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The European Union's Non-Compliance with Article IX of GATT 1994: Trade Barriers on Indonesian Steel Products in 2023

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Abstract: This paper examines the European Union's (EU) imposition of countervailing and anti-dumping duties on Indonesian steel products, which Indonesia has challenged at the World Trade Organization (WTO) in 2023. As one of the world's top five steel exporters, Indonesia perceives these measures as inconsistent with Article IX of the General Agreement on Tariffs and Trade (GATT) 1994, which regulates trade practices under international law. The study applies Andrew T. Guzman's Compliance Theory to assess the EU's non-compliance and its implications for international trade relations. The research employs a qualitative approach using secondary data from WTO reports, EU trade policy documents, and academic literature. The findings reveal that EU measures not only undermine Indonesia's export competitiveness but also erode the credibility of the EU's adherence to multilateral trade rules. The paper argues that sanctions—both reputational and direct—play a crucial role in shaping compliance in international economic law.

Keywords: European Union, Gatt 1994, Non-compliance.

1. Introduction

Steel plays a strategic role in global economic development, serving as a backbone for construction, manufacturing, and industrialization. In recent years, Indonesia has emerged as a significant player in the global steel market. From being ranked 18th in 2018, Indonesia rose to the fifth-largest steel exporter by 2022, with steel exports reaching USD 27.82 billion and an annual growth rate of 52.08% (World Steel Association, 2023). This growth underscores Indonesia's increasing competitiveness in international markets.

Despite this achievement, Indonesia has faced persistent trade barriers in key export destinations, particularly the European Union. The EU has imposed countervailing duties (CVDs) and anti-dumping duties (ADDs) on Indonesian steel products, citing unfair pricing practices. Indonesia, however, argues that these measures distort fair trade, reduce its export competitiveness, and violate Article IX of the GATT 1994. Consequently, in 2023, Indonesia filed a formal complaint against the EU at the WTO dispute settlement mechanism.

In addition, the development of Indonesia's steel industry over the past decade has demonstrated a significant upward trend. The government has designated steel as one

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of its strategic priority industries, recognizing its crucial role as a backbone for infrastructure development and manufacturing. Large-scale investments in downstream industries, particularly in stainless steel based on nickel processing, have strengthened Indonesia's position as a key producer in Southeast Asia. This industry not only supports domestic demand but also contributes substantially to exports, generates employment opportunities, and reinforces the national economy.

Nevertheless, the introduction of trade barriers by the European Union has had tangible repercussions on Indonesia's steel exports. According to data from the Ministry of Trade, Indonesian stainless steel exports to the EU declined by more than 30% between 2021 and 2023 following the imposition of anti-dumping duties. Several major exporters reported significant difficulties in accessing their traditional markets in Europe, forcing them to redirect shipments to alternative destinations in Asia and the Middle East. This contraction not only reduces potential foreign exchange earnings but also threatens the sustainability of investment in downstream steel facilities. Moreover, the decline undermines Indonesia's broader ambition to establish itself as a global hub in the steel value chain.

This case raises critical questions regarding the EU's commitment to multilateral trade agreements. While the EU often portrays itself as a champion of free trade and rules-based governance, its restrictive measures against Indonesian steel suggest otherwise. The tension highlights broader debates about compliance in international law, especially within the framework of global economic governance.

This paper seeks to analyze the EU's non-compliance with GATT 1994 by applying Guzman's Compliance Theory. The research aims to explore how reputational and direct sanctions function as mechanisms of enforcement and to assess the broader implications for Indonesia–EU trade relations and the credibility of the WTO system.

2. Literature Review

2.1. Trade Disputes and GATT/WTO Framework

The GATT 1994, as the foundation of the WTO legal framework, establishes binding obligations for member states to ensure fair and non-discriminatory trade practices. Article IX regulates issues related to labeling, origin marking, and related trade restrictions, preventing states from imposing measures that unnecessarily hinder trade (Jackson, 1997). While GATT provides a legal basis for dispute settlement, compliance with its provisions often depends on states' willingness to adhere to international commitments (Mavroidis, 2016).

The WTO Dispute Settlement Body (DSB) has handled numerous cases involving anti-dumping and countervailing duties. Prior studies (Busch & Reinhardt, 2003; Bown, 2011) demonstrate that while the WTO dispute mechanism is effective in many cases, powerful economies often delay or circumvent rulings to protect domestic industries. This asymmetry raises questions about the effectiveness of enforcement in multilateral trade governance.

2.2. Indonesia's Position in Global Steel Trade

Indonesia's rapid rise as a global steel exporter has attracted scrutiny from trading partners. Scholars argue that emerging exporters often face "defensive protectionism" from advanced economies seeking to protect domestic industries from price competition (Evenett, 2020). The EU's measures against Indonesian steel align with this pattern, reflecting both economic and political motivations.

2.3. Compliance in International Law

Guzman (2002) introduces Compliance Theory, which explains why states comply—or fail to comply—with international agreements. Compliance is shaped by cost-benefit calculations, where states balance the advantages of adherence against the costs of sanctions. Guzman identifies two primary enforcement mechanisms: reputational sanctions and direct sanctions. While reputational sanctions affect a state's credibility in the international system, direct sanctions involve punitive measures such as retaliatory tariffs or WTO-authorized countermeasures.

Previous studies (Chayes & Chayes, 1995; Simmons, 2010) highlight that compliance is not solely about coercion but also about legitimacy, reciprocity, and long-term interests. In this context, the EU's measures against Indonesia illustrate the tension between short-term domestic interests and long-term commitments to international trade governance.

