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Harmonization of Loss-sale Arrangements in The Perspectives of Anti-dumping and Business Competition Laws in Indonesia

Lusy Kurnia Febriana
Law Faculty, University of Brawijaya Malang
Jl. Mayjen Haryono, No.169, Malang 65145
Phone. (0341) 553898 – 551611, Ext. 201-202, Fax. (0341) 566505
Email: lusykurniafebriana@yahoo.co.id

Abstract- **This article reviews Harmonization of Loss-Sale Arrangements in the Perspectives of Anti-Dumping and Business Competition Laws in Indonesia. Review is considered helpful to harmonize loss-sale arrangements in Indonesia because two regulations and two institutions are overlapping to each other in this case that may result in the ambiguousness of loss-sale arrangement laws in Indonesia. Research type is normative juridical with several approaches such as statute approach, comparative approach and conceptual approach. Result of research indicates that the harmonization of loss-sale arrangements in the perspectives of anti-dumping and business competition laws in Indonesia is materialized through law, definition and scope, organizational cohesion, and unification effort through a concept One Regulation and One Body.**

Index Terms— **Harmonization, Dumping, Predatory Pricing**

I. Introduction

International trade has developed dramatically in current days. Trade connections have excluded the boundary of countries. Various types of trade are conducted ranging from merely exchange or barter, sale-buy transaction, to a more complex trade relation. This development of trade world is accompanied with the interest of each country or trade entity to participate and to compete into international trade world. Such interest toward participation and competition into international trade world is underlined a main motive of profit-seeking. The interest for seeking as high as possible profit is often realized by committing a deception. One such way is by exporting a product at very low price if compared to the equivalent product in the importing country.

Exporting country or trade agent that sets lower price for their product exported to the domestic market of the importing country is coercively subjecting to the loss the industries in the importing country, especially if their product is equivalent with the low-priced product. The activity of selling at the price lower than normal price prevailed in the home country or the host country is called *dumping*. Dumping may destroy market and can force undertakings or rivals in the importing country vulnerable to the loss.[1]

Indonesia has ratified the provisions stated in Agreement Establishing WTO, including anti-dumping provisions as explained in Law No.7/1994 about Ratification of Agreement Establishing WTO. As a consequence from ratifying the provisions of international law, Indonesia is required to include provisions of international law into its national law although it has to adjust with national condition and culture. Anti-dumping provisions are inserted into Custom Act in articles 18 and 19, and from which, the Indonesian Committee for Anti-Dumping (KADI) is established and assigned with duties and authorities to solve dumping problem in Indonesia.

In one hand, talking about dumping is not separated from Indonesia national law on business competition, as stated in Law No.5/1999 about the Prohibition against Monopoly and Unhealthy Business Competition (Law No.5/1999). Some experts in business competition law show their concern about this issue. Rachmadi Usman[2] has mentioned that Law No. 5/1999 prohibits dumping or loss-sale (predatory pricing), while Andi Lubis[3] considers loss-sale (predatory pricing) as similar to dumping. Business Competition Act regulates in Article 20 that dumping is also loss-sale (predatory pricing) and establishes the Controller Commission for Business Competition (KPPU). Anti-dumping law explains loss-sale by using a term "dumping", whereas business competition law describes such deception with term "predatory pricing".

Both anti-dumping and business competition laws have their own law base in regulating dumping. Although each law establishes a distinctive institution with specific tasks and functions to solve dumping problem, it seems that the Indonesian Committee for Anti-Dumping (KADI) and the Controller Commission for Business Competition (KPPU) have almost similar capacity and task in solving dumping problem. With the presence of two laws and twoinstitutions to solve dumping problem in Indonesia, there is a possibility of overlapping that may blur law certainty. It can be a

[1] A.F. Elly Erawati and J.S. Badudu, *Kamus Hukum Ekonomi Inggris-Indonesia*, ELIPS Project, Jakarta 1996, p. 39.

[2] Rachmadi Usman, *Hukum Persaingan Usaha di Indonesia*, Sinar Grafika, Jakarta, 2013, p. 439.

