

Anti Dumping Code in International Trade Law in Relation to Unfair Trade Practices

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Abstract: The application of the Anti-Dumping Code in international trade law is the topic of discussion in this article. Particular attention is paid to what happens when unfair trade practices are involved. The primary focus is on addressing the issue of price discrimination in international trade, which frequently brings about negative consequences for developing nations like Indonesia. The article provides a description of the phenomenon of dumping, including its impact on domestic producers, as well as anti-dumping rules within the context of the GATT and WTO. This is accomplished through theoretical studies and normative analysis. In addition, it covers the difficulties that arise when putting anti-dumping legislation into effect, as well as the remedies that can be implemented to defend domestic markets from losses that are caused by dumping. The purpose of this article is to highlight the significance of international cooperation and domestic law amendments in order to maximize the effectiveness of the Anti-Dumping Code as an instrument for protecting fair trade.

Keywords: Anti-Dumping Code; GATT/WTO; international trade; price discrimination; unfair trade practices.

1. Introduction

This represents the beginning of Indonesia's participation and/or as a participant in international trade activities legally. The ratification and in Law No. 7 of 1994 about the Ratification of the Agreement Establishing The World Trade Organization is what marks the beginning of Indonesia's participation. When viewed from the principles and objectives of the law, the author is able to comprehend that the activity has the potential to enhance the reputation and welfare of business actors with regard to their participation or participation as business actors in the activity. The essence of the law is to provide an understanding and purpose of international trade activities, which are examined legally as an accumulation of profits with the existence of international business transactions that are based on existing legal regulations. This is a fundamental characteristic of international law and trade where no party or participant and/or country is harmed. In his book *Introduction to International Law*, Mochtar Kusumatmadja states that in order to achieve the anticipated benefits, one must understand and adjust geographical conditions, including their arrangements between countries, including differences and arrangements for the use of natural resources (SDA), the agricultural products of the country, in order to develop international legal and trade activities.

When it comes to implementing international law and trade, one must also understand and adjust geographical conditions. In the beginning, it was impossible to separate Law and Economic Development, and it was founded on the requirement for agricultural products or

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output that was not produced within its territory. The more complicated concession that it makes is that it is a way of satisfying the national interests of national governments. (According to W. Friedmann,) The Hunging Of International Law in 1964, for sources of foreign exchange, market expansion, facilities engaged in that field, according to him, it states that international trade has placed not only countries, but also companies and non-companies as subjects of international trade. with products, prices and tariffs between countries, in relation to the main goal of competition is to obtain the widest possible market and the greatest possible profit. There are dozens of producers who are constantly attempting to expand their markets to a variety of countries. At the same time, the government, which has a number of interests in trade, is also making a number of efforts to increase domestic production, facilitate exports of domestic production results, and protect domestic producers and markets. Additionally, the government is attempting to facilitate international cooperation between countries through a tariff system. In addition, in order to facilitate the development of these countries, which are both decentralized and actual in their development, conditions of competition have been established that are not necessarily open (faith trade practice).

It is possible for a company, which is a producer of certain goods in a country, to engage in irrational price reductions, also known as dumping, in order to obtain the greatest possible benefits. Prices that are higher and/or lower than the international prices that are prevalent in the country, goods that are marketed, if such price reductions are carried out on similar goods by domestic producers. Goods that are marketed if the acceptance of the price is carried out on similar goods by domestic producers, and the acceptance of the price is accompanied by good faith to seize the market and profit as much as possible, so that it can threaten the survival of producers at the same time, it can be stated that there has been a practice of unfair business competition (unfair trade practices) dumping carried out by producers that are carried out/impose on unfair trade practices dumping carried out by external producers and countries, but external producers and countries where external goods and countries where goods are marketed, in relation to the above for producer countries, especially developing countries such as Indonesia at the time of this practice (dumping) which is generally carried out by the country. A protectionist approach is used by exporters to safeguard the domestic market. This can be accomplished by combining dumping actions or temporarily rejecting products that originate from their nations against countries that arbitrarily reject products that originate from their own countries, as well as dumping actions of countries that happen to be in the position of exporters. The formation of anti-dumping practices in this manner is, in essence, the same thing as the formation of unfair trade practices.

