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Page: 1/6

Committee on Safeguards

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**NOTIFICATION UNDER ARTICLE 12.1(B) OF THE AGREEMENT ON
SAFEGUARDS ON FINDING A SERIOUS INJURY OR THREAT
THEREOF CAUSED BY INCREASED IMPORTS**

NOTIFICATION OF A PROPOSAL TO IMPOSE A MEASURE

INDONESIA

(Evaporators)

The following communication, dated 17 October 2019, is being circulated at the request of the delegation of Indonesia.

Pursuant to Article 12.1(b) of the WTO Agreement on Safeguards, the Government of the Republic of Indonesia, hereinafter referred as "GOI", hereby notifies to the Committee on Safeguards on its findings of serious injury or threat thereof caused by the increased imports.

A. GENERAL BACKGROUND

1. Initiation of Investigation

On 15 May 2019, KPPI (*Komite Pengamanan Perdagangan Indonesia/Indonesian Safeguards Committee*) hereinafter referred as the "Investigating Authority", received an application from PT. Fujisei Metal Indonesia (PT. FMI) hereinafter referred as the Applicant, requested for the imposition of a safeguard measure on the importations of Evaporators under HS. code 8418.99.10.

Based on the examination of the above-mentioned application, the investigating authority initiated a safeguard investigation on 12 June 2019. The initiation of the investigation was published in the national daily newspaper ("*Bisnis Indonesia*"), and Ministry of Trade website. The said initiation was also notified in the WTO document G/SG/N/6/IDN/30, circulated on 14 June 2019.

2. Period of Investigation

The period of investigation covers 2015 to 2018.

3. Major Proportion

The total production of the Applicant is 94.22% from total domestic production of the Subject Goods, therefore it represents a major proportion as required by Article 4.1(c) of the WTO Agreement on Safeguards.

4. Views and Comments of the Interested Parties

In accordance with Article 3.1 of the WTO Agreement on Safeguards, during the process of investigation, the Investigating Authority has provided opportunities to all interested parties, to submit their views, evidences, comments, and responses concerning the investigation. In light of the aforementioned, the Investigating Authority has held public hearing on 3 July 2019.

B. INFORMATION ON WHETHER THERE IS AN ABSOLUTE INCREASE IN IMPORTS OR AN INCREASE IN IMPORTS RELATIVE TO DOMESTIC PRODUCTION

In the light to provide evidence whether there is an absolute increase in imports or an increase in imports relative to domestic production, the Investigating Authority has analyzed import data of the Subject Goods during the period of investigation.

1. Absolute increase in imports

Table 1. Volume of Imports

| Description | Unit | Year | | | |
|--------------------------------------|------|-------|-------|-------|---------|
| | | 2015 | 2016 | 2017 | 2018 |
| Volume of Imports HS. Ex. 8418.99.10 | Ton | 2,911 | 3,407 | 4,594 | 3,465 |
| Growth | % | | 17.04 | 34.84 | (24.58) |
| Trend (2015-2017) | % | 8.56 | | | |

Source: Statistics Indonesia/Badan Pusat Statistik (BPS).

It can be seen from the Table 1, import volume of the Subject Goods increased in absolute terms with a trend of 8.56%, during the period of investigation. The volume of imports was increasing from 2015 to 2017, with the biggest increased in 2017 with a growth of 34.84%. Although the volume of imports dropped slightly to 3,465 tons in 2018, but the amount is greater than volume of imports in 2015 and 2016.

2. Relative increase in imports to Total Domestic Production

Table 2. Volume of Imports, Total Domestic Production, and Relative to Total Domestic Production

| Description | Unit | Year | | | |
|---|-------|-------|-------|-------|-------|
| | | 2015 | 2016 | 2017 | 2018 |
| Volume of Imports HS. Ex. 8418.99.10 | Ton | 2,911 | 3,407 | 4,594 | 3,465 |
| Total Domestic Production | Index | 100 | 105 | 108 | 95 |
| Imports Relative to Total Domestic Production | Index | 100 | 111 | 146 | 126 |
| Trend (2015-2018) | % | 10.04 | | | |

Source: Statistics Indonesia and as verified by Investigating Authority.

