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Legal protection for smes against circulation of imported food through online trade

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Abstract

In the era of globalization and advances in information technology, online trading has become one of the popular methods for conducting business transactions. It also applies to the food trade, where more and more imported products are traded online. However, there are challenges and risks that Small and Medium Enterprises (SMEs) have to face regarding the circulation of imported food through online trading. Therefore, legal protection for SMEs in this context is an important concern. This study aims to analyze the legal protection provided to SMEs related to the circulation of imported food through online trade. This research uses the normative research method. Library studies carry out data collection techniques through literature searches, journals, laws and regulations, and documents relevant to the research. The data obtained is then analyzed in three stages: data reduction, data presentation, and conclusion drawing. The results showed that legal protection for SMEs against the circulation of imported food through online trading is with the safeguard of Law Number 7 of 1994 concerning the Enforcement of the Agreement Establishing The World Trade Organization. In addition, the protection of SMEs through anti-dumping admission charges is adjusted in Article IV paragraph (2) GATT. This protection aims to maintain the sustainability of SMEs in the face of global competition and provide a fair opportunity for SMEs to develop.

Keywords: Legal protection, SMES, circulation, imported food, online trading

Introduction

In the era of globalization and advances in information technology, online trading has become a popular method for conducting business transactions. E-commerce or online trade is all trade transactions in goods and services carried out via the Internet. In an e-commerce system, four main components are needed to carry out online transactions, including stores/marketplaces, sellers and buyers, payment gateways, and delivery services^[1]. This online trade has penetrated various sectors, including the food trade. Food trade is the activity of buying and selling or exchanging food goods between producers, distributors, and consumers. It includes various processes such as production, processing, distribution, and consumption of food products. The food trade involves various commodities such as raw ingredients, processed products, ready-to-eat products, drinks, and snacks^[2]. Foods resulting from food technology are bread, tempeh, oncom, tauco, nata de coco, etc. Food trade development extends to the circulation of imported food through online trade.

The circulation of imported food can significantly impact SMEs (Small and Medium Enterprises). Imported food products are often sold at cheaper prices than local products; this can reduce the competitiveness of SMEs that produce similar products. SMEs have difficulty competing on price because local production costs are higher than imported products. SMEs usually have limited resources such as capital, technology, and distribution^[3]. Meanwhile, imported companies have advantages in terms of greater resources and better access to technology and distribution networks, this can make it difficult for SMEs to face competition with larger and stronger imported companies. If the circulation of imported food is too dominant, it can result in high dependence on imported products and reduce the contribution of SMEs to the local economy. It can harm the growth and sustainability of SMEs and reduce

employment opportunities. Therefore, legal protection for SMEs in this context is an important concern.

In previous research^[4], legal protection for SMEs was studied from economic exploitation. Other research was also conducted by (Panjaitan *et al.*, 2013), who studied legal protection for SMEs in the Asean-China Free Trade Area (ACFTA) free market. ACFTA or ASEAN-China Free Trade Area is a free trade agreement between ASEAN member countries (Association of Southeast Asian Nations) and China^[5]. This agreement was established on November 4, 2004, in Phnom Penh, Cambodia, to increase trade cooperation between ASEAN and China. One of the main commitments of ACFTA is the elimination of tariffs and non-tariff barriers in trade in goods between the two parties. It aims to encourage the growth of bilateral trade, expand markets for member countries' products, and increase economic cooperation in Southeast Asia. However, this research describes the trade context in general terms^[6]. The absence of research that examines legal protection for SMEs regarding the distribution of imported food through online trading is a novelty in this research. The aim of this research is to analyze the legal protection provided to SMEs regarding the circulation of imported food through online trade.

Research Method

This research uses normative research methods. Normative Legal Research is legal research carried out by examining library materials or secondary data^[7]. Data collection techniques were carried out using literature studies by searching literature, journals, statutory regulations, and documents relevant to the research. Data obtained via Google Scholar. The data obtained was then analyzed in three stages: data reduction, presentation, and conclusion.

Discussion

SMEs are important in strengthening the national economy or people's economy. Therefore, the government needs to provide appropriate attention through strategies and policies to optimally empower SMEs. SMEs must be viewed as a group of business units that can be integrated into the national business world to increase their standard of living and competitiveness. However, there are challenges and risks that SMEs must face regarding the circulation of imported food through online trading, so SMEs need legal protection.

Legal Protection is an effort made by the legal system and law enforcement officials to provide security, justice, and protected rights to individuals or society. Legal protection aims to protect human rights, prevent and take action against unlawful acts, and ensure that individuals or communities can enjoy their rights guaranteed by law ^[8]. Legal protection efforts include various aspects, such as enforcing the law against violations, handling legal cases, monitoring the law's implementation, and providing sanctions to perpetrators of unlawful acts. Legal protection can also include prevention, education, and legal advocacy efforts to increase public awareness about their rights and provide fair access to the justice system ^[9].

Legal protection for SMEs regarding the circulation of imported food through online trading aims to protect the interests and continuity of SME businesses in facing global competition. Legal protection for SMEs is in the form of safeguards regulated in Law Number 7 of 1994 concerning the Validation of the Agreement Establishing the World Trade Organization. According to the World Trade Organization (WTO), safeguard measures are actions taken in emergencies related to increased imports of certain products, which can cause serious harm to domestic industry ^[10]. The safeguard policy is implemented through several stages, which include ^[11]: a) Investigation and Evidence - This stage involves collecting data and information related to the import of certain products that are suspected of causing harm or threat of harm to the domestic industry. This process involves investigations by relevant authorities, such as trade regulatory bodies or government agencies; b) Determination of Loss or Threat of Loss - After the investigation, an evaluation of the evidence collected is carried out to determine whether there is a significant loss or threat to the domestic industry. It involves analysis of production data, sales, prices, and other factors that can influence industry conditions; and c) Implementation of Security Measures - If the evaluation results indicate significant losses or threats of losses, the authorities can implement security measures. These actions can impose additional import duties, import quotas, or other measures to protect domestic industries from the negative impacts of excessive imports.