[3] Andi Lubis asserts that loss-sale activity (predatory pricing) is trade practice done by exporters in selling goods, services, or both in international market at price lower than normal price or lower than price in home country or than price set by other country. Loss-sale is also committed by exporter producer who intentionally sells at price cheaper than sale price in home country or host country, by expecting that it eliminate rivals in the market. Other opinion states that such loss-sale is dumping. It is unhealthy trade practice which subjects importing country to the loss. See Teaching Book of KPPU, *Hukum Persaingan Usaha Antara Teks dan Konteks*, p.145.

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"boomerang"` for Indonesia due the role of the State to protect domestic industry and consumer, in this case Indonesian people, who will consume the loss-sale products.

Indonesia joins into a free-trade community in ASEAN, called ASEAN Economic Community (AEC). AEC is an integrated economic in ASEAN regions which promotes free trade system. Countries in ASEAN will be unified into one regional unit to facilitate their economic exchange, including the exchange of goods, services, investment, and also human resource or worker in term of their skill. It also helps these countries to initiate a competitive trade in the global economic where the product from abroad can easily come and go in Indonesia after its entry to AEC free trade. It influences export-import activity because this activity is easily done by every country, and the potential of loss-sale becomes greater.

Loss-sale is arranged into different laws, and two agencies founded from each law have similar authority to solve loss-sale in Indonesia. It produces a great concern about which law and which agency that is feasible to solve loss-sale practice done by the foreign business agent in Indonesia. Research reviews the harmonization of loss-sale arrangements in Indonesia to avoid the occurrence of authority overlapping in the future and law ambiguousness.

II. RESEARCH METHODS

Research type is normative juridical with several approaches such as statute approach, comparative approach and conceptual approach. *Statute approach* is to understand the consistency and the compatibility of one law with others and also with regulations. *Comparative approach* is done by comparing laws prevailed in the countries of European Union to examine the arrangement of dumping and predatory pricing. European Union is a set of countries with specific laws on dumping and predatory pricing, and adopting a law system of European Continental that is similar to Indonesia. *Conceptual approach* is conducted by explaining, elaborating and analyzing the subject-matter and therefore, this approach is the proper way to solve the law issue. Law material is collected through library research. Analysis technique involves grammatical interpretation and systematic interpretation.

III. RESEARCH RESULT AND DISCUSSION

1 Identification of Loss-Sale Disharmony

The use of various kinds and forms of laws to regulate one law object is risking from giving adverse impact on law implementation. Every law has different meaning and purpose, and it is a reason behind suboptimal implementation of the law. Different explanation may be given to describe similar object, and thus, it can trigger a less harmonic condition of law, or called as law disharmony.[4] Loss-sale practice considered as dumping is arranged several laws, such as in Law No. 17/2006 about the amendment of Law No. 10/1995 about Custom, Government Regulation No. 34/1996 about Admission Charges for Anti-dumping and Payoff, and Government Regulation No. 34/2011 about Anti-dumping, Payoff, and Trade Security Actions. Deception practice called only as predatory pricing is arranged in Law No. 5/1999 about the Prohibition against Monopoly and Unhealthy Business Competition. These two kinds of laws produce law disharmony because:

a. Similar law object is arranged in two laws.
b. Two different institutions handle similar issue.
c. There is different indication of loss-sale.

[4] Kusnu Goesniadhi S. *Harmonisasi Sistem Hukum, Mewujudkan Tata Pemerintahan yang Baik*. Publisher A3 and Nasa Media, Malang, 2010, p. 10.

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Table. 1 Identification of Disharmony

No.	Identification	Disharmony	
1.	Two laws regulating similar object.	**Dumping**	**Predatory pricing**
		a. Definition	
		Selling a product at price cheaper or lower than price in the home country or below normal price of equal product.	Supplying goods or services at very low price to eliminate rivals in the market and to facilitate monopoly or unhealthy business competition practices.
		Similarity: Dumping and predatory pricing involve the intention to set the price lower than normal or below production cost.	
		b. Undertakings	
		Foreign undertakings	Foreign and Domestic undertakings
		Both dumping and predatory pricing can be committed by foreign undertakings in Indonesia, especially when conducting the individual business or the business through economic agreement, such as in the case of export-import activity in international trade. (Provision of Article 1 Verse 5, Law No. 5/1999)	
		c. Consequence	
		1. Material loss to the domestic industry that produces similar product. 2. Threatening to give material loss to the domestic industry that produces similar product. 3. Hampering the development of the domestic industry that produces similar product.	1. Eliminating rivals in the market and facilitating the status of single dominant business. 2. Causing unhealthy business competition.
		Both dumping and predatory pricing are deadly and subjecting the loss to the rivals that produce similar products.	
2.	Two institution (two bodies)	**Dumping**	**Predatory pricing**
		The Indonesian Committee for Anti-Dumping (KADI)	The Controller Commission for Business Competition (KPPU)
3.	Indication of loss-sale	**Dumping**	**Predatory pricing**
		a. Similar products exported to one country. b. Export price sale below normal price. c. Loss to the domestic industry. d. Causal relation between selling at export price below normal price and suffering from loss by the domestic industry.	a. The supply of goods or services. b. The supply at very low price. c. Preventing new entrant to enter the market and eliminating the rivals. d. Causing unhealthy business competition.

