

The Effect of Harmonization of International Trade Regulations on the National Rule of Law

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Abstract

Globalization has changed the dynamics of international trade, strengthening global economic integration through organizations such as the WTO and trade agreements such as the RCEP. Harmonization of international trade regulations aims to create global market stability by harmonizing national and international regulations. However, major challenges arise for developing countries, including Indonesia, in maintaining the sovereignty of national law without neglecting international obligations. In this context, Indonesia faces dilemmas related to protectionist policies, such as restrictions on nickel ore exports and restrictions on horticultural imports, which often clash with WTO rules. This study aims to analyze the impact of harmonization of international trade regulations on Indonesia's national legal sovereignty and identify strategies that can be applied to overcome these challenges. Using normative juridical methods and case studies, this study explores the tension between domestic policy and international obligations. The results of the study show that the alignment between the Trade Law and international rules, as well as the adoption of a legal flexibility approach, can be a solution to balance national interests with global obligations. This research provides strategic recommendations for the Indonesian government in formulating trade policies that can strengthen the country's position in the global market without sacrificing domestic interests.

Keywords: Harmonization of Regulations; National Rule of Law; International Trade

Introduction

Globalization has had a very significant impact on the dynamics of international trade. In recent decades, global economic integration has been strengthened through the presence of organizations such as *the World Trade Organization* (WTO) and multilateral trade agreements, including *the Regional Comprehensive Economic Partnership* (RCEP). Harmonization of international trade regulations is one of the main agendas in creating stability and fairness in the global market. Member states are required to adjust their domestic regulations to be in line with agreed international standards. The goal is to reduce trade barriers and create transparency that drives global economic growth. However, this harmonization often presents serious challenges for developing countries, including Indonesia. One of the main challenges is how to maintain the sovereignty of national law amid pressure to meet international standards¹. In this context, an in-depth study is needed to understand the effect of harmonization on the sustainability of domestic regulations.

¹ Nasoha, A. M. M., Agachi, M. K. Y., Muhammad, M. R., Apriyandi, M. B., & Romadoni, R. (2024). Pancasila dan Penguatan Hukum Tata Negara dalam Era Demokrasi: Pancasila and Strengthening Constitutional Law in the Democratic Era. *LITERA: Jurnal Ilmiah Mutidisiplin*, 1(2), 123-138.

The harmonization of international trade regulations actually aims to create a uniform legal framework for all parties.² This is expected to reduce the potential for trade disputes between member countries. However, the application of international rules often clashes with diverse domestic needs. For example, protectionist policies designed to protect domestic industry are sometimes considered to be contrary to the principles of free trade. This phenomenon is clearly seen in the dispute between Indonesia and the European Union regarding the ban on nickel ore exports. The European Union claims that the policy violates WTO rules, even though it aims to support downstream industrialization in Indonesia. These tensions reflect the dilemma facing developing countries in balancing national interests with international obligations. Therefore, there is a need to analyze the extent to which countries can maintain their rule of law without neglecting their global trade commitments.

Indonesia, as a developing country with a growing economy, is often in the middle of the intersection between international obligations and domestic interests. Policies restricting imports of horticultural products, for example, show how efforts to protect local farmers can be the object of international disputes³. On the other hand, Indonesian MSME products often face difficulties in penetrating the global market due to technical standards set by international agreements. This shows that the harmonization of regulations does not always provide equal benefits for all parties. In some cases, developing countries are at a disadvantage because international standards more often reflect the interests of developed countries. This phenomenon sparked a debate about fairness in the international trading system. As a result, it is increasingly important for countries like Indonesia to identify strategies that allow them to actively participate in global trade while still maintaining the sovereignty of national law.

