

The Implementation of Criminal Sanctions Against Police Officers Involved in Narcotics Abuse Within the Jurisdiction of Sleman City Police

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HIGHLIGHTS

- Contributing Factors to Narcotics Abuse Among Police Officers
- Implementation of Criminal and Ethical Sanctions Against Offending Officers
- The Need for Reform in Internal Oversight and Rehabilitation Systems

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ABSTRACT

This study aims to determine and analyze the factors that cause Police Officers to abuse Narcotics in the Sleman Police area and to determine the criminal sanctions for Police Officers who abuse Narcotics in the Sleman Police area. The type of research uses a type of empirical juridical research. The approach to a study uses a socio-legal research approach. Data sources in the study were obtained with Primary Legal Materials, Secondary Legal Materials, Tertiary Legal Materials. In this study, the technique used in data collection was to conduct direct interviews with informants. Data analysis used qualitative analysis. The results of the study showed that the factors that caused Police Officers to use Narcotics were: Family factors that caused depression, Economic factors, lack of economic needs, Home environment or friends who were accustomed to consuming narcotics, Weak supervision by superiors, and Low sanctions. The application of criminal penalties for members of the Indonesian National Police who abuse narcotics is by carrying out general criminal penalties first with a detention period depending on the judge's decision, after the general criminal penalties have been completed, the member of the Indonesian National Police will be given an ethics trial to determine whether or not he/she is fit to be a member of the police again. Then, if the ethics trial states that the member of the Indonesian National Police is no longer fit to be a member of the police, a Dishonorable Dismissal (PTDH) ceremony will be carried out.

A. INTRODUCTION

Indonesia, as the country with the largest nickel reserves in the world, holds a strategic position in the global mining industry. The nickel industry in Indonesia has experienced rapid growth, driven by increasing demand from both international and domestic markets.¹ Nickel has emerged as an increasingly valuable mineral in recent years, particularly with the rapid advancement of the Electric Vehicle (EV) industry. Consequently, nickel – being a primary raw material in the production of stainless steel and electric vehicle batteries – has become a highly sought-after commodity in the global market.²

Given the strategic importance of this natural resource, the Indonesian government has implemented policies aimed at managing and utilizing nickel more effectively, one of which is the ban on the export of unprocessed nickel ore. This policy was initially introduced in 2009 with the enactment of the Law on Mineral and Coal Mining (UU Minerba), which mandates that nickel ore must be processed domestically prior to export.³ This requirement was further reinforced through the issuance of the Minister of Energy and Mineral Resources (ESDM) Regulation No. 11 of 2019.⁴ The export ban on unprocessed nickel ore was tightened even further in 2020 with the issuance of a regulation prohibiting the export of raw nickel ore with a grade below 1.7%. This policy aims to optimize domestic nickel downstreaming, support the development of downstream industries, and enhance the added value of this commodity. As part of the downstreaming strategy, the government has also encouraged

¹ Botutihe, Alya N. & Paksi, Arie K. (2024). Dampak Strategi Investasi Nikel Indonesia terhadap Pertumbuhan Ekonomi di Dalam Negeri. *Iltizam Journal of Shariah Economic Research*. Volume 08, No. 02, p. 178-192.

² Widiyanti, J. & Saputra, P. M. A. (2023). Analisis Daya Saing dan Determinan Produk Olahan Nikel Indonesia. *Journal of Development Economic and Social Studies*. Volume 02, No. 3, p. 608-619.

³ Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara

⁴ Indonesia's Minister of Energy and Mineral Resources Regulation Number 11 of 2019 concerning the Second Amendment to Minister of Energy and Mineral Resources Regulation Number 25 of 2018 on the Management of Mineral and Coal Mining Activities.

the development of the electric vehicle battery industry, which relies heavily on nickel as a key component in battery production.⁵

According to a report by the Ministry of Energy and Mineral Resources (ESDM) of the Republic of Indonesia, the country currently possesses nickel reserves amounting to 689 million tons. However, an estimated 2.8 billion tons of nickel remain inaccessible due to constraints such as limited access, environmental permitting, and price uncertainty—factors that hinder their certification and verification. In light of these underutilized abundant reserves, the Indonesian government has adopted anticipatory measures, including the implementation of a ban on the export of nickel ore. This policy is intended to ensure sufficient nickel reserves to support the long-term sustainability of domestic smelting industries.⁶

