

Trade dispute over palm oil involving Indonesia, Malaysia, and the European Union

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Abstract

Palm oil is a predominantly utilized raw ingredient in the production of food, cosmetics, and household cleaning products. The global usage of this product is on the rise, rendering it a significant asset in international commerce. Given its status as the leading palm oil producer, Indonesia encounters trade obstacles from nations that impose restrictions on palm oil imports based on environmental concerns, including deforestation and greenhouse gas emissions. The European Union, a significant recipient of Indonesian palm oil exports, has implemented the Renewable Energy Directive (RED) and RED II. These regulations impose limitations on the use of palm oil in biodiesel starting from 2021 and progressively prohibit it entirely by 2030. These rules, although designed to safeguard the environment, are seen by some as protectionist measures aimed at safeguarding local biofuel producers. The governments of Indonesia and Malaysia have voiced concerns and are actively pursuing equitable and enduring resolutions to preserve their market entry.

Keywords: *Palm Oil; Indonesia; European Union; Renewable Energy Directive (RED); Renewable Energy Directive II (RED II)*

1. INTRODUCTION

The European Union's implementation of the Renewable Energy Directive (RED) and Renewable Energy Directive II (RED II) to decrease the use of palm oil as a feedstock for biodiesel has caused conflicts in multinational trade relations, namely between the EU and palm oil-producing nations like Indonesia and Malaysia. Furthermore, these restrictions have not only affected the economy, but also sparked a worldwide discussion on trade fairness and environmental accountability. In palm oil producing nations, this EU policy is perceived as a kind of discrimination that jeopardizes the means of subsistence for millions of small-scale farmers who rely on the palm oil sector. According to Perkasa and Abdurrahman (2020), trade restrictions based on the environment are regularly perceived as a covert protectionist strategy employed by industrialised nations to safeguard their own industries against competition from emerging countries.

Given its status as one of the leading global exporters of palm oil, Indonesia has implemented deliberate measures to oppose such policies. Extensive trade diplomacy and international legal initiatives have been undertaken, which include contesting the European Union policies in the World Trade Organisation (WTO). Indonesia contends in this legal action that the RED II agenda not only has detrimental effects on the domestic economy but also contravenes the tenets of unrestricted commerce regulated by the World Trade Organisation (WTO). Indonesia contends that the limitations are excessive and unjust, given that palm oil producing nations have undertaken several initiatives to enhance sustainability in palm oil production, including the adoption of

certification programs like the Indonesian Sustainable Palm Oil (ISPO) (Syahrul & Lubis, 2021).

Moreover, theoretical methodologies such as "dispute settlement behavior" offer a pertinent framework for examining Indonesia's approach in obtaining resolutions for these conflicts. Within this particular framework, the theory analyzes the rationale behind the use of various dispute settlement methods by countries, which encompass direct discussions as well as litigation in international forums. In the palm oil issue, Indonesia has employed a blend of bilateral diplomacy, international mediation, and litigation at the World Trade Organisation (WTO) to contest European Union (EU) policy. During negotiations, Indonesia aims to achieve a more equitable resolution that safeguards national interests and palm oil producers, while simultaneously upholding global objectives for environmental sustainability. Nevertheless, in the event that negotiations are unsuccessful, resorting to litigation at the WTO becomes a crucial means to uphold Indonesia's trade rights as stipulated by international law. Zangl et al. (2011) assert that the dispute settlement process at the WTO serves as a significant forum for developing nations to contest trade policies that they perceive as discriminatory.

Moreover, these conflicts underscore the wider issues in the global trade system, wherein emerging nations frequently perceive unjust treatment from industrialized nations that enforce stringent environmental regulations. Although the objective of policies like R.E.D. and RED II is to decrease carbon emissions and safeguard the environment, it is crucial to consider the consequences for developing nations that rely on exporting commodities like palm oil while executing these policies. This issue's decision will serve as a crucial test for the WTO dispute settlement mechanism and the future of equitable and environmentally friendly global commerce.

