

## **ANALYSIS OF THE DUMPING OF ALUMINUM ZINC COATED STEEL FROM THE PERSPECTIVE OF MASLAHAH MURSALAH AL GHAZALI (Report of the Indonesian Anti-Dumping Committee)**

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### **Abstrak:**

Dumping adalah sebuah sistem dagang yang menjual barang dipasaran luar negeri dengan harga dibawah harga normal. Hal ini adalah sesuatu yang wajar dalam perdagangan. Dalam kondisi tertentu dapat berakibat sangat buruk terhadap perindustrian sejenis di negara tujuan dumping, sehingga dilarang pengaturannya. Akan tetapi hal-hal yang bermanfaat juga dapat dirasakan oleh konsumen, yaitu mereka dapat menikmati barang dengan harga dibawah harga normal. Maka Praktik Dumping Baja Lapis Aluminium Seng selanjutnya disingkat dengan BJLAS dapat di analisis dengan perspektif masalah mursalah menurut Imam Al-Ghazali. Tujuan penelitian ini adalah untuk mengetahui analisis terhadap praktik dumping BJLAS berdasarkan perspektif masalah mursalah menurut Imam Al-Ghazali. Pendekatan penelitian ini menggunakan pendekatan yuridis normatif, jenis data penelitian ini menggunakan jenis data penelitian kepustakaan (*library research*). Hasil penelitiannya menunjukkan bahwa praktik dumping BJLAS tidak sesuai dengan masalah mursalah menurut Imam Al Ghazali, dikarenakan Dumping BJLAS tidak memenuhi syarat masalah mursalah menurut Imam Al Ghazali, yaitu syarat dalam kategori dharuriyah (kebutuhan pokok). Syarat kepastian sebuah manfaat yang di berikan dan tidak memenuhi syariat Islam.

**Kata Kunci:** *Dumping, al-Maslahah al-Mursalah, Imam Al-Ghazali*

### **Abstract:**

Dumping is trading system that sells goods in foreign markets at prices below normal prices. And this is something that is natural in trading. However, under certain conditions it can have a very bad impact on similar industries in the dumping destination country, so it needs to be prohibited. However, the things that are useful can also be felt by consumers, namely they can enjoy goods at price below the normal price. So the practice of dumping BJLAS can be related to Maslahah Mursalah according to Imam Al-Ghazali. The purpose of this study was to determine how the analysis of the practice of dumping BJLAS based on the perspective of Maslahah Mursalah according to Imam al-Ghazali. This research approach uses a normative juridical approach, this type of research data uses library research data. The result of

his research show that the practice of dumping BJLAS is not in accordance with Maslahah Mursalah according to Imam Al-Ghazali, because dumping BJLAS does not meet the requirements of maslahah mursalah according to Imam Al-Ghazali, namely the requirement in the category of dharuriyah (basic needs). Conditions of certainty of a benefit provided and do not meet Islamic law.

**Keywords:** *Dumping, al-Maslahah al-Mursalah, Imam Al-Ghazali*

## Introduction

Along with the development of Information and Communication Technology (ICT). Economic development has increased very rapidly, because Indonesia's trade has undergone an extraordinary transformation. So that it is not only domestic trade, but also foreign trade or what is commonly referred to as international trade.

International trade includes exports and imports. This activity is carried out by the state in order to meet the needs of its people, as well as a means of economic development, especially to increase profits from the export aspect of a country's products.

The legal basis for trade has been regulated in the Qur'an, including (Ministry of Religion of the Republic of Indonesia, 2017):

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

The Meaning:

*"O you who believe! Do not eat each other's property in a vanity (unrighteous) way, except in trading that is done on a consensual basis between you. And don't kill yourself. Indeed, Allah is Most Merciful to you."* (QS. An-nisa [4]: 29)<sup>1</sup>

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

The Meaning:

*"And Allah has justified buying and selling and forbidding usury"* (QS. Al-Baqarah [2]: 275)<sup>2</sup>.

From these verses it is explained that buying and selling is lawful as long as it does not contain gharar, usury and there is no argument that forbids it.

Competition is something that cannot be avoided from every country in seizing international market share and even world market share. It is undeniable that competition often occurs in international trade, such as modifying prices. In the form of price competition, for example, competition is carried out by price discrimination which is commonly known as *dumping*.

<sup>1</sup> Shihab, M. Quraish. *al-Quran dan Maknanya*. Lentera Hati, 2020.