The tension between international harmonization and the rule of national law is becoming increasingly complex when considering social and political aspects. Trade policies not only have an impact on the economic sector but also affect people's lives at large.⁴ For example, regulatory adjustments to meet international standards can lead to significant changes in the structure of the local market. The impact is felt directly by small and medium business actors who often find it difficult to adapt to new regulations. In addition, the application of international rules can trigger domestic political reactions, especially if the public feels that the policy is detrimental to the national interest. In this context, it is important for the government to ensure that the harmonization of regulations is carried out in a transparent and inclusive manner. The process must involve various stakeholders, including civil society, to minimize potential conflicts.

In the face of these challenges, the role of governments has become very important in managing the relationship between national interests and international obligations. The government must be able to formulate policies that are not only in accordance with international rules but also consider domestic needs.

² Rabbani, D. R. S. (2021). Telaah Kritis TFA WTO (World Trade Organization): Analisis Terhadap Implementasi Kebijakan Perdagangan Internasional Di Indonesia. *Jurnal Hukum Lex Generalis*, 2(1).

³ Wardani, N. K. (2022). ANALISIS HUKUM SENGKETA SELANDIA BARU DAN AMERIKA DS 477/478 TERKAIT HORTIKULTURA, HEWAN, DAN PRODUK HEWAN. *Jurnal Risalah Kenotariatan*, 3(2).

⁴ Anwar, M. (2022). Green economy sebagai strategi dalam menangani masalah ekonomi dan multilateral. *Jurnal Pajak Dan Keuangan Negara (PKN)*, 4(1S), 343-356.

For example, Indonesia can adopt a flexibility approach in international negotiations to ensure that trade policies remain relevant to local conditions.⁵ In addition, increasing domestic legal and institutional capacity is also a key factor in dealing with international disputes. Countries need to strengthen the ability of legal institutions to interpret and implement international rules. These efforts will help create a balance between global trade openness and protection of national interests. Thus, the country can be more confident in carrying out its role in the international trade scene.

The study of the influence of harmonization of international trade regulations on the sovereignty of national law is becoming increasingly relevant in this context. This study not only aims to analyze the impact of such harmonization but also to explore how effective strategies can be implemented to address these challenges. One of the main focuses is on how domestic policies can continue to function optimally without violating international provisions. In addition, the study will also evaluate the extent to which national legal systems can adapt to global pressures without losing their identity. With a comprehensive approach, it is hoped that this research can provide practical and applicable recommendations for policymakers. This is important so that harmonization does not become a threat but an opportunity to strengthen Indonesia's position in international trade.

In addition, this research is also expected to make a theoretical contribution to the study of the relationship between international law and national law. In an academic context, this study can help bridge the literature gap on the harmonization of international law and its impact on developing countries. Thus, this study is not only relevant for Indonesia but also has broader implications for other countries with similar characteristics. In a global context, the results of this study can contribute to the debate about the reform of the international trading system. This debate is important to ensure that the system is more inclusive and fair for all parties. Thus, this study has the potential to have a significant positive impact on various levels, both nationally and internationally.

By paying attention to the various phenomena that have been described, this study focuses on the main issue, namely the influence of harmonization of international trade regulations on the sovereignty of national law. This focus not only includes legal aspects but also considers interrelated economic, social, and political dimensions. A multidisciplinary approach is used to provide a comprehensive analysis of this issue. The study also seeks to identify strategic measures that can be implemented by the government in dealing with these challenges. Thus, it is hoped that this research can make a significant contribution to both policy development and academic literature. The results of this study are expected to be the foundation for policymakers in formulating effective strategies to maintain a balance between international obligations and national sovereignty.

Method

This study uses the normative juridical method to analyze the influence of harmonization of international trade regulations on the sovereignty of national law. The study focuses on the analysis of legal documents, including the provisions of *the General Agreement on Tariffs and Trade* (GATT), *the Regional Comprehensive Economic Partnership* (RCEP), and Law Number 7 of 2014 concerning Trade. The

⁵ Sugianto, D. (2023). Indonesia's State Policy in Resolving International Trade Barriers. *Jurnal Syntax Admiration*, 4(7), 845-856.

conceptual approach is used to understand the concept of harmonization of law and the rule of law, while the legislative approach assesses the alignment of international rules and national regulations.

