

Trade liberalisation vs. trade remedies: Indonesia's industries struggling from pandemic to endemic transition

Trade liberalisation vs. trade remedies: Tindakan pengamanan domestik industri di Indonesia selama pandemi hingga endemi

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Received: 2026-03-12	Reviewed: 2026-04-15	Accepted: 2026-04-24	Published: 2026-04-29
Article URL: https://journal.geutheeinstitute.com/index.php/JG/article/view/458			

ABSTRACT

This article analyzes the integration of the law of the WTO with national legislation to protect member states, exemplified by Indonesia's challenges with losses and damage to domestic businesses due to imported goods in the Covid-19 pandemic. The current study seeks the answer of (1) Will Indonesian local industries benefit more from the globalization of the economy? (2) Will they retain the right to restrict or close their markets due to Covid-19 in accordance with WTO agreements? This research employs the normative legal method to provide answers to the posed questions. Researchers have used dynamic data on Indonesia's experiences from the early part of the pandemic to its endemic stage. The results indicate that trade liberalisation is advantageous for countries because it encourages the reduction or elimination of international trade barriers, but free trade can hurt local businesses because of competition from around the world. This means that trade remedies must be implemented to protect the local industry in emergency situations such as during a pandemic transitioning to an endemic state, as these measures can help mitigate the negative impacts of increased foreign competition on local businesses.

Keywords: The law of the World Trade Organization; trade liberalisation; trade remedies; pandemic; local industries.

ABSTRAK

Artikel ini menganalisis integrasi hukum WTO dengan perundang-undangan nasional untuk melindungi negara-negara anggota, sebagaimana ditunjukkan oleh tantangan yang dihadapi Indonesia terkait kerugian dan kerusakan yang dialami usaha dalam negeri akibat barang-barang impor selama pandemi Covid-19. Masalah-masalah yang muncul meliputi: (1) Apakah industri lokal Indonesia akan lebih diuntungkan dari globalisasi ekonomi? (2) Apakah mereka akan mempertahankan hak untuk membatasi atau menutup pasar mereka akibat Covid-19 sesuai dengan perjanjian WTO? Penelitian ini menggunakan metode hukum normatif untuk memberikan jawaban atas pertanyaan-pertanyaan tersebut. Para peneliti telah menggunakan data dinamis mengenai pengalaman Indonesia dari awal pandemi hingga tahap endemik. Hasil

Journal homepage: <https://www.journal.geutheeinstitute.com/index.php/JG/index>

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penelitian menunjukkan bahwa liberalisasi perdagangan menguntungkan bagi negara-negara karena mendorong pengurangan atau penghapusan hambatan perdagangan internasional, namun perdagangan bebas dapat merugikan usaha lokal akibat persaingan dari seluruh dunia. Hal ini berarti bahwa langkah-langkah perlindungan perdagangan harus diterapkan untuk melindungi industri lokal dalam situasi darurat seperti saat pandemi beralih ke fase endemik, karena langkah-langkah ini dapat membantu memitigasi dampak negatif dari meningkatnya persaingan asing terhadap usaha lokal.

Kata kunci: *Hukum world trade organization; liberalisasi perdagangan; tindakan perdagangan; pandemi; industri lokal.*

1. INTRODUCTION

During the pandemic, Indonesia has faced accusations of alleged trade remedy practices from contracting countries such as India, the USA, the European Union, Australia, Turkey, and Vietnam. According to Kadin Indonesia (the Indonesian Chambers of Commerce and Industry of Indonesia, there were 37 trade remedies cases faced during the pandemic (Kontan, 2022). The initiation of these cases consisted of 23 anti-dumping cases and 14 safeguard cases. The country with a lost economic record could reach US \$1.9 billion, equivalent to Rp26.5 trillion, of the 16 trafficking charges during the pandemic.

