



# The Substance of Dumping in HDI's Point of View, its Existence Towards Islamic Law

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## Abstract

*This paper discusses the views of international trade law and Islamic law on dumping practices. Dumping is the activity of buying and selling products at below normal prices in countries aimed at exporters for the sole purpose of controlling international market share. Dumping is carried out with the aim of seizing international share by a country, so that this is a high case in international trade. It is a fact that Indonesia is in the top fifth place on dumping charges. Dumping is a trade practice that is dishonest, however dumping is in fact not prohibited in the provisions of the WTO. However, importing countries can apply anti-dumping duties that apply to the WTO for dumping products to prevent or reduce the effects of serious losses on domestic products which are considered substantial. Islam recognizes the term dumping by the term "siyasah al-ighraq" or islam the price. Islamic law is different from international trade law. Which is in the hadith of the Prophet that the practice of dumping is prohibited because it can cause losses that lead to bankruptcy for producers.*

**Keywords:** Dumping, Siyasah Al-Ighraq, Anti-Dumping Duties

## 1. Introduction

In order to fulfill the economy and the needs of the people of a country as a means of economic growth and improvement, an effort is needed to make this happen through export and import activities. Various attempts by each country in overcoming competition to seize international market share as well as world share have been carried out both in a healthy and fraudulent manner. All means are justified for the sake of seeking world business advantages, such as efforts to sell products at prices below fair prices which aim to seize trade shares and result in the destruction of market mechanisms such as dumping efforts that are often carried out in general.

Literally speaking, that Dumping is actually a technique of selling goods in the international market in large quantities at very low prices with the aim that the domestic purchase price is not reduced so that eventually it can dominate the international market and can control the price again.

Based on data recorded in the period 1995-2008. WTO members have sent charges of dumping to several hundred countries, such as 3,427 cases recorded with an analysis of 100 accused countries and 43 accused countries. The top 5 countries that are members of

international trade that practice dumping are China (677 cases), Korea (252 cases), United States (189 cases), Taiwan (187 cases), Indonesia (145 cases).

For Indonesia, there are five business sectors that are accused of dumping, such as base metal of base metal, product of chemical allied industries, plastic and rubber, machinery and mechanical appliances, as well as textiles and article of textiles. The allegations were made in the period 1995-2008 with 73 dumping charges.

When viewed and analyzed based on the above phenomena, dumping activity is actually one of the activities that so many countries justify. In the existence of Islamic law itself, there is also the term dumping, but it has its own language repertoire, namely *siyasah al-ighaq*.

## **2. Method**

### **2.1. Type of Data**

In writing this scientific paper, the author uses secondary data obtained from the results of various reference searches such as sources of books, research results, scientific journals and various kinds of official publications that are available online and offline. This data serves as a support for the author in solving the problem formulation of dumping practices from the HDI's point of view and its existence towards Islamic law.

### **2.2. Data source**

Attachments to the data used by the author in writing this scientific paper are:

- a. Various types of books related to the title of writing a scientific paper "Dumping Substance in HDI's Glasses, Its Efficacy of Islamic Law
- b. Various types of literature such as scientific journals, papers, research results that are narrative data and information obtained in softcopy or hardcopy from internet sources.

### **2.3. Data collection technique**

The author in compiling this scientific paper by collecting data through literature study techniques with the aim of looking for literature that contains various types of scientific information that can be used as writing material, such as in terms of scientific literature reviews, descriptions of scientific theories and various learning concepts. and articles that are related to the writing of this scientific paper that are used to find solutions and solve problem formulations as listed in this scientific paper.

### **2.4. Data analysis**

The author on this occasion conducted a normative research using descriptive techniques based on secondary data that had been obtained by elaborating on all forms of problems so as to find room for resolution of the root causes written in this scientific paper.

### **3. Results and Discussion**

#### **3.1 Dumping said in HDI glasses**

"As a condition a product is entered into the market of another country at a price lower than the normal price. The definition provided by The General Agreement on Tariff and Trade. We can elaborate that in this sense it provides a stigmatization that there is a price that is relatively lower than the normal quantity price in general. In the meaning of the word there is no seller in the exporting country with a lower price level compared to the importing country after being analyzed by the transportation cost and cost analysis approach in trade terms that are often used.

In the HDI dictionary, dumping is an activity of selling goods or products to export destination countries at prices below standard or normal in general which have the aim of controlling market share outside the country. In accordance with the regulations of The General Agreement on Tariff and Trade (GATT), dumping practices can disrupt trade practices in the international market and include dishonest trade and can harm producers of competitive products between countries.

