

## Trade Governance of the WTO and Developmental Dilemmas of Developing Countries in the case of Indonesia's Nickel Ban.

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### ABSTRACT

This paper explores the dynamic interaction between developing and developed countries and the WTO as an international trade regime. More specifically, It discusses the structural rigidity and strategic choices faced by developing countries within the body of the WTO. It will show the role of the WTO as an economic liberal organization interacting with Indonesia as a developing country pursuing resource nationalism by looking at the case of Indonesia's nickel export ban policy. Using World-System Theory and Regime Theory, the paper argues that while the WTO institutionalizes a global trade regime that favors developed (core) countries and limits policy space for industrialization and resource nationalism in the Global South, developing countries like Indonesia continue to participate. This is motivated by perceived benefits such as reduction of transaction cost, predictability, and access to a multilateral dispute forum. In case of Indonesia nickel export ban, apart from the Regime Theory explanations, Indonesia's continuous participation is driven by its ability to bear the cost of rule violations. Indonesia strategically accepts short-term legal and economic costs because the long-term developmental gains of the ban outweigh the threat of retaliation legally protected by the WTO. This suggests that even within an asymmetrical system, developing countries can exercise agency, navigate structural disadvantages, and manage the WTO's power while pursuing national development goals.

**Keywords:** World Trade Organization (WTO), Developing Countries, Indonesia, Nickel Export Ban.

### INTRODUCTION

The World Trade Organization (WTO) plays a substantial role in the global economic governance architecture. Replacing the General Agreement on Tariffs and Trade (GATT) in 1995, the WTO is mandated to regulate international trade, promoting trade liberalization, and serve as a forum for trade negotiation and dispute settlement. The WTO not only shape the direction of global economy but also shape national policy choices especially the developing countries as it is one of the few global institutions that creates binding rules for trade among its member states. As the WTO agreement are binding, the institution also gave a birth to dispute settlement mechanism in order to manage dispute and to discipline the "law breaker" state. In this context, it is essential to assess how WTO rules interact with national development strategies especially when states want to pursue industrialization, technological upgrading, and

resource nationalism. It is also equally important to examine how those states pursuing national development strategies that is not consistent with the WTO law think, act, and responds to the WTO strict rule. It is necessary as well to wonder if the WTO has restricted the policy space of countries, why do countries still engage in the WTO rule of the game. Understanding this complex phenomenon is critical to see the role and character of WTO in the eyes of states and vice versa. It also gives us the ability to understand what is at stake in their interaction.

As an intergovernmental organization with around 164 members as of 2024 covering 98% of global trade, the WTO mandate is based upon a set of multilateral trade agreement such as the GATT focusing on goods, GATS focusing on services, and TRIPS focusing on intellectual property. The primary principles of WTO's mandates are trade without discrimination, freer trade through negotiation, predictability through binding and transparency, fair competition, and encouragement of development and economic reform. Based on those purposes, the WTO has set the rules like Most-Favored Nation (MFN), National Treatment, transparency, and Dispute Settlement Mechanism. These principles reflect the liberal economy philosophy favoring open markets.

One of the WTO's core tasks is to open the market everywhere. It means that the buying and selling transaction should be freer without restriction. Recognizing there is different legal political entity that controls sovereignty over certain geographical area, this unrestricted trade would not be possible. Therefore, the WTO's core function is a forum to invite state to negotiate in pursuit of lowering trade barriers. Through a series of round of negotiations such as the Tokyo Round, the Uruguay Round, and the ongoing Doha Development Round - the WTO has pushed for reduced tariffs, quotas, and subsidies. This liberalization process has made it easier for goods and services to flow transnationally and has contributed to the overall growth of global value chain. However, the benefit of this global achievement does not necessarily mean it is distributed equally. There are still some countries questioning the positive relation between the role of WTO and national economic development. The effect of this is that some countries decidedly behave not according to the WTO agreement. However, countries affected by "unilateral" practice outside of WTO law can file them to WTO's Dispute Settlement Body (DSB).

