Brazilian Diplomacy

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BRAZILIAN ECONOMIC DIPLOMACY IN WTO ON EUROPEAN UNION SUGAR SUBSIDY DISPUTE

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ABSTRACT

This research is intended to examine the steps of Brazil's economic diplomacy in the case of EU sugar export subsidy disputes at the WTO. Brazil has succeeded in resolving the dispute over the case of EU sugar export subsidies to produce a sanctions decision made by the WTO, namely demanding the European Union to reform the sugar policy for the EU sugar regime. The success of Brazil in winning the dispute over the case of EU sugar export subsidies was sought by Brazil by utilizing the end of the Peace Clause in 2003 and being able to establish cooperation with government and non-state actors.

Keywords: European Union, Sugar, WTO, Brazil, Economic Diplomacy

1. Background

Sugar is one of the food needs which in its role of fulfills food needs, it is determined by the State as the strategic commodity and the main trade commodity. The benefits of sugar are as a source of calories in addition to rice, tubers and corn. Besides, sugar is a sweetener for our food and drink. The sweetness in sugar makes our food and drink feel tasty. So, sugar becomes very important for the community food needs.

The biggest sugar producers countries are countries that have warm climates such as Australia, Brazil and Thailand. The Dutch East Indies (now Indonesia) was once the world's leading sugar producer in the 1930s, but it was later rivaled by the new sugar industry that more efficient. In 2001/2002 the sugar produced in developing countries more twice if it was compared to sugar that was produced by developed countries. The biggest sugar producers are Latin America, Caribbean countries, and East Asian countries. Sugar consumption in the world during the period of 1960-1980 rose by an average of 3.18 percent for every year. The largest sugar consumer country in the world is the Soviet Union, which is 13.9 percent of the total of world consumption in 1980, while the USA, India, Brazil and China are 10.6, 7.5, 6.1, and 4.3 percent of the total of world consumption in the year in the same time.¹

The biggest sugar importer is the European Union (EU). Agricultural regulations in the EU stipulate that the maximum quota of production for each member according to demand, supply, and price. Some of this sugar is the "quota" sugar from the levies industry, the rest is sugar sold at market prices without subsidies. These subsidies and high import taxes make it difficult for other countries to export to EU countries, or compete with them on world markets

Brazil is developing domestic agriculture and export expansion, to occupy the third largest net country position in the world. Brazil is the world's largest producer of sugar cane and sugar exporter. In 2003-2004, Brazil produced 20.4 million tons of sugar and 13 billion liters of ethanol. Based on that amount, 9.5 million tons of sugar and 12.7 billion liters of ethanol are used for domestic consumption, while the rest is exported. Brazilian natural wealth is obtained through a tropical climate. So, Brazil wants to protect the sugar sector from the instability of world sugar trade.

On September 27, 2002, Brazil reported the European Union to the WTO Dispute Body Settlement regarding the case of sugar export subsidies. It happened because the European Union

with its sugar market regime, the Common Market Organization for Sugar (CMO) was violated the sugar export subsidy quota rules which have been determined by the WTO in the article Agreement on Agriculture (AoA) and Agreement on Subsidies and Countervailing Measure (SCM).²

On September 27, 2002, Australia and Brazil requested consultation with the European Community (European Communities - EC) regarding export subsidies provided by the European Commission in the purpose of the General Market Organization for the sugar sector. The request

¹⁰ elima H Azahari Darmawan, "Perdagangan Gula Internasional"

² Nur Mega Lestari "Strategi Brazil dalam Memenangkan Sengketa Kasus Subsidi Ekspor Gula Uni Eropa di World Trade Organization Tahun 2001-2006"

relates to the Council Regulation (EC) No. 1260/2001 dated June 19, 2001 concerning market organization with EC in the sugar sector, and all laws, regulations, administrative policies, and other instruments relating to the EC regime for sugar and sugar-containing products including rules adopted in accordance with procedures as referred in Article 42 (2) Council Regulation (EC) No. 1260/2001, and other provisions related to it. On March 14, 2003, Thailand requested consultation with the European Community on the same matter.³

