

ANALYSIS OF THE IMPLICATIONS OF THE UNITED STATES' ALLEGATIONS REGARDING THE DUMPING & SHRIMP SUBSIDY DISPUTE ON THE REPRESENTATION OF INDONESIAN INDUSTRY

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Abstract

The international market's perception and the competitiveness of Indonesia's fisheries industry were notably impacted by the United States' accusations of dumping and subsidies against Indonesian shrimp exports. This study explores the short- and long-term effects of these allegations on the industry's global representation. Although the US Department of Commerce was ultimately ruled in favor of Indonesia, the process impacted the industry's reputation and trading partners' trust. Findings show that, while Indonesia's fisheries industry retained its position in the US market, this issue underscores the importance of transparency, WTO compliance, and consistent diplomacy to support Indonesia's long-term export sustainability.

Keywords: Indonesian fisheries industry, subsidy allegations, dumping, international trade, WTO standards, competitiveness

INTRODUCTION

International trade is trade conducted between countries or governments of countries with other countries that undergo a trade relationship in accordance with the agreement between the two parties conducting the international trade. International trade is trade conducted by residents of a country with residents of another country on the basis of mutual agreement. The residents in question can be between individuals (individuals with individuals) between individuals with the government of a country, or the government of a country with the government of another country.

Trading international is an exchange - based process on will voluntary

from each country. As for the motive is to obtain benefit trading or *gains off trade*. Trading is activity very economic important , then No There are countries in the world that do not involved in trade , good trading interregional , inter-regional , or between countries .¹

In contest trading international involving interaction interstate , role institution like *World Trade Organization* (WTO) becomes very crucially , *the World Trade Organization* (WTO) is A organization international governing body as well as to shelter effort system liberalization in trading international in which consisting of various countries one of them Indonesia .² Since January 1 , 1994, Indonesia became one of the member

¹Serlika Aprita, Rio Adhitya " *International Trade Law* " (Depok: PT RAJAGRAFINDO PERSADA, 2020) p . 1.

https://books.google.co.id/books/about/Hukum_Perdagangan_Internasional.html?id=AR7eEAAAQBAJ&redir_esc=y

²Resa Feran , Jeany Anita Kermite , Mercy MM Setlight “ *Dumping Practices in the Perspective of International Trade Law* ” Vol. 10 No. 2 (2022): Lex Privatum p . 1.
<https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/40383>

official from organization trading *World Trade Organization* (WTO). In the WTO there is rules base trading international , which became receptacle negotiation concessions and commitments trade for its members as well as help finish dispute trade through mechanism that is tie in a way law . The WTO also has complicated rules about trading goods and services as well as protection right riches intellectual . One of the rule base in WTO law is of a nature substantive is rule about practice trade that is not fair . Unfair trade practices are also known as unfair trade practices . *One* of the practices known as unfair trade is dumping.³

The term dumping itself is used in international trade as a trade practice carried out by exporters by selling commodities on the international market at a price that is less than the fair value or lower than the price of the goods in their own country, or from the selling price to other countries in general, this practice is said to be unfair because it can damage the market and harm competing producers in the importing country.⁴

The emergence of dumping practices as a consequence of the increasingly complex development of the world economy in international trade, both in goods and services. Here are some reasons why a country carries out dumping.

- a. To develop the market by providing incentives, through the application of lower prices , to buyers in the targeted articles.
- b. The existence of opportunities in market conditions, which allow for more flexible price determination, both in the export market and in the

domestic market. c. To prepare for competitive opportunities and good long-term growth by utilizing progressive pricing strategies

Basically, dumping itself is not prohibited by the WTO, but the WTO prohibits dumping that causes damage, loss or even weakens the domestic industry of the importing country.⁵

Based on the brief explanation above, this journal will focus the discussion topic on the analysis of the causes and resolution of the dispute and the implications for the Indonesian industry. In this dispute, the Indonesian state is involved as a party that is harmed by the impact of allegations of dumping and illegal practices. subsidies accused by the United States. This condition was marked when the United States accused Indonesia of *dumping* and subsidy practices in the United States Market. There were 15 issues accused of Indonesia.

RESEARCH METHODS

The method used is a normative method based on the legal basis relating to the research topic, namely the Republic of Indonesia Government Regulation Number 34 of 1996 Article 1. Approach Normative basically involves document studies to see the sources of legal materials that are manifested in the form of written regulations; this includes legislation, court decisions or decisions, legal principles, legal theories, and expert perspectives. This research includes all writings related to legal aspects, including articles, journals, and research results related to this research topic. To solve this problem, data is collected through library research, which is

³Resa Feran , Jeany Anita Kermite , Mercy MM Setlight , *Loc.Cit* , p . 1.

