

CHAPTER IV

INDONESIAN EFFORT IN RESOLVE THE BIODIESEL DISPUTE (DS480) WITH EU

This chapter will explain information about the strategy of the Indonesian government in facing the anti-dumping policy regarding on biodiesel dispute (DS480) Indonesia-EU. The author divided the discussion through the first on how does the process of EU-Indonesia biodiesel dispute, second on how does the strategy of Indonesia in facing the dispute against EU, and third on who the important actor from Indonesia behind the disputes. The description of the content analysis will answer the problem statement in Chapter I.

A. The Problem of Trade Dispute on Biodiesel Product Indonesia-EU

Rudolph Diesel first demonstrated the idea of using vegetable oil as a substitute for diesel fuel in 1900. Research in this field continues to grow by utilizing a variety of vegetable and animal fats to obtain biofuel that can be renewable. This development reached its peak in the mid-80s with the discovery of fatty acid alkyl esters which had characteristics similar to fossil diesel oil known as biodiesel. Making biodiesel from vegetable oil is done by converting triglycerides, the main component of vegetable oil into fatty acid methyl esters, by using a catalyst in the methanolysis/esterification process (Rasul, 2016).

Biodiesel is renewable energy that currently needed in many daily activities such as in the vehicle and diesel heating sectors. Indonesia is the world's largest vegetable oil producing country. The presence of biodiesel as one of the renewable energies in Indonesia makes opening up more significant opportunities in the nation's economic sector, namely with the availability of jobs. Also, the positive impact of the presence of Indonesian biodiesel is that it can reduce

dependence on foreign-sourced petroleum and improve environmental conditions polluted by pollution.

In the language of trade, some export-import commodities will be given a code in the form of HS code, for example in commodity chemical products grouped into HS code 38. In detail, the derivatives of HS 38 (Chemical Products N.E.C) products are as follows:

Table 4. 1 HS Code 38 and Description

38	CHEMICAL PRODUCTS N.E.C.
3802	Activated carbon; activated natural mineral products; animal black, including spent animal black
3803	Tall oil, whether or not refined
3804	Residual lyes from the manufacture of wood pulp, whether or not concentrated, desugared or chemically treated, including lignin sulphonates, but excluding tall oil of heading no. 3803
3805	Gum, wood or sulphate turpentine, other terpenic oils; crude dipentene; sulphite turpentine, other crude para-cymene; pine oil containing alpha-terpineol as the main constituent
3806	Rosin and resin acids and derivatives thereof; rosin spirit and rosin oils; run gums
3807	Wood tar; wood tar oils; wood creosote; wood naphtha; vegetable pitch; brewers' pitch and similar preparations based on rosin, resin acids or on vegetable pitch
3808	Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products, plant growth regulators, disinfectants and the like, put up in forms or packings for retail sale or as preparations or articles
3809	Finishing agents, dye carriers to accelerate the dyeing, fixing of dyestuffs, other products and preparations, of a kind used in the textile, paper, leather or like industries, n.e.c. or included
3810	Metal-pickling preparations; fluxes etc for soldering, brazing; welding powders, pastes of metal and other materials; preparations used as cores or coatings for welding electrodes or rods
3811	Anti-knock preparations, oxidation and gum inhibitors, viscosity improvers, anti-corrosive preparations and the like, for mineral oils (including gasoline) or other liquids used for the same purposes
3812	Prepared rubber accelerators; compound plasticisers for rubber or plastics, n.e.c. or included; anti-oxidising preparations and other compound stabilisers for rubber or plastics
3813	Preparations and charges for fire extinguishers; charged fire-extinguishing grenades
3814	Organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers

3815	Reaction initiators, reaction accelerators and catalytic preparations n.e.c. or included
3816	Refractory cements, mortars, concretes and similar compositions; other than products of heading no. 3801
3817	Mixed alkylbenzenes and mixed alkylnaphthalenes, other than those of heading no. 2707 or 2902
3818	Chemical elements doped for use in electronics, in the form of discs, wafers or similar forms; chemical compounds doped for use in electronics
3819	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals
3820	Anti-freezing preparations and prepared de-icing fluids
3821	Prepared culture media for the development or maintenance of micro-organisms (including viruses and the like) or of plant, human or animal cells
3822	Reagents; diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading no. 3002 or 3006; certified reference material
3823	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols
3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included
3825	Residual products of the chemical or allied industries, not elsewhere specified or included; municipal waste; sewage sludge; other residual products.
3826	Biodiesel and mixtures thereof; not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals
382600	Biodiesel and mixtures thereof; not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals

Source: Foreign Trade Corporation. (2017). *Library: HS Code*. Retrieved February 2, 2019, from Foreign Trade Online Web Site: <https://www.foreign-trade.com/reference/hscodet.htm>

According to the table above, it can be seen that biodiesel commodities are grouped into HS code 3826 or more precisely 382600. Harmonized System (HS) is a list of classifications of goods that are made systematically with the aim of facilitating pricing, trade transactions, transportation and statistics improved from the previous classification system

(Comtrade, 2017). At present, the classification of goods in Indonesia is based on the Harmonized System and is poured into a tariff list called the Indonesian Customs Tariff Book. HS Code will be classified into several parts based on the category, namely by using number codes that include a description of items arranged systematically. So, with HS code it can make it easier for someone to find out the classification of items to be searched.