One of unique features of the WTO that other international organization mostly do not have is the dispute settlement mechanism. It also what differentiates the WTO and GATT. Dispute settlement mechanism provides a structured legal process including consultations, panels, appeals, and legal retaliation if rulings are not implemented. This body has served to address around 631 trade disputes as of 2024 with issues ranging from subsidies and dumping to environmental regulations and export bans. This large number of disputes tells that member states often act not based on the WTO agreements. It somehow tells there is a rule that not every member states can follow because of various motives including national interest or domestic agenda.

While promoting a rule-based international trade system, the WTO's effect on every member state is not uniform. It reflects the complexity when a rule-based

international system meets a national system and agenda. For many developing countries, they find themselves in a dilemma to which they want to participate in global trade but also want a flexible policy space to support nationalistic economic development. In reality, by participating in the WTO, they get the former but not the latter.

Pursuing national economic development often collides with international trade law. Protection of infant industries, subsidies, export and import restrictions, sovereignty over resources, and local content requirements are practices that support national economic development but are prohibited under the WTO agreement. For example, tariff reductions pushed by the WTO limit the ability of states to shield the newly emerging industry. Tariff reductions favor the established industry as it has been embedded in the market longer. Subsidy restrictions make the growth of industry more difficult. In case of natural resources, rules against export bans make a country lose its sovereignty and make it hard for the country to pursue resource-based development. Local content requirement restrictions hinder the growth of the domestic economy. These tensions are obvious in many dispute cases submitted to the Dispute Settlement Body. To mention few cases, there are national car program and nickel export ban by Indonesia, rare mineral earth export ban by China, and solar panel local content requirement by India that have been protested by other countries.

Those disputes reflect the reduction of policy space of a state to unilaterally govern the way it builds its economy. It seems like the global trade regime put emphasis more on market access than development flexibility. This situation is beneficial for established industry with strong financial backing because what they all now need is a market. For emerging industries, this situation is harmful because they are exposed directly to a harsh international market full of giant industries. To give a bit of analogy, emerging industry is like 15 years old son and established industry is 28 years old adult. They are all looking for a job. The chance is 28 years 28-year-old adult will get a job. This is because 28-year-old adult has an educational background and experiences, while a 15-year-old adult has no adequate experience and educational background. In this regard, 15 years old adult is still in need of investment by giving him education or an internship to be able to compete equally with 28 years old adult. This analogy, however, is not fully accepted in the WTO's rule. That makes the developing countries and their emerging industry vulnerable. Recognizing this fact, it is true to say that there is a gap between trade and development in the WTO when they are closely intertwined. The development agenda that promotes poverty reduction, employment generation, industrialization are sometimes neglected aspects, especially for developing countries. Although the WTO has a special approach and provision towards developing countries like Special and Differential Treatment (SDT), it is unclear and poorly implemented (Ukpe and Khorana, 2021, p. 1). Without a proper approach to integrate development into trade rules, the system will risk creating a wider economic gap among member states.

## METHODS

This paper employs a qualitative method focusing on Indonesia's nickel export band and its dispute with the European Union at the World Trade Organization (WTO) as a case study. The case study approach is aimed at capturing the interaction of continuous

participation despite existing conflict between developing and developed countries at the World Trade Organization. Data used in this paper is primarily from textual and document analysis of WTO legal rulings, Indonesian government regulations, presidential speeches, and policy statements, complemented by secondary academic literature and trade statistics.

## RESULT AND DISCUSSION

### Nickel in International Resource Politics

Managing natural resources is a vital issue for many states. They are a major income stream of wealth for many resource-rich countries that rely their economy on resource extraction. However, the geographic concentration of natural resource reserves means only few states can have access to meet their own need, mandating interdependent management between producing and consuming countries (Wilson, 2018, p. 19). It can be done by involving states bilaterally or multilaterally through an international trade organization. From a modest economic point of view, resource interdependence is beneficial since it involves trade and investment to connect producing countries to consumers in consuming countries. However, it gets more complicated in reality where producing countries wish to maximise the economic benefit from the natural resources by selling them at a higher price while consumers wish to have cheaper price. The politicization of natural resources in whatever form will always bring insecurity to the consumers. From the producing countries point of view, the natural resources are theirs and therefore they are sovereign over their resources. All the time, producing countries wish to have and to create a higher price for their natural resources. From the consumer perspective, there should be a mechanism to regulate the access of the natural resources to ensure stable prices and supply. The high politics of natural resources require the interdependent management of how the costs and benefits are shared. Indonesia's nickel is a case on point.

