

## ROLE OF THE WTO (WORLD TRADE ORGANIZATION) TO LIMIT DUMPING PRACTICE

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### ABSTRACT

#### KEYWORDS

Digital technology,  
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International trade is a cross-border buying and selling transaction, which involves two parties and crosses state boundaries. Dumping is a system of selling goods on foreign markets in large quantities at very low prices with the aim that domestic purchase prices are not lowered so that they can eventually dominate foreign markets and regain control of prices. From the above background, the problem in this research is the role of the WTO (World Trade Organization) to limit dumping practices. Answering these problems the researchers used a normative juridical approach. Normative juridical approach is an approach that is based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. The results of the study show that in GATT it is clear that the position of dumping is an act of unfair trade (unfair trade practice) because it violates the principles of MFN. This is why he considers dumping as Unfair Trade Practice in GATT. Then the anti-dumping regulation in Article VI of the GATT is intended as a policy to overcome dumping. The WTO in this position is as a forum for dispute resolution and provides a conciliation mechanism to resolve trade disputes that arise. So that the position of the WTO is as a facilitator in preventing dumping disputes.

### INTRODUCTION

Trade relations were initially only limited to a certain region of the country. With the development of trade flows, trade relations are not only carried out between entrepreneurs in the domicile of a country's territory, but also traders from other countries. Even the trade relations vary, including the method of payment.

Export and import are based on the condition that no country is truly independent because each other needs and complements each other. Each country has different characteristics, both natural resources, climate, demographics, geography, economic structure, and social structure (Suhardi, 2007). These differences lead to differences in the commodities produced, the composition of the costs required, and the quality and quantity of the product (Arnan, 2014). Directly or indirectly, it is necessary to exchange goods and or services between countries in the form of trade relations to meet the needs of each of these countries.

International trade is a cross-border buying and selling transaction, which involves two parties and crosses state boundaries. These parties do not have to come from different countries or have different nationalities (Widiyanti, 2009). International trade transactions, which are better known as exports and imports, are essentially simple transactions that do nothing more than buy and sell goods between entrepreneurs who reside or are domiciled in different countries. However, in the exchange of goods and services across the sea or land, complex problems often arise between entrepreneurs who have different languages, cultures, customs, and ways (Gunawadi & Purwanto, 2016).

David Ricardo once explained the occurrence of trade between countries in this world. The description is based on the principle of the international division of labor,

based on the "Theory of Comparative advantage" which is owned by each country (Apryani & Danyathi, 2014) .

The theory of comparative advantage in international trade occurs when there are differences in comparative advantage between countries. He argues that comparative advantage will be achieved if a country is able to produce more goods and services at a lower cost than other countries (Arnan, 2014) . For example, Indonesia and Malaysia both produce coffee and tin. Indonesia is able to produce coffee efficiently and at a low cost, but is unable to produce tin efficiently and cheaply. On the other hand, Malaysia is able to produce tin efficiently and at low cost, but is unable to produce coffee efficiently and cheaply. Thus, Indonesia has a comparative advantage in producing coffee and Malaysia has a comparative advantage in producing tin. Trade will be mutually beneficial if both countries are willing to exchange coffee and tin (Widaristanty & Windari, 2022) . In the theory of comparative advantage, a nation can increase its standard of living and income if the country specializes in the production of goods or services that have high productivity and efficiency (Widjaja & Yani, 2001). (Anggraini, 2015) .

Export and import activities cannot be denied by a country in order to meet the needs of its people, as well as a means of economic development, especially increasing profits from the export aspect of a country's products. Competition is something that cannot be avoided from every country in seizing international market share and even world market share. Competition is carried out in a healthy and fraudulent manner, such as by selling products at prices below fair prices with the aim of capturing market share and causing damage to market mechanisms, one of which is dumping practices.

Dumping is a system of selling goods on foreign markets in large quantities at very low prices with the aim that domestic purchase prices are not lowered so that they can eventually dominate foreign markets and regain control of prices.

In the period 1995-2008, allegations of dumping by member countries of the World Trade Organization (WTO) reached 3,427 cases, including 100 accused countries and 43 accuser countries. Meanwhile the 5 (five) WTO countries that were most widely accused of dumping during the period 1995-2008, namely China with 677 cases, followed by the Republic of Korea with 252 cases, the United States in third place with 189 cases, Taiwan with 187 cases and Indonesia in the third place. fifth with 145 cases.

Indonesia in the period 1995-2008 has been accused of dumping 73 times. since 1995-2008 there were 5 (five) business sectors that were most frequently accused of dumping, namely base metal and articles of base metal (948 cases) followed by product of chemical allied industries with 690 cases, plastic and rubber 440 cases, machinery and mechanical appliances 313 cases and lastly textiles and articles of textiles as many as 271 cases.