In relation to the conditions that were stated earlier, this practice has the potential to generate a flow of goods that has an unbalanced advantage between developing countries and advanced industrial countries. On the one hand, developing countries receive products from advanced industrial countries, while developing countries do not receive the same opportunity to expand their markets. To continue with the drafting of this essay. It is possible for the author to restrict the writing in order to avoid having an overly broad comprehension. As a result of the anti-dumping practice that is produced, which is, in essence, unfair trade practices, this activity has the potential to create a flow of commodities that has an unbalanced advantage between developed industrial countries and developing countries. On the one hand, developing countries are inundated with products from advanced industrial countries, while on the other hand, developing countries do not have the same potential to expand their markets in accordance to the conditions that were indicated above. This article is based on the topic of "Dumping/business competition" and is titled "Anti-Dumping Code in International Trade Law in Relation to the Level of Trade Practices." Among the problems are the following: How is anti-dumping legislation enforced in international trade? Also, in the event that it is established that dumping occurs in international trade, what are the challenges and potential remedies that are considered?

2. Literature Review

General Form of Unfair Trade Practices in Relation to GATT

The general form of unfair trade practices, which is questioned in relation to price discrimination in national markets, can be understood by the fact that these two markets are, on the other hand, that of the foreign-importing country. According to this, dumping generally refers to sales for export at a price that is lower than those that are charged at the same time

and under similar circumstances to buyers in the domestic market. The project pertaining to international trade is in agreement with this. The Anti-Dumping GATT Code (1992/1993), published by the Department of Trade Center. The application of price discrimination by manufacturers between two national markets is the fundamental kind of dumping because it is the most common form. It is important to note that the national markets in question are the home market of the country that is exporting and the international market of the country that is importing. The practice of dumping refers to the practice of lowering the prices of export goods that are sold on the foreign market of the country that is doing the importing in comparison to the usual prices that are applied on the domestic market of the country that is doing the exporting.

Discrimination Based on Price

A natural thing in both the theory and practice of trade is the practice of price discrimination, provided that it does not cause harm to the country that is doing the importing. When a free market system is in place, the levels of prices are established by analyzing the relationship between supply and demand, often known as market forces. In the process of comparing one market to another, price discrimination is an inevitable phenomenon. There is a natural tendency for there to be price discrepancies between different locations and times in a free trading economy. When it comes to comparable foods, the price that is being offered at a major restaurant could be different from the price that is being offered in the general market. This may occur as a result of variations in the manner in which the food is processed and served, as well as in the atmosphere, costs, and management strategies that are utilized.

Within the context of a free market system, price discrimination is nothing more than a producer's response to the forces of trade. This step is made in order to ensure that the output of the company continues to grow and/or maintain its continuity. When viewed from this angle, price discrimination is always a viable sales approach that can be utilized to effectively achieve a satisfactory profit.

Price discrimination can take place in the worldwide market as a result of pressure from factors that force manufacturers to lower prices. This decrease can take place as a consequence of a series of production and marketing activities that are preceded by excessive production, for instance because at the same time. When it comes to output that is marketed, the international market is known for its high prices. The corporation raises the price in order to ensure the continuity of its productivity and to predict the price at which it will be profitable. It is obvious that the only way for the company to preserve itself is to reduce its prices. In such instances, price swings can be very sharp, (This is in accordance with the Central Foreign Trade Development Project, Department of Trade Anti-Dumping GATT Code Background, Interpretation and Review of a Number of Allegations Against Indonesia 1992/1993.

Differentiation within prices According to the Foreign Trade Development Project (Central Department of Trade, Anti-Dumping GATT Code), Background, Interpretation, and Review of a Number of Allegations Against Indonesia, 1992/1993, this is in conformity with the aforementioned statement. There is also the possibility of price discrimination occurring as a result of the exporter's capacity to manage the marketing of the items that they export, for instance. By imposing a higher price on goods marketed in the domestic market, (this can occur due to the existence of a monopoly position or domestic protection enjoyed by the company concerned) This can occur due to the existence of a monopoly position or domestic protection enjoyed by the company concerned, this is in accordance with the Trade Development Project 882/1993, or by subsidizing its export goods through the imposition of higher prices on exported goods marketed in third countries, or through cross subsidies between these products. This is undoubtedly a typical activity that exporters engage in, either for the simple reason of adapting to the advances and forces of the market and ensuring the continuation of their production, or for other reasons, such as enhancing the development of firm productivity, extending markets, and amassing profits.