Indonesia is endowed with vast reserve of nickel with 52 percent of global nickel reserves located mostly in the eastern area of Indonesia. Knowing the trend of demand will increase as the electrification transition is in place, Jokowi, well-known for more economically oriented leader, issued a decree to stop exporting all unprocessed nickel in 2020. Indonesia's decision to stop exporting nickel ore – first announced in 2014 and reintroduced and reinforced in 2020, is seen as a protectionist move as it has the capability to distort the market. Yet, for Indonesia, it is a deliberate strategic policy designed for transforming the country's economic status. As the world's largest nickel producer and nickel reserves, Indonesia holds a dominant position in the supply chain of this critical mineral used in stainless steel production and EV batteries. Rather than continuing the traditional raw material-based export economic trajectory, Jokowi's administration implemented the ban as a tool to promote downstream industrialization, increase domestic value-added production, and job creation.

The main economic reason of this policy is to forcefully push industrial upgrading. For decades, Indonesia has been well-known as raw material exporter receiving minimal economic benefit compared to the profits generated by foreign manufacturers and refiners. Banning nickel in time of increasing demand, government hoped to forcefully incentivize investors both local and foreign to build smelters in Indonesia. Not only will it increase state revenue but also will lead to increasing local employment and the

possibility of technological transfer and capability. The Ministry of Energy and Mineral Resources led by Luhut Binsar Panjaitan emphasized that the ban was needed to develop a national downstream industry aimed at positioning Indonesia as a global hub for EV battery production (CNBC, 2019). This policy direction is in line with the broader national ambition to achieve high-income country status by diversifying the economy away from resource reliance toward manufacturing-based growth. This policy of banning nickel is often termed as resource nationalism where the state seeks to optimize the economic benefit from its natural resources by implementing a degree of protectionist measures.

In addition to economic rationales, there were political motives as well. The nickel ban can be seen as a symbolic gesture of Indonesia's growing confidence and assertiveness in international economic relations. Jokowi has repeatedly framed the ban policy as an expression of economic independence asserting sovereignty over its natural resources and rejecting the conventional model where the country remains a supplier of low value materials to industrialized countries. This is clearly reflected in his speeches that Indonesia should not bow to foreign pressure and would fight for the right to manage its own resources (Detik Finance , 2023).

However, this policy is seen as controversial and discriminatory. The European Union (EU), a major importer of Indonesian nickel ore, filed a complaint against Indonesia to the World Trade Organization (WTO) arguing that Indonesia's export ban policy violates international trade rules regulated by the WTO agreements. Despite the WTO rulings in favour of Europe, Indonesia's administration remained unshaken in maintaining the ban and decided to fight back by appealing to the Appellate Body of the WTO. The government also showed its willingness to accept short-term legal and economic consequences for what it views as a long-term national interest.

Analytically, the ban on natural resources in Indonesia is part of a larger developmental state's strategy under Jokowi's administration inspired by East Asian type of industrial policy (Merdeka, 2014). Temporary protection is plausible to grow local industry and foster competitiveness. State does not act only as regulatory body but actively engage and intervene by providing incentives to both international and national firms that wanted to involve in establishing domestic economy. In this regard, the nickel export ban is part of broader economic nationalism where states use strategic sectors to achieve development goals by limiting the degree of free market system.