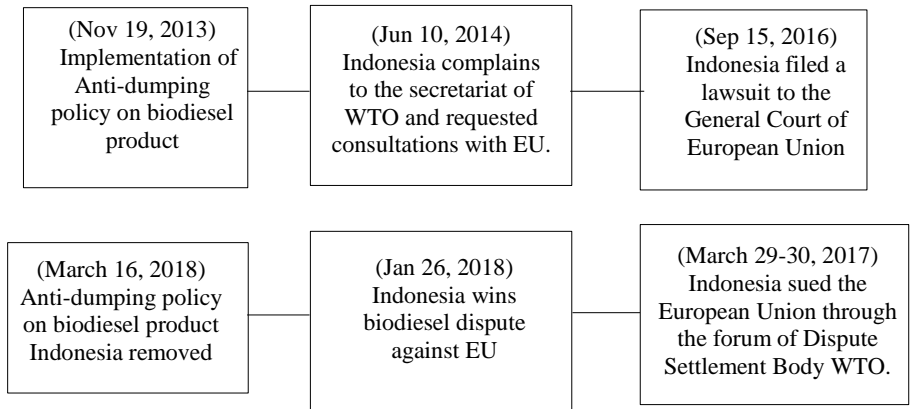
The Director of Trade Defense, Ministry of Trade Republic of Indonesia, Dra. Pradnyawati, explain that the case of biodiesel dispute DS480 was a lawsuit against the final decision of anti-dumping duties (ADDs) on Indonesian biodiesel products. Indonesia is suing the anti-dumping method used by the European Union because it contains with discrimination.

“In general, this case is a lawsuit against the decision of the final Determination Anti-Dumping Duties (ADDs) on the Indonesian biodiesel import products by European Union authorities. In its lawsuit, Indonesia sued the method used by the European Union in carrying out normal value construction by using data outside of company data due to the condition of a Particular Market Situation.” (Interview with Dra. Pradnyawati, on December 21, 2018)

The picture below will show the general description of the EU-Indonesia biodiesel dispute (DS480) process. The scheme already mentions the sequence of Indonesia's biodiesel dispute since EU starting to implemented the anti-dumping policy on biodiesel product, continued by Indonesia complains to the secretariat of WTO and asked for a consultation with EU refers to the two important aspects on an anti-dumping policy that inappropriate. Then, Indonesia filed a lawsuit to the General Court of the European Union, continued with Indonesia sued the European Union through the forum of

Dispute Settlement Body WTO. Furthermore, Indonesia won the biodiesel dispute against EU, and finally, the anti-dumping policy on biodiesel Indonesia has removed. While, for more details explanation, the author will elaborate start from the beginning of the biodiesel dispute until the final result of the dispute.

Figure 4. 1 EU-Indonesia Biodiesel Dispute (DS480) Process



Source: Analyzed by author taken from interview session.
(December 20-21, 2018)

The *first process* of this dispute began with the determination of dumping in the early of 2013 by the European Union's authority on Indonesian biodiesel products. It is a rule set by the WTO as an international trade organization. Then, the parties from the European Union informed the defendants namely Indonesia through the Indonesian Embassy in the EU; then the news was transferred by the Indonesian Embassy to the Ministry of the Trade Republic of Indonesia. The *second process* is the importing party namely the European Union, notifying it by giving a note to the World Trade Organization (WTO) if the EU will implement an anti-dumping policy in the form of anti-

dumping duties (ADDs). The anti-dumping policy is a trade policy tool that is causing damage to domestic industry material.

The *third process*, together with the imposition of anti-dumping duties (ADDs), parties from the EU also sent questionnaires to producers and exporters in Indonesia. The questionnaire contains questions about the feasibility of biodiesel owned by Indonesia, whether it is following the standards of biodiesel production in the EU that are environmentally friendly or not. In order to fill out, the questionnaire will be assisted by the representative from the Directorate of Multilateral Negotiations. Those companies from Indonesia will be guided in dealing with this problem by the Directorate of Trade Defense, Ministry of the Trade Republic of Indonesia. They then recommend the companies to use international lawyers. It is done to give an answer containing legal drafting because this case is a severe problem that is not easy to win.