2. RESEARCH METHOD

A qualitative strategy that uses a case study methodology was utilized in the research methodology to investigate the palm oil trade case that involved Indonesia, Malaysia, and the European Union. This method was chosen because it facilitates in-depth research on complex phenomena within a natural environment. The dynamics of the palm oil trade, which involve a wide range of economic, political, and environmental concerns, can therefore be examined successfully using this method.

3. RESULT AND DISCUSSION

The trade relations between Indonesia and Malaysia with the European Union have given rise to environmental concerns that demand diligent consideration. These concerns encompass deforestation, greenhouse gas emissions, wetland degradation, water contamination, endangerment of indigenous populations, waste disposal, and loss of biodiversity. The growth of oil palm plantations is a primary driver of deforestation in Indonesia and Malaysia. The clearance of high-value forests to accommodate oil palm plants has been undertaken in order to satisfy the palm oil demand from the European Union. Consequently, the habitats of native species are endangered and overall biodiversity decreases. Furthermore, the pressing matter of greenhouse gas emissions is a significant concern within the palm oil sector. The clearance of land for plantations through deforestation, together with unsustainable management techniques, leads to substantial carbon dioxide emissions into the atmosphere, hence exacerbating global climate change.

Given its status as one of the major markets for palm oil goods, the European Union acknowledges that palm oil extraction has substantial environmental consequences and poses a danger to environmental sustainability. The sector is intricately connected to the grave problems of habitat destruction and deforestation. In order to establish oil palm plantations, it is often necessary to deforest or incinerate trees, which leads to harmful effects on soil, water, air, and the habitat of wild species.

To mitigate the environmental consequences of palm oil extraction, the European Union has implemented stringent environmental and trade regulations. Bilateral trade agreements inside the European Union incorporate environmental regulations and establish ambitious objectives to mitigate greenhouse gas emissions and promote the growth of renewable energy sources. Nevertheless, the European Union's approach towards palm oil has faced criticism for its perceived unfairness towards palm oil-producing nations like Indonesia and Malaysia. Their contention is that the criteria enforced by the European Union lack equilibrium in terms of the handling of other items that pose comparable environmental consequences.

The present study elucidates the intricate and multifaceted nature of the palm oil trade dispute between Indonesia and Malaysia with the European Union (EU). Furthermore, these conflicts encompass not only conventional trade matters like tariffs or quotas, but often encompass wider non-tariff dimensions, particularly concerning environmental sustainability and health standards. The primary cause for this conflict was the EU's adoption of the Renewable Energy Directive II (RED II) policy, which imposes significant limitations on the use of palm oil as a biodiesel feedstock. Indonesia and Malaysia, being the leading global producers of palm oil, perceive this policy as a kind of trade discrimination against their exports and believe it has the capacity to greatly damage the national economy.

Examination of dispute settlement behavior indicates that the reaction of Indonesia and Malaysia to the EU strategy represents a fundamental change in the economic diplomacy of emerging nations. According to Voon (2020), the heightened assertiveness and adherence to legal principles demonstrated by these two nations indicate emerging countries' growing assurance and capability in the global trade sphere. Hidayat and Glasbergen (2021) contend that this disagreement also exemplifies a wider conflict between worldwide environmental regulations and the competitive economic goals of developing nations. Furthermore, they emphasize that this case encompasses not only palm oil but also the influence of environmental regulations on worldwide trade patterns and economic progress.

Strategic Negotiation and Economic Diplomacy

A comprehensive examination of dispute settlement processes demonstrates that Indonesia and Malaysia use intricate and diverse negotiating tactics. Their techniques incorporate integrative and distributive approaches, exemplifying the complexity of modern economic diplomacy. Efforts to engage in a productive dialogue with the EU through bilateral and international platforms exemplify an integrative strategy motivated by pursuing mutually beneficial outcomes. This is apparent from the high-level meetings and technical consultations among the contesting parties. Conversely, employing threats of economic reprisal and initiating legal action at the World Trade Organisation (WTO) demonstrates a distributive approach intended to enhance negotiating leverage.