### **The WTO Dispute: EU vs Indonesia**

The World Trade Organization (WTO), established in 1994 replacing GATT, has devoted itself to promote free trade among nations by reducing trade barriers, establishing rules for international trade, and providing platform for negotiation and dispute settlement. If certain country considers another country violate the international trade agreement, WTO can act as trade court through dispute settlement body. Since its inception, WTO has 631 disputes. One of the disputes is between EU and Indonesia on nickel export ban. Threatening domestic steel and manufacturing industry in Europe, Europe filed a lawsuit against Indonesia's nickel export restriction to Dispute Settlement Body (DSB) of the WTO. In 2022, the WTO ruled in favour of EU accusing Indonesia of violating the international trade principle of Article XI:1 of the General Agreement on Tariffs and

Trade (GATT) 1994. This dispute raises substantial question about sovereignty and the role of WTO highlighting the tension between global norms and national economic agenda.

Before addressing theoretical debates, it is equally important to provide the sequence of EU-Indonesia dispute at WTO. Under Jokowi, the 2019 export ban regulation on nickel is actually not the first time. In 2014, the restriction of several commodities took place intended to attract foreign investment to establish smelters and manufacturing industry. In 2017, the export restriction was relaxed but was reinstated in 2019 and enforced strictly in January 2020. This policy provokes criticism from Europe. Two months after the decision to stop export was issued by Ministry of Maritim and Natural Resources, Europe filed a lawsuit to WTO against Indonesia's ban policy in November 2019. There are several key issues raised by EU. First is violation of Article XI:1 of GATT stating that "no prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party." EU claimed that Indonesia unilaterally implemented a prohibition or restriction on export which is generally prohibited under XI:1 of GATT. However, there is an Article XI:2 that allows country to violate Article XI:1. It allows country to impose restriction if they are temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party. In this article, three critical points must be met to fulfil the criteria namely temporarily applied, to prevent or relieve critical shortages, and essential.

### ***Temporarily applied***

Indonesia argued that its nickel export ban was applied for limited time-period as it had implemented previously between 2014 and 2019. The restriction is necessary to secure supply needs for the domestic processing industry to bridge a passing need (WTO, 2022. P.58) However, EU claimed that previous relaxation on export is only applied to low-grade ore while high-grade ore has been continuously prohibited since 2014. The panel found that this measure cannot be categorized temporarily applied for 3 reasons. First, there is no explicit and implicit citation that this measure will be lifted in a specific timeframe. Also, there is no defining criteria that when it is fulfilled will trigger the removal of ban regulation. Second, the removal of restriction that occurred in the past was limited to low-grade nickel ore while high-grade nickel ore has been restricted since 2014. Third, Indonesia's projection of the increasing demand of nickel suggested that the restriction will last and continue for unknown time as it has to supply domestic industry. Therefore, the statement of bridging the passing need is not relevant.

### ***To prevent or relieve critical shortages***

This measure refers to taking actions to ensure the supply needed is enough to meet the need of community. This can be done by restricting export to make products

available in the domestic. When situation is normalized, all restriction can be removed. In case of nickel, Indonesia claimed that the measure is to prevent critical shortages of nickel ore in its territory. The increasing demand of nickel from the rise of EV battery and stainless-steel industry has been considered a threat for nickel reserve. This export ban is the preventive action to mitigate market consumption at unsustainable rates. In this regard, EU claimed that critical shortages status is self-created by Indonesia. The data given by Indonesia does not include the low-grade ore demonstrating the reserves is not critical. In this regard, this policy can be true in terms of preventing shortages. But shortages alone cannot qualify for this category. Shortages must be critical. The fact that Indonesia is planning to expand the smelter and the domestic nickel industry by increasing production is contradictory to the idea of preventing critical shortages. It also contradicts to the statement arguing it would contribute to resource conservation by reducing extraction.

### ***Essential***

Essential refers to absolutely indispensable or necessary. How indispensable the product is dependent on the member country to interpret. However, this does not mean a member state can easily claim that the product is essential. Indonesia's argument is that the nickel is essential because of its contribution to general Indonesian economy specifically to certain regions where nickel industries are located. It also contributes to job creation. Apart from that, Indonesia also underscored the role of nickel as necessary input for steel and EV production that it plans to expand. As a response, EU argued that essential must be understood as it addresses the vital need for population. Just being a primary source of economy to a state or region is not sufficient to qualify a product is essential. EU also argued that accepting the definition of essential based on Indonesia's interpretation will lead to broad application of its usage.