<https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/40383>

⁴Original Oki Olanda, " *Analysis of Dumping Practices in International Trade from the Perspective of Fiqh Muamalah* " (Riau: 2023) pp. 32-33.

<https://repository.uinsuska.ac.id/65886/1/FILE%20LENGKAOP%20KECUALIHASIL%20PENENLTIAN%20%28BAB%20IV%29.pdf>

⁵Resa Feran , Jeany Anita Kermite , Mercy MM Setlight , *Loc.Cit* , p . 1-2.

<https://ejournal.unisbablitar.ac.id/index.php/supremasi/article/view/3528>

then analyzed qualitatively—an analysis method that focuses on data originating from legal material sources.

RESEARCH RESULTS AND DISCUSSION

A. Chronology of the Dispute Regarding Subsidies & Dumping Issued by the United States against Indonesia

The trade dispute between Indonesia and the United States over alleged shrimp *dumping* and subsidies reflects the complex challenges of international trade. The United States alleges that Indonesia's fisheries industry is dumping, selling shrimp in the United States at prices lower than domestic prices or below production costs. In addition, there are claims that the Indonesian government provides unfair subsidies to shrimp producers, which worsens competition in the global market.

On December 28, 2012, COGSI (Coalition of Gulf Shrimp Industries), a coalition entrepreneurs and fishermen in the state US coast, filed petition to the *US-International Trade Commission (USITC)* and *US-Department of Commerce (US-DOC)*. In petition said, COGSI submitted request investigation, The coalition of US fishermen and shrimp industry (COGSI) accused the subsidies of being provided through export credit, export insurance, tax incentives and import duties on capital goods used for export to the United States, and exemptions from value added tax (VAT) on capital goods used for export. Indonesia itself was accused of allocating subsidies to the fisheries sector amounting to US\$ 3 billion over 5 (five) years to increase the shrimp production target by 18-19% per year from 2010 to 2014. The issues of the accusations against the

Indonesian government in the US government's anti-subsidy investigation are as follows as follows:

1. *Government Provision of Loans to the Indonesian Fishing and Aquaculture Sector*;
2. *Government Provision of Goods and Services Used to Promote the Indonesian Fishing*,
3. *Aquaculture Sector for Less Than Adequate Remuneration LTAR*;
4. *Government Provision of Electricity to the Indonesian Fishing and Aquaculture Sector for LTAR*;
5. *Government Provision of Land to the Indonesian Fishing and Aquaculture Sector for LTAR*;
6. *Government Provision of Shrimp Breeding Stock and Fry for LTAR*;
7. *Tax Incentives from the Capital Investment Coordinating Board*;
8. *Import Duty and VAT Exemptions in Bonded Zones*;
9. *Government Provision of Grants to the Indonesian Fishing and Aquaculture Sector*;
10. *Government Provision of Grants for the Lampung Shrimp Pond Project*;
11. *Export Financing from the Indonesia Export-Import Bank*;
12. *Export Credit Insurance*;
13. *Export Credit Guarantees*;
14. *Export Ban on Raw Shrimp*;
15. *Debt Forgiveness from the Government of Indonesia*; and *CP Prima's Uncreditworthiness*.⁶

B. Defense The Indonesian government against accusation subsidies & dumping by the Association Shrimp Domestic in the United States.

About accusation the The Indonesian government itself No stay silent in response accusation This. Every year, the Ministry of Marine Affairs and Fisheries allocates funds to empower shrimp farmers.⁷ The investigation

⁶M. Kharif Rahman, Pazli "Trade Dispute between Indonesia and the United States in Shrimp Exports to the United States 2010-2013" (2014). p. 7

<https://www.neliti.com/publications/31227/persengketaan-perdagangan-antara-indonesia-dan-amerika-serikat-dalam-ekspor-udang>

⁷Jala tech, "Revealing the Impact of Dumping and Countervailing Duty Allegations on the Indonesian Shrimp Industry" <https://jala.tech/id/blog/industri-udang/tuduhan-dumping-dan-countervailing-duty-bagi-industri-udang-indonesia> Accessed on November 04, 2024 at 12:16.