Case studies, such as the dispute over the ban on nickel ore exports and restrictions on horticultural imports, were used to uncover the impact of harmonization on the rule of law of the country. Data comes from primary legal materials (legal regulations and decisions), secondary (journals and books), and tertiary (legal encyclopedias). The analysis is carried out systematically and comparatively to understand the conflict and harmonization between international and national rules, as well as to compare the experiences of other countries.

The results of the study are expected to provide strategic recommendations for the government in formulating trade policies that balance international obligations and the protection of national interests. This approach not only addresses legal aspects but also considers economic, social, and political implications, thus making practical and academic contributions.

Disuccion

Alignment of Law Number 7 of 2014 with International Trade Rules

Law Number 7 of 2014 concerning Trade is an important legal basis for the management of domestic and international trade activities in Indonesia. This law reflects the government's efforts to align national trade policies with global trade rules and principles, especially those regulated by the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO). One of the main principles accommodated by this law is the principle of non-discrimination, which consists of elements of the Most-Favoured Nation (MFN) and National Treatment.⁶ The MFN Principles ensure that Indonesia provides equal trade treatment to all its trading partners, without exception. Meanwhile, the National Treatment guarantees that imported goods should not be treated less favorably than local goods after entering the domestic market. The recognition of these principles shows Indonesia's seriousness in upholding its international commitments. This is important to build global confidence in Indonesia's trade policies. Thus, this law not only strengthens the trade law system, but also increases Indonesia's competitiveness in the international market.

Law No. 7 of 2014 also pays great attention to transparency, one of the key elements in the WTO agreement. Under this law, the government is required to publish information related to trade policies, including tariffs, import-export procedures, and other technical regulations. This transparent policy aims to create a fair and predictable trade climate for business actors, both domestic and international.⁷ In addition, transparency also prevents the occurrence of trade practices that are detrimental to one party due to unclear or unavailable information. This policy is in line with the needs of modern business actors who prioritize quick access to information in trade decision-making. With transparency as one of its main principles, this law strengthens

⁶ Tobing, K. A. D. Q. (2023). Analisis Klausul Penyelesaian Sengketa di Bidang Penanaman Modal Asing Pada Perjanjian Investasi Bilateral antara negara Indonesia dengan negara Singapura Tentang Promosi dan Perlindungan Investasi. *Mutiara: Multidiciplinary Scientifict Journal*, 1(9), 551-564.

⁷ Triana, A. R., Putri, A. A., Mar'atussholikhah, K., Sukma, V. S., Firdaus, F., & Hidayat, M. F. (2024). Kepastian Hukum dalam Penanaman Modal Investasi di Kawasan Ekonomi Khusus dari Perspektif Investor. *Politika Progresif: Jurnal Hukum, Politik dan Humaniora*, 1(3), 246-262.

Indonesia's position in the global trading system. This not only improves trade efficiency, but also creates greater trust among international trading partners. Transparency is an important bridge for Indonesia to continue to adapt to the increasingly complex dynamics of global trade.

In order to support trade liberalization, Law No. 7 of 2014 also regulates the reduction of tariff and non-tariff barriers that are not in accordance with international commitments. As a member country of the WTO, Indonesia has a responsibility to ensure that all trade barriers implemented must be proportionate and non-discriminatory.⁸ For example, the resetting of import tariffs is carried out to comply with free trade standards in bilateral and multilateral agreements. In addition, the law also encourages the use of information technology and digitalization in the trading system to simplify procedures and improve efficiency. This step is very important to accelerate the flow of goods and services across borders and attract the interest of global investors. On the other hand, Indonesia also retains the right to protect its domestic market from the threat of unfair trade practices such as dumping and illegal subsidies. This regulation provides a balance between trade liberalization and protection of national interests. Thus, this law reflects a strategic approach in dealing with global trade dynamics.

