

## The Legal Review of the Mechanism for Determining Injury in the Imposition of Antidumping Duties on Uncoated Writing and Printing Paper in Indonesia

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### *Abstract*

*The competition among business actors often leads to unfair competition, whether in the form of prices or non-prices. The practice of anti-dumping is an important issue in conducting international trade to achieve fair trade. Anti-dumping import duties are regulated in Article 19 (1) of Customs Law No.10 of 1995 that the anti-dumping import duties imposed on imported goods are at most equal to the difference between the normal value and the export price of the goods with a maximum tariff of 40% (forty percent) of the customs value. Losses only occur when the import of dumped or subsidized goods causes or threatens material injury to an established industry in a country or materially impedes the growth of the industry concerned. The provisions on anti-dumping held by several countries have a valid role in the free trade system, but not if they are misused as a tool of protectionism.*

*Keywords: Anti Dumping, Export-Import, Import Duty, Injury.*

### 1. Introduction

The development of Economic Law, in the sense of comprehensive and sustainable legal arrangement in the economic field, is an urgent basic need. Good governance entails a government that has prepared the orientation of its economic law development in line with the concept of its future economic development. A good government is one that can predict future developments and provide various aspects needed by its people to anticipate future changes in the world.

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The process of globalization in various fields, as well as the development of technology and information(Muna & Ausat, 2023; Subagja, 2023), has led to the phenomenon of the integration of the economies of all countries and nations. There is mutual interdependence and national economic integration into the global economy. In fulfilling this mutual interdependence, international trade takes place(Wanof & Gani, 2023), which is the trade of goods and services between one country and another beyond national borders, comprising two main activities: exports and imports, which can only be carried out within certain limits in accordance with government policies. In addition, in conducting international trade activities, business actors refer to international legal principles, including those of private international law and public international law(Sood, 2011). The process occurs simultaneously with the functioning of market mechanisms driven by competition(Lisaria Putri et al., 2023; Muna et al., 2023). Competition among business actors often leads to unfair competition, whether in the form of prices or non-prices. In terms of prices, for example, there is price discrimination known as dumping. Dumping is one form of non-tariff trade barrier in the form of price discrimination (Wright, 2021).

The issue of dumping is a substance in the field of rule making that will become increasingly important for developing countries that aim to increase their non-oil exports, especially in the manufacturing sector. (Silberberger et al., 2022). Economists generally classify dumping into three categories: sporadic dumping, persistent dumping, and predatory dumping. In addition, with its development, the terms diversionary dumping and downstream dumping have emerged. (Sukarmi, 2002). The practice of dumping is considered as an unfair act, and therefore, should be retaliated with certain sanctions. However, it should be noted that what is called fair or unfair in this field of trade is difficult to ascertain. For some individuals or groups, an action may be considered fair, but for others, the same action may be deemed unfair. It depends on where we stand to view a certain action as fair or unfair (Prusa, 2001).

The practice of anti-dumping is one of the crucial issues in conducting international trade to ensure fair trade. In this regard, it has been regulated in the Anti-Dumping Agreement (or Agreement on the Implementation of Article VI of GATT 1994)(Eliason & Fiorini, 2021). The bound tariff and its uniform application to all trading partners of WTO members are the key to the smooth flow of trade in goods(Barutu, 2007).

The regulations of the WTO firmly uphold certain principles but still allow for exceptions. The three main issues within them are (Adolf & Chandrawulan, 2019) :

- a. Measures to combat dumping (selling at unfairly low prices);
- b. Subsidies and countervailing measures to balance subsidies;
- c. Emergency measures to temporarily limit imports in order to safeguard domestic industries (safeguards).

If a company sells its products in another country at a price lower than the normal market price in its own country, this is called dumping of the product. This is one of the issues in the WTO agreement that is non-judgmental, but rather focuses on the actions that can and cannot be taken by countries to address dumping. This agreement is known as the Anti-Dumping Agreement (or Agreement on the Implementation of Article VI of GATT 1994)(Tim Penyusun, 2010).

In this agreement, the government is allowed to act in response to dumping if material injury to domestic industry is proven to have occurred. To do this, the government must be able to prove the occurrence of dumping by calculating the level of dumping, which involves comparing the export price of a product to its selling price in its country of origin (Adolf & Chandrawulan, 2019).

