Reformulation of the ideal legal structure for safeguards in Indonesia

Amostian[1], Yusriadi[2], Ana Silviana[3]
[1]Doctoral Program in Law, Faculty of Law, Diponegoro University, Semarang
[2.3] Lecturer in Doctoral Law Program, Faculty of Law, Diponegoro University, Semarang
Jl. Prof. Soedarto, SH., Tembalang, Semarang
amostian@students.undip.ac.id.

ABSTRACT

The purpose of this study is to analyze: 1) Why is the current legal structure of Trade Safeguards institutions in Indonesia less than ideal? 2) What are the constraints on the effectiveness of Safeguards in Indonesia? 3) How to reformulate the ideal legal structure for the Safeguards institution in Indonesia in realizing equitable legal certainty? The research method used is normative juridical with a statutory approach, concept approach, and case studies.

The results showed that: 1) The tendency of the length of the process of imposing safeguards from investigation to issuance of decrees imposing safeguards. Problems related to the institution of the imposition of safeguards should be suspected as the reason why the process takes so long and is only subject to a few cases. 2) The government through the Ministry of Trade has made anticipatory steps to respond to the possible birth of negative impacts as a practical consequence of the government's commitment to engage in trade liberalization, one of these efforts is the establishment of trade security institutions. However, the problem is, to become a trade security institution that has broad and independent authority, it is still hindered by several obstacles, such as: a) Does not function as a tribunal, b) dependence on other institutions, c) egoism of the institutional sector, 3) The importance of expanding authority and simplifying the institutional structure offered here is because in the current era of information disclosure a trade security institution such as KPPI has a very strategic role in participating in building national industry. In addition, as a *public service*, KPPI must always pay attention to, supervise, listen and realize the legal needs of stakeholders in this case they are national industry players.

Keywords: Reformulation, Structure, Law, Ideal, Institution, Action, Trade Security, Safeguards, Indonesia

INTRODUCTION

Background

Indonesia's entry into the World Trade Organization (WTO) also has practical consequences for Indonesia as a developing country.[1] Judging from the legal aspect, this involvement requires Indonesia as a member state to comply with all the rules of the game contained in the organization. Meanwhile, from the economic aspect, Indonesia must be willing to open the domestic market to trade in goods and services from other member countries which in turn triggers a surge in imports of similar goods that can cause losses to domestic industries in Indonesia.

These efforts are shown through the establishment of several trade security measures, including the establishment of Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs, Law Number 7 of 2014 concerning Trade and Government Regulation of the Republic of Indonesia Number 34 of 2011 concerning Anti-Dumping Measures, Reward Measures and Trade Security Measures. In addition to the establishment of these regulations, another effort by the government is to establish trade security institutions such as the Indonesian Trade Security Committee (KPPI) and the Trade Security Directorate (DPP).[2]

The development of trading rules is also inseparable from the influence of technological developments. The influence of this technology is increasingly evident with the birth of e-commerce. A significant development occurred by looking at the quantity of transactions through this e-commerce facility. John Nielson, one of Microsoft's corporate leaders, stated that within thirty years, 30% of sales transactions to consumers will be done through e-commerce. E-commerce began to grow significantly when the internet began to be introduced.[3] The development of the internet encourages international trade transactions to accelerate. With the internet,

[1] When it comes to economics, the international community is divided between developed and developing countries. Developing countries are characterized as countries that gained independence after 1945 and are in the process of developing. While it can be characterized as a country that has been established before 1945 and has an established industry. Obviously, what is meant by developing countries is a relatively newly independent country, including Indonesia, while developed countries are industrial countries and have long been independent. *See* Hikmahanto Juwana, International Law in the Perspective of Indonesia as a Developing Country (Jakarta: PT. Yasrif Watampone, 2010)

[2] Ahmadi Miru, and Sutarman Yodo, 2010, *Consumer Protection Law*, Jakarta: PT RajaGrafindo Persada.