If you reflect on the reference source of the large Indonesian dictionary (KBBI) that provides an understanding of dumping as a system for selling goods in large quantities on the foreign market with the aim that domestic purchase prices are not reduced by lowering prices below normal price standards so that in the end can control the foreign market and can control the normal price again.

There are several views of economists on dumping in providing a definition based on their stigmatization and perspective which is divided into 3 types, namely;

a. **Predatory dumping**

This happens when certain price discrimination occurs in connection with the presence of foreign buyers by a company

b. **Sporadic dumping**

Sell at a price below the exporter's domestic price or the cost of producing the goods for a short period of time

c. **Persistent dumping**

Sales below domestic prices that are carried out permanently and continuously by a company either after the continuation of previous activities.

#### **3.2 Dumping in the eyes of international trade law**

In fact, if we reflect on international trade law, there are indeed several provisions that are allowed and prohibited from carrying out dumping practices even though they are considered as unfair business competition through price discrimination.

The practice of dumping literally reaps losses in the economic system of other countries. In HDI's point of view, there is a general classification, namely dumping practices that give material losses to the establishment of a cosmetic industry or an industry that is currently developing.

There is speculative view given by GATT regarding the prohibition of dumping, namely dumping which is carried out by a country by setting standardization below normal prices, which is considered to be materially detrimental to importing countries in

the industrial sector. Thus, in view of international trade law, GATT prohibits dumping activities by following the following rules:

- a. Dumping activities carried out below normal prices
- b. The importing country experiences material losses
- c. There is a bound relationship between the dumping price and the losses incurred. If in a situation there is a dumping practice but it is considered that it does not cause any material loss, then in fact the practice of dumping can be tolerated.

In the international world, the WTO organization essentially does not prohibit dumping practices from being carried out by every country. However, his job is to take care of the affairs of a country that experiences losses due to dumping if it is carried out. Countries that experience such losses are given the authority to the WTO to submit an objection so that the WTO can impose anti-dumping duty with a dumping margin, namely the difference between the dumping price and the calculated normal price. In the regulations, the anti-dumping agreement has even been regulated in article 7 where the state is given the option to take temporary steps until the case rises to the level of investigation from the investigation to reduce the potential losses that the country will bear. However,

A party who feels aggrieved can submit a request supported by evidence and accurate data related to the dumping practice and its impact on the growth and development of an industry. If in fact the investigation is carried out by the competent authority itself, then the investigation can be carried out with evidence of the two things that have been explained. In fact, written evidence is submitted from each element of the parties involved in the process.

In international trade law. There are legislative rules promulgated by GAAT, namely article VI which describes the regulations related to anti-dumping and an explanation of additional costs. This regulation is substantial because it is widely used by developed countries for imported products from developing countries. Conditionally, developed countries often accuse developing countries of dumping practices in entering products into international markets. In the book entitled "International Trade Law" by Huala Adolf gives an understanding that dumping is a practice carried out by the state in selling products to other countries at prices below normal prices with the aim of seizing international market share with unfair competition.

Price limits against prices below normal, namely:

- a. The price is lower than the country price of the product
- b. The normal price is used as the benchmark as the highest price if no domestic price is specified
- c. These products are borne by production costs as well as additional costs and benefits obtained

Each country can carry out anti-dumping duties if it becomes aware that a product is below the normal price as well as additional import duty on a product that enters a country.

### **3.3 Dumping Practices in the Light of Islamic Law**

Ighrad in Arabic is another term for dumping, which is an activity to sell products abroad at a standard price below the marginal price with the aim of eliminating competition for its products in long-term entities.

If you reflect on the teachings of Islam, that dumping is actually something that is forbidden to do because it can cause harm to many people.

In the book entitled "Islamic Economics" by Mannan MA, he gives a view on dumping, namely:

" The type of trading that is not allowed in Islam is when it is only for the sake of obtaining a large profit by giving permission for a price decline. Muslim communities all over the world prohibit dumping practices to be carried out "

ISLAM strongly prohibits the practice of dumping because it causes something that is detrimental for the long term and has an impact on the wider community.

Said Rasullullah SAW. That "pay attention to trade, in fact in the world of commerce there are nine out of ten gates of sustenance".

If it is seen, that the King of Muslims throughout life also gives great attention to the world of commerce, in fact if you look at his words that there are so many gates of sustenance that can be reached in a lawful way by not doing something that is prohibited by religion and which is haram such as carry out dumping practices which are mostly carried out by the state which prioritizes mere profit unilaterally and causes great losses to other parties.

