

Anti-Dumping Policy as An Effort to Maintain Indonesia's Economic Sovereignty

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Anti-dumping is an effort to reduce the impact of losses due to dumping practices. In general, dumping practices are considered legal if they do not harm or damage the economy of the country that is the target market for the goods. Anti-dumping is also part of the trade defense mechanism, which is an international legal instrument provided by the World Trade Organization (WTO) to resolve dumping disputes and deal with losses arising from dumping practices in destination countries. The writing of this article uses the normative legal research method, which is research conducted by examining literature (secondary data). legal doctrine, legal theory and other literature to answer the legal issues being researched. This study intends to examine the regulations governing anti-dumping policies in Indonesia and how anti-dumping policies are carried out by the government as an effort and measure to safeguard Indonesia's economic sovereignty. The results of the research show that the regulations governing Anti-Dumping Policy in Indonesia are quite complete and practical. Likewise, the Anti-Dumping Policy carried out by the Government of Indonesia is in line with regulations in the field of international trade as ratified through Law no. 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization.

Keywords: Policy, Anti-Dumping, Economic Sovereignty.

INTRODUCTION

Currently, Indonesia is one of the countries with growing economic growth. Despite several economic problems in Indonesia, such as the unstable fluctuation of the rupiah exchange rate and a high trade balance deficit, Indonesia is still an attractive country for foreign investors. According to data from the Central Statistics Agency (BPS), Indonesia's economic growth stays stable. In the fourth quarter of 2022, Indonesia's economic growth reached 5.01% (yoy), even though global economic growth was slowing. During 2022, Indonesia's economic growth reached 5.31% (yoy), which was much higher than the previous year's achievement of 3.70%

(yoy). In 2023, Indonesia's economic growth is expected to remain stable in the range of 4.5-5.3%, driven by increasing domestic demand, both from household consumption and investment. This prediction is in line with the return of community mobility after the abolition of the Imposition of Restrictions on Community Activities (PPKM) policy, improving business prospects, increasing inflows of Foreign Investment (PMA), and the ongoing completion of the National Strategic Project (PSN) (Haryono, 2023).

Not only that, but the export sector is also one of the mainstay sectors in Indonesia's economic growth. In the January-February 2023 period, Indonesia's export value reached US\$43.72 billion, an increase of 10.28 percent compared to the same period in the previous year. Meanwhile, the value of non-oil and gas exports reached US\$41.05 billion, an increase of 8.73 percent (Badan Pusat Statistik, 2023). However, the development of the export sector in Indonesia is sometimes disrupted by dumping practices carried out by other countries. This practice can threaten Indonesia's economic sovereignty and can harm producers and the domestic economy.

The practice of dumping is a practice carried out by producers or exporters from a country by selling goods on the international market at a lower price than the price sold on the domestic market. It aims to dominate the market and kill competitors. However, this practice can be detrimental to producers and the domestic economy and can threaten a country's economic sovereignty (Barone, 2021).

Anti-dumping policy is a foreign trade policy that is of concern to countries around the world, including Indonesia. This policy is designed to protect domestic products from dumping practices by other countries and increase their competitiveness in the global market. However, the implementation of anti-dumping policies in Indonesia has its own challenges. Indonesia as a developing country still depends on the import of several types of goods, so that dumping practices carried out by other countries can significantly affect the Indonesian economy. Therefore, the Indonesian government is trying hard to protect its domestic products from dumping practices, and one of the ways is by implementing an anti-dumping policy.

Indonesia as a developing country has a big challenge in protecting its domestic products from dumping practices. This is due to the intense level of competition with other countries, and Indonesia's dependence on imports of several types of goods. Therefore, the Indonesian government is trying hard to protect its domestic products from dumping practices, and one of the ways is by implementing an anti-dumping policy. In an effort to maintain economic sovereignty, anti-dumping policies are regulated in Law no. 7 of 2014 concerning Trade. This policy is designed to protect domestic products from dumping practices by other countries.