The interdependence between economic growth and trade liberalisation is one of the essential issues in the global economics literature. Studies on the connection between trade liberalisation and trade remedies have achieved a prominent position. How can trade liberalisation benefit a country or harm it? Alternatively, can countries restrict imports if trade liberalisation harms the country for the benefit of the nation? Overall, the most crucial question is whether governments will profit more from the globalisation of their economies and whether they retain the right to restrict or close their markets. In answering this question, the country's success relies on its economic structure, governing rules and regulations, and ability to compete in the international market. Any new trade policy can have benefits and disadvantages, but we must determine whether or not its advantages outweigh its disadvantages. Some economic explanations have been propounded to design mechanisms that optimise the welfare and expectations of nations involved in the world trading system, along with the growth of international trade. This research paper examined the implication of trade remedies' implementation by Indonesia amidst the Covid-19 pandemic and in the endemic era, including the responses of its trading partner as a member state of the WTO. The research problems are: (1) Will Indonesian local industries benefit more from the globalization of the economy? (2) Will Indonesian local industrie retain the right to restrict or close their markets due to Covid-19 in accordance with WTO agreements.

2. RESEARCH METHOD

This study uses a normative legal methodology by employing a literature analysis to determine the implementation of the WTO agreements and assess the protection of Indonesian local industries in the era from pandemic to endemic. The legal materials used comprise the main sources, specifically the ministry's regulations and agreements, along with secondary legal materials that encompass pertinent books and periodicals related to this research. The materials were gathered through a literature review, searching for regulations and scholarly articles.

3. RESULTS AND DISCUSSION

3.1 Trade Liberalisation, Trade Remedies and the Covid-19

3.1.1 The Nature of Trade Liberalisation

International trade liberalisation is a phenomenon that can foster economic growth and development through global specialisation and the division of labour within and between nations. Numerous some theories have been proposed for global trade liberalisation to establish the foundation, direction, and nature of international trade's advantages for countries (Naeimeh Hozour, 2017). The views of Adam Smith and David Ricardo on merchant

lists were among the most influential theories during the period from the 13th to the 18th centuries. Various European countries, including Great Britain, Spain, France, and the Netherlands, propagated these ideas. It was believed by merchants that a nation's wealth and power were determined by the extent to which its exports exceeded its imports. Furthermore, they posited that a strong nation was one with a substantial quantity of gold. As a result, merchants advocated for governmental policies that favoured exports and restricted imports (Stephen Egoro and Obah Daddy Obah, 2017). Today, the Merchant's theory is discredited because the facts of international trade demonstrate that no nation can solely rely on exports and severely restrict imports. Even the most powerful economic powers in the world cannot constrain imports (Naeimeh Hozour, 2017).

In fact, even the USA, which was one of the twentieth century's most significant economic powers, is unable to control imports. Consequently, the USA is regarded as the world's greatest economy and the top exporter and importer. Therefore, Merchant's theory cannot be the foundation for global trade. In his *Wealth of Nations* book, Adam Smith brought into question the underlying assumptions of the trader's theory. He believed that free work among nations resulted in the separation of labour, leading to the concentration of production factors in countries that produce cheaper goods. In this instance, trade advantages both nations. He thought that free trade would allow all nations to concentrate on manufacturing items over which they had an absolute advantage (Satya Dev Gupta, 2015). Moreover, he contended that with open markets, any deductions might specialise in creating commodities over which they have an absolute advantage. The study of international trade underwent a paradigm shift following the introduction of economic theory. As the originator of the modern international economics theory, Smith lauded free trade as superior to restricted trade. There was a shift in the meaning of wealth, and it was now considered the financial viability of factors of production, which included labour, capital, and land, as essential components for economic growth and prosperity (Emmanuel Duodu and Samuel Tawiah Baidoo, 2020).

Adam Smith praised the advantages of unrestricted trade compared to limited trade. In contrast, neo-mercantilists and protectionists oppose free trade by selectively focusing on the benefits and costs of trade on one side of the transaction (Abdul Waheed, 2010), often ignoring the overall positive-sum nature of free trade that benefits both parties involved in the exchange. Both parties involved benefit from the exchange, viewing the concept of free trade as a positive-sum game. Economic theory and empirical evidence confirm that trade and investment have an expansionary effect due to their roles as major drivers of new technologies, the utilisation of economies of scale, and the promotion of competition in the market (Bojana Todorovic, 2007). Liberalisation of trade merges long-term macroeconomic stability with other structural adjustment policies, such as fiscal reforms and investment in infrastructure, to ensure sustainable growth and development. However, trade liberalisation needs to be carried out under strict government control and regulation, adopting a gradual approach and regularly adjusting it based on the economy's capacities and needs (Abdul Waheed, 2010).