The government considers this measure a form of protectionist policy aimed at enhancing the added value of nickel-based products and safeguarding Indonesia's finite natural resources.⁷ This approach echoes the rationale presented by Alexander Hamilton in his Reports of Manufactures (1791), where he argued that restricting access to foreign products is necessary to foster the development of domestic industries. Friedrich List later expanded on this idea, emphasizing that protecting domestic sectors is essential for national economic growth.⁸

Nevertheless, the policy has not been without controversy. Indonesia's export ban on nickel has had significant repercussions on the European

⁵ Jason, F., Shahrullah, R. S., & Syarief, E. (2024). Implikasi Putusan World Trade Organization terhadap Larangan Ekspor Nikel Indonesia oleh Uni Eropa. *Jurnal Supremasi*, 131-149.

⁶ Kementerian Energi dan Sumber Daya Mineral Republik Indonesia. (2024). Bijih Nikel Tidak Boleh Diekspor Lagi per Januari 2020. Accessed on December 10, 2024. <https://www.esdm.go.id/id/media-center/arsip-berita/bijih-nikel-tidak-boleh-diekspor-lagi-per-januari-2020> Siaran Pers Nomor 549.Pers/04/SJI/2019.

⁷ Farhani, A. & Chandranegara, I. S. (2019). Penguasaan Negara terhadap Pemanfaatan Sumber Daya Alam Ruang Angkasa Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. *Jurnal Konstitusi*, 16(2), p. 235-254.

⁸ List, F. (1909). *The National System Of Political Economy*. Longmans, Green, and CO.

Union's industrial sector, which relies heavily on nickel ore imports and serves as one of the primary stakeholders in the global nickel market.⁹ The restriction has strained trade relations between Indonesia and the EU, as it disrupts the supply chain of raw materials critical to Europe's metal processing industry. In response, the European Union filed a formal complaint through the Dispute Settlement Body (DSB) of the World Trade Organization (WTO)¹⁰, arguing that Indonesia's export ban contravenes international trade regulations to which the country is bound.

The European Union contends that Indonesia's protectionist policy could trigger a global surge in nickel prices, posing a risk to the EU's steel industry, which depends on raw nickel imports from Indonesia. As the world's second-largest nickel reserve holder, Indonesia plays a pivotal role in the global nickel supply chain.¹¹ Consequently, the EU challenged the export ban at the WTO, asserting that it restricts access to essential raw materials for their steel industry. The complaint is grounded in the provisions of the General Agreement on Tariffs and Trade (GATT) 1994, particularly Article XI(1), which prohibits member states from imposing export or import restrictions through quotas, bans, or other measures apart from duties, taxes, or other charges.¹²

The EU further claims that Indonesia's export restriction violates the principle of free trade, a cornerstone of the WTO system, including the National Treatment principle, which demands equal treatment for all trading partners and seeks to eliminate discrimination against imported or exported

⁹ Ramadhana, M. Alwan. (2024). Gugatan Uni Eropa Terhadap Pembatasan Ekspor Nikel Indonesia. *Doktrin: Jurnal Dunia Ilmu Hukum Dan Politik* 2, no. 2. p. 187, <https://doi.org/10.59581/doktrin.v2i2.2608>.

¹⁰ World Trade Organization. Indonesia: (2024). Measures Relating to Raw Materials. https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds592_e.htm. Accessed on December 10, 2024.

¹¹ Santoso, R. B., Moenardy, D. F., Muttaqin, R., & Saputera, D. (2023). Pilihan Rasional Indonesia dalam Kebijakan Larangan Ekspor Bijih Nikel. *Indonesian Perspective*, 8(1). p. 154-179.

¹² General Agreement on Tariffs and Trade (GATT) 1994

products. The EU maintains that Indonesia's policy obstructs access to key raw materials for its industries and contradicts the international trade commitments it has undertaken.¹³ Furthermore, the export ban on nickel presents a dilemma between a state's sovereign right to manage its natural resources and its obligations to comply with international trade norms. The policy aims to promote downstream industrialization in the nickel sector, thereby increasing economic value and national industrial resilience. However, on the other hand, it faces legal challenges from the EU through the WTO, which views the export restriction as a breach of free trade principles.