<sup>2</sup> Ibid

Dumping is one way of strategy to control foreign markets, namely by discriminating prices against dumped goods. Dumping goods are goods that are imported at an export price level that is lower than the normal value in the exporting country<sup>3</sup>.

In general, the initial motive for an exporting country to carry out dumping is to increase its market share abroad by killing competition in the export destination country. When the price of the goods being exported is lower than the price of the same goods in the export destination country, of course this will benefit the exporting country because rationally the product will be in great demand in foreign countries. And consumers will also get their consumption goods at lower prices and of course this will provide a positive multiplier for the economy of the exporting country.

However, the imposition of a lower selling price raises various kinds of negative analysis about dumping. Because there are some people who explain that dumping is a business competition with *unfair price instruments*. Because this can be detrimental to similar business actors who will slowly decline and may even disappear, until finally they can no longer compete.

The dumping system does have its own charm. Besides being able to provide an advantage, it can also have a negative impact on the economy. The positive side is that it provides an opportunity for consumers to obtain consumer goods without having to pay a lot of money for them, therefore an attempt to prohibit dumping is also an attempt to prevent the public from obtaining cheap goods. But on the other hand, this can also have a bad impact on local producers of similar goods because it can make their production of goods unsold in the market, as a result their turnover decreases and they are even very likely to go out of business all at once.

One of the current dumping cases is the dumping of Aluminum Zinc Coated Steel (BJLAS). The Indonesian Anti-Dumping Committee (KADI) initiated an anti-dumping investigation on BJLAS imports. In accordance with the provisions of Article 10 paragraph (1) Government Regulation (PP) Number 34 of 2011, KADI issued a Final Report on the Results of Anti-Dumping Investigations on BJLAS products by imposing Anti-Dumping Duties (BMAD) on these dumping goods. And because of that, the author is very interested in analyzing the problem of dumping from the perspective of Islamic law. The author chooses the concept of *masalah mursalah* as an analytical tool for dumping problems. The reason is that in Islam there is no regulation that regulates and explains the issue of dumping. When a similar problem occurs, one can and may perform *ijtihad* to explore Islamic law (*istimbat*). It has also been recognized by Imam al-Ghazali. According to Al-Ghozali, *masalah mursalah* can be used as a legal basis if:

- a. the application of *masalah mursalah*
- b. is in accordance with the *syara'* provisions;
- c. *Maslahah mursalah* is an act that is *dzaruri* or an urgent need as a public interest.

This is what the author considers that *masalah mursalah* is actually a critical method of extracting Islamic law which is very revolutionary. Because it cannot be denied that life is always experiencing development.

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<sup>3</sup> Nomor, Peraturan Pemerintah. "Tahun 2011 tentang Tindakan Anti Dumping." *Tindakan Imbalan, dan Tindakan Pengamanan Perdagangan* (34).

Based on the description above, the author is interested in conducting research with the title Analysis of Aluminum Zinc Coated Steel Dumping from the Perspective of Masalah Mursalah Al Ghazali (Report of the Indonesian Anti-Dumping Committee).

### **Research Method**

This research uses appropriate and relevant types of research according to the research object. The type of research used by researchers is *normative juridical* with consideration of the discussion of the analysis of the decision of the head of the Indonesian Anti-Dumping Committee (KADI). Because this type of research is *normative juridical*, the method used in library research is search that contains materials related to the research object and an inventory of data sourced from literature relating to the problem to be studied in order to obtain principles and concepts about the issues that are the object of research. The problem in this study is how the legal analysis of price discrimination in the practice of dumping aluminum zinc coated steel is reviewed from the theory of al-maslahah al-mursalah Al-Ghazali. Of course researchers also use data sources. Suharmi Arikunto revealed that what is meant by data sources in research is the subject from which the data was obtained, this opinion was quoted by Lexi J Moleong in a qualitative research methodology book<sup>4</sup>. The research data sources used primary and secondary data sources, the primary data used in this study were obtained from the Indonesian Anti-Dumping Committee and the secondary data used in this study were sources of information that could help carry out this research. Both in the form of books, literature studies, news, articles, and documents related to this research.

### **Results and Discussion**

#### **General Definition of Dumping in International trade**

According to the complete international trade dictionary, dumping is the sale of a commodity in a foreign market at a price level lower than fair value<sup>5</sup>. Dumping is the practice of selling products in export destination countries at prices below the normal price or the producer's price with the aim of dominating foreign markets<sup>6</sup>. Dumping is a pricing practice in which companies charge lower prices for exported goods than prices for the domestic market even though the goods are the same<sup>7</sup>. A price reduction can basically be legalized as long as no party is harmed. That is, dumping is technically legal according to the GATT (General Agreement of Tariff and Trade) regulations, unless there is an aggrieved party. This practice is considered unfair because it can damage and harm the market and harm competing producers in the importing country.