Source: Legal Materials Primer, processed, 2016.

2. Harmonization of Loss-Sale Arrangement

After identifying the disharmony in loss-sale arrangement, then harmonization is needed. Harmonization of loss-sale arrangement will be discussed through several approaches, such as harmonization by referring to law, definition and scope, organizational integration, and unification and codification efforts.

2.1 Harmonization of Loss-Sale Arrangement Based on Law

Law No. 17/2006 about the amendment of Law No. 10/1995 about Custom, Law No. 5/1999 about the Prohibition against Monopoly and Unhealthy Business Competition, Government Regulation No. 34/1996 about Admission Charges for Anti-dumping and Payoff, and Government Regulation No. 34/2011 about Anti-dumping, Payoff, and Trade Security Actions, must be arranged into a harmony because all these laws regulate loss-sale practice.

Harmonization based on law means a process to produce a harmonious arrangement among the laws in order to keep these laws suitable with the principle of good law. All these laws can be put into harmony, either materially or substantially, especially when regulating loss-sale practice done by foreign business agent in Indonesia. The question is why specific law is needed to arrange predatory pricing done by foreign business agent. The answer is that there is no such law to discuss the arrangement. For example, the arrangement for dumping is not

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made yet. Provision for dumping is inserted into Custom Act, and also explained partially in several regulations. It is truly a gap, and it is good chance to solve the problem by making a formula to regulate foreign undertakings through a specific law.

2.2 Harmonization of Loss-Sale Arrangement Based on Definition and Scope

Harmonization based on definition and scope is the effort to execute the goal, guidance and strategy of the law. Basically, after evaluating laws that regulate loss-sale practice, it is found that all laws have similar goal and purpose to protect people from dumping and predatory pricing done by foreign business agent in Indonesia. The protection can be preventive and repressive against this loss-sale practice.

Concretely, definition and scope of loss-sale practice in Indonesia include dumping and predatory pricing done by foreign undertakings in Indonesia. The scope is confined into foreign business agent because dumping is always and explicitly conducted in international trade by exporter, and this exporter is mostly foreign undertakings. It contrasts with predatory pricing, because in Article 1 and 5 of Law No. 5/1999 about the Prohibition against Monopoly and Unhealthy Business Competition, the scope of predatory pricing covers domestic and foreign business agents. The problem is that business competition law also regulates loss-sale practice done by foreign undertakings in Indonesia, and it collides with dumping practice done by foreign undertakings.

2.3 Harmonization of Loss-Sale Arrangement Based on Institutional Integration

Two institutions, namely the Indonesian Committee for Anti-Dumping (KADI) and the Controller Commission for Business Competition (KPPU), are assigned with tasks and authorities to solve the problem of loss-sale practice done by foreign undertakings in Indonesia. The presence of these two institutions underlines the importance of harmonization toward organizational integration. Such integration is needed to avoid the overlapped tasks and authorities because organizational integration reflects law harmonization. It is undeniable that one integrated organization is needed to have tasks and authorities to solve the problem of loss-sale practice done by foreign undertakings in Indonesia.

2.4 Harmonization of Loss-Sale Arrangement Based on Unification

Based on theory of law harmonization, both codification and unification of law are the effort to limit and to confine the result of law harmonization to avoid further change. If change is necessary, it must refer to the unification of law that has been codified. Law unification is characterized by (a) the existence of one code book, (b) one perception or understanding about the law, (c) one attitude and behavior toward the law, (d) the principle of non-discrimination, and (e) the consistency to law application and enforcement.