Rana and Chatterjee (2020) argue that the economic diplomacy implemented by Indonesia and Malaysia demonstrates the fundamental features of the "new economic diplomacy of the 21st century". Several significant characteristics were identified: a) Utilisation of coalitions and strategic alliances: Indonesia and Malaysia effectively formed partnerships with other global producers of vegetable oil, therefore enhancing their negotiating position. b) Public opinion mobilization: Both nations aggressively utilized popular media and international platforms to construct narratives that bolstered their respective stances. c) Utilisation of multilateral forums: Besides the W.T.O., Indonesia and Malaysia leveraged platforms like ASEAN and G20 to express their concerns. d) Participation of non-state entities: Industry groups and research institutes actively formulated arguments and strategies.

According to Nesadurai (2019), the economic diplomacy strategy of Indonesia and Malaysia encompasses initiatives aimed at enhancing the sustainability credentials of their respective domestic palm oil sectors. In response to the environmental issues presented by the EU, this demonstrates a proactive strategy while ensuring market access is maintained.

An Analysis of the Function of International Institutions in Dispute Resolution

The World Trade Organisation (WTO) is the primary platform for resolving disputes in international trade. Nevertheless, the intricate nature of matters pertaining to environmental and sustainable development questions the WTO's ability to manage modern trade conflicts effectively.

An examination of the dispute settlement procedure at the World Trade Organisation (WTO) uncovers several significant discoveries: a) Constraints of the legal framework: The current regulations of the World Trade Organisation (W.T.O.) alone are insufficient to effectively address the intricate nature of environmental and sustainability concerns in trade conflicts. b) Challenges in evaluating scientific evidence: W.T.O. committees encounter obstacles in determining the accuracy of scientific assertions concerning the environmental consequences of palm oil development. c) The case underscores the challenge faced by the World Trade Organisation (W.T.O.) in reconciling its objective of trade liberalization with the imperative to uphold national environmental regulations.

The scenario highlighted by Akhtar and Jones (2020) underscores the necessity of reforming the W.T.O. dispute settlement system to enhance its responsiveness towards non-traditional matters in international commerce. The authors put out several suggestions: Augmented capability of W.T.O. panels in addressing technical and scientific matters, development of procedures to engage autonomous specialists in resolving disputes, and enhancement of W.T.O. regulations to incorporate valid environmental policy more effectively.

Trade and environmental policy implications

Examining the dispute resolution conduct in this situation exposes a basic conflict between trade policy and the worldwide environmental agenda. The empirical evidence indicates that:

a) The view among developing countries is that industrialized countries might employ environmental measures as a means of covert protectionism.

B) Difficulties in aligning sustainability criteria: Differences in capability and socio-economic situations across industrialized and developing nations complicate using consistent criteria.

b) The necessity for a more unified approach: This case exemplifies the need for a more all-encompassing framework that incorporates commerce, environment, and development perspectives.

Nesadurai and Pacheco (2022) demonstrate in their study that this particular case exemplifies the increasing significance of sustainability concerns in global trade policy. They contend that achieving a lasting solution to such conflicts necessitates the establishment of comprehensive sustainability criteria that include local circumstances holistically. Enhancing technical collaboration and facilitating technology transfer to promote the adoption of sustainable manufacturing methods in emerging nations. Establish multi-stakeholder dialogue forums that include government, industry, and civil society.