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<sup>4</sup> Suharsimi Arikunto, *Prosedur penelitian Suatu Pendekatan Praktek*, ( Jakarta: Rineka Cipta, 2002), 172.

<sup>5</sup> Rinaldy, Eddie, Denny Ikhlas, and Ardha Utama. *Perdagangan Internasional: Konsep dan Aplikasi*. Bumi Aksara, 2021, 154.

<sup>6</sup> Primadhany, Erry Fitrya, and M. H. S HI. *Hukum Dagang Internasional*. Penerbit Lakeisha, 2020, 123.

<sup>7</sup> Zhao, Huachun, Jeffrey Yi-Lin Forrest, and Benjamas Jirasakuldech. "A game analysis of trade dumping and antidumping." *Theoretical Economics Letters* 8.14 (2018): 2860.

According to Feran and Resa, when viewed in terms of the impact on consumers and the importer's domestic industry, there are two types of dumping, namely<sup>8</sup>:

1. *Predatory dumping*, namely when a company discriminates and temporarily benefits buyers with the aim of eliminating competitors. , after the rivals were eliminated, the price was raised again. This form of dumping is detrimental to the importing country's domestic industrial products.
2. Persistent dumping is dumping that occurs continuously. This form of dumping will basically only benefit consumers from importing countries, because competition only occurs between imported products.

Indonesia is a member of world trade. Ratified through ratification of Law Number 7 of 1994 concerning Ratification of the Agreement on Establishing the World Trade Organization/WTO (Agreement to Establish the World Trade Organization). The International Trade Organization legalizes dumping activities, so that every country that is included in this organization must have a policy to protect their country from harmful dumping. Broadly speaking, dumping is regulated in GATT 1994, there is an explanation that there are imported products that are not subject to internal taxes or price changes that exceed domestic goods. Likewise, it is regulated that there are quantitative restrictions, costs and formalities related to imports and customs assessments. Article VI of GATT 1944 explicitly allows the imposition of certain anti-dumping duties on imports from certain sources. This is because dumping can cause or threaten material losses for the domestic industry<sup>9</sup>.

Based on Article VI GATT 1944, it is stated that WTO member countries can apply anti-dumping measures if after an investigation is in accordance with the specified agreement. If we trace anti-dumping in the GATT which is a multilateral trade agreement with the aim of creating free and fair trade, and helping to create economic growth and development in order to achieve human welfare<sup>10</sup>.

### **Dumping in Indonesian National Law**

Anti-dumping arrangements in Indonesian national law as a follow-up to the ratification of the approval for the formation of the WTO through Law No. 7 of 1994, it turns out that there is no regulation yet. Dumping is the sale of goods abroad at a lower price than domestic prices<sup>11</sup>. While dumping goods are goods that are imported with an export price level that is lower than the normal value in the exporting country. So that the national dumping law is regulated in:

1. Law no. 10 of 1995 concerning Customs which has been amended by Law no. 17 of 2006
2. Government Regulation no. 34 of 2011 concerning Anti-Dumping Measures, Compensation Measures and Trade Security Measures.

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<sup>8</sup> Feran, Resa. "Praktik Dumping Dalam Perspektif Hukum Perdagangan Internasional Di Indonesia." *Lex Privatum* 10.2 (2022).

<sup>9</sup> Widya, Ucha. *Kebijakan Negara Terhadap Dampak Dumping Sebagai Praktik Dagang Yang Tidak Sehat Bagi Negara Importir Menurut Ketentuan GATT/WTO*. Diss. 2018, 122.

<sup>10</sup> Suherman, Ade Maman. *Hukum Perdagangan internasional: lembaga penyelesaian sengketa WTO dan Negara Berkembang*. Sinar Grafika, 2022, 111.

<sup>11</sup> Fitrah, Muh. *Pengaturan Perdagangan Internasional Dalam Bidang Jasa Presence Of Natural Persons Melalui Mekanisme Gats*. Diss. Universitas Hasanuddin, 2020, 09.

3. Decree of the Minister of Industry and Trade Number: 430/MPP/Kep/9/1999 Collection of Anti-Dumping/Temporary Import Duty.