No less important, Law No. 7 of 2014 also adopts the element of trade facilitation which is the core of the Trade Facilitation Agreement (TFA) under the WTO. This regulation encourages the development of adequate trade infrastructure, simplification of customs procedures, and increased logistics capacity. In addition, support for micro, small, and medium enterprises (MSMEs) is also a priority in this law, by ensuring their access to a wider international market. This trade facilitation aims to reduce transaction costs and speed up the delivery time of goods across borders. At the same time, the government is also committed to eradicating unnecessary technical barriers to trade, thereby facilitating Indonesia's integration in the global supply chain. With the implementation of this policy, Indonesia is able to strengthen its position as a competitive trade center in the Asian region. This law not only supports economic growth, but also encourages Indonesia to become a more active and competitive part of the global trade ecosystem. This harmonization shows that Indonesia is ready to compete at the international level without sacrificing national interests.

Limitations in Protecting National Interests

The policy regulated in the Law (UU) on the prohibition of the export of raw materials, such as nickel ore, is one of the Indonesian government's efforts to increase national competitiveness.⁹ This ban aims to encourage the downstream of domestic industries, which is expected to create added value for natural resources in Indonesia. Thus, products that were previously exported in the form of raw materials can be further processed into finished goods that have higher economic value. This of course opens up opportunities to create jobs, reduce dependence on imports, and improve the domestic economy. However, this policy faces major challenges, especially in terms of international acceptance. Many countries consider that such policies can disrupt global trade flows and violate the principles of free trade that have been

⁸ Muslimah, S., & Latifah, E. (2022). Perdagangan Internasional dan Perlindungan Lingkungan Hidup: Sebuah "Trade-Off" Pada Sistem Wto Yang Memerlukan Penyelesaian. *Jurnal Bina Mulia Hukum*, 6(2), 273-294.

⁹ Hassanah, N. F. (2021). Kajian yuridis perjanjian perdagangan internasional terkait aturan pembatasan dan larangan ekspor oleh World Trade Organization (WTO)(Studi perjanjian antara Indonesia dan Uni Eropa). *Jurnal Ilmiah Mahasiswa Hukum [JIMHUM]*, 1(4).

regulated in various international agreements. One of the aspects at issue is the restriction on the export of raw materials which is considered to violate the provisions of the World Trade Organization (WTO) and other trade agreements.

In addition, this policy has the potential to trigger tensions in Indonesia's trade relations with partner countries. Countries that import raw materials from Indonesia, such as nickel ore, feel disadvantaged by this export ban.¹⁰ They consider that the policy can harm their industries which are highly dependent on the supply of raw materials from Indonesia. For example, some international companies that process nickel to produce products such as stainless steel may have to look for alternative raw materials from other countries, which can lead to increased production costs. As a result, Indonesia can lose the export market which has been a source of state revenue. These tensions have the potential to worsen diplomatic relations between Indonesia and countries affected by this policy, which in turn could affect future economic cooperation.

However, on the other hand, this downstream policy also brings significant benefits to the Indonesian economy in the long term. By focusing on processing raw materials domestically, Indonesia can create new, more sustainable industries, which do not only depend on the export of natural resources.¹¹ This downstream industry has the potential to absorb a large number of workers, reduce the unemployment rate, and increase national income. In addition, this policy can also provide incentives for foreign investors to build processing facilities in Indonesia, which will support technology transfer and improve the quality of human resources in the industrial sector. However, to achieve these goals, the government must ensure that these policies are supported by adequate infrastructure and policies that support innovation and industrial development. Without proper support, these policies may not be effective and may actually harm certain sectors.

For this reason, the Indonesian government needs to balance national interests with international obligations that must be complied with. In formulating policies, it is important for Indonesia to consider the possible impact on global trade and investment relations. One step that can be taken is through dialogue with partner countries to find a win-win solution, which can accommodate the interests of both parties. Indonesia can also consider providing incentives to partner countries to invest in the downstream sector in Indonesia, so that they do not feel disadvantaged by the policy.¹² In addition, the policy can also be accompanied by adjustments and flexibility in its implementation, such as providing exceptions for certain products that do require the supply of raw materials from Indonesia. With a more inclusive and open approach, Indonesia can safeguard its national interests without violating existing provisions in the international trading system.

