) is placed on the basic norm (grundnorm) in the form of *pacta sunt servanda*.\(^\text{13}\)

   In the opinion of Aziz T. Saliba, the principle of *Pacta sunt servanda* is the sacralization of a contract (sanctity of contracts). The focal point of treaty law is freedom of contract or what is known as the principle of autonomy, which means that by observing the proper legal boundaries people can enter into any agreement as they wish, and if they have decided to make an agreement, they are bound by the agreement.\(^\text{14}\)

   Law Number 24 of 2000 concerning International Treaties Article 4 paragraph (1) states that the Government of the Republic of Indonesia

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\(^\text{12}\) Purwanto, Harry, *Loc.Cit.* p.166
\(^\text{14}\) *Ibid*, p. 162.
makes international agreements with one or more countries, international organizations, or other international legal subjects based on agreements; and the parties are obliged to implement the agreement in good faith.

Thus, the existence of the principle of *pacta sunt servanda* has long been known in the community, including the international community and then supported by the opinion of several leading experts has become the basis for strengthening the existence of the principle. Today this principle has become part of positive law, both at the Indonesian national level and at the international level.

The acceptance, existence and use of the *pacta sunt servanda* principle is the beginning of an agreement including an international treaty. This means that the existence and acceptance of the principle of *pacta sunt servanda* is used as a basis for the operation or entry into force of international agreements. Because by adhering to the principle of *pacta sunt servanda*, the parties to an international agreement have promised to respect or carry out what has been agreed or promised. Without the ability to carry out what has been promised, the agreement will not be able to operate or apply as it should.

b. **The Principle of rebus sic stantibus In Convention of Wina 1969**

This principle was first used by religious courts which at that time adhered to the separation of church affairs from government affairs. Then in XIII, this principle was widely accepted. The opinions of the experts also helped to develop and enforce this principle. Macchiaveli at that time stated "everything depends on circumstances that happen to be valid at a time faced by state authorities". This illustrates the meaning contained in the principle of *rebus sic stantibus*.

Alberico Gentili states that "the most important of the principles of the treaty law is the argument that the agreement (peace) always contains the principle of being concluded, namely that the treaty is only binding as long as the conditions do not change". It also appears that what Alberico refers to as 'knotted' here is the *rebus sic stantibus* principle.

Provisions on *rebus sic stantibus* were formulated in Article 27 of the 1969 Vienna Convention, viz: "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46."

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Article 46 of the 1969 Vienna Convention states that:
“A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.”

Indonesia itself has also adopted this principle, for example in Law Number 24 of 2000 concerning International Treaties. This can be seen from the formulation of Article 18 letter viz: “International agreements end if there are fundamental changes that affect the implementation of the agreement.” With the formulation of an article like this, it is clear that Indonesia adheres to the principle of boiled sic stantibus in terminating international agreements.

From the formulation above, it is clear that the principle of boiled sic stantibus referred to in the 1969 Vienna Convention is a provision that the parties to the treaty cannot make their national law a justification for not making provisions in international treaties, even if there is state authority to close an international agreement because deeply violated his important national law. In Article 46 paragraph (2) of the 1969 Vienna Convention it is determined that this authority arises only if the violation of the national law of the country concerned by an international treaty that binds it can be seen objectively related to normal practice and good faith.

2. Trading Dispute DS 477-478
The United States (USA) and New Zealand conducted consultations related to the Indonesian government policy on importation of horticultural products, animals and animal products. Then the USA and New Zealand sued the import policy implemented by the Indonesian government and assessed Indonesia:16
   a. applying quantitative restrictions or restrictions on the import of horticultural products, animals and animal products;
   b. implement restrictive, non-transparent, non-automatic import licensing, without clear and burdensome justification;
   c. less favorable treatment of imported products compared to similar domestic products; and

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d. apply discriminatory and unreasonable pre-shipment inspection requirements; Indonesia is considered not to make sufficient explanation of the import permit policy information.

The WTO panel of judges decided that the 18 policies (measures) implemented by the Government of Indonesia were deemed inconsistent with the WTO rules in force for one of the Regulations in Indonesia that were declared inconsistent with the WTO rules. Article 30 Paragraph (1) of Law Number 19 of 2013 concerning Farmer Protection and Empowerment. The results of the WTO Dispute Settlement Body (DSB) lawsuit in the USA and New Zealand trade disputes DS-477 / DS-478 are listed in 18 measures:

a. Import licencing regime for horticultural products (measure 1 – 9)

b. Import licencing regime for animals and animal products (measure 10 – 17)

c. Sufficiency requirement (measure 18): sufficiency of domestic production to fulfill domestic demand.

The Indonesian government seeks an appeal process, but in the Appelatte Body (AB) Judge circulates its decision to accept and strengthen the Panel Judge's decision, namely to decide that the Indonesian government's import policy is not consistent with the prevailing WTO rules. This AB decision for DS 477 / DS 478, which was accepted and adopted at the DSB Regular Session on November 22, 2017, is final and binding on all parties to the dispute.17

The Government of Indonesia is given a Reasonable Period Time (RPT) in accordance with Article 21.4 Dispute Settlement Understanding (DSU),18 which is generally 15 months unless the parties agree otherwise.19 The RPT is a grass period given by WTO member countries. If Indonesia continues to implement policies that are not in accordance with the WTO to make adjustments within this period, Indonesia will face the consequences of retaliation. In the case of Number WT / DS477 / AB / R and WT / DS478 / AB / R, Indonesia is given time to settle no later than June 22, 2019.

If Indonesia does not implement the overall harmonization of laws and regulations in accordance with the Appellate Body recommendations from WTO Number WT / DS477 / AB / R and WT / DS478 / AB / R on November 12, 2017, then 20 days after the RPT phase II (12) time limit has expired July 2019.