Therefore, to reduce the rate of biodiesel exports from Indonesia, the EU wore 2.8% - 9.6% of anti-dumping duties on May 27, 2013. The *fourth process* continued with the imposition of anti-dumping duties on November 19, 2013, by 8.8% to 23.3 %. As an official form of the anti-dumping policy stipulation, the European Union issued Council Implementing Regulation Number 1194/2013 on November 26, 2013. Therefore, the Indonesian biodiesel export to EU decided has been significantly decreased. An official web related to world trade namely www.trademap.org noted that Indonesia's biodiesel exports to the European Union fell by 72% between 2013 and 2017, from the US \$ 415,842 million to the US \$ 116,737 million in 2017. Indonesia did not remain silent about the incident, companies from Indonesia together report to the Directorate of Trade Defense, Ministry of the Trade Republic of Indonesia. Then the Directorate of Trade Defense continues to do the investigation for the next stage.

The *fifth process* was on June 10, 2014, Indonesia complained to the secretariat of WTO and requested for

consultations with the European Union. Indonesia requested consultations with the European Union on; (1) provisions of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community, and (2) anti-dumping measures imposed in 2013 by the European Union on imports of biodiesel originating in Indonesia (WTO, 2018).

Sixth is Indonesia filed a lawsuit to the General Court of European Union, through the biodiesel companies from Indonesia namely: PT Musim Mas, PT Pelita Agung Agrindustri (Permata Hijau Group), PT Wilmar Nabati Indonesia, PT Wilmar Bioenergi Indonesia (Wilmar Group), and PT Ciliandra. The trial process then started from February 19, 2014, on the General Court of the EU, then the result in September 15, 2016, the EU court rejected the application of anti-dumping duties on imports of Indonesian biodiesel and this means Indonesia was declared won on the first round at the General Court level of the EU. While, the European are not satisfied with the decision and on November 24, 2016, appealed to the Court of Justice of the EU. In this court, Indonesia won again because the judge of the Court of Justice of the EU reaffirmed the decision of the General Court of the EU judge to reject the application of the anti-dumping duties (ADDs).

Then, in the *seventh process*, Indonesia sued the European Union through the forum of *Dispute Settlement Body* WTO. Because feeling dissatisfied with the results at the General Court of the EU, Indonesia decided to appeal with the European Union through the DSB WTO. In this process, the WTO acts as a mediator between Indonesia and the European Union. In this phase, Indonesia holds periodic meetings, namely the First Substantive Meeting and Second Substantive Meeting held at the WTO office in Geneva, Swiss. The third party also attended the meeting: United States, Japan, Turkey, Singapore, India, China, Canada, Argentina, Australia, Norway, Russia, Brazil, and Ukraine. The First Substantive Meeting was held on March 29-30, 2017. In the first meeting,

Indonesia first defended its biodiesel products. Indonesia also explained that they would be concerned with this case seriously.

On the other hand, the reason that Indonesia continues to appeal is because of the alliance country of Argentina. As is known, Argentina previously had the same problem with Indonesia regarding its DS473 biodiesel, but Argentina had already won first. By becoming the third party on DS473's before, Indonesia then uses the moment of AB DS473's decision as the basis of the lawsuit which ultimately resulted in a victory for Indonesia. Continued on May 12, 2017, Indonesia sent submissions to the European Commission and several EU embassies in Jakarta. That submission sent through the Ministry of Trade in the form of objection letters is related to the decision of the Council Implementing Regulation Number 1194/2013 (EU). Then, the Second Substantive Meeting held on July 4-5, 2017. At this stage, Indonesia brought the lawyers team according to the advice of the Directorate of Trade Defense. The aims is, of course, to facilitate the making of legal drafting and win the disputes.

The *eighth process* is after going through the process above, the WTO Dispute Settlement Body (DSB) finally reports that Indonesia has won the biodiesel dispute (DS480) against the EU on January 26, 2018. Then, *the ninth process* is on March 16, 2018, with that victory, anti-dumping duties (ADDs) on Indonesia's biodiesel eliminated. It is Indonesia's double victory over the Dispute Settlement Body WTO after previously also winning a lawsuit at the General Court of European Union.

The decision of the *World Trade Organization* (WTO) won Indonesia over the biodiesel case because the European Union violated the anti-dumping agreement of WTO. Based on the decision of the *Dispute Settlement Body* WTO, there are 6 points of violated by EU in the provisions of the anti-dumping agreement of WTO related to the biodiesel dispute (DS480) Indonesia, in which:

- a. The EU does not use data that has been submitted by Indonesian exporters in calculating production costs
- b. The EU does not use data on costs incurred in Indonesia in determining average values for the basis of calculating dumping margins
- c. The EU sets a limit on profits that are too high for the biodiesel industry in Indonesia
- d. The method of determining export prices for one of Indonesia's exporters is not in line with the provisions
- e. The EU applies taxes that are higher than the dumping margin
- f. The EU cannot prove that biodiesel imports from Indonesia have a detrimental effect on the price of biodiesel sold by the EU domestic industry.

Based on the explanation above, the Director of Trade Defense, Dra. Pradnyawati forward that as a consequence of Indonesia's victory in the biodiesel dispute with the EU, the *Dispute Settlement Body* WTO decision must be implemented in line with the provisions WTO.