In implementing the anti-dumping policy, the Indonesian government cooperates with the Indonesian Anti-Dumping Committee (KADI). Indonesian Anti-Dumping Committee is an independent body established to handle anti-dumping cases and implement anti-dumping policies. Indonesian Anti-Dumping Committee is tasked with conducting investigations and assessments of dumping practices that occur, as well as determining the amount of additional import duties that must be imposed on goods affected by dumping practices. Anti-dumping policy is also important because it can increase the competitiveness of domestic products in the global market.

With this policy, local producers can compete with producers from other countries who practice dumping. In addition, anti-dumping policies can also improve the quality of domestic products and can strengthen Indonesia's economic position on the global stage. However, the anti-dumping policy also has a negative side that needs attention. This policy can lead to trade conflicts between Indonesia and other countries that feel disadvantaged. Therefore, the government needs to carry out good trade diplomacy with other countries and maintain good relations so that trade conflicts do not occur.

Overall, the anti-dumping policy is an important effort in maintaining Indonesia's economic sovereignty. This policy needs to be implemented in a prompt and measurable manner to protect domestic products from dumping practices and increase their competitiveness in the global market. However, this policy also needs to be managed wisely so as not to cause trade conflicts with other countries. It is interesting to study how Indonesia as a sovereign country implements the Anti-Dumping Policy as an effort to maintain Indonesia's economic sovereignty.

1. Problem Formulation

Referring to the background as described above, the authors make several formulations of the problem, namely:

- a. How are anti-dumping regulations in Indonesia?
- b. How is the anti-dumping policy carried out by the Government as an effort and step to safeguard Indonesia's economic sovereignty?

2. Research Objectives

The purpose of this research was conducted to find out several things about anti-dumping policies, namely:

- a. To find out the anti-dumping regulations in Indonesia.

- b. To find out the efforts and anti-dumping policy measures undertaken by the Government of Indonesia in order to maintain economic sovereignty.

3. Framework for Thinking

In the current era of free trade, Indonesia is one of the countries that is increasingly active in various international trade activities. However, during increasingly fierce competition, the practice of dumping or selling goods at a lower price than the original market price has become a serious threat to the domestic industry. Therefore, Indonesia needs to have clear and firm regulations related to dumping practices in order to protect the national economy from losses that can be caused. As a member country of the World Trade Organization (WTO), Indonesia has an obligation to protect its national interests from dumping practices, while maintaining the balance of international trade. Therefore, the Government of Indonesia issued legal policy steps that were realized concretely through all existing forms of legislation and positive law.

Policy in general according to Said Zainal Abidin as quoted by Uddin B. Sore and Sobirin (Sore & Sobirin, 2017), can be divided into three levels, namely:

- a. General policy serves as a guideline or direction for implementation, either positive or negative, covering the entire region or related agency.
- b. Policy implementation is a policy that provides an elaboration of general policy. For the central level, in the form of government regulations regarding the technical implementation of a law.
- c. Technical policies, namely operational policies, whose position is under them.

Dumping according to Jacob Viner as quoted by Richard Dale, interpreted simply as price discrimination between national markets. While this notion conveys the important idea of suppliers selling the same product at different prices in different countries, it requires some clarification. Price discrimination is not only the sale of the same commodity at two or more prices but can also describe the sale of different commodities at prices that are disproportionate to their marginal costs (Dale, 1980). The price difference between two different markets in two countries, if it is still at a reasonable stage, is not a problem. However, if the price difference has touched the basic price of an item, even cheaper, or has affected the market for a product within a country, then this will cause problems. This is what is known as dumping politics (Aprita & Adhitya, 2020), which is an international trade policy that sells products cheaper overseas than domestically. The purpose of this dumping policy is to increase competitiveness to expand the market.