Australia argued that the EC has violated applicable regulations, where the EC exports excess sugar so that it violates the export subsidy commitments specified in Part II of Part IV. It further alleges that the EC may also pay higher per-unit subsidies to the products entered than on primary products. In addition, under the EC sugar regime, it intervenes in sugar prices so as to provide a less favorable treatment for other countries that carry imported sugar products.⁴

The export quantity carried out by the European Union exceeds the agreed quantity level of 2,823,500 tons of sugar. In addition, the European Union also provides almost twice of the agreed export price of 631.9 million euros in the 2000/2001 of marketing year.⁵

Furthermore, Brazil asked the WTO to form panels from Australia, Brazil, and Thailand. It urged the WTO through the Dispute Settlement Body (DSB) to form a single panel at its meeting on 29 August 2003. On 15 December 2003, Australia, Brazil, and Thailand asked the Director General to determine the composition of the panel. On December 23, 2003, the Director General formed the Panel. On June 23, 2004, the Panel Chair told DSB that they would not be able to complete their work within six months due to the complexity of the problem and that the Panel was expected to complete its work in early September 2004.⁶

The World Trade Organization (WTO) in Brussels, Belgium, decided the European Union was proven to violate the rules of sugar subsidies to its producers. European producers are also accused of buying bits of sugar raw materials at lower prices than production costs. In its decision, the WTO panel also stated that European sugar exporters received too much subsidies from the European Union. Moreover, the amount of subsidies exceed allowed by the WTO. As a

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³ WTO. 2005. European Communities – Export Subsidies on Sugar. Diakses dari

https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds266_e.htm . Pada tanggal 1 Januari 2019 ⁴ Ibid

⁵ Nur Mega Less ri , Ibid

⁶ WTO. 2005. European Communities – Export Subsidies on Sugar, Opcit

result, the price of sugar in the world market has fallen sharply so that sugar producers from other countries cannot compete. The WTO decision was strengthened by the information from the governments of Brazil, Thailand, and Australia which became the world's main sugar producers. According to the three countries, the cost of production in Europe is too high so that it is impossible for the European Union to sell these commodities outside of their area unless they are subsidized.⁷

In dealing with the problems of subsidies in sugar trade, the role of the WTO is very important in effectively monitoring the trade path and regulating trade regulations, which are fair for both developed and developing countries. The relations between Brazil and the European Union, the European Union is the biggest investor in Brazil, while the South American country is the fifth largest investor in the European bloc. The trade between parties reached 30,000 million during the first half of the year, according to official data.⁸

2. Conceptual foundation

International Relations is an academic discipline that focuses on the study of the interactions of actors in international politics, including countries and non-state actors, such as the United Nations (UN), International Monetary Fund (IMF), World Bank, and Amnesty International. One of the key features of the international system is that it is a state of anarchy - every country in the system is sovereign and it does not have to answer the higher authority.⁹

Imagine living in confined spaces with a group of other people with limited resources. Further imagine that there is no law enforcement and that the only 'law' is an agreement between individuals and self-help is the only way of enforcement. In short, everyone can do whatever he wants just by submitting to what other people will do in the room. This situation gives you an idea of the world where the country lives. ¹⁰

International relations involves the study of things such as foreign policy, international conflicts and negotiations, war, nuclear proliferation, terrorism, international trade and

 ⁷ "Uni Eropa terbukti melanggar aturan subsidi gula" www.liputan6.com di akses pada tanggal 16 agustus 2018
 ⁸ "Brazil yakin bahwa hubungan dengan Uni Eropa akan lebih dalam di masa depan" (<u>https://id.invertalia.net/news</u>)

d 28 ses pada tanggal 10 agustus 2018)