Dumping prices occur when the price offered to other countries' markets is lower than the normal price (*normal value*). Article 1 paragraph 6 PP No. 34 of 2011 concerning antidumping measures, countermeasures and trade security measures, what is meant by normal value is the price actually paid or to be paid for similar goods in general trade in the domestic market of the exporting country for consumption purposes. Furthermore, Article 1 paragraph 14 stated that, what is meant by loss is as follows.

1. Material losses that have occurred to the Domestic Industry.
2. Cancellation or reduction of benefits directly or indirectly obtained from tariff concessions obtained from countries that provide subsidies;
3. A serious threat of material loss to the Domestic Industry.

In the case of anti-dumping settlement, especially in terms of different interpretations between writing (brand name), goods product, quality of goods, there is one commission that resolves the problem, namely the anti-dumping commission. The Indonesian Anti-Dumping Commission (KADI) was established based on the Decree of the Minister of Industry and Trade No. 136/MPP/Kep/6/1996. The Indonesian Anti-Dumping Committee (KADI) has the following main tasks:

1. Conduct investigations into allegations of dumping goods and/or containing subsidized goods which cause harm to the domestic industry of similar goods,
2. Collect, examine and process evidence and information regarding the alleged existence dumping goods and/or goods containing subsidies,
3. Propose the imposition of anti-dumping import duties and/or reciprocal import duties to the Minister of Industry and Trade,
4. Prepare a report on the implementation of tasks to be submitted to the Minister of Industry and Trade. In connection with the tasks carried out by KADI, KADI is obliged to socialize the rules and provisions of world trade that have been ratified with the aim that society, especially the Indonesian business world, does not become a victim of *unfair trade practices*, which include dumping and subsidies.

The Indonesian Anti-Dumping Committee (KADI) has started an anti-dumping investigation on imported zinc-aluminum coated steel (BJLAS) products. Chairman of KADI Bachrul Chairi said that during the last three years Indonesia's total imports of BJLAS products had increased significantly<sup>12</sup>.

National consumption continues to experience a significant increase, however, the increase in national consumption is not enjoyed by IDN where IDN's market share has actually decreased. IDN's domestic sales continued to decline. Under these conditions, it shows that IDN has experienced a decline in market

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<sup>12</sup> Anam, Syariful, and Akhmad Solikin. "Dampak Kebijakan Bea Masuk Tindakan Pengamanan terhadap Proteksi dan Daya Saing Produk Baja Lapis Aluminium Seng." *Indonesian Treasury Review: Jurnal Perbendaharaan, Keuangan Negara dan Kebijakan Publik* 5.3 (2020), 235-253.

share and sales due to pressure from imported goods, especially imported goods containing dumping<sup>13</sup>.

As a result of the flood of imported BJLAS products in Indonesia, six local zinc-coated steel factories stopped production. Besides that, companies with the same commodity dumping experience losses as indicated by a decline in performance indicators on domestic sales, *market share*, production, productivity and ability to raise capital. This happened because domestic zinc-coated steel products could not compete with imported products which were much cheaper. To deal with this dumping problem, the government already has anti-dumping regulations to protect domestic industry, the government, in this case the Minister of Industry and Trade, formed an anti-dumping committee (KADI) consisting of elements from the Ministry of Industry and Trade, Ministry of Finance and other relevant ministries or non-departmental institutions.

### **Theory of Al-Maslahah Al-Mursalah Al-Ghazali**

All actions that are prohibited by the Shari'a have good for every human being, so these prohibitions are stipulated in the Shari'a law. In order for syara' law to continue to meet human needs that change with the times and not stop developing, the scholars try to solve problems that are not contained in the Al-Quran and Sunnah. One of the great scholars of the Shafi'i school, namely Imam al Ghazali, who is one of the Islamic scholars who has had a major influence on Modern Islamic thought, is considered to be a scholar who first explained the concept of maslahah in more detail than the ushul experts before him.

In terms of pronunciation and meaning, according to Al Ghazali the word maslahah is the same as benefit, maslahah also means benefit or a job that contains benefits. If it is said that trading is a benefit and seeking knowledge is a benefit, then this means that trading and seeking knowledge is the cause of obtaining physical and spiritual benefits. Maslahah mursalah is a term according to Al-Ghazali which is explained in the book of al-Mustashfa<sup>14</sup>:

أَمَّا الْمَصْلَحَةُ فَهِيَ عِبَارَةٌ فِي الْأَصْلِ عَنِ الْجَلْبِ مَنْفَعَةٍ أَوْ دَفْوِ دَلْبٍ مَنْفَعَةٍ أَوْ دَفْوِ دَفْوٍ وَلسْنَا نَعْنِي ذَلِكَ، فَإِنَّ جَلْبَ الْمَنْفَعَةِ مَقَامًا صِدِّ الْخَلْقِ وَصَلَاحِ الْخَلْقِ فِي تَحْصِيلِ مَقَامٍ صِدِّ هُمْ لَكِنَّا نَعْنِي بِالْمَصْلَحَةِ الْمَحَافِظَةَ عَلَى مَقْصُودِ الشَّرْعِ.