Apart from that, Indonesia also argued that this nickel measure is under the Article XX (d) that it is necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement. In this case, Indonesia claimed to implement Article 96 (C) promoting sustainable mining practices that does not harm the environment. Indonesia contends that foreign demands present a greater risk of non-compliance because foreign purchasers of nickel ore do not fall within Indonesia's jurisdiction (WTO, 2022. P. 78). However, Europe does not accept this argument as it does not show in reality the relationship between the nickel export ban and adherence to environmental standards of mining. EU believe that the primary objective of export restriction is value addition, not in pursuit of adhering environmental regulation.

In general, Indonesia failed to build the argument that satisfy the WTO's principle of trade liberalism. In 2022, the WTO through dispute settlement body declared that Indonesia has officially violated the Article XI:1 of the GATT 1994. In response to this, Indonesia has planned to appeal to the Appellate Body about WTO ruling on its nickel export restriction. Apart from that, Indonesia has aggressively filed several complaints to the WTO towards EU after the WTO's rulings.

### National Development of Indonesia and Global Trade Governance of WTO

The WTO plays a crucial role in managing global trade. It invites all states to have a common language on how trade should be done globally. However, the option is not many. The decision on how to operate the global trade is not free but has to be under the flag of trade liberalism. From GATT to WTO, countries were directed to the implementation of trade barrier reduction. Because of this, countries are connected and tied to each other under the WTO trade agreements. To discipline the law breaker states, the WTO is equipped with dispute settlement mechanism that can normatively be used by all states. This DSM provides a country a space to criticize and protest the measure by other countries that violates the WTO trade agreement.

Started with 23 original members of GATT to more than 150 member states under the WTO, it fundamentally has a hegemon in international rule-making. The fact that it has DSM, the WTO has judicial power to govern and limit the national sovereignty. The question is whose sovereignty is at stake the most. What group of countries that has benefited the most and that has less benefited under the system of the WTO or who has been served by the WTO the most remain a highly political question. To little bit address those questions, the WTO needs to be understood as the creation or product. It did not automatically emerge out of nowhere.

It is important to see the dynamic from the lens of world system theory to understand the system of WTO. In the WTO, developing and developed countries are tied but developed country has a privilege to face the worst consequences of not obeying WTO that is retaliation. Meanwhile, developing country has a weak position to not obey the WTO as it would harm the domestic economy. In this regard, developing countries are forced institutionally to serve the need of developed country. In this case, developing country acts as a periphery country and developed country as a core country. From the world system theory, developing countries acts as raw material supplier as well as market of the core country that can manufacture high added value product. Meanwhile, core countries act as buyer of low value product from the periphery country. From basic economic perspective, this is normal market activity where buyer and seller meet for product transaction. However, from political point of view, the structure has issues. The structure allows wealthy countries to still be wealthy and hinder poor country to catch up the wealthy countries. If the developing countries focus heavily on extracting and sending raw materials to core countries, it is almost impossible for developing countries to equalize its industrial growth to developed countries. When periphery countries wanted to develop its industrialization, they will usually be crushed by foreign competitor from core countries because they have established their expertise and have been well-recognized by the market. The difficulties faced by periphery countries in developing its industrialization are lack of capital, lack of human expertise, and high market competition. The lack of capital can be solved by investment both domestic and foreign firms. However, both foreign and local firms are reluctant to invest because the market is full of great products. The chance of failure is bigger than the possibility of success. Even if it is successful, it will take a long time. Apart from that, foreign direct investment is often hesitated to invest in something that will ruin the market in the core countries. For example, Tesla who has a capital and expertise in developing electric vehicle does not want to invest in

car-making industries in Africa because it will complicate the Tesla market. If they did, it is meant to build another Tesla manufacturing industry in foreign countries to have a more competitive market, not to build other brand of car that does not belong to Tesla. In case periphery countries have capital and human expertise, what they will face is highly crowded market where established firms has been trusted by customers for a period of time. This will not allow new emerging industry to succeed in a short period of time. It will create a moment of reconsideration whether this industry should or should not be continued. If they continue, they have to be ready for more money loss. If they do not, they cut the loss and use the rest of capital to build an easy money-making business that usually not high-added value. What can government do during this time in solving this issue are varied from subsidy, import and export restriction, and tariff. Unfortunately, this is prohibited under the WTO, making it harder for countries to develop its industrial and economic development. This structure benefits the developed countries the most. Therefore, in realist point of view, the international organization like the WTO is considered a constructive tool to strengthen the domination of strong state over weak states.