Dumping practices are unfair in trade because for the importing country, they will cause damage to the domestic industry or businesses of similar goods, with the flood of goods from exporters whose prices are much cheaper than domestic goods, resulting in similar goods losing in competition, ultimately killing the domestic market for similar goods, followed by the emergence of its accompanying effects such as massive layoffs, unemployment, and bankruptcies of domestic industries for similar goods.

The findings of the research have shown that the long-term effects of dumping on the domestic industry have a negative impact and weaken the domestic industry (Prasetya & Nurcahyo, 2022). Meanwhile, the World Trade Organization (WTO) Panel Report in Australia regarding Anti-Dumping measures marks a significant development in multilateral regulations on anti-dumping. Under certain circumstances, the WTO agreement allows members to impose anti-dumping measures to address the detrimental effects of dumping on domestic industries, typically through customs duties by carefully examining and imposing "special situations" on exporting countries (Arato et al., 2021).

As a country engaged in international trade and also a member of the WTO, Indonesia has been accused of engaging in dumping practices on paper products exported to South Korea. This case began when the South Korean paper industry filed an anti-dumping petition against Indonesian paper products with the Korean Trade Commission (KTC) on September 30, 2002. Companies accused of dumping were PT. Indah Kiat Pulp & Paper Tbk, PT. Pindo Deli Pulp & Mills, PT. Pabrik Kertas Tjiwi Kimia Tbk, and April Pine Paper Trading Pte Ltd.

The Indonesian paper products accused of dumping include 16 types of products, classified as uncoated paper and paperboard used for writing, printing, or other graphic purposes, as well as carbon paper, self-copy paper, and other copying or transfer paper.

For the first time, Indonesia has benefited from the Dispute Settlement Mechanism (DSM) as the main complainant who feels disadvantaged by the application of trade regulations implemented by other WTO member countries. Indonesia filed an objection to the imposition of Korea's anti-dumping policy to the DSM in the Anti-Dumping case for Korea-Certain Paper Products.

Indonesia has successfully won this anti-dumping dispute. Indonesia has exercised its rights and benefits from the mechanisms and principles of multilateralism in the WTO trade system, especially the transparency principle. To determine the correct dumping price limit (margin of dumping), the export price needs to be established first, as the dumping margin calculation is based on the difference between the domestic ex-factory price and the ex-factory export price divided by the export price (Widjaja & Yani, 2001).

Anti-dumping investigations should also be stopped if the facts on the ground prove that the dumping margin is considered insignificant (less than 2% of the export price). And if the import volume of a dumping product is very small (import volume is less than 3% of the exporting country's total exports to the importing country). However, the investigation will still apply if the imported dumping products from several exporting countries are collectively calculated to amount to 7% or more.

The Indonesian government imposed an anti-dumping import duty on uncoated writing and printing paper imported from South Korea. This regulation has been in effect retroactively since February 1, 2011. The imposition of this anti-dumping import duty is regulated in the Minister of Finance Regulation (PMK) No. 32/PMK.011/2011 dated February 28, 2011.

"This regulation was made based on the findings of the Indonesian Anti-Dumping Committee (KADI) regarding the dumping import of uncoated writing and printing paper from the Republic of Korea which resulted in losses for the country. This regulation is valid for 1 year and retroactively effective since February 1, 2011" said Head of Public Relations Bureau of the Ministry of Finance, Yudi Pramadi, in a press release on Wednesday (March 16, 2011).

The characteristics of the uncoated writing and printing paper product subject to the import duty include (i) printed, written or other photocopy paper, and paper used for graphic purposes weighing 40 gr/m<sup>2</sup> or more but not exceeding 150 gr/m<sup>2</sup>, in rolls, except for carbonising base paper weighing 20 gr/m<sup>2</sup> or more, paper for printing

banknotes, used in the manufacture of plasterboard and cards or computer paper, aluminum base paper, included in tariff position 4802.55.90.00.

Then, the printed, written or other photocopy paper, and paper used for graphic purposes, in sheets weighing 40 gr/m<sup>2</sup> or more but not exceeding 150 gr/m<sup>2</sup>, with one side not exceeding 435 mm and the other side not exceeding 297 mm when unfolded, except for carbonising base paper weighing 20 gr/m<sup>2</sup> or more, paper for printing banknotes, used in the manufacture of plasterboard and cards or computer paper aluminum base paper, is included in tariff position 4802.56.90.00.

The amount of import duty imposed is 25% which applies to companies originating from the Republic of Korea that produce and/or export uncoated writing and printing paper, namely Hansol Paper Co, Shin Moorim Paper MFG Co.Ltd, Shin Ho Paper MFG Co, Ltd, and other companies.