⁹ Banyu Perwita, Anak Agung dan Yanyan Mochamad Yani. "Pengantar Ilmu hubungan Internasional". (Bandung: Ro12a, 2013). Hlm 10

¹⁰ Yanuar Ikbar." Ekonomi Politik Internasional : Konsep dan Teori" (Bandung : Rafika Aditama, 2012). Hlm. 23

economics, and international development, among other subjects. As you would expect, the broad scope of international relations requires an interdisciplinary approach, which utilizes the fields of economics, law, political science, sociology, game theory, and even psychology.¹¹

The term International Relations has developed quite rapidly at the end of the 19th century, various experts in International Relations have provided many outline definitions that International Relations are relationships that are intertwined between countries throughout the world. Where in the International Relations itself there are components that affect the work of International Relations themselves, namely the analysis of the comparison of foreign policy of a country, International Law, International Organizations, political comparison and regional studies (Area studies), strategic studies (strategic studies), international development, international communication, and peace studies and efforts to resolve conflicts including those involving control and disarmament.¹²

Free trade policy is to eliminate discrimination against imports and exports. Buyers and sellers from various countries can voluntarily trade without the implementation of tariffs, quotas, subsidies or prohibitions on goods and services by the government. Free trade is the opposite of trade protectionism or economic isolationism.¹³

Politically, the free trade policy may simply not be a trade policy, so the government does not need to take special measures to promote free trade. This is called "laissez-faire trade" or "trade liberalization." The government with a free trade agreement does not necessarily abandon all import and export tax controls. In modern international trade, several free trade agreements (FTAs) produce full free trade.¹⁴

Diplomacy of the general understanding of diplomacy according to Ernest Satow is the use of intelligence / wisdom and wisdom towards behavior rather than official relations among governments of independent countries, sometimes it is also extended in relations between the

¹¹ Ibid

¹² Nuraeni, Deasy Silvya, Arfin Sudirman, "Regionalisme : Dalam Studi Hubungan Internasional" (Yogyakarta : Pustaka Pelajar, 2010). Hlm 10

¹³ 12 rpirin,Ph,D. Ekonomi Internasional (Yogyakarta: Yogyakarta BPFE, 2001) . Hlm. 100

¹⁴ Rudy, T. May, Ekonomi Politik Internasional: Peran Domestik Hingga Ancaman Globalisasi. (Bandung: Nuansa, 2007). Hlm 109

government and the country of origin, in a shorter term said behavior rather than obligations / duties between countries with peaceful intentions.¹⁵

Diplomacy is one of the practices in international relations between countries through official representatives. The practice of diplomacy can cover the entire process of foreign relations and policy formation. It is stated that diplomacy also means a foreign policy tool or mechanism that is used as an end goal, also defined as operational techniques that will be carried out by a country to fight for its interests through law.¹⁶

In the implementation of diplomacy, a number of main factors are generally included, namely¹⁷:

1. What is to be fought for so that other parties understand and support it

2. Ways to strive for and seek understanding and support in the form of tactics and techniques for implementing diplomacy

3. The ability to convince others to convey their views accompanied by knowledge of appropriate language and adapted to the international situation.

Diplomacy runs through departments or ministries of foreign affairs, embassies, legations, consulates and special missions throughout the world. Diplomacy can cover a variety of interests ranging from simple things in relations between two countries to vital issues such as war and peace. If diplomacy fails, a crisis will emerge which leads to the danger of war¹⁸

3. Discussion

3.1. Brazil and European Union Partnership Strategies

¹⁵ 26 htar Mas' oed, Ekonomi-Politik Internasional dan Pembangunan (Yogyakarta: Pustaka Pelajar, 2003). Hlm 89

¹⁶ Aldecoa, Francisco and Michael Keating. Paradiplomacy in Action: The Foreign Relations of Subnational G 17 rnment. London: Routledge. 2013. Hlm. 23

¹⁷ 31 lantik, Sukawarsini. Diplomasi Antara Teori dan Praktik. (Yogyakarta : Graha Ilmu., 2008). Hlm. 45