Based on the Table 2, imports relative to domestic production have also increased significantly with a trend of 10.04%. It increased sharply from 100 index point in 2015 to 111 and 146 index point in 2016 and 2017 respectively. Although the imports relative was dropped slightly to 126 index point in 2018 compared to previous year, but the amount is more than the imports relative in 2015 and 2016.

3. Imports from Main Countries

Table 3. Imports Shares

| Country | Unit | Year | | | |
|----------------------------------|------|-------|-------|-------|-------|
| | | 2015 | 2016 | 2017 | 2018 |
| People's Republic of China (PRC) | % | 89.86 | 90.20 | 90.66 | 94.69 |
| Thailand | % | 6.35 | 6.61 | 5.49 | 3.34 |
| Others | % | 3.79 | 3.19 | 3.85 | 1.97 |
| Total | % | 100 | 100 | 100 | 100 |

Source: Statistics Indonesia/Badan Pusat Statistik (BPS).

From the table 3, the biggest shares of import from 2015 to 2018 in the domestic market was PRC, which its shares of import in 2018 accounted for 94.69%. Other country that has share of imports above 3% during the period of investigation is Thailand, which its shares of import in 2018 was 3.34%.

C. EVIDENCE OF SERIOUS INJURY OR THREAT THEREOF CAUSED BY INCREASED IMPORTS

In a view to determine the existence of serious injury or threat of serious injury that is caused by increased imports, the Investigating Authority has analyzed and made an evaluation of all relevant factors in objective and quantifiable natures. The following analyses are based on data provided by the Applicant, which has been verified by the Investigating Authority.

1. Evidence of serious injury or threat of serious injury

Table 4. National Consumption, Volume of Imports, and Market Shares

| No. | Description | Unit | Year | | | | Trend 2015-2018 (%) |
|-----|--------------------------------|-------|-------|-------|-------|-------|---------------------|
| | | | 2015 | 2016 | 2017 | 2018 | |
| 1. | National Consumption | Index | 100 | 114 | 142 | 113 | 5.99 |
| 2. | Volume of Imports | Ton | 2,911 | 3,407 | 4,594 | 3,465 | 8.56 |
| 3. | Applicant's Domestic Sales | Index | 26.86 | 28.17 | 26.13 | 25.78 | (1.96) |
| 4. | Non-Applicant's Domestic Sales | Index | 0.13 | 0.23 | 0.25 | 0.20 | 16.36 |
| 5. | Imports' market share | Index | 100 | 103 | 111 | 105 | 2.42 |
| 6. | Applicant's market share | Index | 37 | 34 | 25 | 31 | (7.45) |
| 7. | Non-Applicant's market share | Index | 0.18 | 0.27 | 0.25 | 0.25 | 9.10 |

Source: Statistics Indonesia and as verified by the Investigating Authority.

- a. It can be seen from Table 4 that national consumption of the subject goods increased during the investigation period with a trend of 5.99%. However, the increased of national consumption in that period could not be utilized by the Domestic Industries.
- b. The Applicant's domestic sales declined in a trend of 1.96% during the investigation period due to the pressure of imports.

Table 5. The Applicant's Indicators of Injury

| No | Description | Unit | Year | | | | Trend 2015-2018 (%) |
|----|----------------|-------|------|------|------|-------|---------------------|
| | | | 2015 | 2016 | 2017 | 2018 | |
| 1. | Production | Index | 100 | 105 | 108 | 93 | (1.78) |
| 2. | Domestic Sales | Index | 100 | 105 | 97 | 96 | (1.96) |
| 3. | Productivity | Index | 100 | 115 | 119 | 104 | 1.55 |
| 4. | Installed | Index | 100 | 100 | 100 | 100 | - |
| 5. | Utilization | Index | 100 | 105 | 108 | 93 | (1.78) |
| 6. | Profit/Losses | Index | 100 | (40) | (92) | (100) | (91.13) |
| 7. | Employment | Index | 100 | 91 | 90 | 90 | (3.25) |

Source: As verified by the Investigating Authority.