Codification and unification of the law guarantee the certainty of law and justice. Codification and unification of the law also provide an anvil path for the dynamic development of law harmonization. Codification and unification of law and organization for loss-sale arrangement are not similar to Criminal Law Code or Civil Law Code. Harmonization for loss-sale arrangement is properly made through law unification. Indeed, unification in this case means fusion, integration, coalition, combination, consolidation, merger, mixing, blending, annexation, and coalescence.[5] Laws concerning with loss-sale practice done by foreign business agent in Indonesia and the organization that solves this problem will be arranged into one regulation and one bodies or institution.

[5] Editorial Team of Indonesia Thesaurus of Pusar Bahasa, *Tesaurus Bahasa Indonesia Pusar Bahasa*, Department of National Education, Jakarta, 2008, p. 545.

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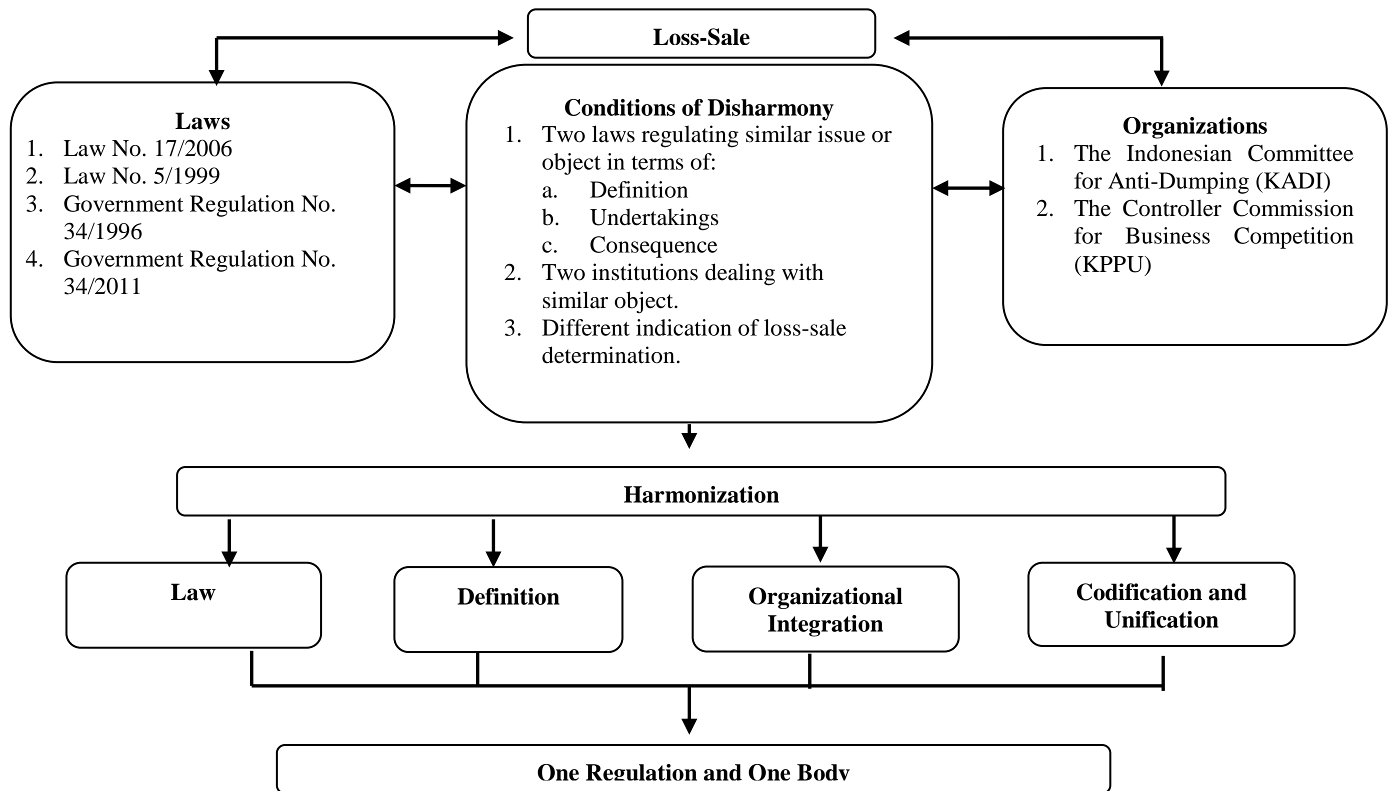
Chart.1 Harmonization of Loss-Sale Arrangement