[3] . Zen Umar Purba, 1992, "Consumer Protection: The Main Joints of Regulation", Law and Development, Year XXII, August 1992.

the country's territorial boundaries in conducting trade transactions become no longer significant. The practice of trading through the internet is also described as the "*final frontiers of commerce*" in the 21st century.[4]

E-commerce *consumers* occupy a weak position in choosing the type of products traded. Consumers do not have the opportunity to bargain because the products offered have been produced and mass-marketed at fixed prices. Trade transactions through electronic media leave various problems that are not yet clearly regulated, especially those related to contracts, consumer protection, taxes, jurisdiction and digital signatures.[5] The existence of *e-commerce* in the Trade Law is considered very important, seeing the potential and growth of online business in the country. Seeing this, it will be very important to see consumers as subjects that are very closely related to the online business, so protection is needed for consumers, as regulated by the government through the Consumer Protection Law. Law No. 7 of 2014 concerning Trade that has been in force today is a reference for every business actor in conducting trade transactions, both conventional trade and trade through online or *e-commerce*.[6]

E-commerce raises very crucial legal problems, when viewed from the process and mechanism of transactions, several legal problems can be raised in connection with contract or agreement issues, including the following:

1. The problem of when an agreement occurs or is born in an ecommerce transaction This problem is closely related to when demand and supply meet through the virtual media;
2. Issues of choice of law and issues of proof; and
3. The issue of the validity of digital signatures and data messages. [7]

The above problem shows that in some aspects, transactions in *e-commerce* are very risky, full of risk, especially because the consumer has the obligation to make

[4] Huala Adolf, *International Trade Law*, Jakarta: Rajawali Press. 2013, p. 161.
[5] Deky Paryadi, "Development of Consumer Protection Regulations in E-Commerce Transactions in Indonesia and ASEAN Countries", Legal Era No.2/ Th.16/ October 2016, p. 296.
[6] Acep Rohendi, 2015, "Consumer Protection in E-Commerce Transactions National and International Legal Perspectives", Ecodemica. Vol III. No.2 September 2015.

[7] Abdul Halim Barkatullah, 2010, *Consumer Rights*, Bandung: Nusa Media

advance payments while he cannot see the truth of the goods ordered or the quality. Payment made electronically either via bank transfer or, through filling in credit card numbers on the internet greatly opens up opportunities for civil and criminal fraud, while there is no definite guarantee that the ordered goods have been delivered according to the order. What is the evidence when there is a lawsuit, what basis is used to assess the authenticity of an electronic document in *e-commerce* that on average does not have a *signature*.[8]

The existence of an independent Indonesian trade remedy is very necessary considering that in the conventional judicial system, an independent trade remedy institution will be free from outside economic and political interventions, so that the decision to implement *the Safeguards* measures is really based on the results of objective investigations. Based on the background that has been stated, the main problem in this study is **the reformulation of the ideal legal structure for trade safeguards in Indonesia.**

Problem Statement

1. Why is the current legal structure of Indonesia's *Safeguards* less than ideal?
2. What are the constraints on the effectiveness of Safeguards institutions in Indonesia?
3. How to reformulate the ideal legal structure for Safeguards in Indonesia in realizing fair legal certainty?

Theoretical Framework

1. Protection Theory

According to Muchsin, legal protection can be preventive and repressive. Preventive protection is protection provided by the government with the aim of preventing violations before they occur. This preventive protection is contained in laws and regulations with the intention of preventing a violation and providing signs or limitations in carrying out an obligation. While repressive

[8] M. Arsyad Sanusi, *Op Cit*, p.12

legal protection as a form of final protection in the form of sanctions such as fines, imprisonment, and additional penalties given if there has been a dispute or a violation has been committed.[9]

According to Nurmadjito, legal protection arrangements for consumers are carried out by:[10]

1. Creating a consumer protection system that contains access and information and guarantees legal certainty;
2. Protect the interests of consumers in particular and the interests of business actors;
3. Improve the quality of goods and services;
4. Provide legal protection to consumers from deceptive and misleading business practices;
5. Combining the implementation, development, and regulation of legal protection for consumers with the field of protection in other fields.