Analytical Insights and Future Outlook for Resolution

The observed dispute resolution conduct displayed by the parties in this particular situation offers several significant insights:

a) The significance of augmenting international negotiation and litigation capacity: Developing nations must persist in enhancing their proficiency in international trade law and economic diplomacy.

b) The strategic significance of coalitions and alliances: The collaboration between Indonesia, Malaysia, and other nations that produce vegetable oil enhances their bargaining power in negotiations.

c) The pivotal significance of scientific evidence: The capacity to provide robust and reliable scientific evidence is essential in conflicts about environmental matters.

d) The necessity of adopting a comprehensive approach: Effective resolution of modern trade disputes necessitates a profound comprehension of the interrelationships among economic, environmental, and development concerns.

Santosa and Khatarina (2021) contend that this situation can potentially stimulate a more sustainable and fair reconfiguration of worldwide palm oil governance. Their proposal entails various progressive measures, such as advancing comprehensive and fair worldwide sustainability criteria. Enhancing transparency within worldwide palm oil supply networks and implementing robust and globally acknowledged certification systems are needed. An allocation of resources towards research and innovation aimed at enhancing palm oil production's efficiency and long-term viability.

4. CONCLUSION

An analysis of the palm oil trade case involving Indonesia, Malaysia, and the European Union from the standpoint of Dispute Settlement Behavior reveals significant intricacy and multifaceted nature. In addition to conventional trade concerns, the dispute encompasses non-tariff elements such as environmental sustainability and health standards. The European Union's adoption of the Renewable Energy Directive II (RED II)

policy was the primary trigger for the disagreement, which Indonesia and Malaysia interpreted as discrimination against their industrial exports.

Consequently, both nations employed intricate negotiating tactics that incorporated both integrative and distributive methods, which mirrored advancements in economic diplomacy of developing countries. The World commerce Organisation (WTO) encounters difficulties in effectively addressing the intricate nature of environmental and sustainability concerns within the framework of global commerce, thereby impairing its function as the principal platform for resolving disputes.

Furthermore, the case exposed a basic conflict between trade policy and the worldwide environmental agenda, highlighting the necessity for a more unified strategy in dealing with trade and sustainability concerns. This case highlights several important points, such as the requirement of developing international negotiating and litigation capabilities, the strategic significance of coalitions and alliances, the critical role of scientific evidence, and the necessity of adopting a comprehensive approach to resolving disputes.

Moreover, the case can stimulate changes for a more environmentally friendly and fair worldwide management of palm oil. This necessitates the establishment of comprehensive sustainability criteria, enhanced openness in the supply chain, reinforced certification systems, and allocation of resources towards research and innovation to enhance the efficiency and sustainability of palm oil manufacturing. Ultimately, the resolution of palm oil trade disputes necessitates a comprehensive, flexible, and all-encompassing strategy that considers economic, environmental, and developmental interests in a well-balanced manner within the framework of ever more intricate international trade relations.

5. REFERENCE

- Adiputra, Y., & Hidayat, N. K. (2022). Analisis Strategi Diplomasi Ekonomi Indonesia dalam Sengketa Minyak Sawit dengan Uni Eropa. *Jurnal Hubungan Internasional Indonesia*, 14(2), 145-168.
- Akhtar, S. I., & Jones, V. C. (2020). WTO Dispute Settlement: Reform Proposals and Implications. *Jurnal Kebijakan Perdagangan Indonesia*, 8(2), 145-170.
- Badan Pengkajian dan Pengembangan Perdagangan. (2023). Laporan Analisis Dampak Kebijakan RED II Uni Eropa terhadap Ekspor Minyak Sawit Indonesia. Kementerian Perdagangan Republik Indonesia.
- Damanik, S., & Wibisono, M. (2020). Kebijakan Luar Negeri Indonesia dalam Menghadapi Diskriminasi Minyak Sawit oleh Uni Eropa. *Jurnal Politik Internasional*, 22(1), 59-82.
- Denzin, N. K. (2017). *The research act: A theoretical introduction to sociological methods*. Transaction publishers.
- Harris, M. (2011, August 16). Grades improve if classes start later, studies find. *The Calgary Herald*. Retrieved from <http://www.calgaryherald.com/>
- Hasan, M. F., & Mahardi, R. (2021). Peran GAPKI dalam Mendukung Posisi Indonesia pada Sengketa Sawit di WTO. *Jurnal Diplomasi Ekonomi*, 3(2), 201-225.