Indeed, trade is something that is obligatory and free in any case, including the leaders themselves in regulating trade policies. As stated in the words of the Prophet Muhammad SAW. "Let some humans provide sustenance to other humans".

In the sense that if we elaborate that society is free to regulate the concept of trade in accordance with their ideas and creativity in seeking profit, but still in a fair and lawful manner, such as lest any party feel disadvantaged by the trade.

Another hadith that the Prophet Muhammad. Say is "From Ma'mar bin Abdullah ra, Umar said" will not monopolize unless bad people "

From the several explanations and descriptions that have been explained that in fact dumping practice is something that is very wrong to do because it is something that is very detrimental to others and can also be said to be an unfair competition because it is fraudulent in the procession of transactions in trading because it wants to kill competitor products from abroad. However, if the dumping practice is carried out in accordance with the recommendations and procedures that have been determined, then the law of implementing dumping practices is sure to be carried out. One of them is dumping that is temporary in nature and only consumes products that have already been determined or what is known as sporadic dumping.

There is dumping which is considered to be very damaging to the market economic system and kills competitors, this in Islam is something that is forbidden to do because in killing competitors there are things that are legalized in various ways, such as the importing country being flooded with a product because the price is cheaper, this situation results in on other products because they are unable to match the dumped products so

that it will result in the bankruptcy of the producers due to heavy losses. As a result, there are no more competitors, only a single player remains in a producer for a product that he controls. This is understood because there are entities, the amount of demand and the price, which have an ongoing relationship with each other. This dumping is called predatory dumping and persistent dumping.

Bankruptcy for losses due to the practice of dumping which is prohibited is based on several alibis, namely:

- a. Buyers are looking for substitute goods (substitutes) as a result of the increase in the price of these goods
- b. Buyers reduce the needs of users for a product that has increased in price as a result of reduced real income from a product

If faced with such situations and conditions, this is where the government's efforts are needed to take an interventionist action and implement a customs policy on incoming products with additional costs so that the incoming goods or products create a stable price on the market.

However, there are also exceptions to governments that wish to intervene, which can be seen from two things:

- a. Traders who do not sell products that are needed by the community even though they have the availability of these products will cause damage to the market mechanism and cause harm to the wider community.  
In such a situation, the government can take the right steps, such as replacing other traders who are more beneficial to the public
- b. Traders who create chaos and disrupt market stability by practicing dumping. So in this situation, the government has absolute right to order the trader to raise the price back to the normal price prevailing in the market.

In the case above, the government's step is something that is guaranteed by using Anti-Dumping Import Duty (BMAD). In the perspective of international trade law, GAAT and WTO also accept actions that apply in the light of Islamic law.

The impact arising from dumping practices, namely:

- a. The existence of price discrimination which results in a reduction in the production results of other competing producers in international trade so that if the situation is not controlled it will kill the small industry in the importing country but increase the downstream industry in its productivity in a product because with cheap imported products made from raw materials, there is increased use of domestic industries
- b. Profits for producers of similar goods will decrease so that the stakeholders lose dividends and the workers lose their jobs. However, these conditions will improve the financial condition of consumers.
- c. There are horizontal and vertical impacts as a result of price discrimination that occurs by dumping practices.

In fact, the final objective of dumping activities is to dominate the international market share and seek maximum profit. In the viewpoint and view of Islamic economics that anyone can do business regardless of only one seller or several other sellers. However, in Islamic economics it prohibits actions that are called *ikhhtikar* actions, namely

actions that take profits below normal prices by selling goods that are more expensive because they sell little by little which does not match the supply which is in fact a lot. It is known by another term, namely rent monopolitics. Which gives a stigmatization that dumping is justified if during the dumping it does not lead to losses. However, if dumping has already departed from the stipulated sharia, it will cause loss and harm to the general public and destroy the order of the market mechanism. So, dumping practices must be stopped and kras prohibited to be implemented again

#### **4. Conclusion**

Dumping practice is a trading practice that reflects unfair and dishonest trade or what is often referred to as an unfair trade. However, in terms of international trade law, GAAT and WTO state that dumping is not prohibited. However, the State that feels aggrieved by the dumping practice can take actions that are given the authority by the WTO to provide anti-dumping duties as well as additional costs so that the products that enter from the dumping procession can balance the appropriate price in the market so as not to damage market mechanisms

In Islamic law, which is in Arabic. Dumping is termed *ighraq*, and in Islamic law it strictly prohibits dumping because it destroys the market by monopolizing trade. Monopoly is something that is haram in Islamic law.

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