Research Methodology

This research is included in the type of doctrinal research, where the approach method used is normative juridical. The study method used in this study is normative legal *research*, which is a study conducted by reviewing applicable laws and regulations or applied to a particular legal problem. Normative research is often referred to as doctrinal research, which is research whose object of study is statutory documents and library materials. This method was chosen because the object of the study is laws and regulations related to *e-commerce*, where this study is intended to provide data and a clear picture possible related to the implementation of consumer protection aspects in Indonesia.[11]

[9] Muchsin, *Op.Cit*., p. 20

[10] Nurmadjito, Readiness of Laws and Regulations in Facing the Globalization Era, p. 7, as quoted by Lindu Aji Saputro, "Analysis of Legal Protection from Attempts to Falsify Halal Certification and Labeling as a Form of Product Halal Legitimacy in Indonesia", Surakarta: Faculty of Law, Sebelas Maret University, Surakarta, 2012, p. 30.

[11] Soerjono Soekanto, *Introduction to Legal Research*, Jakarta: University of Indonesia Press, 1983, p.51.

RESEARCH RESULTS

The current legal structure of trade safeguards in Indonesia is less than ideal

Provisions regarding *safeguard* arrangements in Indonesia are in Presidential Decree Number 84 of 2002 concerning Security Measures for Domestic Industries from the Aftermath of Import Surge (Safeguard). Safeguard rescue measures are carried out more towards investigations on the general increase in imports that occur in certain periods and circumstances. The increase in imports in question occurs in fair trade practices or in normal competition. If it is strongly proven that a surge in imports of the inspected goods has resulted in serious losses or the threat of serious losses to the domestic industry, then temporary security measures can be imposed.

Based on international provisions, article XIX of GATT 1994 and *the Safeguard Agreement* (SA), there are two requirements that must be met in the determination of increased imports that can be used to take *safeguard* measures. First, the increase in imports must be caused by unforeseen developments as a result of fulfilling international obligations in the context of trade liberalization. Second, the increase in imports resulted in serious losses or the threat of serious losses to the domestic industry.[12]

In the application of safeguards in Indonesia, security measures must meet the requirements as stipulated in Article 3 to Article 8, as well as Article 11 of Presidential Decree Number 84 of 2002 concerning Security Measures for Domestic Industries from the Aftermath of Import Surges. The regulation stipulates that the determination of serious losses and/or threats of serious losses to the domestic industry due to a surge in imports of examined goods must be based on the results of an analysis of all related factors objectively and measurably from the industry, which includes:

a. The extent and magnitude of the surge in imports of the goods under investigation, either in absolute terms or relative to similar or directly competing goods;
b. The share of the domestic market taken due to the surge in imports of goods under investigation; and

[12] Muhammad Sood, 2012, International Trade Law, Rajawali Pers : Jakarta, p. 224.

c. Changes in sales levels, production, productivity, capacity utilization, profits and losses and employment opportunities.

If the results of the investigation show that there is no causal relationship that the increase in imports resulted in serious losses, then the temporary security measures are stopped and the duties that have been collected are returned as soon as possible, from the issuance of the decree of the minister of finance regarding the lifting of import duties. However, if it is proven that there have been serious losses due to a surge in imports, then security measures are set in the form of quotas that should not be smaller than the average import data in the last three years. In enforcing safeguard provisions in Indonesia, it is carried out by an institution formed by the government, namely KPPI (Indonesian Trade Security Committee). This committee is a government institution established based on the Decree of the Minister of Industry and Trade Number 84 / MPP / Kep / 2003 concerning the Indonesian Trade Security Committee[13]

The imposition of Security Measures is regulated in the *Agreement on Safeguard*, namely Article 5 (permanent security measures) and Article 6 (temporary security measures). Both articles allow each Member State to implement safeguards to the extent necessary to prevent or remedy serious damages in order to facilitate adjustment or redress. These security measures can be in the form of tariffs, quotas and a combination of tariffs and quotas.