“The EU is required to adjust the Anti-dumping duties (ADDs) that have been previously imposed according to the WTO Anti-Dumping Agreement regulations”.
(Interview with Dra. Pradnyawati, on December 21, 2018)

Therefore, the Indonesian government must continue to monitor and coordinate with the producers or exporters to ensure that the European Union implements the results of court decisions. Also, this victory certainly provides an excellent opportunity for Indonesia's biodiesel exports to compete again in the EU market.

Furthermore, according to the discussion above, we can take several essential points in order to overcome the conflict on biodiesel dispute (DS480), Indonesia will take the legal route, which is firstly by submitting a lawsuit to the

General Court of EU and secondly, through the *Dispute Settlement Body* WTO.

B. Indonesia's Strategy in Facing the Biodiesel Dispute

Today, the world market is increasingly open and free of obstacles. The tendency of this free market is a situation that cannot be avoided because every country that engages in international trade requires a world market that is open to its respective export goods. Therefore, things that are considered to hinder trade, both the application of trade remedies and non-tariff barriers are sought to be reduced or eliminated through bilateral, regional and multilateral agreements. Meanwhile, nowadays biodiesel from Indonesia is being faced with the modernization of trade barriers, namely trade remedies. The trade remedies are trade policy tools that allow the government to take corrective material losses to domestic industries. The trade remedies that threaten biodiesel from Indonesia are the provision of anti-dumping measures. The government states of Indonesia needs to be aware of trade remedies from the EU which is giving anti-dumping measures because this can hamper the pace of Indonesian exports to the European Union. In addition to the pace of exports that is hampered, the reverse, European Union imports from Indonesia also decreasing. It was evidenced by a decrease of 94% between 2013 and 2017, from the US \$ 401,251 in 2013 to the US \$ 26,813 in 2017.

The imposition of anti-dumping actions and other security measures must first be carried out through professional, transparent and independent investigations following the available rules. The Indonesian government together with other Indonesian biodiesel companies, associations, producers, and exporters have agreed to continue fighting for the cancellation of the anti-dumping duties. The current condition of Indonesia's export market is indeed vulnerable to trade barriers; therefore proper handling is needed to deal with the problem. In general, the following are methods of handling used by the Indonesian government

through the Ministry of Trade in securing export market access are:

- a. Negotiation
Utilizing various bilateral, regional and multilateral fora to raise issues that have the potential to hamper export market access.
- b. Scientific Evidence
Using *scientific evidence* from various sources to support the argument in a defense submission.
- c. White Campaign
Conduct positive campaigns using various media including social media.

The strategy above is a general effort by the government of Indonesia to resolve every case in trade barriers. Meanwhile, for the Indonesia-EU problem on biodiesel dispute (DS480), in facing the disputed problem, the strategies that will be carried out by Indonesia are according to the interview with Ms. Pradnyawati, Director of Trade Defense. She decided that exactly there is 3 strategy used by Indonesia in facing the anti-dumping policy on biodiesel dispute (DS480) against the EU. The strategies are *National Coordination*, *International Trade Law*, and *International Geopolitical Cooperation*.

“So, in general, there are three components of the strategy that we use, National Coordination, International Trade Law, and through international geopolitical cooperation.” (Interview with Dra. Pradnyawati, on December 21, 2018)

The strategy is the whole and the plan which includes the desired goal or outcome. Another definition of strategy is as a plan, method, or a series of maneuvers or strategies to obtain specific goals or results. Furthermore, after knowing something that is desired and has devised a strategy, the Indonesian government can apply tactics which will then help

achieve the desired results. The tactics that will be pursued by Indonesia are as follows:

First, gathering stakeholders. Stakeholders can come from individuals, groups or communities as a whole or partially who have the same relationship and interests with the case. Director of Trade Defense, Ministry of Trade Republic of Indonesia, Ms. Pradnyawati forward related to implemented of anti-dumping policy on biodiesel (DS480) Indonesia coordinated with all stakeholders. Collecting business actors such as companies, associations, related government institutions such as the Ministry of Foreign Affairs and other interested parties.

“The Indonesian government in preparing the lawsuit certainly coordinated with all stakeholders both companies, other ministries related and also with the Permanent Mission of the Republic of Indonesia in Geneva. We have built this coordination even since the beginning of this investigation initiated by the European Union. Sustainable cooperation will make it easier to develop a strong government position.” (Interview with Dra. Pradnyawati, on December 21, 2018)

Meanwhile, Ivan Riananda a trading analyst staff who holds control for the bank database in the Directorate of Trade Defense explain that a week after EU implemented the anti-dumping policy in Indonesia, a meeting with stakeholders held in the meeting room of the Directorate of Trade Defense, Ministry of the Trade Republic of Indonesia.