The government of the Republic of Korea (South Korea) has agreed to eliminate the Anti-Dumping Import Duty (ADID) on Indonesian-produced paper. "The authorities in Korea have communicated to Indonesia that they will stop imposing anti-dumping import duties on unposed wood free paper from Indonesia" said Deputy Trade Minister Mahendra Siregar in a press conference held at the Ministry of Trade Auditorium in Jakarta on Monday (November 8, 2010). According to him, the agreement of the Korean Trade Commission (KTC) to stop the imposition of the Anti-Dumping Import Duty (ADID) on Indonesian paper products should be welcomed, as this has been long awaited by Indonesia. "This is something that we have been fighting for a long time to be implemented, because it not only disrupts Indonesian paper products to Korea, but we also believe that the anti-dumping import duty on Indonesian paper is not appropriate".

The Korean authorities have officially ended the imposition of anti-dumping import duties on uncoated writing and printing paper products, not only on Indonesia but also on China. Korea's policy of imposing import duties has greatly harmed Indonesia's paper industry. Many Indonesian paper industries have been accused of dumping, therefore Indonesia must also be vigilant against similar incidents that may occur again.

## **2. Literature Review**

### **2.1 Definition of Dumping and Anti Dumping**

The term "Dumping" used in international trade refers to a trade practice where an exporter sells a commodity in the international market at a price lower than its fair value or lower than the price of

the same product in their own country, or lower than the price of selling to other countries in general (N. O. Siregar, 2022). This practice is considered unfair because it can disrupt the market and harm competing producers in the importing country (Erawaty & Badudu, 1996). The term "Anti-Dumping" refers to a retaliatory sanction in the form of an additional import duty imposed on a product sold below the normal price of the same product in the exporting or importing country (Elvardi, 2017).

According to Black's Law Dictionary, the definition of dumping is: "The act of selling in quantity at very low price or practically regardless of the price; also, selling goods abroad at less than the market price at home" (Black, 2021).

The definition above indicates that the concept of dumping is often expressed as an unfair practice of selling export products at prices lower than their normal value. Furthermore, in the Uruguay Round, a new definition of dumping was given as a refinement in Article VI of the GATT 1994, which is embodied in Article 2, regarding the "Agreement on the Implementation of Article VI of the GATT 1994" as follows: "For purposes of this agreement, a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country" (Zhi et al., 2014).

The product that enters through dumping is called "dumped product", which is regulated in Article 1 paragraph (1) of Government Regulation No. 34 of 1994 concerning Anti-Dumping Import Duty and Countervailing Import Duty, which states that a dumped product is a product that is imported at an export price lower than its normal value in the exporting country.

Based on the definition above, it can be said that Dumping is an activity carried out by producers or exporters who sell goods/commodities in foreign countries or other countries (importing countries) at prices lower than the normal price of similar goods both in the exporting country (exporter) and in the importing country (importer), thus resulting in losses for the importing country (Jabbour et al., 2019).

## 2.2 Dumping Criteria

Countries involved in a dumping implementation contract acknowledge that distributing products from one country to another at prices below the normal value of the product can pose a significant threat of loss to the importing country (Djanudin, 2013). Not only small businesses but also those that have already entered the established category will feel the negative impact of dumping practices. This will cause severe material losses to the same industry on the distributed

products. The government's decision to implement dumping practices will hinder the growth of domestic industries (Yilmazcan, 2021).

According to Article VI of the GATT 1994, the criteria for dumping can be detailed as follows:

A. The Determination of Dumping

The determination of dumping as regulated in Chapter I states that a product is considered as dumping if, in international trade, the product is sold below its normal value (Sukarmi, 2002):

- 1) The price of a like product in the domestic market of the exporting country. In this case, the comparable price must be calculated based on the ex-factory price of domestic sales and the ex-factory price of export sales.
- 2) If there is no comparable domestic price for the importer in the exporting country, then the normal price is the ex-factory price derived from the calculation of the price of a similar product in that country which is exported to a third country.
- 3) The cost of production in the country of origin plus administrative expenses, marketing expenses, and normal profits are calculated using definition number 1a, but if domestic sales in the exporting country are very small (rare) or domestic prices are not relevant, for example, if the product is sold by a state-owned company in a country that adheres to a non-market economy, definition 1b or 1 can be used

B. Causes injury to the domestic industry of the importing country.

The determination of injury in Article VI of the GATT 1994 is based on positive evidence and involves objective testing regarding (Natabaya, 1995):

- 1) The volume of imported products, their dumping prices, and their impact on domestic market prices for similar products.
- 2) The impact of imports on domestic producers who produce similar products.