conducted is a natural thing before conducting a proof, but what is burdensome for the Indonesian government is if the investigation process can affect national food security and regulate shrimp production in Indonesia. In responding to these accusations, the Indonesian government has made efforts to be free from the accusations leveled against the Indonesian government. As previously mentioned, the accusations are in the form of subsidies provided through the provision of export credit, export insurance, tax incentives and import duties on capital goods used for export to the US, and exemption from value added tax (VAT) on capital goods used for export.⁸ Shrimp farming activities are spread across various provinces in Indonesia, as is well known that shrimp commodities in Indonesia that are based on cultivation have a large enough production volume to meet domestic and international needs. Seeing this, the Indonesian government has a shrimp production target through the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia (KKP), namely in accordance with what has been explained previously, through capture fisheries of 5.44 million tons and aquaculture production of 9.42 million tons. This can prove that the amount of shrimp produced by Indonesia is mostly through cultivation methods, so it also determines the price marketed to the US. Fishermen and shrimp entrepreneurs in the US do not understand that the Indonesian government has a scheme to empower fishermen and shrimp farmers in coastal areas. The program, which is spearheaded by the Ministry of Maritime Affairs and Fisheries, annually disburses funds to empower communities that cultivating shrimp, but empowering it is aimed at resilience national food is not for commercial

purposes as previously accused, namely providing subsidies to exporters. This cultivation method affects the number of shrimp produced at harvest time and also affects Indonesian shrimp exports in the international market. As previously explained, Indonesia currently has a shrimp farming area of 1.2 million ha, with an effective potential for shrimp farming of \pm 773 thousand ha. One form of support from the Indonesian government here in development and creating jobs is to create a pilot pond program or demfarm which has been implemented in 2012 in 6 districts in Pantura, West Java and Banten, then in 2013 in 28 districts spread across 6 provinces including Central Java, East Java, South Sulawesi, NTB, North Sumatra, and Lampung.

C. Settlement of Disputes over Accusations of United States Dumping - Subsidies against Indonesia

Disputes can arise when a country sets a certain trade policy that is contrary to its commitments in the WTO (*World Trade Organization*) or takes a policy that then harms another country. In addition to the country that is most harmed by the policy, a third country interested in the case can express its desire to become a third party and obtain certain rights during the dispute resolution process. In the WTO, dispute resolution is the responsibility of the Dispute Settlement Body (DSB), which is an incarnation of the General Council (GC). The DSB is the only body that has the authority to form a panel of experts tasked with reviewing cases. The DSB can also accept or reject the panel's decision or a decision at the appeal level. The DSB monitors the implementation of decisions and recommendations and has the power/authority to ratify retaliation if a country does not comply with a decision. Although many WTO procedures are

⁸ M. Kharif Rahman, Pazli "Op.Cit" . p. 8
<https://www.neliti.com/publications/31227/persengketaan-perdagangan-antara-indonesia-dan-amerika-serikat-dalam-ekspor-udang>

similar to court proceedings, disputing member countries are still expected to negotiate and resolve their own problems before a panel is formed. Therefore, the first stage is consultation between governments involved in a case before the settlement stage through the WTO. In the case of the dispute between Indonesia and the US, the settlement carried out by both countries was bilateral, this case has not reached the settlement stage by the WTO Dispute Settlement Body. The shrimp subsidy dispute can still be resolved bilaterally. In the WTO subsidy rules, every country including Indonesia has the right to make accusations, be it subsidies or dumping and safeguards to the exporting country or company. However, Article XXII of the GATT agreement requires the parties to resolve their disputes through bilateral consultations. They are required to provide sympathetic consideration to any dispute regarding anything related to the implementation of GATT.

D. Indonesia is Free from Subsidy Accusations

From all the accusations leveled at the Indonesian government through investigations that have been conducted and trade diplomacy efforts that have been made, finally Indonesia has succeeded in proving that its shrimp products are free from the subsidy allegations. *The US Department of Commerce* (US-DOC) on August 13, 2013 has announced the results of the Final Determination for Shrimp CVD from seven countries (PRC, India, Malaysia, Vietnam, Thailand, Ecuador, and Indonesia). The Final Determination announced by the US-DOC decided on a negative Countervailing Duty result for shrimp imports from Indonesia, where the final subsidy rate rules imposed are below 2% or de minimis for PT. Central Pertiwi Bahari and PT. First Marine Seafoods, respectively 0.23% and 0.27%. As is well known, Indonesia is a country that is

included in the developing countries, in WTO Article 27.10 SCM Agreement explains that investigations into developing countries that are accused of subsidies must be stopped if the overall level of subsidies does not exceed 2%.

Any countervailing duty investigation of a product originating in a developing country Member shall be terminated as soon as the authorities concerned determine that;

(a) the overall level of subsidies granted upon the product in question does not exceed 2 percent of its value calculated on a per unit basis; or

(b) the volume of the subsidized imports represents less than 4 percent of the total imports of the like product in the importing Member, unless imports from developing country Members whose individual shares of total imports represent less than 4 percent collectively account for more than 9 percent of the total imports of the like product in the importing Member.