This dumping practice will affect the economic sovereignty of a country. How could it not be, this dumping policy will have a detrimental impact on those who compete with dumping

products, especially local producers. Negative impacts that can arise include disruption to the balance of market prices, reduced competitiveness of local products, decreased quality of local products due to unfair competition, decreased investment in sectors affected by dumping, and economic losses that can affect unemployment and people's welfare. Therefore, strong and effective anti-dumping regulations are needed to protect local producers and maintain the stability of the country's economy.

To anticipate this, it is necessary to have a policy known as an anti-dumping policy, which is a form of trade protection to protect the domestic market from dumping which can be detrimental to domestic parties. This is conducted by imposing tariffs or additional taxes on the import of goods suspected of dumping. This policy aims to promote fair and balanced trade, protect domestic industries, and maintain a balance in the national economy. The Indonesian government's anti-dumping political policy with the enactment of Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization, Law Number 7 of 2014 concerning Trade, Law Number 17 of 2006 concerning Amendment on Law Number 10 of 1995 concerning Customs, as well as Government Regulations which specifically regulate anti-dumping, namely Government Regulation Number 34 of 2011 concerning Antidumping Measures, Compensation Measures, and Trade Safeguard Measures.

In addition, there are also technical provisions regarding anti-dumping in the form of a regulation of the minister of trade, namely Regulation of the Minister of Trade Number 53/M.DAG/PER/9/2013 concerning Amendment to Regulation of the Minister of Trade Number 76/M.DAG/PER/12/2012 concerning Procedures Investigation in the Context of Imposing Anti-Dumping Measures and Compulsory Actions.

RESEARCH METHOD

The writing of this article uses the method of normative legal research, which is research conducted by examining literature (secondary data) (Soekanto & Mamuji, 1995). In other words, the normative juridical research method is a research process to study and examine law as norms, rules, principles, legal principles, legal doctrine, legal theory and other literature to answer the legal issues being researched (Muhaimin, 2020).

Normative legal research is also called doctrinal legal research. In this study, law is often conceptualized as what is written in laws and regulations (law in book) or law is conceptualized as a rule or norm which is a benchmark for people's behavior towards what is considered proper.

But the law can also be conceptualized as what is in real action (law in action). Written law is law that should work as expected. Both law in regulations and law in action are often different, meaning that the law in books is often different from the law in people's lives (Efendi & Ibrahim, 2018), and that is why the writing of this scientific paper was made.

RESULTS & DISCUSSION

a. Anti-Dumping Regulations in Indonesia

Anti-dumping is an effort to reduce the impact of losses due to dumping practices. In general, dumping practices are considered legal if they do not harm or damage the economy of the country that is the target market for the goods. Anti-dumping is also part of the trade defense mechanism, which is an international legal instrument provided by the World Trade Organization (WTO) to resolve dumping disputes and deal with losses arising from dumping practices in destination countries.

In Indonesia, anti-dumping practices are regulated in accordance with those set out in the General Agreement on Tariffs and Trade (GATT). Anti-dumping practices are a prominent issue in international trade to create fair, balanced and open trade (fair trade). The anti-dumping agreement has been regulated in the Anti-Dumping Agreement on the implementation of article VI of General Agreement on Tariffs and Trade 1994, where tariffs have been regulated so as not to cause harm to both parties, namely the destination country and the importing country.

Regulations stipulated in the laws and regulations in Indonesia related to anti-dumping include among others:

- 1) Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization, is a law passed to ratify agreements between countries made at the Conference of Ministers in Marrakesh, Morocco, on 15 April 1994. The agreement set up the World Trade Organization, which aims to facilitate free, fair and open trade between its member countries.

In this law, it is regulated regarding ratification of the agreement by Indonesia and is used as a legal basis for decision making by the Indonesian government in matters of international trade. This law also authorizes the government to implement the agreement and follow the rules set by the World Trade Organization to achieve fair and balanced international trade.