According to Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs, Article 23A states that "Import duties on security measures may be imposed on imported goods in the event that there is a surge in imported goods either in absolute or relative to similar domestically produced goods or goods that are directly competitive, and a surge in such imported goods:

a. Causing serious losses to domestic industries that produce goods similar to these goods and/or goods that directly compete; or
b. Threatening serious losses to domestic industries that produce similar goods and/or goods that directly compete.

[13] Christhophorus Barutu, Antidumping, Subsidy, and Safeguard Provisions in GATT and WTO, (Bandung: Citra Aditya Bakti, 2007), p. 159.

Furthermore, Article 23B states that "The import duty on such security measures shall be at most the amount required to overcome serious losses or prevent the threat of serious losses to domestic industries. The import duty is in addition to the import duty levied under Article 12 paragraph (1) of Customs Law Number 10 of 1995.[14]

The provisions on the procedure for imposing safeguards are in line with the provisions of the GATT / Agreement on Safeguard.It can be said, with regard to the implementation procedure, the regulations in the US only regulate the basic principles, while the remaining details, such as the authorities conducting investigative activities, and those who determine the form of safeguards to be imposed, are entirely handed over as a country's domestic affairs. **[15]**

The operationalization of these basic principles was later elaborated in the Presidential Decree and also the Kepmenperindag. For example, the decision to accept a request for inquiry or not is decided within 30 days at most. Likewise, the authority to decide to impose *safeguards* rests with the Minister of Industry and Trade, but the decision in the form of import duty tariffs that may be imposed is entirely the authority of the Minister of Finance. Regarding the decision of the Minister of Industry and Trade in determining the need to impose *safeguards* and the decision on the amount of tariffs set by the Minister of Finance or quotas by the Minister of Industry and Trade, the Presidential Decree does not mention the time allocation. This unclear allocation of time can of course cause KPPI's recommendations to become protracted to act as *a safeguard.*

The description of the imposition of *safeguards* above shows that there are few *safeguard measures* imposed by the Indonesian government. In addition, there was also a tendency for the length of the process of imposing safeguards from investigation to the issuance of a decree imposing safeguards. Problems related to the institution of the imposition of safeguards should be suspected as the reason why the process takes so long and is only subject to a few cases.[16]

[14] Theresia L. Pesulima, Safeguard Measures in the ASEAN Free Market as an Effort to Protect Domestic Industries, Journal of Sasi Vol.23 No.1 January-June 2017, 31-33.
[15] Mahfud Fahrazi, Comparison of Legal Norms of Trade Safeguards between Indonesia and the United States, Mimbar Hukum Volume 32, Number 2, June 2020, Pages 294-307
[16] Abdurrahman Alfaqiih, "Harmonization of Regulations and Effectiveness of Safeguard Institutions in Indonesia," Journal of Legal Media 19, no. 1 (2012): 36.

Constraints on the Effectiveness of Trade Safeguards in Indonesia

WTO member countries, including Indonesia, are given the freedom to create and apply both the substance and their own national legal procedures. However, such national laws must be consistent and in line with the provisions contained in Article 19 of the GATT and *the Agremeent on Safegurads*.[17]

For Indonesia, this trade remedy instrument is one of the important elements in national industrial development, not only to provide protection for domestic industry, especially for emerging industries (infant industry), but also as a means to build a sustainable national industry and ultimately projected to be able to compete in international trade. Based on this motivation, the government through the Ministry of Trade has made anticipatory steps to respond to the possible birth of negative impacts as a practical consequence of the government's commitment to engage in trade liberalization, one of these efforts is the establishment of trade security institutions. However, the problem is, to become a trade security institution that has broad and independent authority, it is still hindered by several obstacles, such as:

1. **Does not function as a tribunal**

   Based on Article 3 of the Regulation of the Minister of Trade of Indonesia Number: 34 / M-Dag / Per/6/2014 concerning the Organization and Work Procedures of the Indonesian Trade Security Committee states that the Indonesian Trade Security Committee carries out the functions of:

   a. Conduct investigations into serious losses or threats of serious losses suffered by similar domestic industries or goods that directly compete with the goods under investigation as a result of a surge in the number of imports;
   b. Collect, research and process evidence and information related to the investigation;
   c. Make reports on the results of investigations;
   d. Recommend the imposition of security measures to the Minister; and
   e. Carry out other related duties assigned by the Minister.

   If we look at the two provisions above, it can be seen that the problem lies in the independence of KPPI which is currently still not valid as a court institution at the national level. KPPI as an institution that has special authority in conducting investigations of problems related to efforts to recover serious

[17] Sutrisno, "Strengthening the Legal System of Trade Remedies, Protecting Domestic Industries", 238.

losses or the threat of serious losses suffered by domestic industries as a result of the surge in imported goods still functions as a "recommendation institution", as a result of which the effectiveness, efficiency and professionalism of the institution cannot be achieved optimally.

2. Dependence with other institutions

Viewed from the aspect of the authority of the parties related to the imposition of trade security measures. There are three parties that have the authority, namely KPPI, Menperindag, and Minister of Finance. KPPI's authority is in the investigation and evaluation of the implementation of trade security measures, the Minister of Industry in determining KPPI recommendations as decisions on trade security measures and also determining the quotas imposed, and the Minister of Finance in determining import duty tariffs if trade security measures imposed are in the form of import tariffs.

With the existence of three institutions that have important authority in the implementation of trade security measures, this is of course an obstacle in terms of time efficiency and certainly requires good synergy in security measures. In terms of time efficiency in implementing security measures, procedurally the Minister of Industry can only decide on a decision on trade security measures after obtaining recommendations from the KPPI, while the Minister of Finance can also only do so after receiving a proposal from the Minister of Industry.

To be able to determine the form of trade security measures tariffs to be imposed, the Minister of Finance must first wait for a proposal from the Minister of Industry, and as mentioned earlier, the Minister of Industry will only submit his proposal after first obtaining the KPPI recommendation. This can happen because there is no limit to the period of time for the Minister of Industry to submit proposals to the Minister of Finance after receiving KPPI recommendations. Similarly, the issuance of the Decree of the Minister of Finance after receiving the proposal of the Minister of Industry, there is no time limit determined. As a result of such procedural work, it can take 10 to 15 months for the issuance of a decision (in the form of a regulation) of the

Minister of Finance from the time an application is declared to meet the requirements for investigation.

In addition to the complexity of the above problems, another institution that is no less important in implementing trade security measures is the DPP which has a role in dealing with accusations from other countries related to the flood of Indonesian products in the country's market, causing losses. In the event of such allegations, the Indonesian government through the DPP International Trade Cooperation of the Ministry of Trade has the authority to obtain information on allegations of dumping / subsidies / trade security measures through Indonesian representatives abroad, websites, and other stakeholders and seeks to obtain allegation documents in the form of notifications, petitions and lists of questions to be submitted to company.[18]

3. Institutional sectoral egoism

Another institutional weakness is the existence of sectoral egoism, as commonly found in several studies on institutions, is a weakness inherent in the existing government system in Indonesia. It is no secret that departmental or non-departmental government agencies, every change of leadership must always occur not only a change of policy, but also a change of personnel. Especially after the reform, the leadership positions of government institutions seemed to be determined more by the allocation of power-sharing between political parties than by one's professional ability.