Implementing safeguard policies in the context of protecting SMEs against the distribution of imported food through online trading has several benefits, including ^[12: 13]: a) Protecting Domestic Industry - The safeguard policy aims to protect domestic industry from the negative impacts of excessive imports. With safeguards in place, SMEs in the food sector can have a fairer opportunity to compete with imported products. It can help maintain the sustainability and growth of domestic industry; b) Increasing the Competitiveness of SMEs - With a safeguard policy, SMEs can develop and increase their competitiveness. Safeguards

can protect against unfair trade practices, such as dumping or state subsidies that harm domestic SMEs. In this way, SMEs can develop further and compete healthily in the domestic market; c) Improving Product Quality and Innovation - Safeguards can encourage SMEs in the food sector to improve product quality and innovate. In a more balanced competitive situation, SMEs will be encouraged to produce better, more innovative products in line with market needs. It will help increase consumer reputation and trust in local products; d) Encouraging Local Economic Growth - To protect SMEs from unfair competition, safeguard policies can contribute to local economic growth. SMEs that grow and develop will create new jobs, increase people's income, and contribute to the overall economy; and e) Market Stability and Sustainability - The domestic market can become more stable and sustainable with safeguards. The protection of SMEs will help maintain the continuity of production and supply of food products in the country so that consumers can obtain quality products at competitive prices.

Protection for SMEs takes the form of an anti-dumping admission charge, which is outlined in Article IV paragraph (2) of GATT that "States can impose retaliatory sanctions if the exporting country is proven to be selling products below the normal price (dumping) to the detriment of the importing country." Anti-dumping is a trade policy used by the state to protect domestic industries from dumping, namely trade practices carried out by producers or exporters by selling products in foreign markets at prices below fair market prices. Dumping can harm domestic industries by creating unhealthy competition, damaging domestic markets, and disrupting the sustainability of local industries ^[14: 15].

Anti-dumping aims to protect domestic industry and maintain healthy competition. By enforcing anti-dumping measures, domestic industry can be protected from unfair trade practices, and local business actors can compete fairly with producers or exporters from other countries. In an effort to implement the GATT provisions, the Government has issued Customs Law No. 10 of 1995 as a follow-up ^[16]. In this law, Article 18 explains "the application of anti-dumping duties on imported goods under the following conditions: The export price of these goods is lower than their normal value. Importing these goods: a) Causes losses to domestic industries that produce goods similar to those goods; b) Threatening losses to domestic industries that produce goods similar to these goods; c) Hindering the development of similar goods industries in the country. The Anti-dumping Import Duty imposed on imported goods is the difference between the normal value and the export price of the goods. It follows what is explained in Article 12(1) and Article 19 of Customs Law No. 10 of 1995" ^[17].

The principle of protection in economic law, especially for SME activities, includes several important aspects. These principles include ^[18: 19]: a) Economic Principles in the 1945 Constitution- This principle emphasizes that the Indonesian economy must be regulated fairly and justly, taking into account the welfare of the community and protecting the economic interests of the people; b) Principle of Protection of National Interests - This principle shows the importance of protecting national interests in economic activities, including the protection of SMEs so that they can develop optimally; c) Principles of Protection in International Law and Private Law - This principle emphasizes that SMEs

must also be protected based on the principles of international law and applicable civil law, to ensure that their rights and interests are well protected; d) Principle of Protection for Weak Economic Groups - SMEs are often included in the category of weak economic groups, so special protection needs to be provided to ensure they can compete fairly with other business actors; e) Principle of Protection of National Interests in GATT - GATT (General Agreement on Tariffs and Trade) is an international trade agreement which also recognizes the importance of protecting national interests, including protection of SMEs; and f) Principles of Fair Business Competition - This principle shows that protection of SMEs must be carried out within the framework of healthy business competition, where all business actors have a fair opportunity to compete. To support these protection principles, the government can take the following steps: a) Simplify the terms and procedures for applying for business permits for SMEs so that the process is faster and easier; b) Develop partnership patterns between SMEs and other business actors to increase access to markets, technology, and capital; c) Providing adequate priority, intensity, and development timeframe for SMEs so that they can grow and develop optimally; d) Implementing effective coordination and control mechanisms in empowering SMEs, so that the support provided can run in a coordinated and efficient manner; and e) Establish clear and proportional procedures for administering administrative sanctions, to ensure SMEs' compliance with applicable rules and regulations. These efforts are expected to impact SMEs feeling comfortable and protected in developing their businesses in Indonesia so that their contribution to the national economy can be increasingly increasing^[20].

Conclusion

Legal protection for SMEs against the distribution of imported food through online trading can be carried out using the safeguards regulat^[21] in Law Number 7 of 1994 concerning the Enforcement of the Agreement Establishing the World Trade Organization. Safeguard is a mechanism used to protect domestic industry from the negative impacts of excessive and unfair imports. Besides, SMEs can also obtain protection through the anti-dumping admission charge policy regulated in Article IV paragraph (2) of the General Agreement on Tariffs and Trade (GATT). Anti-dumping admission charge is the application of additional tariffs to imports of goods sold at dumped prices or sold at prices lower than the normal market price. By having safeguards and anti-dumping admission charges, SMEs can be protected from unhealthy competition caused by the circulation of imported food through online trading. This protection aims to maintain the sustainability of SMEs in facing global competition and provide fair opportunities for SMEs to develop.

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