B. RESEARCH METHODS

This research adopts a normative approach and utilizes a literature review method to analyze Indonesia's nickel export ban policy from the perspectives of national law and international trade law. The data sources include primary legal materials, such as Law No. 4 of 2009 on Mineral and Coal Mining (UU Minerba), Minister of Energy and Mineral Resources Regulation No. 11 of 2019, as well as international trade agreements, including the General Agreement on Tariffs and Trade (GATT) 1994, the Agreement on Subsidies and Countervailing Measures (SCM Agreement), and the Comprehensive Economic Partnership Agreement (CEPA). Furthermore, the study refers to the WTO ruling in dispute case DS592 (European Union v. Indonesia) as part of the legal analysis within the international trade framework. The analysis compares Indonesia's nickel downstreaming policy with global trade regulations and evaluates its impact on the domestic economy and international relations. This study aims to assess the policy's consistency with international trade law, examine the implications of the WTO ruling for Indonesia, and explore the challenges and

¹³ Putra, G. R. J. M., & Geovanie, D. G. (2024). ANALISIS YURIDIS GUGATAN UNI EROPA KE WORLD TRADE ORGANIZATION TERHADAP INDONESIA AKIBAT REGULASI DAN KEBIJAKAN PEMBATAHAN EKSPOR BIJIH NIKEL. SETARA: Jurnal Ilmu Hukum, 5(1), p. 1-15.

policy options available to reconcile national interests with commitments to global trade norms.

C. RESULTS AND DISCUSSION

The Ban on Raw Nickel Ore Exports in Indonesia

As a sovereign nation with full authority over its natural resources, Indonesia holds the right to control its mineral wealth, including nickel, as part of its broader natural resource management framework.¹⁴ The ban on the export of unprocessed minerals, particularly nickel, was first implemented on January 12, 2009 as part of the government's initiative to regulate the mining industry. This policy was introduced in conjunction with the enactment of Law No. 4 of 2009 on Mineral and Coal Mining (UU Minerba). Article 103 paragraph (1) of the Indonesian Mining Law stipulates that holders of Mining Business Licenses (IUP) and Special Mining Business Licenses (IUPK) for production operations are required to conduct mineral processing and refining activities within the country. In 2020, the government reinforced this policy through Minister of Energy and Mineral Resources Regulation No. 11 of 2019 a second revision of Ministerial Regulation No. 25 of 2018 concerning Mineral and Coal Mining Business Activities—by prohibiting the export of raw nickel ore with a grade below 1.7% starting in January 2020. The policy aims to ensure the availability of nickel reserves and to sustain the supply of raw materials for operational processing facilities, thereby enabling the domestic implementation of industrial downstreaming.¹⁵

On June 8, 2022, during the Ceremony for the Implementation of the Second Phase of the Integrated Electric Battery Industry at the Batang

¹⁴ Barkatullah, A.H. (2019). Buku Ajar Hukum Pertambangan 'Sub Sistem Hukum Sumber Daya Alam. Bandung: Nusa Media

¹⁵ Jason, F., Shahrullah, R. S., & Syarief, E. (2024). Implikasi Putusan World Trade Organization terhadap Larangan Ekspor Nikel Indonesia oleh Uni Eropa. Jurnal Supremasi, p. 131-149.

Integrated Industrial Estate (KIT Batang), President Joko Widodo explained that the nickel export ban was intended to establish Indonesia as a leading producer of nickel-based products, given its status as the country with the largest nickel reserves in the world. President Jokowi emphasized that this policy represents a long-standing ambition of the government to fully leverage the potential of nickel and to position Indonesia as a primary source of value-added nickel products globally.¹⁶ Following this, the Director General of Mineral and Coal at the Ministry of Energy and Mineral Resources, Bambang Gatot, stated that one of the government's primary considerations for imposing the export ban is the declining availability of nickel reserves. He noted that while Indonesia's mineable nickel reserves are estimated at nearly 700 million tons, further exploration is still required to verify and optimize their extraction. Therefore, the government must take into account the long-term sustainability of these reserves if export permits continue to be granted. In addition, this policy aligns with the government's broader agenda to develop the EV industry. Nickel plays a critical role in the battery manufacturing sector, especially as low-grade nickel can be processed into cobalt and lithium—key components in the production of electric vehicle batteries.¹⁷