This will greatly affect the functional structure of these government institutions. As a result of frequent rotations within the institution, human resources located there almost never get the opportunity to reach the peak of competence in areas related to the implementation of their duties. This is because the rotation of positions is carried out not based on need, but rather influenced by other considerations, especially considerations of certain group interests and political affiliations.

[18] Abdurrahman Alfaqiih, "Harmonization of Regulations and Effectiveness of Safeguard Institutions in Indonesia," Journal of Legal Media 19, no. 1 (2012): 39-42.

Reformulation of the ideal legal structure for trade safeguards in Indonesia in realizing equitable legal certainty

Regulation of the Minister of Trade Number 37/M-Dag/Per/9/2008 states that safeguard measures are measures taken by the government to recover losses and/or prevent the threat of serious losses from domestic industries as a result of a surge in imports of similar goods or goods that are directly rivals to the results of the domestic industry with the aim that domestic industries that experience serious losses and/or threats of serious losses can make structural adjustments.[19]

The requirements for importing countries to apply safeguards are set out in Article II of the Agreement on Safeguards, which reads as follows:

1. *A Member may apply a safeguard measure to a product only if that Member has determined, pursuant to the provisions set out below, that such product is being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.*
2. *Safeguard measures shall be applied to a product being imported irrespective of its source.*

From Article II of the Agreement on Safeguard, we can see that the conditions for importing countries to apply safeguards are: First, if products imported into the country in such quantities, threaten similar domestic products and cause serious losses. Second, safeguards will be applied by importing countries to imported products regardless of the source.[20]

According to Satjipto Rahardjo, establishing a legal state requires a long process. [21] Not only legal regulations must be managed properly, but a strong and strong institution with extraordinary and independent authorities is needed, free from intimidation or executive and legislative interference, carried out by human resources who are of good morals and morally tested so that they do not easily fall outside the

[19] Agus Brotosusilo, "Economic Globalization and International Trade (Study on Indonesia's Legal Readiness to Protect Domestic Production through Anti-Dumping and Safeguard)" (Doctoral Diss., University of Indonesia, 2006), 81.
[20] Erwin, et al, Community Participation in Safeguard Measures *for* Domestic Industry, PerspektiF Volume 23 Number 3 of 2018 September Edition, 195.
[21] Satjipto Rahardjo, The State of Law Jang Makes Its People Happy (Yogyakarta: Gentapress, 2008), 4.

scheme intended for them in order to realize a legal certainty that is required for justice.[22]

The existence of an independent Indonesian trade remedy institution, which will function as a "*court institution*" or "*trade tribunal*", is very necessary considering several things, namely:

a. As in the conventional judicial system, independent trade remedies will be free from outside economic and political interventions, so the decision to implement trade security measures is based solely on the results of objective investigations.
b. As a consequence of the former, the decision-making mechanism will also become shorter, as this trade remedy authority becomes responsible for the overall decision-making mechanism.
c. Further consequences than the first and second, the establishment of a professional trade remedy authority, with full-time human resources, would be more likely, since political economic interventions no longer dominate.
d. Although independent, trade remedy authorities will not ignore national interests, because national interests will instead be considered more comprehensively.

In this case, it does not mean that all authority is assigned to KPPI as the implementing agency, but what is meant here is the expansion of authority from what was originally only limited to investigating serious losses or threats of serious losses experienced by similar domestic industries or goods that directly compete with the goods under investigation as a result of a surge in the number of imports to the authority to recommend the imposition of security measures to The minister, "however, in this case is expanded with the authority to decide whether to determine import duties and quotas" which has been held by the ministry of trade and finance. Meanwhile, those who carry out the imposition of import duties remain under the authority of the Ministry of Finance and Trade. Of course, every policy made will have an impact on changes in regulations, which in this case is Government Regulation Number 34 of 2011 concerning Antidumping Measures, Reward Measures, and Trade Security Measures.

[22] Ibid.