3.1.2. The Nature of Trade Remedies

Trade remedies are government measures aimed at mitigating the adverse effects of imports on local industry (Kim, S. E., & Pelc, K. J., 2021). These measures are necessary in instances of unfair trade or even in cases of fair trade that adversely affect domestic industries (Wolfrum, R. et al., 2008). Trade remedies, including anti-dumping measures, anti-subsidy actions, and safeguards, are the predominant international trade policy tools employed by WTO members to safeguard their domestic industries (Office of the United States Trade Representative, 2020). Trade remedies impact both exporting and importing countries; numerous factors must be identified and substantiated through investigations prior to the enforcement of these measures on imported goods. The variables encompass a rise in imports, dumping, or subsidies that lead to detriments for the domestic industry, along

with the correlation between these events and the losses incurred by the domestic sector (Mitsuo Matsushita et al., 2015).

The WTO regulates trading instruments that can be used to provide protection against unfair imports or a surge of imports that have resulted in serious losses for domestic producers (serious injuries) through trade remedies. These trade remedy instruments have been adopted by Indonesia and translated into Government Regulation Number 34 of 2011 (R. Soprano, 2018). Trade remedies are actions taken by a member state to safeguard its domestic manufacturing from harm resulting from unfair trade practices (imports of subsidised or dumped goods) or unexpected import surges. Those usually take the shape of an additional import tax on particular products. However, it must be admitted that this mechanism has the potential to be misused as a hidden protection and is counterproductive to the trade liberalisation paradigm, which is the basic philosophy of the WTO (Hillman, 2018). WTO provisions strictly regulate the implementation of these two mechanisms, both substantive and procedural, to ensure that they do not undermine trade liberalisation efforts and are applied transparently and fairly among member countries.

In the context of pandemics and endemics, one of the trade remedies that can be used is the Agreement of Safeguards, which are government actions in securing their products. The Ministry of Trade's website states that this action aims to recoup significant losses or preserve domestic industry from the threat posed by a rise in the volume of imported items (Mitsuo Matsushita et al., 2015). According to Article 2 of the Agreement on Safeguards, three conditions must be met to implement measures for protecting local goods: there must have been a surge in imports over the last three years; domestic producers must have suffered serious losses of competitive products; and there must be a causal relationship between the two goods.

Furthermore, article 3 of the agreement states a member is allowed to conduct an investigation before implementing the safeguard measures. In Indonesia, this authority is the Indonesian Trade Safeguards Committee (KPPI) which is responsible for exploring independent investigations related to safeguard measures when requested by injured or affected domestic producers (Profil KPPI, n.d.). Moreover, Article 7 specifies that the duration of the safeguard measures is limited to the time necessary to prevent serious injury. This duration shall not exceed four years unless the competent authorities determine that an extension is necessary.

3.1.3. WTO and the Covid-19

Throughout the pandemic, WTO rules have maintained global trade and fostered transparency regarding measures taken by nations in response. The pandemic has put a significant strain on the health and livelihoods of people worldwide. The WTO demonstrates that it can effectively address global challenges such as Covid-19 and aid in the world's recovery (Maintaining Open Trade). Amidst the loosening of pandemic-related restrictions in numerous nations, Covid-19 persists in casting a shadow over international trade. On 12 April 2022, the WTO released its annual trade forecast; it did predict growth in the volume of goods trade of 3.0% in 2022, a decrease from its previous estimate of 4.7%. While most of the decline was caused by the Ukraine crisis and its impact on food and commodity costs, other factors are now weighing on trade. Lockdowns in China to halt the spread of the pandemic hampered marine commerce at a time when supply chain stresses looked to be easing. It may result in revived scarcities of production inputs and increased inflation, particularly affecting industries reliant on global supply chains and leading to higher consumer prices (Covid-19 and World Trade Frequently Asked Questions).