Global Response to Indonesia's Nickel Export Policy

The European Union (EU) and Indonesia share a longstanding and robust relationship, underscored by Indonesia's status as the fourth most populous country in the world and its growing economic strength. According to the International Monetary Fund (IMF), Indonesia ranked seventh among the top ten countries with the highest gross domestic product (GDP) per capita in 2024, with a total GDP reaching USD 4.98

¹⁶ Fadhillah, I. (2022). Jokowi beberkan alasan pelarangan ekspor nikel, bauksit menyusul. <https://finance.detik.com/energi/d-6116393/jokowi-beberkan-alasan-pelarangan-ekspor-nikel-bauksit-menyusul>. Accessed on January 30, 2025.

¹⁷ Pratama, A.M., & Jatmiko, B.P. (2019). Ini alasan pemerintah larang ekspor nikel. <https://money.kompas.com/read/2019/09/02/143000826/ini-alasan-pemerintah-larang-ekspor-nikel-mulai-2020>. Accessed on January 30, 2025

trillion.¹⁸ Previously, Indonesia and the EU had signed the Comprehensive Economic Partnership Agreement (CEPA), which encompasses a broad range of sectors, including trade, environment, energy, education, science and technology, migration, and counter-terrorism. Since the signing of CEPA in November 2009, Indonesia's economy has expanded more than threefold over the past decade, establishing itself as one of the largest economies in the ASEAN region.¹⁹ However, this partnership has been tested by the EU's response to Indonesia's policy of restricting nickel ore exports. In reaction to the export ban, the European Union filed a formal dispute through the World Trade Organization's Dispute Settlement Body (DSB).²⁰ The WTO, as the global institution governing international trade between nations, is mandated under Article 3(3) of the Agreement Establishing the World Trade Organization to oversee the implementation of dispute settlement provisions in international trade.²¹

The EU's complaint was triggered by protests from European member states against Indonesia's ban on the export of raw nickel ore, which came into effect on January 1, 2020. This export restriction is stipulated in Minister of Energy and Mineral Resources (ESDM) Regulation No. 11 of 2019, a second amendment to ESDM Regulation No. 25 of 2018 concerning the Management of Mineral and Coal Mining Businesses. The EU views the nickel export ban as unfair, arguing that it

¹⁸ Hidayat, A. (2025). IMF rilis data PDB, Indonesia masuk 10 Negara ekonomi Terbesar. <https://finance.detik.com/berita-ekonomi-bisnis/d-7755272/imf-rilis-data-pdb-indonesia-masuk-10-negara-ekonomi-terbesar>. Accessed on January 30, 2025.

¹⁹ Rahayu, S. W., & Sugianto, F. (2020). Implikasi Kebijakan Dan Diskriminasi Pelarangan Ekspor Dan Impor Minyak Kelapa Sawit Dan Bijih Nikel Terhadap Perekonomian Indonesia. *DiH: Jurnal Ilmu Hukum*, 16(2), p. 373

²⁰ Saputra, M. R. A., Mukhtar, M., Akbar, M. H., Putri, A. Q. F., & Gustini, D. R. (2023). Sengketa Internasional Indonesia Vs Uni Eropa Tentang Larangan Ekspor Bijih Nikel. *Jurnal Ilmiah Wahana Pendidikan*, 9(17), p. 507-514.