In that scenario, we understand that the WTO has created a structure for a global trade mechanism. Member countries are tied into global regulation that often neglect the need of periphery countries. One essential point in this existing structure is that global regulation has overlapped with national law. Countries become less sovereign over their own way of managing trade and development. This overlapping situation does not only happen to periphery countries but also core countries. However, the effects are different. For core countries, the structure provides them access to raw materials and markets for their product. If the core countries had issues with WTO's rule of law that hinder its national development and proven wrong in the WTO dispute settlement mechanism, the core countries can bear the worst consequences regulated by the WTO which is retaliation. As core countries has economic and political power, retaliation measure by developing countries would not harm the core countries. In this case, the core countries are not as limited by the WTO global governance regulation to develop its economy or industrialization as periphery countries. On the contrary, developing countries are struggling to avoid the legal system of WTO in developing its national development agenda. In case of Indonesia, nickel export ban has to be implemented to create a nickel industry ecosystem within Indonesia. Doing so in pursuit of economic development and industrialization, Indonesia has been faced with criticism from Europe arguing the measure is not consistent with the WTO's agreement. In 2022, the WTO's ruling was in favour of EU. In this regard, WTO has limited the policy space for developing countries to equalize its economy with the developed countries. If certain countries are brave enough to continue its development strategy although it violates the WTO rules, those countries will be courted at dispute settlement mechanism and will face the risk of retaliation if changes are not made to be consistent with the WTO. If the compliant is from core countries, the retaliation can harm the economy. Contrarily, if the compliant is from periphery countries and the respondent country is from core country, the retaliation from periphery country would not have big effects on core countries because of the

unequal economic level. In this case, WTO is seen as an obstacle to developing countries or periphery countries for their development agenda.

### **Engaging with the WTO despite its Weaknesses**

Regime theory has developed several empirical explanations about the decision to still engage in international organization despite its limitation. As has been mentioned above, one of the biggest disadvantages in the WTO as developing country is that the WTO limits policy spaces especially developing countries. Another disadvantage is the existence of power asymmetry in the WTO where developed countries have more flexibility and benefits than developing countries. The two limitations put the WTO as a big liability for developing countries to grow its economy as its structure hinder strategic development. However, despite its weaknesses, countries still engage with the WTO rather than opposing it with a threat to quit. Reduction of transaction cost is regime theory explanation. If reduction of transaction cost refers to a mechanism that allow multilateral cooperation without the need to have bilateral agreement, it would be debatable. Despite having multilateral agreement done in international organization, countries are still willing to increase the cost by having bilateral and preferential negotiation for trade agreements with selected states. To some extent, it delegitimizes the WTO as global governance. As Supachai said,

*Global economic governance and the role of the WTO are being tested by the profusion of regional trade agreements. Trade between partners to these agreements reached 50 per cent of total trade during 2007, and, given the growing number of agreements, their membership and trade coverage will have a significant impact on the international trading system. An inward-looking approach by these agreements must be avoided; it hampers trade with third parties and undermines the multilateral trading system. (Sampson, 2008, p. 6)*

As of 2025, there are 375 regional trade agreement or preferential trade agreement in place (WTO, 2025). In case of Indonesia, it has 11 active bilateral trade agreements, while 17 agreements remain under negotiation, and 13 are in early exploratory stages (RRI, 2025). Additionally, Indonesia is part of regional trade agreement such Asean Free Trade Area (AFTA), Regional Comprehensive Economic Partnership (RCEP), and ASEAN-China Free Trade Area (ACFTA). This highlight that the WTO's agreement is not enough to satisfy the need of its member. Therefore, the member is willing to pay extra to have the preferential trade agreements. In this case, the reduction of transaction cost is not adequate to explain why Indonesia still actively engage with the WTO despite the WTO limits its policy spaces for national development.