¹⁸ Jemadu, Aleksius. "Politik Global dalam Teori dan Praktik". (Yogyakarta: Graha Ilmu, 2008). Hlm 56

On the occasion of the Second Summit in Rio de Janeiro, the Joint Action Plan was signed.¹⁹ The plan considers the field of thematic cooperation between the EU and Brazil. The five thematic areas of cooperation between the EU and Brazil are:

· Promote comprehensive peace and security through an effective multilateral system

- Improve Economic, Social and Environmental Partnerships to promote sustainable development
- Promote regional cooperation
- Promote science, technology, and innovation;

Promoting person-to-person exchanges

Blatantly, Strategic Partnership, especially at the outset, has potential benefits for both parties. From an EU perspective, Brazil is an important regional power and potential interlocutor for future economic agreements and political dialogue in the region. Meanwhile, the High Level Dialogue formed by the agreement consists of a discursive political space in which the EU can strengthen important commercial relations with Brazil and make progress in the field of international cooperation, while projecting its normative power through the promotion of European norms and values in partnership. Regarded as a civil power, the EU wants to change the system through promotion of norms: partnerships, in accordance with Ian Manners,²⁰ can be used as training in diffusion and advocating the principles of multilateral cooperation, diplomacy excellence, peaceful mediation of conflicts, promotion of human rights, and the rule of law.

For Brasilia, this partnership serves two main foreign policy objectives: global projections and increased autonomy through diversification of external relations. The inclusion of a limited and selective list of EU partners represents a quality seal for the recent emergence of the state as an economic power and political potential. Recognized at the same level as the US or China has an important meaning for the Brazilian political elite. Furthermore, hope arises from partnerships demanding reform of global institutions, and in particular the Security Council of

¹⁹ Council of European Union, 2nd Brazil-European Union Summit, Rio de Janeiro, 17602/08 (Presse 386), 11 ember 22, 2008

²⁰ MANNERS, Ian. 2002. Normative Power Europe: A Contradiction in Terms?. Journal of Common Market Studies, 40(2). : 235-258.

United Nation: issues that might be supported by the European Union. Likewise, partnerships with the EU are only part of a broad network of partners and multilateral initiatives, which have characterized Brazilian foreign policy in recent years.²¹ This balance guarantees not only the support of partners but also autonomy to increase Brazil.

3.2 Union Economic Relations of Brazil and European

Economic relations between the EU and Brazil developed through the summit process. For example, economic and financial regulation problems were a top priority at the 2nd EU-Brazil Summit. Meanwhile, the 5th Summit discussed issues such as employment and the social dimension of globalization and opportunities for growth in the emerging green economy.²² Among other achievements, the 2013 EU-LAC Summit saw the signing of a letter of intent between the European Union and Brazil related to:

1. encourage tourism and increase the number of visitors

2. The Joint Program on Culture which partly focuses on developing the creative economy and related industries

3. \in 500 million loan agreement for the green energy sector.

3.3. Brazil and European Union Trade Relations

Brazil and the EU are significant trade partners, the two countries provide mutual benefits in trade relations. EU imports from Brazil are dominated by primary products, mainly: agricultural goods, fuel and mining products. However, manufactured goods are also important and include: machinery, transportation equipment, and other consumer products. EU exports to Brazil are mainly manufactured products such as machinery, transportation equipment and chemicals.²³ The EU is also the largest foreign investor in Brazil. About 50% of foreign direct

²² Gratius, S. (2018). Brazil and the European Union: from liberal inter-regionalism to realist bilateralism. Revista Brasileira de Política Internacional, 61(1): 1-21 doi:10.1590/0034-7329201800103

²¹ Strategic Partnerships with Turkey and Norway, plus the emphasis on the institutionalization of multilateral gr 9 ps such as BRICS and IBSA.