2021 witnessed a sharp rebound in trade volumes following the pandemic-induced downturn of 2020. Growth would have been more substantial if COVID-19 had not recurred throughout the year. In 2022, export and import volumes for LDCs should increase by 3.5% and 6.6%, respectively. All regions, except for the Gulf Region, saw a reduction in their 2023 forecasts. Due to COVID-19-related punitive measures, export restrictions, energy prices, and transport disruptions, import tariffs should rise in the short term. International trade is essential in warranting the accessibility and affordability of vital drugs, medical goods, and

healthcare services. In general, WTO rules allow its members to implement required trade measures to defend public health and prosperity. These measures must treat all WTO members equally and must not appear to limit international commerce (Pauwelyn, 2020). Respectively, a WTO member is allowed to regulate what is required to protect their nations and take proper actions. Each WTO member is permitted to assess what steps are required to protect its national economic stability.

WTO regulations provide members extensive space to enact trade measures considered necessary, such as import and export bans, quantitative limitations on imports and exports, and non-automatic import permitting (Chaisse et al., 2018). Furthermore, member nations continue to report trade-related acts to the WTO. The WTO tracks trade-restricting and trade-facilitating policies enacted by the Group of 20 leading nations through its biennial trade monitoring reports. From the beginning of the pandemic, WTO members have issued 384 COVID-19-related trade measures in the field of goods, with 65% being trade-facilitating and 35% being trade-restrictive. Export restrictions were considered for 84% of all restrictive measures reported, and 60% of trade-facilitating measures cut or abolished import tariffs and levies, while several members slashed duties on various commodities, inter alia, sanitisers and disinfectants (Covid-19 and World Trade Frequently Asked Questions).

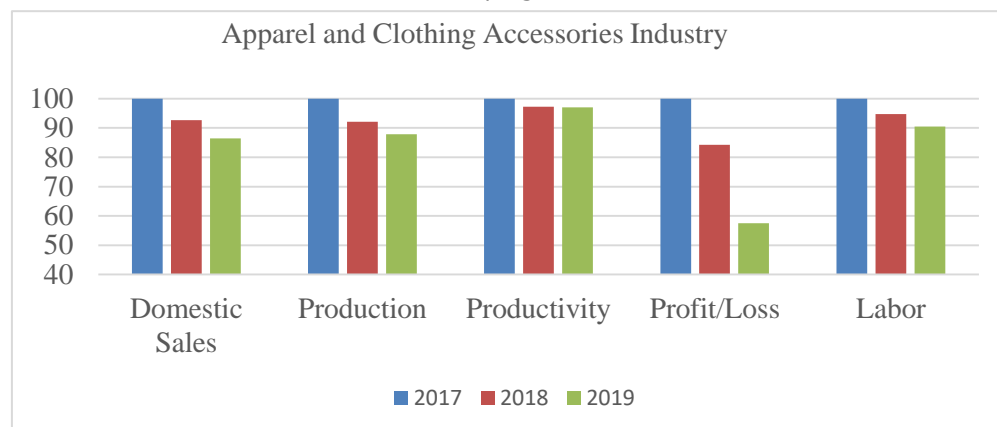
3.2. Trade liberalisation Vs. Trade Remedies in Indonesia

3.2.1. Trade Liberalisation

Trade liberalisation is a way to make trade more open, which is an essential part of economic policy to ensure that economic and social development can continue (Alfath Bagus, Panuntun; El Nur, 2021). As a corollary, household incomes are likely to rise, thereby facilitating faster economic growth and contributing to poverty alleviation (Adha et al., 2018). Firms can export a large number of specialised items to other countries due to lower transport expenses (reductions in tariffs and non-tariff barriers); increased worker demand and income will indirectly reduce unemployment (Fukuda & Katsufumi, 2019). Furthermore, because open commerce allows nations to export and import products, a large excess of items will affect price decreases (Gnangnon & Sena Kimm, 2019). But it can also harm some groups, such as small firms may struggle to compete with larger firms that have greater capacity to export goods (Onakoya et al., 2019). Local goods may encounter difficulties in competing with imported goods, which are often of superior quality (Sood, M. et al., 2021).