“So, a week after the anti-dumping policy was implemented in Indonesia, we held a meeting with all stakeholders in this room to discuss our planning going forward.” (Interview with Ivan Riananda, on December 20, 2018)

In order to face the biodiesel dispute (DS480) Indonesia-EU, the Ministry of Trade invited the stakeholders to do coordination regarding the dispute that occurs. It is very influential on achieving goals because stakeholders have high power, legitimacy and strong influence on the cases to be faced.

Second, coordination meeting. In this strategy, the scientific evidence is used by the government of Indonesia through the Directorate of Trade Defense to help various sources for supporting the argument in defense submission. Ms. Pradnyawati also explains that the Directorate of Trade Defense conducted a long time for national coordination meeting which in the timeframe for 18 months. That time used by the government to investigate and study deep related to the biodiesel dispute specific cases. It is following the rules of the WTO. Indonesia needs to do this in order to develop a robust strategy by not only adopting the International Trade Lawyers in resolving the cases.

“Technically, a team from Indonesia, especially the Ministry of Trade, conducted an in-depth analysis of the European Union’s Anti-Dumping inquiry document using WTO regulations, best practice. This is necessary so that the Indonesian government can form a strong initial position, and not only adopt International Trade Lawyers.” (Interview with Dra. Pradnyawati, on December 21, 2018)

The time of 18 months means for the time required to resolve the dispute. In this case, Indonesia coordinated with the European Union ambassador in Indonesia. Indonesia is seriously dealing with the case. Through the Ministry of Trade, they conducted an in-depth analysis refers to the EU’s Anti-Dumping document using the WTO regulations.

Third, sending submissions. The submission is an agreement letter made by Indonesia related to the issue of anti-dumping duties (ADDs) in the biodiesel dispute (DS480). Submissions made depend on the size of the case discussed.

The letter that will be sent is based on the level of authority. For this problem, the government sent a letter of approval through the Ministry of Trade of the Republic of Indonesia to the EU Minister of Trade to the EU Minister of Trade. Ivan Riananda a trading analyst staff of Directorate of Trade Defense add:

“We will also send submissions to EU parties, we object because the anti-dumping duties (ADDs) they provide are very unnatural.” (Interview with Ivan Riananda, on December 20, 2018)

Indonesia sent a objection letter to the European Union to follow up on the case of dumping objection on the export of Indonesian biodiesel products. The government gave a letter of approval to the European Union over the European Union’s decision to set an anti-dumping duty (ADD) of 8.8% - 23.3% on biodiesel from Indonesia. Therefore, through the Ministry of Trade of the Republic of Indonesia, passed the Directorate of Trade Defense, the approval letter was submitted to the embassy in Jakarta assuming that the dumping objection alleged by the European Union indeed approved. Lower biodiesel prices from Indonesia are compared to biodiesel purchased from the European Union and cheaper than raw materials in Indonesia. While Indonesian biodiesel companies that export and identify ADD add between PT Musim Mas, PT Pelita Agung Agrindustri (Permata Hijau Group), PT Wilmar Nabati Indonesia, PT Wilmar Bioenergi Indonesia (Wilmar Group) and PT Ciliandra. The government is represented by the Directorate of Trade in Security with associations and companies subject to sanctions that will continue to carry out anti-dumping tasks (ADDs) can be abolished.

Fourth, hearing. Informant Ivan Riananda said that through the hearing section, the European Parliament opened a dialogue to the disputing parties which is from Indonesian biodiesel companies and EU biodiesel companies to express their opinions regarding the problem at that time. During the

hearing activity, the European Parliament acts as a mediator in the hearing.

“We attended a hearing in Brussels with the country and company related to the dispute.” (Interview with Ivan Riananda, on December 20, 2018)

The hearing is a process carried out to listen to all forms of protest from complainant countries. Related to the dispute of biodiesel (DS480), a hearing held in Brussels, the de facto capital of the European Union in addition to the Luxembourg city and Strasbourg. The hearing was conducted at the European Parliament office together with the meeting of Indonesia-EU Comprehensive Economic Partnership Agreement (I-EU CEPA) negotiations. The hearing attended by European Union-imposed anti-dumping duties (ADDs), such as Indonesia and Argentina. Not only that, but the Indonesian Embassy in Brussels also organized an alliance with the embassies of oil producing countries such as Brazil, Ecuador, Guatemala, Honduras, Colombia, and Malaysia. In this activity, countries gathered to explain the problems they faced in the case of biodiesel in each country. On that occasion, the EU trade attaché will serve representatives of these countries. The Indonesian side will be represented by the Ministry of the Trade Republic of Indonesia, the Directorate of Trade Defense to speak. Therefore, as a form of protest to the European Parliament, the heads of representatives of palm oil producing countries form a joint letter whose purpose is to defend their rights to oil palm discrimination. Then, if all of the negotiations failed and the EU does not hear well, then the case will be brought by the Indonesian government to the dispute settlement body of the WTO. This method is considered the most accurate; it is because of the principle of the WTO to eliminate the problem of international trade barriers.