C. Causal Link

The causal relationship between the practice of dumping and the resulting injury must be established. The existence of dumping practices in imports must be proven as the cause of the injury. The causal relationship between dumping imports and injury to the domestic industry of the importing country must be based on testing all evidence of dumping indications (Prusa, 2001).

The assessment of the impact of imported products with dumping prices on the domestic industry of the importing country will involve an evaluation of all economic factors such as potential and actual sales

decline, profit, output, market share, productivity, investment development, capacity utilization, factors affecting domestic prices, the magnitude of the dumping margin, negative effects on potential and actual cash flow, labor supply, wages, growth, and the ability to increase capital or investment.

Based on the above definition, dumping can be categorized into three criteria/ elements as follows:

1) Products from one country that are traded by another country are sold at a price lower than the normal value (less than normal value) or referred to as "less than fair value" (LTFV).

2) The result of such price discrimination causes material damage to established industries or becomes a hindrance to the establishment of new industries domestically.

3) There is a causal relationship between the seller of imported goods that are LTFV and the losses suffered by the importing country.

The procedures for determining the impact or injury in almost all member countries are the same as clearly regulated by GATT/WTO. Considering that there are three (3) general criteria for dumping in the investigation of alleged dumping in order to impose anti-dumping duties if such allegations are proven, below is the procedure for determining the allegation of dumping, injury, and causal link (Felbermayr & Sandkamp, 2020).

According to Kindleberger in H.A.S. Natabaya, when viewed in terms of the impact on consumers and domestic importer industries, there are two types of dumping (Natabaya, 1995):

1) Predatory dumping is a form of dumping that involves discrimination by companies and benefiting buyers temporarily with the aim of eliminating competitors, after which prices are raised again. This form of dumping harms the domestic industrial products of the importing country.

2) Persistent dumping is a form of dumping that occurs continuously. Essentially, this form of dumping only benefits consumers of the importing country, as competition only occurs among imported products.

#### D. Determination of Anti Dumping Duties

To determine the anti-dumping import duty, it is regulated in Article 19 (1) of Customs Law No.10 of 1995 which states that the Antidumping Import Duty imposed on imported goods is as high as the difference between the normal value and the export price of the goods. The Antidumping Import Duty is in addition to the Import Duty levied under Article 12 paragraph (1), which is an additional duty from the import rate (import duty) based on a rate of up to 40% (forty percent) of the customs value.



Based on the provisions above, BMAD is a rate imposed on products that are exported through dumping and countervailing duties, or a tariff for goods that have been proven to be exported at a lower price than the normal price (less than fair value / LTFV). Normal value refers to the price for the same product sold in the domestic country or in the exporting market. In Government Regulation No. 34 of 2011 Article 99 states that objections to the imposition of Anti-dumping Actions, Remedy Actions, and Safeguard Actions can only be submitted to the Dispute Settlement Body at the WTO. These provisions do not attempt to adjust to the provisions outlined by the ADA, while also eliminating the rights of justice seekers. As we know, litigating at the WTO will take considerable time and expense, and moreover, not all countries may want to support their domestic industries in filing a lawsuit against BMAD imposition in other countries (Makkawaru, 2012).

Further, the term "normal value" as stipulated in Article 1 paragraph (3) of Government Regulation No. 34 concerning Anti-Dumping Import Duty and Countervailing Import Duty refers to the actual or intended price paid for similar goods in general trade in the domestic market of the exporting country for consumption purposes.

Various countries adopt different methods to calculate the normal value. However, the common interpretation in Article VI of GATT, uses the method of calculating the normal value based on "cost of production" plus "profit" and divided by the total production.

The cost of production consists of at least:

- 1) The cost incurred for raw materials,
- 2) The fabrication costs including labor wages, and
- 3) All costs incurred for sales execution (General Sales Administration/GSA).

A country that is disadvantaged by dumping can impose additional duties/anti-dumping import duties on goods that are subject to dumping at the "dumping margin". An example of a dumping margin is as follows: for instance, an importing country imposes an LTFV price of 100 dollars for each watch product, and the normal price in the competitive market for the watch product is 120 dollars per unit, then the "margin of dumping" is 20 dollars. With an excess price of 20 dollars from the LTFV price, the disadvantaged country is only allowed to use anti-dumping duties equal to that price (20 dollars).