²¹ Sandra, V., Prakasa, S. U. W., & SH, M. (2021). Peran WTO Dalam Penyelesaian Sengketa Gugatan Uni Eropa Terhadap Indonesia Terkait Larangan Ekspor Bijih Nikel. *Jurnal Hukum Organisasi Internasional*. Vol. 1, p. 3

adversely affects Europe's steel industry by limiting access to essential mineral inputs, including nickel ore, iron ore, and chromium.²²

The European Union's complaint is primarily based on Article XI:1 of the General Agreement on Tariffs and Trade (GATT) 1994, as elaborated in Chapter 12 of Guide to the WTO and GATT by Autar Krishen Koul. This article prohibits the use of quantitative restrictions on exports in order to uphold the principles of a free and open market.²³ The EU contends that Indonesia's policy of restricting nickel exports and mandating domestic processing violates WTO provisions, which require the elimination of quantitative export restrictions.²⁴ In addition, the European Union argues that Indonesia's domestic subsidy policy – designed to support the nickel industry through preferential schemes – violates the SCM Agreement. The EU asserts that such subsidies incentivize domestic industries to prioritize the use of nickel within Indonesia, thereby restricting the EU's access to essential raw materials.²⁵

Ultimately, in October 2022, the World Trade Organization (WTO) ruled in favor of the European Union in the dispute over Indonesia's nickel ore export ban, which had been in effect since January 1, 2020, through Decision No. DS592.²⁶ According to records from Indonesia's Ministry of Trade, the ruling was unfavorable to Indonesia primarily because the domestic downstream industry was deemed underdeveloped and insufficiently prepared. The WTO held that when a country imposes a total export ban on a specific commodity, it must ensure that the domestic industry relying on that commodity is already well-established. In this

²² *Ibid*

²³ Ahmad, G. F., Nugroho, S. T., & Pradana, M. D. S. (2024). Sengketa Komoditas: Gugatan Uni Eropa di World Trade Organization Atas Program Pembatasan Ekspor Nikel Indonesia.

²⁴ Maulana, M. T. (2020). Gugatan Uni Eropa Terhadap Larangan Ekspor Konsentrat Nikel Oleh Indonesia di WTO. Universitas Trisakti.

²⁵ Krustiyati, A., & Surya, A. (2021). Sengketa Perdagangan Internasional Ekspor Bijih Nikel Antara Indonesia dan Uni Eropa. Universitas Surabaya.

²⁶ World Trade Organization. *Loc. Cit*

case, Indonesia's downstream nickel industry—particularly its steel sector—was considered not yet sufficiently mature to justify the implementation of a full export restriction.²⁷

Another reason cited by the WTO in its decision was that Indonesia's export policy and its mandatory mineral processing and refining requirements for nickel were found to be in violation of Article XI:1 of the GATT 1994. This provision prohibits WTO member states from imposing restrictions other than tariffs, taxes, and duties, including measures such as quotas, import licensing, or export limitations. The Indonesian government defended its policy by citing the limited nature of national nickel reserves and the implementation of Good Mining Practices, particularly in relation to environmental sustainability. However, the WTO rejected these arguments, asserting that the management of tariffs, taxes, and other duties falls under the responsibility of the contracting parties, and concluded that Indonesia's justification could not be accepted under either Article XI:2(a) or Article XX(d) of the GATT 1994.²⁸ The dispute between Indonesia and the European Union over the nickel export ban intensified after the EU brought the case before the WTO, whereas Indonesia regarded the matter as part of ongoing negotiations. Despite their diverging positions both sides aiming to safeguard their respective national economic interests no formal resolution has yet been reached. Nevertheless, bilateral relations between the two remain strong across various sectors. The export ban has not deterred the EU from continuing its support for Indonesia in achieving the 2030 Sustainable Development Goals (SDGs) and in its leadership role within the G20. As stated by the European Union Ambassador to Indonesia and Brunei Darussalam,

²⁷ Putri, R.S. (2023). Ini kronologi kekalahan RI di WTO dan Reaksi mengejutkan Jokowi. <https://www.cnbcindonesia.com/news/20230902184853-4-468486/ini-kronologi-kekalahan-ri-di-wto-reaksi-mengejutkan-jokowi>. Accessed on January 30, 2025.

²⁸ Adcolaw.(2023). Kalah gugatan nikel di WTO, indonesia dipaksa ekspor nikel mentah?. <https://adcolaw.com/id/blog/kalah-gugatan-nikel-di-wto-indonesia-dipaksa-ekspor-nikel-mentah>. Accessed on January 11, 2025.