- Hidayat, N. K., & Glasbergen, P. (2021). Tantangan Keberlanjutan dalam Perdagangan Minyak Sawit: Perspektif Indonesia. *Jurnal Ekonomi dan Pembangunan Indonesia*, 21(1), 1-25.
- Kementerian Luar Negeri RI. (2022). *Buku Putih Diplomasi Minyak Sawit Indonesia: Menjawab Tantangan Global*. Jakarta: Kemlu RI.
- Nasution, A., & Prayoga, S. (2023). Efektivitas Penggunaan Mekanisme WTO dalam Penyelesaian Sengketa Dagang: Studi Kasus Minyak Sawit Indonesia-UE. *Jurnal Hukum Internasional Indonesia*, 11(3), 312-340.
- Nesadurai, H. E. S. (2019). Transnational Private Governance and the Palm Oil Controversy in Southeast Asia. *Jurnal Hubungan Internasional Indonesia*, 6(2), 15-40.
- Nesadurai, H. E. S., & Pacheco, P. (2022). Menuju Tata Kelola Minyak Sawit Berkelanjutan: Tantangan dan Peluang. *Jurnal Kebijakan Lingkungan dan Pembangunan*, 15(3), 210-235.
- Purnomo, H., & Dharmawan, A. H. (2020). Dinamika Negosiasi Indonesia-Uni Eropa dalam Isu Sustainable Palm Oil. *Jurnal Ilmu Sosial dan Ilmu Politik*, 24(1), 67-89.
- Rahmah, A., & Widjaja, H. (2021). Strategi Soft Power Indonesia dalam Menghadapi Kampanye Negatif Kelapa Sawit di Pasar Eropa. *Jurnal Kajian Wilayah Eropa*, 17(2), 178-202.
- Rana, K. S., & Chatterjee, B. (2020). Evolusi Diplomasi Ekonomi di Era Digital. *Jurnal Diplomasi Indonesia*, 12(1), 78-100.
- Santosa, M. A., & Khatarina, J. (2021). Menuju Tata Kelola Minyak Sawit Berkelanjutan: Pelajaran dari Sengketa Indonesia-UE. *Jurnal Hukum Lingkungan Indonesia*, 7(2), 189-210.
- Suharto, R., & Prasetyo, P. E. (2022). Analisis Kebijakan Perdagangan Minyak Sawit Indonesia: Respon terhadap Restriksi Impor Uni Eropa. *Jurnal Ekonomi Pembangunan*, 20(1), 45-68.
- Voon, T. (2020). Restricting Trade in Palm Oil: The WTO and Health-Related TBTs. *Jurnal Hukum Perdagangan Internasional*, 12(3), 279-302.
- Widodo, T., & Nugroho, A. (2023). Perilaku Penyelesaian Sengketa Indonesia dalam Forum Multilateral: Pelajaran dari Kasus Sawit di WTO. *Jurnal Organisasi Internasional dan Diplomasi*, 5(1), 90-115.
- Neva Agsa Sulistya. Analisis Gugatan Uni Eropa Di WTO Terhadap Industri Kelapa Sawit Indonesia. E-ISSN : 2598-6236 <http://jurnal.um-tapsel.ac.id/index.php/muqoddimah>.
- Justira Yijreal Situmorang, Silviani, Khoirida Rahma, Oot Hotimah (2023). Konflik Indonesia Perdagangan Minyak Sawit dan Malaysia dalam Menghadapi Kebijakan Uni Eropa (EU). Vol. 11 No. 2 (2023), Halaman 101-108.