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17Erwidodo (2017), ibid. p. 129.
19Ibid. p. 62.
Indonesia, the United States and New Zealand have not agreed on compensation, so the United States requested permission from DSB to impose trade sanctions on Indonesia, namely demands for compensation payments of USD 350 million / year, because they were deemed to have failed to make adjustments. This is technically called "suspending concessions or other obligations under the cover-ing agreement" (Article 2.2 DSU).

3. Indonesian Government Actions

The state efforts to provide legal protection to farmers from the large number of imported agricultural products from abroad through Article 30 Paragraph (1) of Law Number 19 of 2013 concerning Protection and Empowerment of Farmers with the formulation of article:

"Everyone is prohibited from importing Agricultural Commodities when the availability of domestic Agricultural Commodities is sufficient to meet the Government's consumption needs and / or food reserves."

The substance of the article contains a policy of self sufficiency, that is, imports can be carried out on condition that domestic production does not meet national needs. Restrictions or prohibitions on imports are inconsistent with Indonesia's commitment to the WTO to eliminate all forms of quantitative restrictions.

This is contrary to the Principle of Prohibition of Restrictions / Quantitative Restrictions when the GATT was made, so the most important non-tariff barriers at the time were non-tariff barriers through quantitative barriers or quotas so there was a lot of attention on this issue. Quotas or restrictions on a number of goods are certain physical quantities that may be imported or exported during a predetermined period of time, usually determined based on the amount but sometimes based on the value of the item. The basic provisions of the GATT are the prohibition of quantitative restrictions on export imports in any form, for example the imposition of import or export quotas, restrictions on the use of import or export licenses, supervision of payment of imported or export products. Generally prohibited in Article IX GATT.

Decisions of the Appelatte Body WT / DS477 / AB / R and WT / DS478 / AB / R signed by the Presiding Member (Mr. Ujal Singh Bhatia), Member (Mr. Thomas Graham), Member (Mr. Ricardo Ramirez-Hernandez), recommends:

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20 Ibid, p. 64.
“6.9. The Appellate Body recommends that the DSB request Indonesia to bring its measures, found in this Report, and in the Panel Report as modified by this Report, to be inconsistent with the GATT 1994, into conformity with its obligations under that Agreement.”

To realize an active foreign policy based on the 1945 Constitution of the Republic of Indonesia carried out by participating in international relations, among others by being actively involved in international agreements. The government needs to follow up by submitting an amendment to Article 30 Paragraph (1) of Law Number 19 Year 2013 concerning the Protection and Empowerment of Farmers by harmonizing with the provisions of international agreements. This is a consequence of Indonesia as part of the international community which is binding itself on the WTO through the ratification of several international trade agreements, especially in agriculture.

Changes to the substance of the article should still be used as an instrument to provide legal protection to farmers as the main producers of food in the country by harmonizing the provisions contained in the WTO. As is the case with trade remedies for WTO members in the form of safeguards (Safeguards).

In general, the definition of trade remedies refers to government actions or policies to minimize the negative impact of imports on the domestic industry. This trade remedy is needed considering that imports, whether conducted unfairly (unfair trade) or honestly (fair trade) are not infrequently detrimental to the domestic industry. Dishonest imports that harm domestic industries are imports of foreign products at dumping prices, ie prices below normal prices, and imports of subsidized foreign products. Whereas imports that are carried out honestly but which can harm domestic industries are imports that have surged rapidly and unnaturally.22

The provisions of the WTO also gives freedom to its member to harmonize the law regarding remedial provisions in any form as long as it is in accordance with the rules in article X GATT 1994. These conditions are as follows: First, legal harmonization can be done through legislation, regulations, court decisions and administrative procedures. Second, there is an obligation to immediately publish instruments of harmonization so that they are immediately known by the governments of WTO member countries and traders. Third, before being published, the instrument may not be applied. Fourth, in

administering harmonization instruments must be done fairly, uniformly, and not discriminatory.23

CONCLUSION

Legal protection for farmers to respond to an increasingly open world trade system in the form of positivation of norms as outlined in a statutory regulation is needed in Indonesia, because the majority of Indonesian farmers are small farmers. The formulation of these rules must be in line with the provisions of international trade agreements, as a consequence of Indonesia as part of the international community which has declared an active participation in carrying out world order and must abide by the principles of international treaties.

A. Regulation on the protection of farmers in Indonesia according to Law Number 19 of 2013 concerning Protection and Empowerment of Farmers in an increasingly open world trade system is formulated in Article 30 Paragraph (1) and Article 101 of this article aimed at protecting farmers as food producers from risk losses prices due to uncontrolled imports of agricultural commodities.

B. The actions that must be taken by the government in relation to WTO DS 477-478's decision on Law number 19 of 2013 concerning the protection and Empowerment of Farmers revise (amend) the substance of Article 30 Paragraph (1) because the content of the article is contrary to the principle of quantitative restrictions that are applies to WTO provisions. The revision to the substance of the article should still be used as an instrument to provide legal protection to farmers as the main producers of food in the country by harmonizing the provisions contained in the WTO. Adjustment to Article 101 as a consequence of amending Article 30 Paragraph (1).

SUGGESTION

The formulation of a safeguard policy for farmers as food producers from dishonest behavior in international trade is better set forth in the form of regulations under the law because in the form of laws when it is decided by the WTO to be changed in the stages of change requires a lengthy procedure requires mutual agreement between the Government and the House of Representatives so that it is not effective. If the rules are realized in the form of government regulations, presidential regulations or ministerial regulations when getting complaints from international trading partners, the change process is easier to implement.

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