¹⁰ Deddy, M. A., & Adriyanto, A. (2023). Strategi Hilirisasi Di Indonesia Dalam Menghadapi Kebijakan Larangan Ekspor Bijih Nikel Terhadap Tingkat Pengangguran Dan Cadangan Devisa Negara. *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, 7(3), 2026-2032.

¹¹ Manihuruk, F. E., Alisya, J., Syahbana, E., & Purba, B. (2024). Kebijakan Pengelolaan Sumber Daya Alam di Indonesia pada Era Pemerintahan Jokowi. *Journal of Economics and Regional Science*, 4(1), 37-52.

¹² Hasan, M. A. (2024). *Implikasi Putusan WTO Tentang Kebijakan Larangan Ekspor Bijih Nikel Terhadap Hilirisasi Industri Bijih Nikel* (Doctoral dissertation, Universitas Islam Indonesia).

The Role of Law Number 7 of 2014 in International Dispute Resolution

Law Number 7 of 2014 on International Trade provides a legal basis for the Indonesian government to negotiate in the settlement of trade disputes in international forums, including in organizations such as the World Trade Organization (WTO). As part of the national legal system, the law is designed to provide a clear framework for Indonesia in dealing with challenges arising from trade policies that may be considered in violation of international regulations.¹³ With this law, Indonesia has a stronger legal guideline to manage trade relations with other countries, as well as fight for national interests in various international negotiation and dispute forums.

However, although this law provides an important legal foundation, the results of the study show that the existing legal provisions in this law are not fully adequate to face the pressure of international law. This is especially evident when Indonesia is involved in trade disputes filed by other countries in the WTO. In some cases, Indonesia has failed to defend policies or regulations that are considered to violate internationally agreed free trade principles.¹⁴ One of the causes of this failure is the incompleteness or inconsistency between domestic legal provisions and rules that apply at the global level, which often makes it difficult for Indonesia to defend certain policies that have been taken.

The WTO as an international dispute settlement institution has very strict and detailed rules regarding free trade and the rights of member states. If a country, in this case Indonesia, cannot demonstrate that its trade policies are in accordance with applicable international rules, it may be sanctioned or required to change the policy it deems to be infringing. In this context, Law Number 7 of 2014 in Indonesia has not fully accommodated the complexity of international law that continues to grow. Domestic legal provisions may not be fully aligned with the development of WTO rules or provisions in other international agreements, which has an impact on Indonesia's ability to win disputes or even evade international sanctions.

To overcome this problem, it is important for Indonesia to carry out reforms in the preparation and application of domestic trade laws. This law needs to be updated or reviewed to be more responsive to the dynamics of international law and more flexible in facing global trade challenges. In addition, there is a need to increase the capacity of human resources in the field of international law, especially in handling trade disputes. Indonesia can also strengthen international diplomacy and involve international legal experts in every dispute resolution process, so that it can formulate stronger arguments based on applicable international legal principles. With these steps, Indonesia is expected to be more prepared and resilient in facing future international legal challenges.

Law Number 7 of 2014 is designed as a form of national legal sovereignty which aims to provide protection for domestic business actors and ensure fair trade in Indonesia. This law prioritizes policies that support the protection of local industries and create a healthy trade climate.¹⁵ However, in the context of international trade, its application is often limited by international agreements that bind Indonesia, such as the RCEP and

¹³ Roringpandey, T. C. (2020). Mediasi sebagai Alternatif Penyelesaian Sengketa Perdagangan Internasional di Tinjau dari Undang-Undang Nomor 7 Tahun 2014 tentang Perdagangan. *LEX ET SOCIETATIS*, 8(1).