The Director General of International Trade Cooperation at the Ministry of Trade, Iman Pambagyo, said that the final result of the US-DOC determination was a success of Indonesian trade diplomacy which consistently carried out three approaches that were good and consistent in handling the case. CVD allegations since 8 (eight) months of investigation, that

is: approach technical/substantive, political approaches, and diplomatic pressure.⁹

Allegations of subsidies and dumping received by the Indonesian shrimp industry have raised concerns among importers and international trading partners about the business practices of the Indonesian fisheries industry.

E. Impact Allegations Subsidies and Dumping against Perception Indonesian Industry

The existence of investigation conducted by the authorities United States

⁹Guspendi A Simangunsong, "Resolution of Indonesian and United States Shrimp Export Business Disputes" *Jurnal Rechten : Riset Hukum dan Hak Asasi Manusia*. Vol 4 No 1 (2022) pp 4-5.
<https://rechten.nusaputra.ac.id/article/view/71>

trade, finally culminating in a decision that benefits Indonesia, it was shake up trust some countries on compliance industry Indonesian fisheries against standard international market competition. Credibility the previous industry considered capable compete in a way Healthy affected consequence speculation that price low Indonesian shrimp in the US market is caused by subsidies government.

Impact This the more exacerbated by the fact that perception negative to subsidy often appears concern will existence policy profitable protectionism manufacturer domestic. As As a result, some countries and buyers international tend more be careful in transact with Indonesian suppliers, so that appear potential decline demand for products Indonesian shrimp in the global market.

Dispute subsidies and dumping involving product shrimp from Indonesia also influences perception about Power Indonesia's competitiveness in the sector global fisheries. Allegations This cause view that price export Indonesian shrimp maybe No competitive in a way natural and supported by a mixture hand government, which can considered as unfair trade practice. Indonesia's position as exporter main shrimp also get spotlight, especially from competing countries, such as Thailand and Vietnam, which are trying to increase their market share in the same sector.

Power Indonesia's competitiveness in the sector these are also affected by actions protective from the US government in form implementation customs enter addition for product shrimp that is rated get subsidies. Although Finally accusation subsidy This No proven, investigation process This had time limit access product Indonesian shrimp to the US market, which is one of the export markets biggest. Policy like This create uncertainty that affects investor and importer perceptions to stability as well as Indonesia's ability to

compete in the international market in a way fair without support subsidy.

The dispute process involving investigations by the *US-Department of Commerce* (US-DOC) and the *International Trade Commission* (ITC) drew attention of the perpetrators trading international to Indonesia's commitment to WTO (*World Trade Organization*) standards. Although Indonesia has succeeded pass from accusation subsidies, the existence of investigation show that Still There is perception negative related compliance industry domestic to WTO standards.

For the international market, especially in developed countries that uphold tall standard fair trade, engagement in case subsidies and dumping reduce trust that Indonesia can comply WTO rules in full. This is can impact on increasing it is possible that other countries will do so supervision more strict to product export from Indonesia, not only product fisheries, but also other strategic sectors. This perception raises long-term risks for the Indonesian fisheries industry in maintaining access and acceptance of products in export markets.

Allegations subsidies and dumping potential influence position Indonesia's bargaining chip in negotiation future trade with developed countries. Dispute This indicates that policy Indonesian industry is still prone to to accusation subsidies, which can used by developed countries as instrument For press position Indonesia's bargaining chip in agreement multilateral trade. Partner countries trading is also possible feel more free For demand more requirements strict or even hinder product certain from Indonesia if considered No comply provision subsidy international.

However, the US-DOC decision stated product Indonesian free range shrimp from accusation subsidies also strengthen Indonesia's position in the WTO as a developing country that is capable endure

in dispute trading international . This is show that Indonesia has readiness in face and resolve dispute trade in accordance WTO provisions , which ultimately Can repair position Indonesia's bargaining chip in negotiation future trading .

CLOSING

Based on the above analysis can concluded that accusation subsidies and dumping by the United States to industry Indonesian shrimp causes various impact significant to perception and position of Indonesia's international market . Although accusation the succeed proven No based on the ongoing investigation process has influence credibility , power competitive , and position Indonesia's bargaining chip in trading international . Allegations This bring up perception negative that price low product Indonesian shrimp in the global market may produced from mix hand government that does not fair , so that cause concerns among importers and investors.

On the side other , dispute This show that Indonesia needs increase commitment to standard global trade in order to maintain his reputation as a country with integrity in operate practice trading international . For overcome challenge this is important for Indonesia to ensure that every policy industry fishery still is at in corridor WTO rules and encourage transparency in help government to sector This . Improvement compliance to standard international and consistent diplomacy will play a role important in strengthen Indonesia's position in the global market and preventing recurrence dispute trading similar in the future .

In general Overall , even though Indonesia succeeded prove his non-involvement in practice subsidies and dumping, experience This confirm the need strategy more diplomacy and compliance strong For guard Power competition industry fisheries and improve international market confidence .

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