The importance of expanding authority and simplifying the institutional structure offered here is because in the current era of information disclosure, a trade security institution such as KPPI has a very strategic role in participating in building national industry. In addition, as a *public service*, KPPI must always pay attention to, supervise, listen and realize the legal needs of stakeholders in this case they are national industry players.

The existence of trade security institutions that do not get sympathy from national industry players will have a direct effect on the performance of the institution itself. If in the meantime the institution is expected to be able to carry out its function as the last bastion of trade security implementation in overcoming serious losses or threats of serious losses experienced by similar domestic industries or goods that directly compete with the goods investigated as a result of a surge in the number of imports, it does not rule out the possibility of shifting its function to become the last bastion in the government's efforts to build a national industry that competitive in a global market.

Moreover, with the government's commitment to publicly declare its support for international trade as stated in the *Agreement Establishing The World Trade Organization* or Agreement on the Establishment of the World Trade Organization along with all agreed rules which the government then followed up by forming Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing The World Trade Organization. Therefore, the existence of an independent trade security institution is one pillar that cannot be left behind in addition to other pillars in the government's efforts and commitment to build a better national industry in the future.[23]

Trade remedies to anticipate dumping products and subsidized products are realized in the form of the imposition of additional import duties, namely Antidumping Duties (BMAD) or Antidumping Duties (ADD) and Countervailing Duties (CVD). Meanwhile, trade remedies to control the impact of soaring imports are safeguards in the form of additional import duties and import restrictions.[24]

[23] Mahfud Fahrazi, Reformulation of the Ideal Legal Structure for Trade Safeguards in Indonesia, Mimbar Hukum Universitas Gadjah Mada, Vol 33 No 1 Year 2021, 259.
[24] Nandang Sutrisno, Strengthening the Legal System of Trade Remedies, Protecting Domestic Industries, JOURNAL OF LAW NO. 2 VOL. 14 APRIL 2007: 231.

In general, the application of trade remedies is designed to level *the playing field* that was disrupted due to fraudulent trade practices played by foreign producers or due to a drastic increase in fair competition with foreign producers.[25]In other words, Anti-Dumping and Anti-Subsidy measures are intended to eliminate price advantages obtained by foreign competitors through fraudulent trade practices, while Safeguards are designed to provide opportunities for domestic industries to make adjustments and minimize the effects of destabilization due to import surges.[26]

CONCLUSION

The results showed that;

a. The tendency of the length of the process of imposing safeguards from investigation to issuance of decrees imposing safeguards. Problems related to the institution of the imposition of safeguards should be suspected as the reason why the process takes so long and is only subject to a few cases.
b. The government through the Ministry of Trade has made anticipatory steps to respond to the possible birth of negative impacts as a practical consequence of the government's commitment to engage in trade liberalization, one of these efforts is the establishment of trade security institutions. However, the problem is, to become a trade security institution that has broad and independent authority, it is still hindered by several obstacles, such as: a) Not functioning as a tribunal, b) dependence on other institutions, c) selfishness of the institutional sector
c. The importance of expanding authority and simplifying the institutional structure offered here is because in the current era of information disclosure, a trade security institution such as KPPI has a very strategic role in participating in building national industry. In addition, as a *public service*, KPPI must always pay attention to, supervise, listen and realize the legal needs of stakeholders in this case they are national industry players.

[25] William H. cooper, "Trade Remedy Law Reform in the 108th Congresds," CRS Report for Congress, July 22, 2003, p. 2.
[26] See Thomas M. Boddez and Michael J. Trebilcock, "The Case for Libarazing North American Trade Remedy," 91995) 4 Minnesota Journal of Global Trade Remedy 1, pp. 13-18

BIBLIOGRAPHY

A. Ridwan Halim, 1987, *Evaluation of Legal Philosophy Lecture*, Jakarta: Ghalia Indonesia.

A. Zen Umar Purba, 1992, "Consumer Protection: The Main Joints of Regulation", Law and Development, Year XXII, August 1992.