- 2) Law Number 7 of 2014 concerning Trade, is a law that regulates domestic and international trade in Indonesia. The articles related to the anti-dumping policy include:

- Article 67 states that the Indonesian government can apply anti-dumping measures to protect the domestic industry from losses caused by imports of goods suspected of dumping. The anti-dumping action can be applying additional import duties or imposing adjustment fees.
 - Article 68 stipulates that before implementing anti-dumping measures, the government must first investigate whether there are allegations of dumping practices and their impact on the domestic industry.
 - Article 69 emphasizes that in carrying out investigations, the government must follow clear and objective procedures, and provide opportunities for all parties involved to provide information and evidence.
 - If, after investigation, sufficient evidence is found regarding dumping practices and their impact on the domestic industry, the government can implement anti-dumping measures.
 - Article 70 confirms that if there is a price lower than the normal value which causes loss or the threat of loss to the domestic industry, the Government is obliged to take anti-dumping measures.
- 3) Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs. Even though there are no provisions that specifically regulate anti-dumping, customs rules play a significant role in preventing imported goods from entering at prices lower than the actual market prices. These important roles include:
- Encouraging the effectiveness of supervision and prosecution; provide a stronger legal basis for monitoring and enforcement activities by the authorities, including the Directorate General of Customs and Excise, in terms of prevention and prosecution of customs violations.
 - Improve national security; strengthening the role of Customs and Excise in maintaining national security by giving authority to this agency to examine, inspect, and secure imported and exported goods that could endanger national security.
 - Improving public services; provide a strong legal basis for public service activities by Customs, including providing better facilities and services for service users, and convenience and acceleration in the customs process.

- Encouraging economic empowerment; regulate several mechanisms aimed at encouraging national economic empowerment, such as providing lower import duty facilities for certain goods and providing customs facilities for export activities.
 - Increase international cooperation; strengthening the role of Customs and Excise in international cooperation, including in terms of prevention and prosecution of illegal trade and other criminal acts involving customs activities. This will help improve Indonesia's reputation and image in front of the international community.
- 4) Government Regulation Number 34 of 2011 concerning Anti-dumping Measures, Compensation Measures, and Trade Security Measures. Some of the important roles of these regulations, include:
- Protecting the domestic industry: This regulation helps protect the domestic industry from unfair competition by imported products suspected of receiving foreign subsidies or being sold at dumped prices. Antidumping measures, countermeasures and trade security measures carried out based on this regulation can provide protection to domestic producers.
 - Regulates procedures and requirements: This regulation regulates procedures and requirements that must be met by parties wishing to apply for anti-dumping measures, countermeasures, and trade security measures. This aims to ensure that actions taken by the government in order to protect domestic industries are carried out in a transparent and objective manner.
 - Help maintain trade balance: Dumping practices and foreign subsidies can cause an imbalance in trade, which in turn can hurt the Indonesian economy. By adopting appropriate anti-dumping measures, countermeasures and trade protection measures, these regulations can help maintain trade balance.
 - Maintain healthy trade relations: This regulation also aims to maintain healthy trade relations between Indonesia and other countries. By carrying out anti-dumping measures, countermeasures and trade security measures by the procedures and requirements stipulated in this regulation, Indonesia can demonstrate its commitment to protecting domestic industries and maintaining healthy trade relations with other countries.
- 5) Regulation of the Minister of Trade Number 53/M.DAG/PER/9/2013 concerning Amendment to Regulation of the Minister of Trade Number 76/M.DAG/PER/12/2012 concerning Procedures for Investigations in the Context of Imposing Anti-Dumping Measures and Countermeasures. This regulation regulates technical matters related to

Investigation Procedures in the framework of Imposing Anti-Dumping Measures and Compulsory Actions, including explaining the position, functions and duties of the Indonesian Anti-Dumping Committee (KADI).

b. The Government's Anti-Dumping Policy as an Effort and Step to Maintain Indonesia's Economic Sovereignty

The 1945 Constitution mandates that national economic development must be based on democratic principles that can create the realization of Indonesia's economic sovereignty (Ilmar, 2017). Article 33 of the 1945 Constitution states:

1. The economy is structured as a joint effort based on the principle of kinship.
2. The branches of production which are important for the State and affect the life of the people at large are controlled by the State.
3. Earth and water and the natural resources had there are controlled by the State and used for the greatest prosperity of the people.
4. The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental awareness, independence and national economic unity.
5. Further provisions about this article will be regulated in the law.