¹⁴ Linda, B. (2022). Kajian Hukum Internasional Terhadap Negara Yang Melanggar Prinsip-Prinsip Wto (World Trade Organization). *Lex Privatum*, 10(4).

¹⁵ Sinaga, N. A. (2020). Pentingnya Perlindungan Hukum Kekayaan Intelektual Bagi Pembangunan Ekonomi Indonesia. *Jurnal Hukum Sasana*, 6(2).

the WTO. These agreements forced Indonesia to align its domestic policies with global standards that prioritized free trade, which directly reduced the national policy space. This shows the tension between the national interest to protect the domestic industry and the international obligations that must be complied with

This tension is clearly reflected in several articles of Law Number 7 of 2014, especially those related to export and import regulations. Several articles in this law focus on the protection of local industries, with the aim of ensuring that domestic business actors can develop without being eroded by imported products.¹⁶ However, on the other hand, the international obligations underlying trade agreements such as the WTO and RCEP require member states to open markets and reduce trade barriers. This is what creates a conflict between more protective domestic policies and the principles of free trade that underlie international rules. This dilemma illustrates the challenge of striking a balance between safeguarding national interests and fulfilling global obligations set out in international treaties.

To overcome this problem, the Indonesian government needs to align Law Number 7 of 2014 with applicable international trade rules. One of the steps that can be taken is to revise articles that have the potential to cause conflicts with international rules, but still maintain protection for the domestic industry.¹⁷ In addition, Indonesia can adopt a strategy of legal flexibility by negotiating a carve-out clause in an international trade agreement, as stipulated in Article XX of the GATT. This clause allows member states to protect national strategic policies, while remaining bound to the principle of free trade. The government also needs to increase the capacity of legal and trade negotiators in order to strengthen Indonesia's position in international forums, so that domestic policies can be maintained without violating international obligations.

Furthermore, strengthening the implementation of articles related to consumer protection and MSMEs in this law is very important. Articles that support the protection of MSMEs and consumers must be optimized so that small business actors can compete more effectively in the global market. One way to strengthen the competitiveness of this sector is to provide incentives and training so that MSME actors can comply with international standards. Thus, they can not only survive in the domestic market, but are also ready to face challenges in an increasingly competitive international market. This capacity building will help strengthen the MSME sector, which is the backbone of Indonesia's economy, in competing in an increasingly open era of global trade.

Conclusion

The conclusion of this discussion shows that Law Number 7 of 2014 concerning Trade has an important role in regulating domestic and international trade activities in Indonesia. Although this law seeks to protect domestic industry and create fair trade, its application often clashes with international obligations in agreements such as the WTO and RCEP. The tension between protectionist domestic policies and the principle of free trade is a major challenge in its implementation. Therefore, alignment between this law

¹⁶ Musta'in, M. M., Muafiqie, M. S. D. H., Karman, M. S. A., & Kalsum, M. U. (2022). Ekonomi Kreatif Berbasis Digital dan Kemandirian Masyarakat Era Society 5.0.

¹⁷ Feriansyah, W., Permana, H. J., Faqih, R. A. S., Ridwan, M., & Lomo, P. W. (2024). Analisis Dampak Impor Sampah Plastik dari Amerika terhadap Masyarakat dan Lingkungan Hidup di Indonesia Ditinjau dalam Pasal 29 Ayat 1 Huruf A dan B UU 18. *Indonesian Journal of Law and Justice*, 1(3), 13-13.

and international rules is very necessary. Revision of potentially conflicting articles and the adoption of legal flexibility strategies such as exception clauses can be effective solutions. In addition, increasing the capacity of legal and trade negotiators will strengthen Indonesia's position in international forums. Strengthening the implementation of articles that support the protection of consumers and MSMEs is also important to increase the competitiveness of the domestic sector. Overall, this law must continue to be refined in order to balance national interests with international obligations. With the right policies, Indonesia can strengthen its position in the global market without sacrificing domestic interests.

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