²³ https://www.iai.it/en/pubblicazioni/economic-agenda-between-brazil-and-eu

investment (FDI) flowing to Brazil comes from the EU. The following are some trade cooperation between Brazil and the European Union.²⁴

3.4.Domination of the Brazilian Economy in dealing with sugar dispute cases on the European market in the WTO

Brazil has been a contracted party with GATT, the predecessor of the WTO, since July 1948 - just a few months after the multilateral trading system was established. As the fifth most active user, Brazil was often involved in the GATT dispute resolution system.²⁵ Since the establishment of the WTO in 1995, Brazil has become a very active user of the WTO dispute resolution system.²⁶ A total of around 450 cases, brought complaints in 26 cases, became respondents in 14 and acted as third parties in over 74. The European Union is increasingly utilizing the system, acting as complainants in 87 cases, as respondents at 73 and as a third party on 131. Given these numbers and the mutual interests of their economies with each other, it is inevitable that Brazil and the EU will file complaints one another. This happened in five disputes that led to the panel report, because each of them also appealed.

Appeal Agency reported (AB), Six disputes between the two parties were resolved. Based on the nature of the WTO dispute resolution system and what role the EU plays in this regard. It also explores how Brazil's success in using a dispute resolution system resulted in increased leverage against the EU.²⁷ As well as being a diligent user in the WTO dispute resolution system, Brazil has also submitted several proposals at the WTO regarding improvements to its rules and procedures, four of which are highlighted here. The EU also plays an important role in these two procedural reform issues. All of these proposals appear to be aimed at strengthening the justice system. First, both Brazil and the EU have been involved in controversial issues from the Amicus curiae brief in the resolution of WTO disputes since 2000. The year 2000 marks the first case in which AB filed legal reasons to receive a briefing, which had been received in a previous case. In US - Lead and Bismuth II, the US supports AB who receive a brief amicus curiae. The European Union (complainant in this case) and Brazil (as a third party) oppose this acceptance,

²⁴ http://ec.europa.eu/trade/policy/countries-and-regions/countries/brazil/

 ²⁵ 19 G Shaffer, M Ratton Sanchez and B Rosenberg, "The Trials of Winning at the WTO: What Lies Behind Brazil's
 1 ccess?" (2008) 41 Cornell International Law Journal 383, 404-405.

 ²⁶ This happened right from the start: Brazil was the complainant in the fourth WTO case, WT/DS4, US— Gasoline.
 ²⁷ WT/DS69, EC—Poultry; WT/DS219, EC—Tube or Pipe Fittings; WT/DS266, EC—Export Subsidies on Sugar; WT/DS269, EC—Chicken Cuts; WT/DS332, Brazil—Retreaded Tyres

both of which state that AB cannot receive such direction. Brazil also states that parties and third parties "have unique qualifications to make legal arguments"²⁸

Second, in 2003 Brazil submitted a proposal to change the WTO DSU, which established procedures for the WTO dispute resolution system. According to Brazil, the system will be made more efficient and efficient with "fast track" panels or accelerated procedures. According to the proposal, in cases where Member size has been found to be inconsistent with WTO law through the WTO dispute resolution system, other Members whose rights are canceled or damaged by the same action will have the right to expedited procedures. The complainant must first prove that the action is identical to the action found to be inconsistent with the obligations of the issuing Member. Separate findings about the problem will determine whether, if the size is not the same, the usual procedure applies. If it is the same, the accelerated procedure applies.²⁹ As a result, the fast track panel will reduce the time period and the option to compromise politics or diplomatic tactics, placing emphasis on the rule of law rather than diplomatic power.³⁰ Although the European Union highlights that similar accelerated procedures can be useful in the case of unjustified antidumping and balancing investigations, this procedure does not take a formal stance on Brazilian proposals. The proposal no longer appears on the table.