Source: Legal Materials Primer, processed, 2016

3 Loss-Sale Arrangement in the Perspectives of Anti-Dumping and Business Competition Laws in Indonesia through the Concept One Regulation

Anti-dumping law is designed initially to deal with dumping practice done by foreign undertakings or exporter because such practice triggers the loss to the domestic industry. The development of world economic has produced a strict competition in the international trade either for goods or services. It compels the opportunist to commit dumping practice. Anti-dumping instituton stated in Article VI GATT has recommended to every member, including Indonesia, to implement GATT provisions into national law system. Following up this urgency, Uruguay Round has produced Anti-dumping Code 1994 (Agreement on Implementation of Article VI of GATT 1994) that represents Multilateral Trade Agreement (MTA). This law instrument is ratified along with the signing of Agreement Establishing The World Trade Organization (WTO). Therefore, Anti-dumping Code 1994 is an integrative package with Agreement Establishing The World Trade Organization (WTO).

Indonesia has ratified Agreement Establishing The World Trade Organization (WTO) through Law No. 7/1994 (National Sheet No. 57/1994, Additional National Sheet No. 3564), and thus, indirectly, Indonesia also ratifies Anti-dumping Code 1994. As explained previously, as the consequence from ratifying Agreement Establishing The World Trade Organization (WTO), therefore Indonesia is formulating basic provisions about anti-dumping and inserting them into Law No. 10/1995 about Custom through Article 19 to 20, but then, Article 20 is removed through Law No.17/2006 about the amendment of Law No. 10/1995 about Custom.

Indonesia position to include anti-dumping issue into national law is enough showing Indonesia's attitude and commitment to follow free trade. However, Indonesia only inserts anti-dumping provisions into Custom Act, and such arrangement means that anti-dumping remains under the scope of Custom, or anti-dumping policy shall be the part of Custom authority and be subordinated under Custom. Commonsense insists that anti-dumping policy must differ from the scope of Custom. It disregards the fact that when products are subjected to admission charge, both anti-dumping and custom are enforced by the General Directorate of Custom. It must be ambiguous for undertakings in international trade when Custom Act is used as base for anti-dumping law. Other law that regulates loss-sale is using the word either dumping or predatory pricing, and in this case, a lot of disharmonies are found in loss-sale arrangement in Indonesia. Two arrangements for similar issue may result in law tradeoff. The harmonization of law is made into concrete action, by the idea of one regulation.

Loss-sale arrangement through dumping in European Union is regulated by Anti-dumping Code 1994. Loss-sale arrangement through predatory pricing in European Union is not strictly regulated on Treaty on The Functioning of The European Union (TFEU) throught is Article 101 and 102. Predatory pricing is resolved through Article 102 TFEU about dominant position abuse, and it is said that predatory pricing is a strategy only feasible for the very dominant company with high market share. Mere market power is not enough. The predator sales must account for a sizeable fraction of market sales. If not, loss-making price will attract sales from the entire market which makes such strategy unworkable expensive. What more eliminating is only one of many rivals may lead to insufficient gains. All the incumbents stand to benefit from that

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turn of event and the prior investment by anyone of them into loss-making prices that never pays off. [6] Business competition law in Indonesia does not regard predatory pricing as the abuse of dominant position. Predatory pricing is not always done by dominant undertakings, but committed by oligopoly undertakings.[7]

One Regulation is implemented by producing an idea or a new concept for loss-sale arrangement done by foreign undertakings at international trade context. Future arrangement shall consider the scope in the perspectives of anti-dumping and business competition laws. Such concept is the effort to connect loss-sale laws, either concerning with dumping or predatory pricing, to avoid conflict or overlap in the future that may produce law ambiguousness.

Harmonization is not merely selecting one from two laws regulating similar issue or object. Although certain law principle has stated that general normative conflict can be resolved with the principle of *lex superior derogate legi inferiori*, that vertical normative conflict is alleviated with the principle of *lex specialis derogate legi generalis*, and that horizontal normative conflict is possibly solved with the principle of *lex posterior derogate legi priori*[8], but for loss-sale practice done by foreign undertakings in Indonesia, it needs new law to solve normative conflict. The principle of *lex specialis derogate legi generalis* can be indeed applied to new anti-dumping law and it shall not be applied to custom law about anti-dumping.