As shown in Table 5, the performance of the applicant can be seen as follows:

- a. The Applicant's domestic sales decreased with a trend of 1.96% because of the increased of imports in the domestic market. The decrease in sales will affect its production in a negative direction. This was what happened during the investigation period, wherein Applicant's domestic sales and production had the same pattern of trend (negative trend).
- b. The decreased of Applicant's production in 2017-2018 impacted its productivity in the same period, the applicant production decreasing by 14%. In addition to that, the decreased of its production led to inefficient employment, which forced the Applicant to cutdown number of its employees.
- c. Although the Applicant's capacity utilization increased in period of 2015-2017, the capacity utilization in period of 2017-2018 were decreased into lower point than in 2015, which made negative trend of Applicant's capacity utilization during period of investigation.

- d. During investigation period, The Applicant suffered a losses with a trend of 91.13%. Besides, the increased of imports had forced the Applicant to sell its product under cost of production.

2. Other Factors That May Contribute to Injury

In order to ensure that the serious injury or threat of serious injury is only caused by increased imports, the Investigating Authority has examined the following other known factors:

- a. Captive sales

Table 6. The Applicant Sales

| No | Description | Unit | Year | | | |
|----|----------------|-------|-------|--------|-------|-------|
| | | | 2015 | 2016 | 2017 | 2018 |
| 1. | Domestic Sales | Index | 96.92 | 101.63 | 94.30 | 93.03 |
| 2. | Captive Sales | Index | 3.08 | 2.62 | 6.70 | 1.81 |
| 3. | Total Sales | Index | 100 | 104.25 | 101 | 94.84 |

Source: As verified by the Investigating Authority.

It can be seen from Table 6 that the Applicant's captive sales were only 1.81% if compared with total sales in 2018. It can be concluded that the Applicant's captive sales performance were not effecting their injury.

- b. Technology

Based on the result of investigation, the applicant has the latest technology in producing evaporators that are similar to the product being investigated. This is supported by the fact that the machine is able to provide roll bond and fin type that are used for various refrigerators and freezers with the latest technology.

- c. Installed Capacity and National Consumption

Table 7. Installed Capacity and National Consumption

| No | Uraian | Satuan | Tahun | | | |
|----|----------------------|--------|-------|------|------|------|
| | | | 2015 | 2016 | 2017 | 2018 |
| 1. | Installed Capacity | Index | 175 | 175 | 175 | 175 |
| 2. | National Consumption | Index | 100 | 114 | 142 | 113 |

Source: As verified by the Investigating Authority.

As shown in table 7, the installed capacity of the Applicant is adequate to meet national consumption. Therefore, it can be concluded that the injury which suffered by the applicant is not caused by the inability of the Applicant to fulfill the national consumption, but due to the increased of the imports effecting the applicant's financial performance.

- d. Competition Between Domestic Industries

Table 8. Shares of Applicant's Export Performance from Total Sales

| No. | Description | Unit | Year | | | | Trend 2015-2018 (%) |
|-----|------------------------------|-------|------|------|------|------|---------------------|
| | | | 2015 | 2016 | 2017 | 2018 | |
| 1. | Imports market share | index | 100 | 103 | 111 | 105 | 2.42 |
| 2. | Applicant's market share | index | 37 | 34 | 25 | 31 | (7.45) |
| 3. | Non-Applicant's market share | index | 0.18 | 0.27 | 0.25 | 0.25 | 9.10 |

Source: As verified by the Investigating Authority.