This paper proposes that Indonesia's engagement at WTO even after the WTO has made Indonesia a suspect for violating the GATT principle is the ability for Indonesia to bear with the retaliation. The braveness in facing retaliation is calculated not only by its ability to fight against Europe in trade. It also takes into account the opportunity lost if Indonesia gives up its nickel sovereignty. Jokowi stated in the HIPMI (Young Entrepreneur Association of Indonesia) conference in 2023 that,

Based on calculations from the Ministry of National Development Planning/Bappenas, hilirisasi will give Indonesia a per capita income of USD 10,500 in 10 years, then to USD 15,800 within the next 15 years. In the Golden Indonesia of 2045, there will be approximately 25,000 USD 'income' per capita. This is our goal, our goal, not only a big vision but we must have a tactical vision (VOI, 2023).

In many occasions, Indonesia's president Jokowi urged the ministry to not be afraid and even fight if other big countries sue Indonesia's action. This reflects the firmness of Indonesia's stance regardless of what other countries' reaction. In regards to EU, Indonesia realizes that it is not only Indonesia that needs EU, but EU also needs Indonesia. As reported, compared to 2022 the amounts needed in 2050 will be double for lithium, 60% higher for nickel, almost half for cobalt and 10 times higher for manganese (Transport and Environment, 2023, p.17). Indonesia has all those elements making it having a powerful bargaining power. In this scenario, EU's retaliation would harm not only Indonesia but also EU's industry. Meanwhile, Indonesia will still have the ban in place and benefit from it.



Source: [Tradingeconomics.com](https://tradingeconomics.com)

According to the data above, the top trade partner based on export destination of Indonesia is not Europe. Number of EU countries that has been an Indonesian export destination are only Netherlands (1.5%), Germany (1.0%), Spain (0.87%), Italy (0.83%), and Turkey (0.63%). Overall, countries from Europe accounted for 8.7% of Indonesia's export in 2023. This number shows that Indonesia has the possibility to sustain EU's retaliation. Looking at the EU's export destination, Indonesia is also insignificant accounted for only 0.39%. However, Indonesia will be important not as market but as a supplier of material for EU's EV and steel industry. Therefore, it places Indonesia as economically important in EU's supply chain.

Having this logic, the decision for Indonesia to still have faith in the WTO specifically in nickel export ban is motivated by its ability to sustain retaliation from Europe and the benefit of maintaining the export ban despite retaliation. However, it is not a rejection of other explanations.

## CONCLUSION

The World Trade Organization (WTO) plays a significant role in the global trade order. Yet, its principles and mechanisms often disproportionately limit the development of peripheral countries. This is obvious in the case of Indonesia that has

been trying to go from raw-material export economy to high value added export economy through policy of nickel export ban. The WTO has provided institutional resistance and has legally challenged Indonesia's sovereignty in managing trade under the rule of trade discrimination and restriction. In World-System Theory point of view, this highlights an global economic hierarchy that favor the interest of core countries and systematically constrain the industrialization efforts of developing countries.

Nevertheless, Indonesia's behavior is in conformity with the Regime Theory which explains continuous participation despite the its discontent towards the WTO. However, Indonesia's nickel export ban case is unique because it offers a new insight on countries participation in the international regime. It is found that the ability to bear potential retaliation and other consequences of rule violations as well as the potential long-term benefits explain Indonesia's firmness to maintain the ban while still participating at the WTO.

In conclusion, Indonesia's case shows the dynamic interplay between the WTO as international trade regime that limits the policy space and developing countries as member of international trade regime that need a flexible policy space to execute national development through rule violations. In this case, the WTO is not only seen as a bridge to arrive at economic development, but contrarily as an institutional obstacle to achieve economic development.

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