### 2.3 Types of Dumping in International Trade Practice

Economists generally classify dumping in three categories, respectively: sporadic dumping, persistent dumping, and predatory dumping (Irwin, 2005). In addition, in its development, the terms

diversary dumping and downstream dumping have emerged (Krugman et al., 2015).

a. Sporadic Dumping

Sporadic dumping refers to the act of selling products in the foreign market (export market) for a short period of time at a price lower than the domestic price of the exporting country or the cost of production of the goods. Usually, producers sell goods for a short period of time at a lower price, with the intention of getting rid of unwanted products. This type of dumping can disrupt the domestic market of the exporting country due to the uncertainty caused by sudden changes in demand abroad. (Situngkir, 2018).

Such type of dumping is a discriminatory pricing at a particular time conducted by producers who have an advantage due to overproduction (due to changes in the domestic market that were not anticipated or poor production planning). To prevent the accumulation of goods in the domestic market, producers sell their excess production to foreign buyers at reduced prices, making them lower than the domestic prices.

b. Persistent Dumping

Persistent dumping or also known as international price discrimination is the sale of goods in the foreign market at prices below domestic prices or production costs that is done in a continuous and persistent manner, which is a continuation of previous sales. This sale is carried out by producers who have a monopolistic market in the domestic market with the intention of maximizing their total profits by selling the goods at higher prices in their domestic market.

The persistent dumping emerged in the early 1970s. In the 1970s, as part of a campaign to reduce trade competition with other countries, the US government commissioned companies in several states to dump their products in the US market. The United States is the main plaintiff, while the European Community and new industrial countries, commonly referred to as New Industry Company, are the countries most frequently accused of persistent dumping.

Persistent dumping occurs over a long period of time. This type of dumping arises due to the difference in market conditions between the importing and exporting countries (Sobri, 1986).

c. Predatory Dumping

Predatory dumping occurs when a company temporarily engages in certain price discrimination in relation to foreign buyers. This discrimination is intended to eliminate its competitors and then raise the price of its goods after competition no longer exists. Predatory dumping is the worst form of dumping, as it is practiced only for the

purpose of monopolistic profit and long-term trade restriction, even though it causes short-term losses. (M. Siregar, 2005).

Predatory dumping for manufactured goods was widely practiced during the international chaos of the 1920s to the 1930s. Nowadays, this type of dumping is likely to be rare in modern and competitive markets. A company that attempts to temporarily drive away all its competitors by lowering its production prices will soon find that if it raises its prices again, many other companies will emerge as rivals that produce the same product on a much larger and more efficient scale. (Lestari & Swara, 2016).

d.        **Diversinary Dumping**

Diversinary dumping is the dumping practice carried out by foreign producers who sell their goods in a third country market at prices below fair value, and those goods are subsequently processed and shipped for sale in another country's market(Ding et al., 2023).

e.        **Downstream Dumping**

The dumping practice occurs when foreign producers sell their products below normal prices to other producers in the domestic market, and those products are further processed and shipped for resale in another country's market(Ding et al., 2023).

### **3. Findings**

The current discourse on economic law underscores the crucial need for legal frameworks that support sustainable and comprehensive development. This requirement resonates with the globalization of various sectors and the integration of economies(Zamzami, Effendi, et al., 2020; Zamzami, Ermayanti, et al., 2020) that necessitate competent governance capable of predicting and preparing for future changes. Key to this preparedness is effective regulation of international trade and a response to unfair practices such as dumping.

Dumping, a form of non-tariff trade barrier, is a significant concern, especially for developing countries aiming to increase non-oil exports. It involves selling a product in another country at a lower price than its domestic market price. While dumping is viewed as an unfair practice, its classification as 'fair' or 'unfair' can be subjective, varying based on one's perspective on the trade issue.

The World Trade Organization's (WTO) Anti-Dumping Agreement provides guidelines for addressing dumping, permitting governments to act if substantial harm to their domestic industries can be proven. This agreement underscores the importance of calculating the level of dumping to confirm its occurrence.

Evidence indicates that long-term effects of dumping negatively impact and weaken domestic industries. However, the WTO allows for the imposition of anti-dumping measures under certain circumstances to mitigate these harmful effects, mainly through customs duties after a careful examination of "special situations" in exporting countries.