It can be seen from the table above that during period of investigation even the Non applicant's market share increased, the applicant's market share still larger if compared with Non applicant's market shared. This circumstance indicated that there was no competition between domestic

industries (either the Applicant or Non-Applicant), which were causing injury during investigation period.

Based on the facts above, it can be concluded that during the period of investigation there were no other factors that caused serious injury to the Applicant besides increased volume of imports of the Subject Goods.

3. Causal Link

The Investigating Authority has examined all relevant factors having a bearing in the Applicant situation, and came into a conclusion that threat of serious injury suffered by the Applicant mainly caused by significant increased volume of imports and not due to the other factors, as follows:

- a) There was an increased of imports of the Subject Goods in absolute and relative terms, during investigation period as shown in Table 1.
- b) During investigation period, the national consumption increased with a trend of 5.9%. However this situation could not be utilized by the Applicant as imports had surged the domestic market.
- c) The share of imports increased by 2.42% in the domestic market throughout the period of investigation. On the other hand, the Applicant's market shares decreased with a trend of 7.45%, during the same period.
- d) During investigation period, there were negative trends in the Applicant's performances, such as domestic sales, production, productivity, capacity utilization, and employment. Moreover, the Applicant's financial losses showed an increasing trend, with a trend of 91.13%, which showed overall impairment in the Applicant's performance or serious injury suffered by the Applicant.
- e) Based on analysis on C.2, it can be concluded that there were no factors other than increased imports, which were causing the decrease on the Applicant's performances.

Based on the conditions above, the Investigating Authority has examined all relevant factors in accordance with the Agreement on Safeguards, Article 4.1 and 4.2, and it can be concluded that the increased imports have caused a threat of serious injury on the Applicant or domestic industries. No factors other than increased imports, which has caused injury to the domestic industries.

D. UNFORESEEN DEVELOPMENT

In 2017 the Prime Minister of Vietnam at the proposal of the Vietnamese Minister of Trade Industry issued a domestic regulation in Vietnam which obliged the use of certification and labeling of imported household goods including refrigerators and their components in the context of energy efficiency. The policy caused the export of refrigerator components including evaporators, especially from China to Vietnam to experience a drastic decrease, so that they were diverted to other countries including Indonesia. These conditions caused a surge in the number of imports of evaporator in Indonesia and this was not to be expected.

E. DESCRIPTION OF THE PROPOSED SUBJECT GOODS

The description of the Subject Goods under Article 12.1(a) (WTO document G/SG/N/6/IDN/30), had been modified and narrowed down based on the result of the investigation. The product that is proposed to be imposed by safeguard measure, becomes as follows:

"Evaporator in a type of roll-bond and fin that part of refrigerators, freezers, and other refrigerating or freezing equipment under Indonesia HS code Ex. 8418.99.10".

F. DESCRIPTION OF THE PROPOSED MEASURE

1. In a view of the aforementioned findings, a safeguard measure has been proposed in form of *ad valorem* tariff duty:

Table 9. The Proposed on Safeguard Measure

| Year | Measure (%) |
|--------|-------------|
| Year 1 | 17 |
| Year 2 | 15.5 |
| Year 3 | 14 |

2. In a view of the aforementioned conclusion of the causal link, the Investigating Authority has proposed to the Government of the Republic of Indonesia to impose a safeguard measure on the importation of the Subject Goods for a period of three years.
3. The non-confidential version of the Final Report of this investigation, can be found in the website of the Indonesian Safeguard Committee: www.kppi.kemendag.go.id/.

G. CONSULTATION

Members who have a substantial interest of the Subject Goods, shall submit a written request of consultation within a period of 7 days from the date of circulation of this notification. All written requests must be sent both in written letter and in electronic format, and must indicate the name, address, e-mail address, phone and fax number of the Members.

In Accordance with Article 12.3 WTO Agreement on Safeguard, the Government of the Republic of Indonesia will conduct consultation in order to provide opportunities for those Members, consultation is scheduled to be held no later than 1 November 2019.

The contact information for correspondence is:

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