Law redefinition concerning with economic activity in Indonesia is unavoidable and it needs to be enforced. Previously, it is applied on general agreement on tariff and multilateral trade such as in GATT-WTO, declaration of APEC and AFTA, where economic condition involves disregarding territorial boundary of the member countries and reducing all economic barriers. Nowadays, ASEAN countries establish an economic cooperation called ASEAN Economic Community (AEC). As a consequence, trade commodities and investments freely come from and go to Indonesia to and from other countries because it lacks of tariff and non-tariff barriers or due to the absence of protectionism policy.[9]

Such condition forces Indonesia to deliver the competitive products to facilitate the entry to international market.[10] In free trade environment, the competition among business agents is becoming stricter. In making the policy about business competition, the government not only attempts improve economic demand, but also economic welfare of the nation. Trade policy of Indonesia government is taking account the competition based on market mechanism, and it is necessary situation for achieving the efficiency. Keeping on healthy competition, the law umbrella is then given for undertakings in trading goods and services. This action also proves the readiness of Indonesia to cope with and to participate into international free trade. The readiness of Indonesia is shown by the presence of strong law and the absence of overlap and multi-interpretation to ensure that law protection is given by the government to undertakings.

The concept one regulation in anti-dumping law has taken into account some indicators of loss-sale practice done by foreign undertakings and from which, the substance of loss-sale practice is elaborated. This concept bridges the gap of loss-sale arrangement, either in dumping and predatory pricing, and therefore, it is expected that additional indicators will empower anti-dumping law in protecting domestic business agent and in creating healthy business competition. The indicators of loss-sale practice done by foreign undertakings are as following:

1) Products are sold in other country at lower price below normal price or below production cost.
2) Products imported at the price below normal will subject the domestic industry to material loss.
3) There is a bad intention to eliminate the rival or to prevent the entry of new undertakings.
4) Monopoly or unhealthy business competition is facilitated.
5) Loss-sale has a causal link to the adverse consequence.

4 Loss-Sale Arrangement in the Perspectives of Anti-Dumping and Business Competition Laws in Indonesia through the Concept One Body

The Indonesian Committee for Anti-Dumping (KADI) and The Controller Commission for Business Competition (KPPU) have tasks and authorities to solve loss-sale problem in Indonesia. These institutions have similar discretion on similar object, and thus, there is authority tradeoff which impacts on law ambiguousness. Harmonizing these two institutions is made through the concept one body, meaning that it shall be one institutions to solve loss-sale problem, either concerning with dumping or predatory pricing done by foreign undertakings in Indonesia.

Similar to the concept one regulation, predatory pricing done by foreign undertakings can be regulated through business competition law and may be dealt by including the concept one body into new anti-dumping law. To ensure the harmonious authority in both institutions, therefore, predatory pricing provisions can require foreign undertakings to register with KPPU or select KPPU as problem-solver.

General normative conflict can be resolved through the principle of *lex superior derogate legi inferiori*. Vertical normative conflict is solved through the principle of *lex specialis derogate legi generalis*. Horizontal normative conflict can be solved with the principle of *lex posterior derogate legi priori*. The principle of *lex specialis derogate legi generalis* can be applied to the concept *one body* because the Indonesian Committee for Anti-Dumping is more specific in nature if compared to the Controller Commission for Business Competition. It is enforced by Indonesia's ratification of

[6] Alison Jones and Brenda Sufrin, *European Union Competition Law Text, Cases and Materials*, Fourth edition Oxford University Press, Oxford, 2011, p. 393.

[7] Daniel J. Gifford and Leo J. Raskind, *Federal Antitrsut Law Cases and Material*, in Book of Andi Fahmi Lubis *Hukum Persaingan Usaha: Antara Teks dan Konteks*, The Controller Commission for Business Competition (KPPU) and Deutsche Gesellschaft fur Technische Zusammenarbeit GTZ GmbH, Jakarta 2009, p. 95.

[8] Bernard Arief Sidharta, *Refleksi Tentang Struktur Ilmu Hukum*, Mandar Maju, Bandung, 1999, p. 99-100.

[9] Sukarmi, *Regulasi Antidumping Di Bawah Bayang-bayang Pasar Bebas*, Sinar Grafika, Sinar Grafika, 2002, p. 179.