In relation with the Sugar dispute, Brazil scored its second victory in June 2004 at the World Trade Organization, which ruled that EU sugar subsidies gave farmers an unfair advantage in the global export market, Brazilian officials said Wednesday. Sugar is one of the most subsidized EU plants, and government support has helped European sugar producers become the second largest exporter in the world, behind Brazil, which is also the biggest sugar producer.³¹

If the interim decision is enforced by W.T.O. in September 2004, this could strengthen developing countries because they finalized the details of the agreement reached last weekend in

²⁸ 1/T/DS138/AB/R, US—Lead and Bismuth II, Hal, 37.

²⁹ TN/DS/W/45/Rev.1, Communication from Brazil (4 March 2003). The proposal was discussed at a meeting of the Dispute Settlement Body Special Session, see TN/DS/M/9, Minutes of Meeting Held on 17-18 February 2003 (1 July 2003).

³⁰ TA Zimmermann, "The DSU Review (1998-2004): Negotiations, Problems and Perspectives" in D Georgiev and K Van der Borght (eds), Reform and Development of the WTO Dispute Settlement System (Cameron May 2006), 455 ar 22 57-458.

³¹ https://www.reuters.com/article/us-china-brazil/brazil-launches-trade-dispute-against-china-over-sugar-wtoidUSKCN1MW178

Geneva, where 147 members of the trade body agreed to a negotiating framework to reduce agricultural subsidies in rich countries by as much as 20 percent and cut Import rates for everything from corn to soybeans.³²

The decision could also trigger a new complaints on W.O., which won Brazil in the late of June 2004 in an important case against billions of dollars in annual subsidies paid by the United States to cotton farmers. Specific points of the WTO ruling said the decision supported their claims in most calculations. The complaint, filed by Brazil in August 2003 along with Australia and Thailand, argued that nearly \$ 2 billion in annual export subsidies paid by the EU to sugar farmers encouraged overproduction and artificially suppressed international prices.

The European Union sets a quota for sugar production for the European market, and farmers must export excess sugar at lower prices. In its complaint, Brazil accused the European Union of exporting more subsidized sugar than was permitted under the global trade agreement. Brussels has denied the claim, insisting that the practice of selling European sugar purchased from poor countries in Africa, the Caribbean and the Pacific valley should not be counted on permitted exports. W.T.O. a complaint filed by Brazil estimates that global sugar prices will rise by almost 20 percent if Brussels cancels subsidies. Brazilian sugar producers claim they lost \$ 500 million to \$ 700 million in exports a year due to European subsidies.

In Brussels, Arancha González, spokesman for EU trade commissioner Pascal Lamy, said European officials would not comment on the decision, according to Reuters. Many trade experts expect the European Union to appeal the decision if it is enforced next month. The decision came less than a month after the union's agricultural commissioner, Franz Fischler, proposed a massive change to the 30-year-old European sugar subsidy program. Under the proposal, which was met with criticism from 60,000 bit farmers in Europe, Brussels would cut the guarantee of a third of the minimum price for producers and cut production quotas to prevent the disposal of excess production in foreign markets.

4. Conclusion

³² https://www.nytimes.com/2004/08/05/business/wto-rules-for-brazil-in-sugar-dispute.html

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The relations between the European Union and Brazil are often trapped in "vicious circles" of progress, stagnation, and even temporary regression. The handling of the economic crisis was absorbed by the governments of Europe and Brazil, so that the Strategic Partnership signed by the two parties seemed to be reduced to oblivion. However, the EU realizes the strategic importance of Brazil as a regional actor and partner in a multilateral forum. In the current mulipolar (or non-polar) world order, the EU needs to re-launch its role in the international arena by working with new partners. One of the disputes between Brazil and the European Union is the sugar dispute. Brazil can be said to be the winner in the case of EU sugar export subsidies at WTO Dispute Settlement because of the sanctions given by the WTO to the European Union to reform sugar policy in the sugar market regime and in 2006 the EU implemented the sanctions. It is evident that the European Union implemented the sanctions indicated a decrease in the price of sugar in the European Union and the European Union reducing the quantity of sugar production.

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