The Meaning:

*"Basically, maslahah is a picture of getting benefits or avoiding harm. But that's not what we mean, because getting benefits and avoiding harm is the goal and benefit of humans in achieving their goals. What we mean by maslahah is maintaining the goals of syara'".*

So it can be understood that maslahah mursalah is the cause of something that benefits all people as well as a benefit or goodness that can maintain syara' goals. Basically, maslahah brings benefits and rejects harm. Because bringing benefits and eliminating harm is indeed the basic goal of all beings. However, the

<sup>13</sup> Tektona, Rahmadi Indra, Nuzulia Kusuma Sari, and Amru Hanifa Mukti. "Kepastian Dalam Penyelesaian Hukum oleh Indonesia pada Dumping yang Dilakukan Republik Rakyat Tiongkok dan Vietnam." *Jurnal Ius Constituendum* 6.2 (2021), 328-347

<sup>14</sup> Kudaedah, Nur Asiah. "Maslahah Menurut Konsep Al-Ghazali." *DIKTUM: Jurnal Syariah dan Hukum* 18.1 (2020), 118-128.

masalah that Imam al-Ghazali meant was to protect and maintain the five goals of syara' which are also the primary needs of humans, namely maintaining religion, soul, intellect, lineage and wealth. Matters related to guarding the five elements are the masalah that Imam Al Ghazali meant. And the things that destroy the five things are called corruption<sup>15</sup>. If a person performs an action whose essence is to maintain the five aspects of syara' above, then it is called masalah. In addition, efforts to reject all forms of harm related to the five aspects of syara' goals are also called masalah.

Imam al-Ghazali views that a benefit must be in line with syara' goals, even if it conflicts with human goals, because human benefit is not always based on syara' will, but is often based on the will of lust. For example, during the Jahiliyya era, women did not get a share of the inheritance, which according to them was beneficial, in accordance with their customs, but this view was not in line with the will of the syara', therefore it was not called masalah. Therefore, according to Imam al-Ghazali, what is used as a standard in determining benefit is the will and goal of syara', not the will and purpose of humans.

In the book of al-Mustashfa, Imam al-Ghazali said that masalah is divided into three parts or levels, namely:

1. Masalah which is justified by syara' and has certain arguments/texts (masalah dharuriyat), this masalah is at the first level and becomes masalah primary.
2. Masalah which is invalidated by certain texts/arguments (masalah mulgah) this masalah cannot be considered.
3. Masalah for which there is no argument/text that justifies it or rejects it (masalah mursalah). So that the scholars have different views and opinions regarding masalah mursalah<sup>16</sup>.

Furthermore, al Ghazali emphasized that if we interpret masalah with the maintenance of syara', then there is no way for us to disagree in following it, and even must believe that such masalah is proof of religion. If it is said that there is a difference of opinion in this matter, the difference is only a conflict between one masalah and another or a conflict between syara' objectives and others.

Based on the description of masalah mursalah according to Imam al-Ghazali, it can be concluded that masalah mursalah may be used as proof with the following conditions:

1. The masalah must be in the dharuriyah or primary category which is the maintenance of basic needs, namely maintaining religion, soul, mind, lineage and wealth. If the masalah is achieved, then masalah mursalah can be applied.
2. Benefit must be certain, not speculative or conjectural.
3. Benefit must apply universally, not only for groups, groups or individuals.

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<sup>15</sup> Pura, Nadiya Ratna, Panji Adam Agus Putra, and Ira Siti Rohmah Maulida. "Analisis Masalah Mursalah Menurut Imam Al-Ghazali terhadap Peraturan Pemerintah No 36 Tahun 2021 tentang Pengupahan." *Bandung Conference Series: Sharia Economic Law*. Vol. 2. No. 2. 2022.

<sup>16</sup> Harun, Ibrahim Ahmad. "Implementasi Konsep Masalah Mursalah Dalam Ekonomi Islam Menurut Tokoh Islam Dan Juhur Ulama." *Jurnal Economina* 1.3 (2022), 563-577.