3. Research Method

This study adopts a qualitative approach, relying on secondary data analysis. Sources include WTO case documents, EU trade policy reports, Indonesian Ministry of Trade statements, and relevant academic literature. The analysis applies Guzman's Compliance Theory as the primary theoretical framework. By examining reputational and direct sanctions, the study assesses the EU's behavior and its implications for Indonesia's trade interests.

Themethodological processincludes:

1. Document Analysis – Reviewing WTO dispute records, EU regulations on anti-dumping, and Indonesian export data.
2. Comparative Analysis – Contrasting the EU's treatment of Indonesia with its policies toward other steel-exporting states.
3. Theoretical Application – Employing Guzman's framework to interpret the EU's non-compliance.

4. Results and Discussion

4.1 Reputational Sanctions : The EU's credibility as a proponent of free trade is undermined by its restrictive measures against Indonesia. While the EU promotes a rules-based order globally, its protectionist stance raises doubts about its consistency. The reputational cost is significant, as non-compliance with WTO norms damages trust among trading partners and weakens the EU's leadership role in global trade governance.

4.2 Direct Sanctions : Indonesia's complaint at the WTO opens the possibility of retaliatory measures if the EU is found guilty of violating GATT rules. Guzman identifies several forms of direct sanctions relevant to this case:

1. Sanction Severity – If the WTO rules in favor of Indonesia, the EU could face substantial penalties or forced policy adjustments.
2. Multilateral Enforcement – The WTO provides an institutional framework for multilateral sanctions, strengthening Indonesia's bargaining position.
3. Time Horizon of Relations – Given the long-term nature of Indonesia–EU trade relations, the costs of continued non-compliance are high.
4. Acceptance of Sanctions – If the EU accepts WTO rulings, compliance may restore balance; refusal would escalate the dispute and increase reputational costs.

The EU's actions illustrate a cost-benefit calculation where domestic political pressures outweigh international commitments. Protecting its steel industry may yield short-term economic benefits, but it risks long-term reputational damage and retaliatory sanctions.

From Indonesia's perspective, pursuing the case at the WTO is rational, as it not only defends immediate trade interests but also signals commitment to a rules-based system. The case also underscores the importance of institutional enforcement in multilateral trade governance, as weaker states often rely on organizations like the WTO to balance power asymmetries.

Furthermore, this dispute reflects broader challenges in the global trading system. The rise of emerging exporters such as Indonesia disrupts established hierarchies, prompting defensive measures from advanced economies. If compliance is not effectively enforced, trust in the multilateral system erodes, undermining the very foundation of global economic cooperation.

5. Conclusion, Suggestions, and Recommendations

This study highlights the European Union's non-compliance with Article IX of GATT 1994 in its imposition of trade barriers on Indonesian steel exports. By applying Guzman's Compliance Theory and complementary perspectives, the research demonstrates that reputational and direct sanctions are central to shaping compliance, yet domestic political and economic interests often prevail over legal commitments.

For Indonesia, the case serves not only as a defensive measure to safeguard immediate trade interests but also as a strategic step to assert its credibility in upholding multilateral trade rules. However, the dispute underscores broader vulnerabilities in Indonesia's trade structure. Overdependence on a few export destinations leaves the steel industry exposed to external shocks. Thus, Indonesia must strengthen its capacity to diversify export markets, expand access to emerging economies in Asia, Africa, and the Middle East, and continue upgrading its downstream industries to enhance value-added production.

At the regional level, the dispute reveals the necessity of stronger ASEAN solidarity in confronting external trade challenges. A coordinated ASEAN stance could reduce asymmetries with larger trading partners and provide a stronger bargaining position in negotiations with the EU. For the WTO, the case reaffirms the urgency of reforming dispute settlement mechanisms to ensure that smaller and emerging economies receive fair enforcement against larger powers.
Policy recommendations include:

1. Enhancing Indonesia's engagement in WTO litigation to maximize legal recourse.
2. Promoting industrial upgrading and technological innovation to reduce reliance on raw and semi-finished steel exports.
3. Building regional supply chain cooperation with ASEAN partners to strengthen resilience against external protectionism.
4. Supporting global efforts to revitalize WTO credibility and multilateralism.

Ultimately, this case illustrates the persistent tension between international law and political economy in global trade governance. Indonesia's response, and the broader multilateral reaction, will play a decisive role in shaping the credibility and sustainability of the global trading system in the years to come.

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References

Bown, C. P. (2011). The WTO Dispute Settlement System: 1995–2010. The World Bank.

Busch, M. L., & Reinhardt, E. (2003). Developing countries and GATT/WTO dispute settlement. Journal of World Trade, 37(4), 719–735.

Chayes, A., & Chayes, A. H. (1995). The New Sovereignty: Compliance with International Regulatory Agreements. Harvard University Press.

Evenett, S. (2020). Economic sanctions and trade wars: Policy responses in an era of protectionism. World Economy, 43(12), 3274–3292.

Guzman, A. T. (2002). A compliance-based theory of international law. California Law Review, 90(6), 1823–1887.

Jackson, J. H. (1997). The World Trading System: Law and Policy of International Economic Relations. MIT Press.

Mavroidis, P. C. (2016). The Regulation of International Trade, Vol. 1: GATT. MIT Press.

Simmons, B. A. (2010). Treaty compliance and violation. Annual Review of Political Science, 13, 273–296.

World Steel Association. (2023). World Steel Statistics 2023