This study takes a close look at the case of Indonesia, a country accused of dumping paper products into South Korea. Indonesia has successfully utilized the Dispute Settlement Mechanism (DSM) as the main complainant, demonstrating the efficacy of the transparency principle within the WTO trade system. A critical aspect of their success involved establishing the correct dumping price limit, commonly referred to as the margin of dumping.

Furthermore, the findings indicate that anti-dumping investigations may cease if the dumping margin is considered insignificant or the import volume of a dumping product is very small. However, the investigation will still apply if the imported dumping products from several exporting countries collectively amount to 7% or more.

The Indonesian government imposed an anti-dumping import duty on uncoated writing and printing paper imported from South Korea in response to the alleged dumping. The regulation was based on findings by the Indonesian Anti-Dumping Committee (KADI) suggesting that the dumped imports were causing harm to the country.

However, following negotiations, the South Korean government agreed to eliminate the Anti-Dumping Import Duty (ADID) on Indonesian-produced paper. This termination marked a significant achievement for Indonesia's paper industry, which had previously suffered from the imposition of the anti-dumping duty. Nevertheless, it underscores the need for Indonesia, and other countries, to remain vigilant against potential instances of dumping.

The analysis of the Indonesian case points towards the critical role of the WTO in mediating international trade disputes. The WTO's Dispute Settlement Mechanism (DSM) proves to be an effective tool in resolving issues of alleged dumping practices. This mechanism underscores the importance of having transparent, rules-based systems in international trade. It allows nations to safeguard their domestic industries and ensures that countries adhere to fair trade practices.

The research also emphasizes the complex nature of trade practices such as dumping. While such practices can be viewed as strategies by exporting countries to gain a competitive edge in international markets, they can also cause significant damage to the industries of importing countries. In this context, anti-dumping measures become essential tools for governments to protect their domestic industries from unfair trade practices.

The case study also provides a valuable lesson for other countries accused of dumping. To address such accusations effectively, it is crucial to have a comprehensive understanding of the WTO's anti-dumping rules and regulations. It also necessitates the ability to accurately calculate the margin of dumping and establish the export price, which are key components in proving or disproving allegations of dumping.

Lastly, the situation calls attention to the potential long-term impacts of dumping on domestic industries. The research findings corroborate that prolonged exposure to dumping can significantly weaken domestic industries, leading to negative consequences such as mass layoffs, unemployment, and bankruptcy of domestic industries. This reinforces the need for proactive measures and robust regulatory frameworks to combat such practices.

In conclusion, the findings underline the importance of a comprehensive and sustainable approach to economic law development, particularly concerning international trade and practices like dumping. It highlights the need for governments to anticipate future changes, adopt measures to protect their domestic industries, and ensure adherence to international trade rules and regulations. Ultimately, the effectiveness of these measures hinges on the transparency of processes, understanding of global trade dynamics, and commitment to fair trade practices.

#### **4. Conclusion**

Losses only occur when the import of dumped or subsidized goods results in or threatens to cause material injury to an established industry in a country, or materially hinders the growth of the relevant industry. The producers in a country that are harmed by such imports must represent a significant portion of the entire industry located in the country concerned. Factors indicating the presence of injury include loss of sales, price depression, output or profit reduction, market share decline, low utilization of production capacity, and reduction of employment.

The method for imposing antidumping duties on uncoated writing and printing paper in Indonesia is based on Article 3 of the Regulation of the Director General of Customs and Excise No. P-02/BC/2010, which stipulates that the imposition of Antidumping Duties as referred to in Article 1 is an additional Import Duty levied based on the General Import Duty/Most Favoured Nation (MFN) or based on the Preferential Import Duty Scheme for Producers/Exporters originating from countries that have trade agreements with Indonesia. In the event that the provisions of the Preferential Import Duty Scheme are not fulfilled, the Antidumping Duty as referred to in Article 1 is an

additional General Import Duty/Most Favoured Nation (MFN) Import Duty.

The provisions regarding antidumping held by certain countries play a legitimate role in the free trade system, but not when they are misused as a protectionist tool. The absence of sanctions for complaints not accompanied by evidence of dumping would greatly harm exporters, especially those who have incurred significant costs to prove that their products are not dumped. Allegations of dumping, whether true or false, will have a significant impact on the pace of Indonesia's industrial growth. Indonesia's antidumping legal framework has not been able to anticipate either antidumping allegations from consumer countries or to make dumping allegations against countries that dump into Indonesia. Protection of domestic industries must be done quickly so that they do not always become victims. Therefore, comprehensive antidumping provisions in the form of separate laws are needed to anticipate such situations.

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