4. Benefits must be in line with the goals of syara' or maqashid sharia. Al-Ghazali explained his thoughts on maslahah mursalah differently in his four works (al-Mankul, al-Qiyas, Shifa' al-Ghalil, and al-Mustashfa).

In the book of al Mustashfa, Imam al-Ghazali dictates maslahah mursalah as Istishlah which istishlah/maslahah mursalah aims to maintain syara' objectives or dharuriyyah needs of humans namely hifdz ad-din, hifdz an-nafs, hifdz al-aql, hifdz al-nasb, as well as hifdz al-maal so there is no reason to reject it because if this is to achieve the welfare of human dharuriyyah needs, then there is no reason to oppose it.

### **Price Discrimination in Dumping Practices of Aluminum Zinc Coated Steel in View of the Theory of Al - Maslahah Al - Mursalah Al-Ghazali**

Basically in muamalah the most prioritized is benefit. The application of Maslahah in muamalah is much broader than maslahah in worship because in the fiqh of worship there are already arguments explaining the provisions and procedures for its implementation both in the Qur'an and Hadith and then the scholars continue to make ijihad on how to answer muamalah issues that have no law in provisions of Islamic law. In mumalah, in essence, all transaction activities must lead to maslahah. And this maslahah must fulfill two elements, namely halalan (halal) and tayyiban which means providing benefits and not bringing harm<sup>17</sup>.

Every law that contains the goal of realizing maqashid sharia is called maslahat. Imam al-Ghazali stated that any maslahah that contradicts the Koran, Sunnah, or ijma' is void and must be thrown away. Any benefit that is in line with syara' actions must be accepted to be taken into consideration in establishing Islamic law. With this statement, al-Ghazali wants to emphasize that there is no Islamic law that is contrary to benefit, or in other words there will be no Islamic law that will be miserable and cause harm to mankind<sup>18</sup>.

This is based on the following hadith:

*"From Sa'id al-Khudri: It is not permissible to cause damage nor be given damage". (Narrated by Al-Hakim, Al-Baihaqi and Daruquthni)*<sup>19</sup>

In terms of price discrimination on imported zinc-aluminum coated steel by the PRC and Vietnam to Indonesia, it is considered to have a negative impact on the development of the Indonesian steel industry, because steel entrepreneurs complain about the large number of imported commodity goods coming to Indonesia, such as zinc-coated aluminum steel (BJLAS). The growth rate of steel consumption in Indonesia has been ranked first among ASEAN countries since 2017. However, this opportunity has been taken advantage of by other countries, where the increase in demand for the construction sector has been accompanied by an increase in steel imports from China and Vietnam.

The Indonesian Anti-Dumping Committee stated that the selling price for imports originating from China and Vietnam was always below the IDN selling

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<sup>17</sup> Hermawan, Iwan. *Ushul Fiqh Kajian Hukum Islam*. Hidayatul Quran, 2019.

<sup>18</sup> Hudiyani, Zulfa. "Kontribusi maslahah Al-Thufi dalam pembaharuan Hukum Islam di era kontemporer." *TERAJU: Jurnal Syariah Dan Hukum* 1.02 (2019), 45-58.

<sup>19</sup> Wahab, Abdul Khallaf. "Mashadir al-Tasyri" al-Islami Fima La Nasha Fih. *Kuwait, Dar al-Qolam* (2019), 65.

price. Under these conditions it is clear that IDN cannot compete with imported goods containing dumping because the selling price from that country is always below the selling price of IDN (*Price Undercutting*).

Based on the results of the investigation, KADI concluded as follows:

- a. Based on an analysis of the economic performance of the domestic industry, it can be concluded that during the investigation period, namely 2016-2018, IDN experienced losses as indicated by a decrease in performance indicators on domestic sales, *market share*, production, productivity, capacity utilization, workforce, cash flow, ROI, growth, and the ability to increase capital
- b. There is a causal relationship between dumping and losses as stated by:
  - I. There is an absolute and relative volume impact on national consumption where the dumping market share is from China and Vietnam in the 2016-2018 period.
  - II. There was a price impact in the form of *price undercutting* by China and Vietnam in the 2016-2018 period.

Based on the evidence, studies, analysis, and considering the responses submitted by interested parties from the verification results, KADI recommends the imposition of BMAD on BJLAS imports originating from China and Vietnam. In the case of dumping, several local companies experienced losses. Therefore the BJLAS dumping practice is reviewed using *maslahah mursalah* according to Imam Al Ghazali. *Maslahah mursalah* in terms according to Al Ghazali which is explained in the book of al-Mustashfa:

"Basically *maslahah* is a description of gaining benefits or avoiding harm. But that's not what we mean, because getting benefits and avoiding harm is the aim and benefit of humans in achieving their goals. What we mean by *maslahah* is maintaining the goals of *syara*'<sup>20</sup>.