Based on these data, the practice of dumping is a practice that is very often carried out by various countries, both developing and developed countries, even Indonesia itself has a high rank on accusations of dumping. From the description above, the author wants to write an article with the title "The Role of the WTO (World Trade Organization) to Limit Dumping Practices".

## METHOD RESEARCH

This research approach uses a normative juridical approach, which is an approach based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. This approach is also known as the library approach, namely by studying books, laws and regulations and other documents related

to this research. This type of legal research method is also commonly referred to as doctrinal legal research or library research. It is called doctrinal law research because this research is only aimed at written regulations so that this research is very closely related to the library because it will require secondary data in the library. In normative legal research, written law is studied from various aspects such as aspects of theory, philosophy, comparison, structure/composition, consistency, general explanations and explanations for each article, formality and binding power of a law and the language used is legal language. So that we can conclude that normative legal research has a broad scope.

## RESULTS AND DISCUSSION

### 1. The concept of dumping in the GATT/WTO framework

In international trade, competition is a natural thing and can even be called something essential. Business people will certainly compete to carry out new innovations to support the increase in world market share, but this often leads to an unfavorable action which is commonly referred to as unfair competition. Referring to Article 1 point 6 of Law no. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, unfair competition or unfair trade practice is a competition between business actors to carry out production or marketing activities of goods or services carried out in a dishonest or even unlawful manner to hinder fair business competition. negative impact on the world of commerce.

One of the actions that is often referred to as unfair trade practice in the international business world is dumping. In the perspective of the General Agreement on Tariffs and Trade (GATT), the general form of unfair trade practice in question is the issue of dumping. This is because dumping can result in extensive losses to producers, namely the narrowing of the producer's market share, in this case the host country. Dumping also has a negative impact on micro-enterprises in importing countries, especially for importing countries that are still included in the qualifications of developing countries.

The term dumping is an activity carried out by producers or exporters who carry out sales of goods/commodities abroad or in other countries (importing countries) at prices lower than the normal price of similar goods both in the exporting country (exporters) and in importing countries ( importer), resulting in losses for the importing country. Whereas what is meant by "Anti-dumping" is a retaliatory sanction in the form of additional import duty imposed on a product sold below the normal price of the same product in the exporting and importing countries.

As for goods/products that enter by dumping are called "dumping goods", this is regulated in Article 1 paragraph (4) of Government Regulation Number 34 of 2011 concerning Anti-Dumping Measures, Compensation Measures, and Trade Safeguard Measures, that dumped goods are goods that imported with an Export Price level that is lower than the Normal Value in the exporting country.

According to Robert Willig, former chief economist at the antitrust division of the United States Department of Law, there are five types of dumping based on the objectives of the exporter, market power and the structure of the import market, which are as follows:

#### a. Market Expansion Dumping

The exporting firm can make a profit by setting a lower mark-up in the import market because it faces a greater elasticity of demand as long as the price offered is lower.

b. Cyclical Dumping

The motivation for this type of dumping arises from the existence of unusually low or unclear marginal costs, the possibility of production costs that accompany the condition of excess production capacity that is separate from the manufacture of the related product.

c. State Trading Dumping

The background and motivation are the same as in other dumping categories, but what stands out is the monetary acquisition.

d. Strategic Dumping

This term was adopted to describe exports that harm rival companies in the importing country through the overall strategy of the exporting country, either by cutting export prices or by restricting the entry of the same product into the exporting country's market. If the share of the domestic market share of each independent exporter is large enough in terms of economies of scale, then they benefit from the large costs incurred by foreign competitors.

e. Predatory Dumping

This term is used for low-priced exports with the aim of ejecting competitors from the market, in order to gain monopoly power in the importing country's market. The worst consequence of this type of dumping is the death of companies that produce similar goods in the importing country.

## 2. Criteria for dumping goods

a proof that an item is dumping goods, Article IV GATT in principle has provided general criteria that prohibited dumping is dumping which can cause material loss to either an established industry (to an establishment industry) or has created obstacles to the establishment of a domestic industry ( the establishment of domestic industry). Based on this explanation, dumping can be categorized into three elements/criteria as follows:

- a. Products from one country traded by other countries are sold at a price lower than the normal price (less than normal value) or referred to as "less than fair value" (LTFV).
- b. As a result of the price discrimination that causes material losses to the industry, it has been established or has become an obstacle to the establishment of a domestic industry.
- c. There is a causal relationship between sellers of imported goods who do less than fair value and the losses suffered by the state.