Abdul Halim Barakatullah, 2006, "Legal Protection Bag1 Consltmen in Cross-border E-Commerce Transactions in Indonesia", Dissertation of Universitas Islam Indonesia, Yogyakarta.

Abdul Halim Barkatullah, 2010, *Consumer Rights*, Bandung: Nusa Media

Abdurrahman Alfaqiih, "Harmonization of Regulations and Effectiveness of Safeguard Institutions in Indonesia," Journal of Legal Media 19, no. 1 (2012):

Abdurrahman Alfaqiih, "Harmonization of Regulations and Effectiveness of Safeguard Institutions in Indonesia," Journal of Legal Media 19, no. 1 (2012): 39-42.

Acep Rohendi, 2015, "Consumer Protection in E-Commerce Transactions National and International Legal Perspectives", Ecodemica. Vol III. No.2 September 2015.

Agus Brotosusilo, "Economic Globalization and International Trade (Study on Indonesia's Legal Readiness to Protect Domestic Production through Anti-Dumping and Safeguard)" (Doctoral Diss., University of Indonesia, 2006)

Ahmadi Miru, and Sutarman Yodo, 2010, *Consumer Protection Law*, Jakarta: PT RajaGrafindo Persada.

Christhophorus Barutu, Antidumping, Subsidy, and Safeguard Provisions in GATT and WTO, (Bandung: Citra Aditya Bakti, 2007)

Deky Paryadi, "Development of Consumer Protection Regulations in E-Commerce Transactions in Indonesia and ASEAN Countries", Legal Era No.2/ Th.16/ October 2016

Erwin, et al, Community Participation in *Safeguard* Measures for Domestic Industry, Perspective Volume 23 Number 3 of 2018 September Edition

Hikmahanto Juwana, International Law in the Perspective of Indonesia as a Developing Country (Jakarta: PT. Yasrif Watampone, 2010)

Huala Adolf, *International Trade Law*, Jakarta: Rajawali Press. 2013, p. 161.

Lindu Aji Saputro, "Analysis of Legal Protection from Attempts to Falsify Halal Certification and Labeling as a Form of Product Halal Legitimacy in Indonesia", Surakarta: Faculty of Law, Sebelas Maret University, Surakarta, 2012

Mahfud Fahrazi, Comparison of Legal Norms of Trade Safeguards between Indonesia and the United States, Mimbar Hukum Volume 32, Number 2, June 2020

Mahfud Fahrazi, Reformulation of the Ideal Legal Structure for Trade Safeguards in Indonesia, Mimbar Hukum Universitas Gadjah Mada, Vol 33 No 1 of 2021

Muhammad Sood, 2012, International Trade Law, Rajawali Press : Jakarta,

Nandang Sutrisno, Strengthening the Legal System of Trade Remedies, Protecting Domestic Industries, JOURNAL OF LAW NO. 2 VOL. 14 APRIL 2007

Nurmadjito, Readiness of Laws and Regulations in Facing the Globalization Era

Satjipto Rahardjo, The State of Law Jang Makes Its People Happy (Yogyakarta: Gentapress, 2008)

Soerjono Soekanto, *Introduction to Legal Research*, Jakarta: University of Indonesia Press, 1983

Sutrisno, "Strengthening the Legal System of Trade Remedy, Protecting Domestic Industries"

Theresia L. Pesulima, Safeguard Measures in the ASEAN Free Market as an Effort to Protect Domestic Industries, Sasi Journal Vol.23 No.1 January-June 2017

Thomas M. Boddez and Michael J. Trebilcock, "The Case for Libarazing North American Trade Remedy," 91995) 4 Minnesota Journal of Global Trade Remedy 1

William H. Cooper, "Trade Remedy Law Reform in the 108th Congresds," CRS Report for Congress, July 22, 2003