So it can be understood that *maslahah mursalah* is the cause of something that benefits all people as well as a benefit or kindness that can maintain *syara*' goals. Imam Al Ghazali has a deep view of *maslahah mursalah*, he uses *istishlah* as a method of *istinbat* in Islamic law and makes *maslahah mursalah* a solution to problems in Islamic law. Because Imam Al Ghazali's view of *maslahah mursalah* has been proven to be able to solve new problems in the reform of Islamic law, if Islam does not use *maslahah mursalah* in solving problems then the *ummah* will experience difficulties, and Islam will be out of date. Imam Al Ghazali provides conditions so that *maslahah mursalah* can be used as proof as follows<sup>21</sup>:

1. The benefit is in the category of *dharuriyah* (basic needs). There are five basic needs, namely maintaining religion, soul, mind, lineage and wealth. Thus, if the benefit can be maintained and harm can be avoided, then the *maslahah mursalah* can be applied.
3. The benefit must be believed with certainty, not the benefit that is conjecture. If you cannot be sure of the certainty, then *maslahah mursalah* cannot be used.

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<sup>20</sup> Sari, Dira Puspita. "Kedudukan Mashalih Al-Mursalah Dan Istishlah." *Ushul Fiqih dan Kaedah Ekonomi Syariah* (2022), 112.

<sup>21</sup> Muhammad, Farkhan. "Kehujjahan Istishlāh/Maslahah Mursalah Sebagai Dalil Hukum: Perspektif 4 Madzhab." *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 9.9 (2022), 3589-3609.

4. The benefit is seen to apply in general, not to a group or individual.
5. The benefit must be in line with the goals prescribed by Islamic law.

Based on the explanation above regarding the concept of *maslahah mursalah* according to Imam Al Ghazali, it can be concluded that the concept of *maslahah mursalah* according to Imam Al Ghazali regarding BJLAS dumping practices is not in accordance with *maslahah mursalah* according to Imam Al Ghazali, because this BJLAS dumping practice does not meet the conditions given. Imam Al Ghazali explained that if you want to use *maslahah mursalah*, you must meet the conditions described above. If you do not meet the conditions that have been given then the *maslahah mursalah* cannot be used or is canceled. Because *maslahah mursalah* is everything that brings benefit and avoids harm.

From this description, dumping with the intention of endangering other people is unlawful and also constitutes unfair competition because you want to kill competitors' products. However, if dumping is carried out with the correct procedures and conditions, then dumping is permissible, one of which is dumping which is temporary in nature and only consumes products that are no longer wanted. In contrast to dumping, whose purpose is to damage the market and kill competitors, this is clearly forbidden.

BJLAS dumping does provide an opportunity for consumers to obtain goods in the form of BJLAS at low prices, but the fact is that BJLAS dumping actually results in material losses for local companies. Therefore the BJLAS dumping practice is not in accordance with the conditions given by Imam Al Ghazali.

## **Conclusion**

Based on the results of the research and discussion above, it can be concluded that the researchers have analyzed the following:

Dumping is considered an unfair trade practice, even though dumping is not prohibited in GATT WTO, but countries affected by dumping can take action in the form of imposing anti-dumping import duties, so that dumping products will be sold at normal prices. To deal with dumping and compensation issues, the government, in this case the Minister of Industry and Trade, established the Indonesian Anti-Dumping Committee (KADI) which consists of elements from the Ministry of Industry and Trade, the Ministry of Finance and the Ministry or other relevant non-departmental institutions.

From the *maslahah mursalah* analysis put forward by Imam Al-Ghazali, it can be concluded that based on the final report on the anti-dumping investigation on the import of Zinc Aluminum Coated Steel (BJLAS) originating from the People's Republic of China and Vietnam submitted by the Indonesian Anti-Dumping Committee (KADI) it is not in accordance with the concept of *maslahah mursalah* put forward by Imam Al-Ghazali. not in accordance with Islamic law, this is because BJLAS dumping has not fulfilled the requirements of *maslahah mursalah* according to Imam Al Ghazali, therefore this dumping practice is not in accordance with the concept of *maslahah mursalah* according to Imam Al Ghazali. Three conditions for *maslahah mursalah* according to Imam Al Ghazali that have not been fulfilled, namely that the conditions for benefit are in the *dharuriyah* category, the benefit must be believed with certainty, not the benefit that is presumptive, and

the conditions for benefit must be in line with the objectives prescribed by Islamic law.