Vincent Piket, the dispute has not diminished the EU's commitment as a strategic partner to Indonesia. The EU remains supportive of Indonesia's ambition to become a high-income country by 2030.²⁹ From the perspective of international trade law, this case illustrates that disputes brought before the WTO do not necessarily damage bilateral relations; rather, they may serve as instruments of negotiation to maintain a balance of interests within the framework of global trade.

Between Domestic Economic Sovereignty Through Nickel Downstreaming and Indonesia's Compliance with the Free Trade Principle

This policy has had a significant impact on Indonesia's economic landscape. A study conducted by Tangkudung and Kaseger (2024) identified a marked increase in domestic consumption of nickel ore, which serves as one of the key indicators of the success of the nickel downstreaming policy. In 2022, domestic nickel ore consumption reached 145 million tons, with projections indicating continued growth through 2025. Based on data from the Indonesia Investment Coordinating Board (BKPM), the study also revealed that investment in the mining sector declined in 2014, when the export ban was first implemented. However, investment levels rebounded in 2021 following the reimposition of the export ban in 2020. This resurgence in investment was accompanied by an increase in the export of processed nickel products, which serves as evidence that the downstreaming policy has successfully stimulated economic growth within the nickel sector.³⁰

Furthermore, a study conducted by Wau and Fau, reveals that the downstreaming policy has had a significant impact on Indonesia's economy. From an economic standpoint, the policy not only contributes to

²⁹ Piket, Vincent. EU ambassador responds. (2025). "The Jakarta post: Opinion ". <https://www.thejakartapost.com/opinion/2021/12/02/eu-ambassador-responds.html>. Accessed on January 30, 2025.

³⁰ Tangkudung, A. G., & Kaseger, J. Y. (2024). Hilirisasi nikel sebagai nilai tambah dalam penguatan perekonomian Indonesia. *Jurnal Syntax Admiration*, 5(10), p. 3946-3955.

increasing export volumes and strengthening the country's foreign exchange reserves but also enhances Indonesia's competitiveness in the global market by generating high value-added products. By promoting domestic processing and the production of finished goods, the policy fosters innovation in technological development and the advancement of domestic products. In addition, downstreaming supports the sustainability of natural resources by reducing the exploitation of raw nickel ore and encouraging the adoption of more environmentally responsible mining practices. Other positive outcomes include the creation of new employment opportunities, support for sustainable economic growth, and the reinforcement of Indonesia's position as a strategic producer within the global technology and raw materials industry.³¹

A study conducted by Khaldun, identified a significant increase in the export value of processed nickel-based commodities between 2013 and 2022, particularly in the form of iron and steel originating from Central Sulawesi Province. In 2013, the export value of iron and steel from this region was recorded at only USD 0.75 million. This figure rose to USD 4.59 million in 2014. However, with the construction of nickel processing smelters and the implementation of the downstreaming policy, the export value surged rapidly. By 2021, the export value had reached USD 10,735 million, peaking in 2022 at USD 12,480.32 million.³² This growth in exports demonstrates that the downstreaming strategy has effectively strengthened the economic independence of a developing country such as Indonesia. By optimizing the utilization of natural resources through domestic processing, Indonesia not only enhances the added value of its products but also reduces its dependence on the export of raw materials.³³

³¹ Wau, F. T., Kiton, M. A., Wau, M., & Fau, J. F. (2024). Analisis strategis kebijakan hilirisasi mineral: Implikasi ekonomi dan pengaruhnya terhadap perekonomian Indonesia. *Journal Publicuho*, 7(3), p. 1215-1224.

³² Khaldun, R. I. (2024). Dampak Kebijakan Hilirisasi Nikel terhadap Peningkatan Ekspor Komoditas Besi dan Baja Indonesia. *RELASI: JURNAL EKONOMI*, 20(1), p. 153-165.

³³ Kementerian Koordinator bidang maritim dan investasi. (2023). *Hilirisasi nikel sebagai langkah awal transformasi dan akselerasi perekonomian indonesia*.