The provisions imply that national development is carried out based on the principle of independence with the principle of economic democracy capable of creating the realization of Indonesia's economic sovereignty (Faniyah, 2017). Economic sovereignty is the ability of a country to control its economic resources autonomously and independently, without being overly dependent on foreign countries or entities. This includes the ability to produce, produce and manage natural resources, human resources and capital effectively and efficiently to meet national needs and interests.

The concept of economic sovereignty has long been a major concern in political economy, especially in terms of developing economic policies that can promote people's welfare in a fair and sustainable manner. In Indonesia, the concept of economic sovereignty is emphasized in Article 33 of the 1945 Constitution which says that natural resources and national wealth must be controlled by the state and used for the greatest prosperity of the people. Of course, economic sovereignty is not only sovereign inward, in the sense of being economically strong in the country, but also Indonesia's economy must also be sovereign to the outside, without any other

country intervening in all forms of Indonesian economic policy, including bargaining power in international trade.

One of the outward sovereign economic sovereignties is poured out in the form of anti-dumping policies, that anti-dumping policies can be a tool used by a country to defend its economic sovereignty from the threat of dumping by other countries. By imposing anti-dumping tariffs on imported products that are sold below market prices, it is an effort and step that can be taken by the State to protect domestic producers from unfair and detrimental competition. In the Indonesian context, the application of anti-dumping policies is carried out through Law no. 7 of 2014 concerning Trade which aims to protect domestic industries from the threat of dumping and other unfair trading practices. This is in line with efforts to increase Indonesia's economic sovereignty by increasing domestic production and reducing dependence on imports.

Further instructions about anti-dumping policies are specifically in Government Regulation Number 34 of 2011 concerning Antidumping Measures, Compensation Measures, and Trade Security Measures. Meanwhile, technical implementation in the field uses the Regulation of the Minister of Trade Number 53/M.DAG/PER/9/2013 concerning Amendments to the Regulation of the Minister of Trade Number 76/M.DAG/PER/12/2012 concerning Procedures for Investigation in the Context of Imposing Anti-Dumping Measures and Countermeasures.

The anti-dumping policy in Indonesia is in line with the provisions that apply to international trade through the implementation of national development policies which are marked by Indonesia's participation in the agreement to form the World Trade Organization (WTO) through the passing of Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization.

CONCLUSION

a. Conclusions

Regulations regarding Anti-Dumping in Indonesia have been spread in various laws and regulations, including Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization (Approval for the Formation of the World Trade Organization), Law Number 7 of 2014 concerning Trade, Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs, as well as Government Regulations that specifically regulate anti-dumping, namely Government Regulation Number 34 of 2011 concerning Antidumping Measures, Compensation Measures, and Trade Safeguard Measures. In addition, there are also regulations at a practical level through the Regulation of

the Minister of Trade Number 53/M.DAG/PER/9/2013 concerning Amendments to the Regulation of the Minister of Trade Number 76/M.DAG/PER/12/2012 concerning Procedures for Investigations in the Context of Imposing Actions Anti-Dumping and Countermeasures.

The anti-dumping policy carried out by the Government of Indonesia as an effort and measure to safeguard Indonesia's economic sovereignty is based on Article 33 of the 1945 Constitution and is concretized through each article that regulates anti-dumping and is directed in accordance with generally accepted provisions in the field of international trade with the ratification of GATT in the Law Number 7 of 1994.

b. Recommendations

The enactment of the many laws and regulations governing anti-dumping policies in Indonesia will be ineffective without the oversight of all stakeholders who have an interest in the enactment of the said laws. Of course, it is not only the government that handles oversight, but also the private sector, institutions, organizations to individuals who have an interest in economic sovereignty by implementing anti-dumping policies in Indonesia.

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