Dumping

There is a sort of pricing discrimination known as dumping. It is typically done for a number of reasons, the most common of which are as follows: first, to develop the market by offering incentives to buyers in the target market through the implementation of lower prices; second, the existence of opportunities and market conditions that allow for more flexible price determination, both in the export market and in the domestic market; and third, to prepare for competitive opportunities and longer-term growth through the utilization of progressive pricing strategies. The practice of dumping is a natural part of international trade when conditions are normal. If the decision of the price of a product is carried out in a manner that is detrimental to the market or in violation of the law, then the act of dumping is deemed to be a threat. According to Professor Viner, there are three distinct types of dumping: dumping that is not permanent and is carried out in an unordered manner; dumping that is not continuous and is carried out in a short period of time; and dumping that is both permanent and continuous. (2002) Viner (1992/1993). Losses that are the result of dumping can result in significant losses for manufacturers, society, and the country that is hosting the goods. Dumping has a number of practical consequences, the most important of which is the reduction of the producer market share in the host country. In addition, a decrease in income might lead to a decrease in the company's ability to pay its bills, which will ultimately lead to a decrease in the company's capability to produce and export goods. The vitality of the company has also decreased as a result of this scenario, which is another consequence of the situation. Based on the execution of the Code, this loss sketch provides an illustration of the magnitude of the losses that may be incurred by the country that is hosting the event. The Tokyo Round Agreement was the catalyst for the formation of the General Agreement on Tariffs and Trade (GATT). Manufacturers of exports engage in price discrimination. With this, an anti-dumping code was formed within the framework of the General Agreement on Tariffs and Trade (GATT), which was formed through the Tokyo Round Agreement. The community of nations, based on considerations of the possibility of such losses, seeks to establish a mechanism that can overcome deviant behavior by business actors and countries. Trade and tariffs are discussed. backed by twenty-five countries, with the majority of those countries being European, the United States of America, and Australia, and not a single country.

3. Research Methods

This study employs a normative approach with a qualitative legal research method. The normative approach is utilized to examine and interpret existing legal norms, including conventional norms such as international treaties, as well as norms developed through international legal practices, also known as customary international law. By focusing on these legal norms, the study aims to provide a comprehensive understanding of their application and evolution in the context of international law. The research method is descriptive-analytical with a qualitative approach. Unlike quantitative studies, this research does not prioritize data collection in numerical form. Instead, it emphasizes an in-depth analysis of various international legal regulations and practices. The goal is to provide a thorough examination of how these regulations are applied in real-world scenarios, offering insights into their effectiveness and implications.

The data sources used in this research are categorized into three types. The primary sources include international legal documents and other relevant international regulations directly related to the study's theme. Secondary sources consist of books, scholarly articles, journals, and other literature that provide further context and analysis on the subject matter. Lastly, tertiary sources include additional materials such as legal dictionaries, encyclopedias of international law, and documents discussing the history and development of international law. These diverse sources ensure a well-rounded and thorough exploration of the topic.

4. Results And Discussion

The Anti-Dumping Code is a clarification of Article IV of the GATT, outlining its provisions. This code was developed and refined during the Kennedy Round (1962-1967) and was agreed upon by GATT member countries during the Tokyo Round on January 1, 1967, under the name Agreement on Implementation of Article VI of the General Agreement on Tariffs and

Trade. Supported by 25 countries, particularly European nations, the United States, and Australia, this agreement excluded any countries from the Asia region (Folson et al., 1986). The main purpose of this formation was to regulate the application of anti-dumping measures more constructively. The Anti-Dumping Code stipulates that anti-dumping obligations can only be imposed in accordance with the limits established in Article VI of the GATT agreement. Such measures should follow the procedures specified within the Anti-Dumping Code (Article 1).