Fifth, conduct the bilateral meeting. One of the tactics that will be undertaken on that occasion is to hold meetings in

Geneva for two times, namely first substantive meetings and second substantive meetings. It confirmed by an explanation from Ms. Pradnyawati, as well as Director of Trade Defense.

“We have met in Geneva twice for disputes. On that occasion, a third party attended one of which was Argentina. Previously in the case of Argentina biodiesel we also took part as a third party who helped the case.” (Interview with Dra. Pradnyawati, on December 21, 2018)

This case is adjacent to the Argentine DS473 case because the object of the case and the lawsuit are the same. However, Argentina first sued and at that time the Argentina process had reached the Appellate Body stage. In the meeting negotiation efforts need to be carried out by the government with the second party, the EU. The negotiation strategy was carried out to suppress the domino effect that might arise due to the development of negative stigma towards Indonesian biodiesel. Without strong political will from the government, negotiation efforts will not be possible, and Indonesia's biodiesel industry will get worse. During this time the forest fires that occurred in Sumatra and Kalimantan were allegedly carried out to open land. It is one of the issues raised by the European Union to spread the negative stigma about Indonesian palm oil, namely oil palm damages the environment and causes deforestation. Therefore, the government needs to make various efforts to break the negative stigma. In the case of biodiesel dispute DS480, a bilateral meeting held at the WTO headquarters located in Geneva, Swiss. In the meeting, Indonesia submitted a biodiesel case to the WTO Dispute Settlement Body. Bilateral meeting activities are held regularly, for two periods. Consisting of First Substantive Meeting held on March 29-30, 2017 and Second Substantive Meeting on July 4-5, 2017. At this stage, Indonesia also conducted a pressure method by looking for alliances from third parties. The third parties who

attended the bilateral meeting in Geneva were the United States, Japan, Turkey, Singapore, India, China, Canada, Argentina, Australia, Norway, Russia, Brazil, and Ukraine. On the occasion of the bilateral meeting, Indonesia finally found an alliance namely Argentina. Countries that also have similar problems with Indonesia related to biodiesel exports to the European Union.

Sixth, a pressure method. Using threats to the EU. There are two forms of threats provided by the Indonesian government to the EU on the imposition of anti-dumping duties (ADDs): first Indonesia will increase the price of biodiesel imported by the EU and second is Indonesia ask the EU to reduce profits. Meanwhile, one of the data analyst staff at the Directorate of Trade Defense also notes that:

“Indonesia poses a threat to the European Union through a pressure method, immediately removes the anti-dumping duties or you reduce profits. The aim actually is to scare the EU away.” (Interview with Ivan Riananda, on December 20, 2018)

Based on the statement above, it can be seen that the pressure method is the way of the group that tries to influence public policy in the interest of a particular cause. Pressure is carried out by pressing the EU government and producers on the imposition of anti-dumping duties (ADDs) in Indonesia.

In this case, the position of a pressure method seeks to influence people who hold power. Pressure methods are a group that represents specific interests or issues to achieve goals by putting pressure on the government. In this case, pressure methods influence a policy that will be made by decision-makers, by putting pressure on the government both directly and indirectly (Grant, 1989). In this matter, which is the case on biodiesel dispute DS480 against EU, Indonesia moves as a pressure method that tries to influence the EU by threats them.

Seven, visit big brother country, the other tactics that will be used by the Indonesian government. Informant Ivan explained that Indonesia also visited a big brother country with the aim of adding support. The country visited by Indonesia is Britain, which is known to have recently escaped from the EU.

“We also visit big brother country, one of which is Britain. The goal is that Britain can help us against the EU. Because we know that the relationship between the UK and EU itself is tenuous so we just enter as intruders.” (Interview with Ivan Riananda, on December 20, 2018)

Big brother is a term for a country that has powerful power or great power. Each country has its big brothers. Indonesia is one of the countries in ASEAN which is considered “big brother” by island countries whose voices are often not heard in international forums. It can be seen after Indonesia, and the United Nations Development Program (UNDP) initiated Archipelagic and Island (AIS) Forum as a forum for collaboration to deal with marine issues in island countries. Related to the problem of anti-dumping duties (ADDs) on biodiesel dispute (DS480), Indonesia decided to visit England. Bilateral relations between Indonesia and the United Kingdom have been around for a long time since 1949.