## 3. The role of the WTO in preventing dumping

In the GATT it is clear that the position of dumping is as an act of unfair competition (Unfair Trade Practice) because it has violated the principles of MFN. MFN is a clause that requires non-discriminatory treatment from one country to another. The most practical consequence of dumping is the narrowing of the importing country's market share, while the broad impact is as follows. The narrowing of the market share of the importing country results in a decrease in the income of producers in the importing country, then the decline further causes a decrease in the company's ability to pay for labor costs, a decrease in the company's financing ability and ultimately a decrease in production power and export power. A further consequence is unemployment and a decline in the company's vitality, of course, in the importing country.

The decline in the economy of a country caused by dumping will clearly have an impact on other countries. This is why he considers dumping as Unfair Trade Practice in

GATT. Then the anti-dumping regulation in Article VI of the GATT is intended as a policy to overcome dumping, according to these provisions generally every GATT member country affected by dumping can take retaliatory actions in the form of imposing a balanced anti-dumping obligation. The interpretation of these provisions has in fact been misused for producing countries, especially developing countries, anti-dumping practices which are generally carried out by developed industrial countries are often a source of losses and unfair trade.

Antidumping is not always used as intended, but more often used as a measure to protect the domestic market. Things that are often done are dropping accusations of dumping without good reason and then rejecting products originating from developing countries which happen to be exporting countries. This of course results in economic disparities in international trade. So that the practice of antidumping in such a way is essentially an unfair trade practice.

The WTO in this position is closely related to the GATT because the WTO was proclaimed at the GATT conference which was called the Uruguay round of 1986. The Uruguay meeting was the most difficult and longest meeting until only on December 30, 1994 the WTO was born in [Geneva \(Jamilus, 2017\)](#) . The birth of the WTO was actually intended to make the role of GATT more effective.

Apart from that, there are also general council meetings as dispute settlement bodies, appellate bodies and dispute settlement panels ([Van den Bossche et al., 2010](#)) . This trade dispute resolution institution between members became the strength of the WTO after GATT with weaker organizations failed to carry out the dispute resolution mission. Once again, it appears that this council is a member's committee to make fair and democratic decisions ([Muslimah & Latifah, 2022](#)) .

Finally, there is an important institution, also outside the secretariat, namely the general council meeting as a trade policy review body. This institution will make changes to any provisions that need to be reviewed according to the request of members or the demands of changing circumstances ([Rabbani, 2021](#)) .

The General Agreement on Tariffs and Trade (GATT) is a multilateral trade agreement agreed in 1948 where the main objective is to create economic growth and development in order to achieve the welfare of mankind ([Barus & Leviza, 2022](#)) . With the Uruguay round agreement on 15 1994 in Marrkesh Morocco, a new chapter in international trade relations began, thus, it is hoped that free, fair and open world trade can be achieved ([Parikesit & Wairocana, 2017](#)) .

In simple terms, the agreements that resulted from the Uruguay round of negotiations were an agreement to improve the situation in international trade relations through the following efforts:

- a. Expanding market access for goods and services.
- b. Improving various laws and regulations.
- c. Expand the scope of GATT rules and disciplines.
- d. Strengthen international trade institutions.
- e. With the establishment of the WTO as a multilateral trade organization, its role will be further increased than the GATT, namely:
  - a. Administering various agreements produced by the Uruguay round in the field of goods and services, both multilateral and plurilateral, as well as overseeing the implementation of market access commitments in the tariff and non-tariff fields.
  - b. Supervise international trade practices by regularly reviewing the trade policies of its member countries and through notification procedures.

- c. As a forum for dispute resolution and providing a conciliation mechanism to resolve trade disputes that arise.
- d. Provide necessary technical assistance to its members, including developing countries in implementing the results of the Uruguay round.
- e. As a forum for its member countries to continuously negotiate concession exchanges in the trade sector in order to reduce world trade barriers.

The world trade organization WTO will assist in the implementation and operation of all agreements and legal instruments that have been negotiated in the Uruguay round and plurilateral agreements as a negotiating forum, administering the Understanding Rules and Procedures Governing the Settlement of Disputes and the Trade Policy Review Mechanism (TPRM) and in cooperation with the International Monetary Fund (IMF) and the International Bank for Reconstructions and Development (IBRD).

## CONCLUSION

In the GATT it is clear that the position of dumping is as an act of unfair competition (Unfair Trade Practice) because it has violated the principles of MFN. This is why he considers dumping as Unfair Trade Practice in GATT. Then the anti-dumping regulation in Article VI of the GATT is intended as a policy to overcome dumping. The WTO in this position is as a forum for dispute resolution and provides a conciliation mechanism to resolve trade disputes that arise. So the position of the WTO is as a facilitator in preventing dumping disputes.

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