The Anti-Dumping Code is divided into two main sections: the first addresses the anti-dumping code itself, and the second deals with final provisions. The final provisions include matters related to dumping determination, the identification of material injury, administrative procedures, investigations, anti-dumping obligations, and preliminary actions related to anti-dumping. The second section outlines the nature of the Anti-Dumping Code, particularly focusing on the obligations of GATT member countries in adhering to the code (Fulda and Schwartz, 1970). The formation of the Anti-Dumping Code signals three key points: First, every member country must take necessary steps to align its laws and administrative procedures with the provisions of the Anti-Dumping Code. Second, each member must inform other countries about the administrative aspects related to its anti-dumping laws. This provision will be enforced by a committee known as the Committee on Anti-Dumping Practices, consisting of representatives from the member countries of the agreement (Article 17). The committee meets annually to discuss member countries' issues related to the implementation of the Anti-Dumping Code.

4.1. Determination of Dumping and Injury

A product is considered to qualify as dumping if it is sold in another country at a price lower than its normal value or if the export price is lower than its normal value in the importing country (Department of Commerce, Anti-Dumping, 1933). This applies to similar goods in the importing country where the export goods are sold. The determination of injury occurs when the sale of the export product causes actual harm or threatens harm, including retardation (Trade and Management, 1991-1992) to domestic companies in the importing country. In conducting investigations, the competent authorities must consider both the effects of dumping and the overall factors affecting the industry. The determination must be based on reliable data rather than hypothetical or speculative information. The impact of dumped goods on domestic products is assessed based on the relationship between the dumped product and domestic products, identifying the potential for distinct identification based on the production processes, output, and profitability in other countries (Foreign Trade, 1933).

4.2 Article VI of GATT and the Anti-Dumping Code in Relation to Indonesia's Interests

The main objective of GATT Article VI is to anticipate the rapid growth of cross-border trade and protect all parties from the adverse effects of unfair trade practices. According to this provision, any GATT member country affected by dumping may take retaliatory measures in the form of anti-dumping duties. These duties can be imposed either to counterbalance the subsidy granted by the exporting country to its products or to adjust for price discrepancies (normal value) in the exporting country's market. As stated in Article VI of GATT, anti-dumping duties cannot exceed the amount of subsidies granted or the difference between the export price and the fair market value in the exporting country. These duties can only be imposed when a situation can be assessed that clearly harms the domestic industry of the importing country due to dumping. Anti-dumping duties for the benefit of the country must be financed by third countries with vested interests. This claim must be supported by necessary data, including information on dumping prices and the harm caused by such practices. Furthermore, third countries must comply with the examination of dumping practices in accordance with the provisions of Article 12, requiring importing countries to conduct investigations based on necessary indications

4.3 Prospects of Anti-Dumping Policies in Indonesia

One of Indonesia's foreign trade policies is to encourage non-oil and gas exports and improve competitiveness through breakthroughs and protection in international trade. This policy aims to enhance the role of exports as a primary source of foreign exchange earnings, which has become increasingly vital for the financing of Indonesia's development and maintaining balance in the country's payments.

4.4 Post-WTO Anti-Dumping Code

The post-WTO Anti-Dumping Code did not undergo significant changes. The agreement did not automatically bind all countries, including those that did not participate in the Tokyo Round. However, the Uruguay Round, which is part of the GATT framework, was implemented under the WTO structure.

5. Conclusions

In conclusion, the application of anti-dumping measures plays a critical role in regulating international trade and ensuring fair competition. Anti-dumping measures are government actions aimed at imposing import duties on products that have been sold at unfairly low prices, below their normal value. Typically, this occurs when producers export goods to a foreign market at prices lower than the selling price in the domestic market, a practice known as "dumping." To protect domestic industries from such unfair competition, governments can impose anti-dumping duties or other protective measures, ensuring that local businesses are not adversely affected by foreign market distortions.

However, the implementation of anti-dumping measures faces several challenges, particularly when disputes arise between the exporting and importing countries. These conflicts can result in long-standing trade tensions and negatively impact the broader trade relations between the two countries involved. Disputes may arise over the determination of what constitutes dumping, the calculation of damages, or the fairness of the imposed duties. Such disagreements can hinder trade negotiations, disrupt market access, and create economic uncertainty, ultimately affecting global trade dynamics. Therefore, addressing these disputes through international legal frameworks, such as the World Trade Organization (WTO), becomes essential for maintaining a fair and predictable global trading environment.

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