Increasing exports is one of the Indonesian government's economic recovery plans. Exports expanded at a rather high rate of 29.83% in 2021. Exports have a positive influence on economic growth in the short term. Increased exports will result in increased economic growth (Arifina et al., 2022). Afterward, as Indonesia encourages trade openness, numerous foreign enterprises may be exposed to competition with Indonesian products, resulting in close rivalry between those products (Prasanna, R. P. I. R., et al., 2019).

Table/Figure.



Source: Indonesian Bureau of Statistics.

According to the data, the market shift resulted in a downturn in domestic sales; hence, the amount of production from these enterprises was also lowered due to the decrease in overall sales and market demand. Reduced productivity necessitates a reduction in the number of employees required to finish output. This results in layoffs for the company's employees. The statistics also indicated that the Indonesian apparel and clothing accessories industries incurred substantial losses during that time. The losses undoubtedly have a severe influence on the Indonesian economy. Textiles and clothing are among Indonesia's top ten products (Bayu Arsa Pradana, 2020).

3.2.2. Trade Remedies Imposed by Indonesia during Covid 19

The application of trade remedies is crucial for safeguarding Indonesian indigenous businesses, especially when the country is inundated with imported goods at dumped and subsidized rates and frequently encounters a spike in imports of specific products (Sutrismo, N., 2007). Trade remedies serve as a mechanism for Indonesia to deviate from the fundamental principles of the WTO by enacting corrective measures against imports that inflict substantial harm on indigenous sectors (UGM, 2017). The weakening economy during Covid-19 makes domestic sectors more susceptible to imported goods at unjust pricing or an influx of fairly traded items (Hoekman, B., 2020).

Various trade policies were enacted to protect domestic sectors from the adverse impacts of heightened imports. Specifically, protective measures were enacted on numerous products, including yarn made from synthetic and artificial staple fibers, fabrics, curtain items, blinds, bed netting, various furniture goods, fructose syrup, carpets, clothing and clothing accessories, cigarette paper, and non-porous, expansible polystyrene (EPS) plug wrap paper. The imposition of safeguards on ceramic tile products and sections I and H from other alloy steels was expanded. Recommendations were made to enhance protections for specific products, including yarn composed of synthetic and artificial staple fibre's, clothes, and refrigeration evaporators and freezers (The surge in textile and textile product imports has been met with safeguard duties and the idea of blacklisting importers., n.d.).

3.2.3. Alleged Cases from Trading Partners (cases arising from the application of trade remedies)

The Indonesian Ministry of Trade announced there were 37 accusations of WTO-inconsistent trade remedies during the pandemic. These cases consisted of 23 anti-dumping cases and 14 safeguard cases (KEMENDAG, 2020). In detail, the 37 cases of trade remedies originated from various countries, with the majority, specifically 12 cases, coming from ASEAN countries (KEMENDAG, 2022). The initiation of trade remedies also came from India and the United States, followed by other countries, such as Canada, Egypt, Ukraine, and South Korea (KEMENDAG, 2022).

The Ministry of Trade noted that textiles and textile products (TPT) received the most accusations of unfair trade, followed by chemicals, steel products, and wood derivative products. The investigations also included automotive and electronic products (WTO Trade Policy Review Indonesia, 2022). The trade remedies committee looked into imported goods like steel, wood derivative products, textiles and textile products (TPT), and other cases (KORAN TEMPO, 2022). The US was accused of violating regulations related to three specific products, while the European Union has alleged that MSD's environmental regulations for polyester yarn products impact the textile and chemical industries, potentially leading to increased scrutiny and trade disputes between the involved parties, as well as Egypt for raw aluminium products (VOI, 2021).

4. CONCLUSION

Trade liberalisation promoted economic growth, reduce poverty, and improve social welfare for Indonesia by reducing trade barriers and allowing countries to export their goods to the Indonesian market. However, trade liberalisation can also result in job losses, reduced economic growth, and negative impacts on domestic industries in Indonesia, particularly in

facing the Covid-19 pandemic. To protect local jobs and ensure that everyone has a fair chance, trade remedies must be used on imported goods that compete directly with domestic industries. Indonesia should strengthen controls and regulations for trade remedies to encourage protection and support for local industries from unfair competition and promote economic growth, which can severely disrupt local markets.

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