Another relevant example is South Korea, a country that has successfully implemented a similar domestic policy. Between the 1960s and 1980s, South Korea underwent a remarkable transformation into an advanced industrial economy through an export-oriented industrialization strategy. To support the growth of strategic industries such as electronics, automotive, and shipbuilding, the government provided various fiscal incentives and facilitated large-scale investments. Additionally, the country prioritized human capital development by making substantial investments in education and skills training. As a result of these measures, South Korea significantly increased the export value of its industrial products and ultimately emerged as a major player in the global supply chain.³⁴

From the perspective of sovereign state theory – which underscores the primacy of national interest – Indonesia possesses full authority to govern its territory and implement domestic law, including with respect to international trade policy. As articulated by George Jellinek, sovereignty places the state as the highest legal authority, empowered to enact laws and manage its natural resources without external interference.³⁵ In the realm of international trade law, this sovereignty grants each state the right to regulate the flow of goods and services across its borders, including the power to impose export and import controls. Indonesia's policy of banning nickel exports represents a tangible exercise of its sovereign prerogative to formulate strategic policies aligned with national interests. However, sovereign state theory also imposes corollary responsibilities – most notably, the obligation to respect the sovereignty of other states and to

<https://maritim.go.id/detail/hilirisasi-nikel-sebagai-langkah-awal-transformasi-dan-akselerasi-perekonomian-indonesia>. Accessed on January 30, 2025.

³⁴ Bakri, M.R., Putri, A.N., & Cinditasari, A. (2022). Strategi Indonesia untuk Bangkit dari Zona Middle-Income Trap: Pengalaman dari Korea Selatan. Politeknik keuangan negara STAN

³⁵ Amalo, V. Gelcheri. Hardi, Hizkia. (2024). Kebijakan Larangan Ekspor Bijih Nikel: Tinjauan Hukum Internasional dan Dampak Ekonomi di Indonesia. Causa: Jurnal Hukum dan Kewarganegaraan Vol. 2 (3) <https://doi.org/10.3783/causa.v2i3.1883>

refrain from exercising authority in a manner that unjustifiably harms other parties.³⁶

Although the policy is aimed at safeguarding domestic interests, Indonesia must nonetheless ensure that the nickel export restrictions are implemented in a proportional manner and do not contravene the principles of fairness in international trade. Such measures must be carefully calibrated to avoid triggering tensions that could undermine economic relations with importing countries and potentially violate Indonesia's obligations under international trade agreements.

³⁶ Kasih, DP Dewi. et al. (2021) Kedudukan Negara sebagai Pembeli dalam Perspektif Hukum Perdagangan Internasional. Jurnal Pembangunan Hukum Indonesia Vol. 3 (3). <https://doi.org/10.14710/jphi.v3i3.354-369>

D. CONCLUSION

Indonesia's nickel export ban constitutes a national strategy aimed at promoting industrial downstreaming, increasing the added value of its natural commodities, and strengthening economic self-reliance. This policy aligns with Article XX(d) of the General Agreement on Tariffs and Trade (GATT) 1994, which permits member states to adopt trade-restrictive measures necessary to protect legitimate domestic policies, including the sustainable management of natural resources. However, the European Union has contested the policy on the grounds that it violates Article XI:1 of GATT 1994, which prohibits quantitative export restrictions, and the Agreement on Subsidies and Countervailing Measures (SCM), which regulates domestic subsidies that may distort trade balances. Furthermore, within the framework of the Comprehensive Economic Partnership Agreement (CEPA) between Indonesia and the European Union, the export ban may be construed as a trade barrier incompatible with the principle of equitable market access for trading partners. Despite Indonesia's defeat in the WTO's ruling on the EU's complaint, the policy has yielded positive outcomes, including growth in domestic industry, increased foreign investment, and a surge in high-value processed exports such as iron and steel. Nevertheless, Indonesia must undertake regulatory harmonization to ensure that domestic policies conform to international trade rules—particularly by aligning export restriction mechanisms with the exceptions permitted under Article XX of GATT 1994. Concurrently, Indonesia should optimize negotiations within the CEPA framework to safeguard its downstream policy objectives without breaching ratified international trade commitments. The core challenge lies in balancing economic protectionism with adherence to free trade principles, ensuring the pursuit of long-term, sustainable industrial growth while remaining competitive within the global market.

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