Furthermore, in 2019 the age of friendship between Indonesia and Britain has entered its 70th year. Within the framework of regional friendship, the bilateral relations between Indonesia and the UK based on strategic partnerships established through the Joint Statement on Closer Cooperation between the Republic of Indonesia and the United Kingdom which launched on April 11, 2012. This strategic partnership focuses on five areas of cooperation that become the priorities of both countries are the trade, investment, education, environment, democracy, and interfaith dialogue, and three additional fields, namely defense, creative industry, and energy. Moreover, since the year of 1960, Indonesia and the

United Kingdom have signed around 68 bilateral cooperation agreements in various fields, one of which is in the trade sector. In London, September 13, 2017, Indonesian Ambassador to the Kingdom of Kingdom and Ireland, Dr. Rizal Sukma and Britain's Asia and Pacific Minister, the Hon. Both representatives have discussed efforts to strengthen priority cooperation after the UK's exit from the European Union (Brexit), mainly in the fields of trade, investment and financial sector (Indonesian Embassy of UK, 2017). As a large country in the region, Indonesia is seen by the UK as an important and strategic partner for the development of relations with countries outside the European Union. On this occasion, the two parties exchanged views on the development of regional and global issues of mutual concern. Then, on this occasion, Indonesia also requested UK support to help them face the problem of anti-dumping duties (ADDs) on biodiesel dispute.

Eight, on the spot verification. Both of interviewee Ms. Pradnyawati dan Mr. Ivan Riananda explain that this phase must be done to find out the truth in the field.

“On the spot verification is required to be done, if the party suing is unable to attend, the defendant will look for another time.” (Interview with Dra. Pradnyawati, on December 21, 2018)

“On the spot verification is the right step to prove its reliability. So this stage must be mandatory to go through.” (Interview with Ivan Riananda, on December 20, 2018)

At this stage, the EU accompanied by the Directorate of Trade Defense, the Republic of Indonesia in conducting an on-spot inspection of Indonesian oil palm plantations. At the time of inspection, the EU was able to see the reality in what location. After that, the EU returned to their country and decided to close their eyes that the biodiesel case was not

following their allegations. The EU will look for loopholes to collect Indonesia's mistakes by leveraging the issue of biodiesel production from Indonesia which causes deforestation, slaughtering orangutans, increasing child labor, damaging protected forests and many more. If the EU continues to hold on their opinion and does not want to admit that Indonesia's biodiesel is a safe product, Indonesia will go to the next stage, which is to conduct a regional meeting stage by gathering all ASEAN member countries to request support.

Ninth, regional meeting. It is the last method that will be taken by Indonesia if on the spot verification is unsuccessful. Forward by Ivan Riananda as follows:

“If on the spot verification still fails, the government will take another path by cooperating with the ASEAN region to seek support.” (Interview with Ivan Riananda, on December 20, 2018)

Indonesia through the regional meeting invited all ASEAN member countries to attend the meeting. The regional meeting held in conjunction with the ASEAN-EU meeting. During the meeting, Indonesia again fought for the issue of palm oil and rejected discriminatory policies on oil palm in Europe. The Indonesian delegation presented facts about the contribution of oil palm to the economy and its contribution to the achievement of sustainable development goals (SDGs). Palm oil is a strategic commodity for Indonesia, especially for small farmers. About 20 million ASEAN people depend on their lives for the palm oil industry, and more than 5 million small farmers in Indonesia, Thailand and the Philippines rely on oil palm. Besides, oil palm has a key role in realizing sustainable development goals (SDGs). Palm oil has contributed to the achievement of goals covered in the SDGs from poverty alleviation to poverty reduction, from eliminating hunger to achieving clean and affordable energy. The ASEAN-EU partnership is crucial in addressing the current global situation. The rise of “inward-looking” policies

based on short-term domestic interests requires ASEAN-EU to strengthen cooperation for the common interest. The partnership between ASEAN-EU must be based on mutual trust and mutual respect for the values and interests of each. It can be seen from policies that advance the common interests of ASEAN and the European Union, namely to stop discriminatory policies on oil palm which are in the interests of the ASEAN community, especially Indonesia. The palm oil problem currently being faced by Indonesia is the biodiesel dispute (DS480) over the European Union. Through these negotiations, Indonesia sought to seek support from countries in ASEAN. One of them is by cooperating with the Malaysian state which is experiencing the same problem related to biodiesel exports. Also, the spirit of ASEAN strengthens them to continue to get support in the face of disputes. It was done by Indonesia to seek support for biodiesel dispute DS480 against the EU.

Based on the explanation above, the author emphasizes that tactics are only the means used to carry out strategies. The above tactics categorized into a) first, *National Coordination* including gathers the stakeholders, coordination meeting, sending submissions and pressure methods, b) second, *International Trade Law* through hearing and on the spot verification and c) last, *International Geopolitical Cooperation* including visit big brothers country, held the bilateral & regional meeting.

According to the explanation above, the implementation **concept of alliance** can be seen from the existence of the alliance group in order to get support. By inviting Argentina and other country alliance and also the WTO. In addition, this concept is also sustainable with the concept of third-party interventions.