[10] Kwik Kian Gie, *Analisis Ekonomi Politik Indonesia*, Gramedia Pustaka Utama and Sekolah Tinggi Ilmu Ekonomi IBII, Jakarta, 1995, p. 304.

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Agreement Establishing The World Trade Organization (WTO) through Law No.7/1994 (National Sheet No.57/1994, Additional Sheet No. 3564), which means that Indonesia also ratifies Anti-dumping Code 1994.

KADI is a government institution that deals with the import of dumping products and subsidized products by referring to Anti-dumping Code 1994. Main task of KADI includes investigating against dumping products and subsidized products; collecting, reviewing and processing evidences and information; and suggesting admission charge for anti-dumping and payoff. What makes KADI becoming specific is its capacity to defend Indonesia products when these products are alleged for dumping. KADI is then the only legal instrument to be used to protect domestic industry from unfair import competition when the import enters Indonesia at dumping price.

In European Union countries, loss-sale problem of dumping and predatory pricing is resolved by one institution, called European Community or European Commission. [11] Exporters who are proven to commit loss-sale arrangement that causes loss and destroys community interest will be subjected to anti-dumping action, and this action is done by the institution with authority to determine a sanction or punishment. This institution is called European Council, or in the proceeding, it renames with Council of Minister.[12]

KADI has a specific position to solve loss-sale problem before the presence of WTO member and non-member countries. When WTO non-member countries commit loss-sale to Indonesia, KADIN will resolve the case through the procedure that may be similar when the case is committed by WTO member countries. As stated by Imran Fahmi as the representative of KADI, previously, KADI has conducted sunset review investigation for hot rolled coil (HRC) products by concluding that Belarussia and Kazakhstan are the countries proven to be committing loss-sale and at that time, both countries are not yet the member of WTO.[13] In current days, WTO has a membership of 162 countries with 22 countries acting as observer government. All ASEAN countries[14] had been WTO members. Indonesia takes further step by joining ASEAN Economic Community, and therefore, all ASEAN countries will submit to WTO provisions that arrange international trade cooperation.

[11] Frank Montag and Andre Fiebig, *The European Union Anti-dumping under the WTO: Rewiew Desinger Tessin Herrmann & Sedemund*, *Keith Steele Kluwer Law International Bar Association*, Brussels in Sukarmi, *Regulasi Antidumping Di Bawah Bayang-bayang Pasar Bebas*, Sinar Grafika, Jakarta, 2002, p. 57.

[12] Muhammad Ashri, *Memahami Tindakan Antidumping Masyarakat Eropa (ME)*, Journal of Law and Development, Volume 25 No. 3, 1995, p. 256.

[13] Informed by Mr. Imran Fahmi, the Indonesian Committee for Anti-Dumping (KADI) through electronic communication (email) kadi@kemendag.go.id, on 22 June 2016.

[14] ASEAN countries include Philippine, Indonesia, Malaysia, Singapore, Thailand, Brunei Darussalam, Vietnam, Laos, Myanmar, and Cambodia.

IV. CONCLUSION AND SUGGESTION

Based on the review above, it is concluded that loss-sale arrangement in the perspective of anti-dumping law (Agreement on Implementation of Article VI of GATT 1994 atau Anti-dumping Code 1994) and business competition law in Indonesia (Article 20 Law No. 5/1999) shall not be overlapped because it can be resolved through the concept of one regulation and one body. Loss-sale can be arranged into a specific law, and in this case, it is new anti-dumping law. Current arrangement is only an insertion into Custom Law. The relevant institution to deal with loss-sale practice done by foreign undertakings in Indonesia is the Indonesian Committee for Anti-Dumping (KADI). KADI has both internal function, which is investigating loss-sale practice, and also external function, which is defending the accusation of loss-sale by other country to Indonesia. Specific characteristic of KADI is its capacity to cope with loss-sale practice done by foreign undertakings in Indonesia regardless the position of the undertakings as member or non WTO member.

In the future, the government must take short-term and long-term actions by limiting the scope of undertakings that commits loss-sale. The enforcement is done through Article 20 of Law No.5/1999 about the Prohibition against Monopoly and Unhealthy Business Competition. KPPU is immediately assigned to solve and investigate loss-sale practice of predatory pricing done by foreign undertakings in Indonesia.

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