

**PROGRAM TOBACCO PLAIN PACKAGING AUSTRALIA DITINJAU  
DARI TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY  
RIGHTS (TRIPS) AGREEMENT**

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**ABSTRAK**

Australia menerapkan program *Tobacco Plain Packaging*, program ini menjelaskan bahwa Australia akan menerapkan peraturan bahwa seluruh rokok yang masuk di negara Australia akan menggunakan kemasan polos tanpa adanya merk apapun. *Trade Related Aspects of Intellectual Property Rights* (TRIPs) bertujuan melindungi dan menegakkan hukum hak milik intelektual. Dalam penelitian hukum ini menggunakan hukum yuridis normatif yaitu penelitian berdasarkan fakta yang dianalisis dengan menggunakan literatur dan peraturan perundang-undangan yang didapat dengan studi kepustakaan untuk memecahkan fakta hukum dalam penelitian ini. Pendekatan masalah dalam penelitian hukum ini yaitu menggunakan pendekatan *TRIPs Agreement*, dimana ketentuan WTO lainnya berkaitan dengan perdagangan dan peraturan perdagangan. Kebijakan *Plain Packaging* dianggap melanggar kesepakatan umum tentang tarif dan perdagangan (*General Agreement on Tariffs and Trade/GATT*), yang mewajibkan semua produk tembakau yang masuk ke negara itu berkemasan polos. Namun gugatan yang dilakukan oleh Indonesia dan sejumlah negara lainnya seperti Kuba, Honduras, dan Republik Dominika karena menerapkan aturan kemasan netral pada produk tembakau ditolak oleh WTO dan dimenangkan oleh Australia. Program *Tobacco Plain Packaging* Australia tidak konsisten dengan *Trade-Related Aspects Of Intellectual Property Rights (TRIPs) Agreement* pada pasal 2 ayat 1, pasal 15 ayat 4, pasal 16 ayat 1, pasal 16 ayat 3, pasal 20, pasal 21. Dasar dari pertimbangan yang diambil oleh Australia berfokus pada dua hal yaitu pertama, meningkatkan kesehatan publik dan *smoker cessation* atau perokok yang sedang dalam tahap melepaskan kecanduan untuk membeli produk rokok.

**Kata kunci** : Hak Kekayaan Intelektual , *Tobacco Plain Packaging*, *Trade Related Aspects of Intellectual Property Rights (TRIPs)*

**AUSTRALIA'S TOBACCO PLAIN PACKAGING PROGRAM REVIEWED  
FROM TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY  
RIGHTS (TRIPS) AGREEMENT**

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**ABSTRACT**

*Australia applies Tobacco Plain Packaging program, this program explained that Australia will adjust rule which every cigarette that imported to the country will use a plain packaging without any brand. Trade Related Aspects of Intellectual Rights (TRIPs) aim to protect and enforce intellectual property law. In this law research, writer use normative juridical law which is a research that according to an analyzed fact by literature and law and regulations which retrieved by library study to solve law fact in this research. Problem approach in this law research is using TRIPs Agreement approaching, where other WTO provision related with trade and trade rules. Plain Packaging policy is considered violating General Agreement on Tariffs and Trade / GATT which obligate every tobacco product that entered the country must in a plain packaging. However, a lawsuit that performed by Indonesia and other countries like Cuba, Honduras, and Dominican Republic because of applying neutral packaging on tobacco product is refused by WTO and won by Australia. Australia's Tobacco Plain Packaging program is inconsistent with Trade-Related Aspects of Intellectual Property Rights Agreement on article 2 paragraph 1, article 15 paragraph 4, article 16 paragraph 1, article 16 paragraph 3, article 20, and article 21. The base of consideration that taken by Australia are focused on two things which are increasing public health and smoker cessation or smoker on a process of giving up their addiction for purchasing tobacco product.*

**Keywords** : *Intellectual Property Rights, Tobacco Plain Packaging, Trade Related Aspects of Intellectual Property Rights (TRIPs)*