The implementation of **concept of third-party interventions** proven by Indonesia's strategy in looking for assistance from the alliance countries and also conducting consultations with the WTO as a third party because they can not balancing EU. From the several tactics that already

mentioned above, the tactics that more related to this concept is the *bilateral meeting*. It can be seen during the bilateral meeting Indonesia found Argentina as an alliance country. Argentina is the third party for Indonesia in this case, namely as an *activist*. It is because Argentina works closely with one of the parties conflicts, that is Indonesia as the weak parties. Previously was known Indonesia also as the third party in the biodiesel dispute for Argentina. This DS480 dispute case from Indonesia is side by side with the DS473 case from Argentina because the object of the case and the lawsuit are the same. The difference is Argentina has already sued, and at that time the Argentina process has reached the Appellate Body stage. Then, the Indonesian government in the process of implementing the case coordinated with the Permanent Mission Republic of Indonesia in Geneva. In here, the WTO acts as a *mediator* in determining the dispute. As a *mediator*, WTO has an effort as a third party in order to help Indonesia in resolving the biodiesel dispute (DS480) against the EU. The effort was carried out by mediating between the two parties to the dispute, by considering all regulations according to the rules of the WTO.

Then, **bargaining techniques in negotiations** is evident from the *pressure method* activities carried out by Indonesia to the European Union. Namely by giving two threats; first, the EU must eliminate the imposition of anti-dumping duties (ADDs) and second, the EU must reduce profits on biodiesel products in their country.

On the other hand, Indonesia has a good in competing (Rubin, Pruitt, & Kim, 1994). Relate to the dispute, the previous discussion emphasizes that Indonesia has an assert bargaining position about its biodiesel export to the EU. Therefore, Indonesia is recognized by the WTO and other alliance countries to strengthen Indonesia's position.

Refers to the hypothesis, Indonesia cooperates with the alliance country, namely Argentina. In here, the result is Indonesia relay on Argentina as their alliance country. Indonesia decided to choose Argentina to cooperates because

both countries have the same problem toward biodiesel dispute. Previously, Argentina had the problem on the biodiesel dispute (DS473) with the EU, but Argentina had already won it first. At the time, Indonesia also becomes the third party for Argentina with the other country such as Australia; China; Malaysia; Norway; Russian Federation; Saudi Arabia, Kingdom of; Turkey; United States; Colombia and Mexico. By becoming the third party on its biodiesel DS473, Indonesia uses the moment of DS473 decision as well as possible which is as a basis of a lawsuit which ultimately resulted in a victory for Indonesia. Namely on the biodiesel dispute DS480 between Indonesia and the European Union.

Moreover, Indonesia uses threat techniques by doing pressure method to the European Union. The result of this point is Indonesia doing pressure on the EU biodiesel companies, by giving a threat. That threat is divided into two types: first is Indonesia ask EU to eliminate the imposition of anti-dumping duties or Indonesia will increase the price of biodiesel import; then, second is Indonesia ask EU to reduce their profits on biodiesel products. That choice then becomes a dilemma for the EU because the EU should consider it well.

At last, Indonesia conducts consultations with the WTO regarding inappropriate implemented of anti-dumping duties (ADDs) by the EU. This problem emphasizes that EU inappropriate with the anti-dumping agreement of WTO, best practice. Because of that, Indonesia decided to conduct consultation with WTO to face this problem. On June 10, 2014, Indonesia complained to the secretariat of WTO and requested for consultations. Furthermore, the final decision is Indonesia succeed to won the dispute on January 26, 2018. Based on the decision of the Dispute Settlement Body WTO, Indonesia claims that there are 6 points of violated by EU in the provisions of the anti-dumping agreement of WTO related to the biodiesel dispute (DS480) Indonesia, one of the most critical violation is the method used by the European Union in order to determine the anti-dumping duties. In its lawsuit, Indonesia sued the method used by the European Union in

carrying out normal value construction by using data outside of company data due to the condition of a particular market situation.

According to the explanation above, it can be seen that on biodiesel dispute (DS480), the Indonesian delegation is governed by the Directorate of Trade Defense, which is one part of the Directorate General of Foreign Trade, Ministry of Trade Republic of Indonesia. In the phase of biodiesel dispute resolution (DS480), the Directorate of Trade Defense acts as the “head of leader” who handles the case. The Directorate of Trade Defense has the highest position in resolving the biodiesel dispute, as well as the actor in full responsibility. So as long as the case process takes place, the Directorate of Trade Defense becomes the first party. In the other side, the Directorate of Multilateral Negotiations under the Directorate General of International Trade Negotiations division, in the phase of biodiesel dispute resolution (DS480), acts as a liaison between the Directorate of Trade Defense and the European Commission. Directorate of Multilateral Negotiations has to register the case, contact the European Union, prepare the panel, prepare participants and determine the meeting time. So in resolving the biodiesel dispute (DS480), the Directorate of Trade Defense has a vital role in handling the case. Meanwhile, the Directorate of Multilateral Negotiations acts as a liaison between the Directorate of Trade Defense and the European Commission, and the World Trade Organization (WTO) acts as the third party or its mediator. Moreover, when the case held at the WTO headquarters in Geneva, Swiss, the Directorate of Multilateral Negotiations was tasked with guarding all activities that would be carried out by the Directorate of Trade Defense.