### References

- Anam, Syariful, and Akhmad Solikin. "Dampak Kebijakan Bea Masuk Tindakan Pengamanan terhadap Proteksi dan Daya Saing Produk Baja Lapis Aluminium Seng." *Indonesian Treasury Review: Jurnal Perbendaharaan, Keuangan Negara dan Kebijakan Publik* 5.3 (2020): 235-253.
- Feran, Resa. "Praktik Dumping Dalam Perspektif Hukum Perdagangan Internasional Di Indonesia." *Lex Privatum* 10.2 (2022).
- Fitrah, Muh. *Pengaturan Perdagangan Internasional Dalam Bidang Jasa Presence Of Natural Persons Melalui Mekanisme Gats*. Diss. Universitas Hasanuddin, 2020.
- Harun, Ibrahim Ahmad. "Implementasi Konsep Masalah Mursalah Dalam Ekonomi Islam Menurut Tokoh Islam Dan Jumbuh Ulama." *Jurnal Economina* 1.3 (2022): 563-577.
- Hermawan, Iwan. *Ushul Fiqh Kajian Hukum Islam*. Hidayatul Quran, 2019.
- Hudiyani, Zulfa. "Kontribusi masalah Al-Thufi dalam pembaharuan Hukum Islam di era kontemporer." *TERAJU: Jurnal Syariah Dan Hukum* 1.02 (2019): 45-58.
- Kudaedah, Nur Asiah. "Masalah Menurut Konsep Al-Ghazali." *DIKTUM: Jurnal Syariah dan Hukum* 18.1 (2020): 118-128.
- Muhammad, Farkhan. "Kehujjahan Istishlah/Masalah Mursalah Sebagai Dalil Hukum: Perspektif 4 Madzhab." *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 9.9 (2022): 3589-3609.
- Nomor, Peraturan Pemerintah. "Tahun 2011 tentang Tindakan Anti Dumping." *Tindakan Imbalan, dan Tindakan Pengamanan Perdagangan* (34).
- Primadhany, Erry Fitrya, and M. H. S HI. *Hukum Dagang Internasional*. Penerbit Lakeisha, 2020.
- Pura, Nadiya Ratna, Panji Adam Agus Putra, and Ira Siti Rohmah Maulida. "Analisis Masalah Mursalah Menurut Imam Al-Ghazali terhadap Peraturan Pemerintah No 36 Tahun 2021 tentang Pengupahan." *Bandung Conference Series: Sharia Economic Law*. Vol. 2. No. 2. 2022.
- Rinaldy, Eddie, Denny Ikhlas, and Ardha Utama. *Perdagangan Internasional: Konsep dan Aplikasi*. Bumi Aksara, 2021.
- Sari, Dira Puspita. "Kedudukan Mashalih Al-Mursalah Dan Istishlah." *Ushul Fiqih dan Kaedah Ekonomi Syariah* (2022): 112.
- Shihab, M. Quraish. *al-Quran dan Maknanya*. Lentera Hati, 2020.
- Suharsimi Arikunto, *Prosedur penelitian Suatu Pendekatan Praktek*, ( Jakarta: Rineka Cipta, 2002), h. 172.
- Suherman, Ade Maman. *Hukum Perdagangan internasional: lembaga penyelesaian sengketa WTO dan Negara Berkembang*. Sinar Grafika, 2022.
- Tektona, Rahmadi Indra, Nuzulia Kusuma Sari, and Amru Hanifa Mukti. "Kepastian Dalam Penyelesaian Hukum oleh Indonesia pada Dumping yang Dilakukan Republik Rakyat Tiongkok dan Vietnam." *Jurnal Ius Constituendum* 6.2 (2021): 328-347
- Wahab, Abdul Khallaf. "Mashadir al-Tasyri" al-Islami Fima La Nasha Fih." *Kuwait, Dar al-Qolam* (2019).

Widya, Ucha. *Kebijakan Negara Terhadap Dampak Dumping Sebagai Praktik Dagang Yang Tidak Sehat Bagi Negara Importir Menurut Ketentuan GATT/WTO*. Diss. 2018.

Zhao, Huachun, Jeffrey Yi-Lin Forrest, and Benjamas Jirasakuldech. "A game analysis of trade dumping and antidumping." *Theoretical Economics Letters* 8.14 (2018): 2860.