

The Effects of Indonesia's Membership in BRICS on Free Trade Policies and Legal Safeguards for Domestic Enterprises

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Abstract

Indonesia's potential membership to BRICS, a coalition of prominent rising economies, presents substantial ramifications for international trade legislation and domestic regulatory structures. The research adopts a normative legal approach, employing statutory, conceptual, and comparative methodologies to examine primary legal sources, including international trade agreements, Indonesian trade regulations, and BRICS policies, alongside secondary sources such as academic articles and case studies. The principal findings indicate that Indonesia's participation in BRICS may augment its trade prospects by providing access to expansive markets and cooperative economic endeavours. Nonetheless, it presents obstacles, especially in harmonizing domestic trade regulations with BRICS' unified objectives and guaranteeing sufficient legal safeguards for local enterprises against heightened competition. The study concludes that Indonesia must strategically amend its trade legislation to reconcile international obligations with national interests, advocating for the creation of strong legal protections, enhancement of domestic enterprise capabilities, and proactive involvement in formulating BRICS trade policies to optimize advantages while minimizing risks. This paper enhances the discussion on the convergence of international trade law and domestic legal systems within the framework of growing economic alliances.

I. Introduction

Economic globalization has encouraged countries to form strategic alliances to strengthen their positions in international trade. BRICS, comprising Brazil, Russia, India, China, and South Africa, is an increasingly significant alliance. This group constitutes approximately 42%

of the global population and accounts for 24% of the worldwide GDP¹. Indonesia, a prominent Southeast Asian economy, is interested in joining BRICS. This raises important questions about the impact of membership on free trade regulations and legal protection for national entrepreneurs. Membership in BRICS presents substantial potential, including expanded market access and heightened foreign investment; nevertheless, it also introduces disadvantages, notably in competitiveness and reliance on imports.

Indonesia, a prominent Southeast Asian economy, has expressed interest in joining BRICS, an economic coalition comprising Brazil, Russia, India, China, and South Africa. As per World Bank figures (2023), BRICS jointly accounts for over 42% of the worldwide population and 24% of the world's GDP, establishing it as a formidable economic entity internationally¹. Joining BRICS can grant Indonesia access to an expanded market, particularly in rapidly growing member nations like China and India. Furthermore, membership in BRICS may increase international investment, as this coalition is recognized as a burgeoning hub of economic expansion beyond conventional wealthy nations. Indonesia's aspiration to join BRICS prompts significant inquiries on the implications of membership on free trade policies and the legal safeguarding of domestic enterprises.

Membership in BRICS presents significant prospects for Indonesia, particularly in market expansion for exports and the enhancement of foreign investment. China and India have emerged as Indonesia's two principal commercial partners in recent years, with total bilateral trade valued at US\$ 60 billion in 2022. Joining BRICS can enhance economic links via a more organized cooperation framework, including preferential trade agreements and improved market access. Conversely, extensive trade liberalization may enhance competition for indigenous entrepreneurs. The Indonesian industrial and agricultural sectors may have challenges competing with inexpensive products from China and India, which benefit from higher production scales and reduced costs². Consequently, it is essential to evaluate how free trade regulations can be harmonized with sufficient legal protection mechanisms to preserve the interests of domestic entrepreneurs.

¹ United Nations Conference on Trade and Development (UNCTAD), *BRICS Investment Report* (United Nations, 2023), <https://unctad.org/publication/brics-investment-report>

² Salendu, "The Productivity of the Agricultural Sector and Industrial Sector as a Driving Force of Economic Growth and Community Welfare in Indonesia", *Benchmarking: An International Journal*, Vol. 28 No.7, July 2021, p. 2216–31.

Indonesia may encounter significant challenges due to its substantial dependence on imports, particularly from BRICS nations such as China and Russia. According to data from the Central Statistics Agency (BPS), Indonesia incurred a trade imbalance of US\$ 10 billion with China in 2022, primarily attributed to imports of capital goods and raw materials. This reliance may jeopardize national economic resilience if inadequately handled. Moreover, accession to BRICS may intensify competitive pressure on domestic industries, mainly those ill-equipped to confront global competition. Consequently, Indonesia must develop comprehensive legal and policy frameworks, incorporating incentives for home industries, safeguards against unfair trade practices, and the augmentation of the capacity and competitiveness of national entrepreneurs. Hence, membership in BRICS presents a significant potential for Indonesia, provided suitable laws and legal safeguards accompany it.

Free trade constitutes a fundamental cornerstone of international economic relations. Trade liberalization frequently presents difficulties for domestic entrepreneurs, particularly in contending with competition from imported goods. According to data from the Central Statistics Agency (BPS), Indonesia's import value in 2022 amounted to US\$229.4 billion, whilst exports totalled US\$291.9 billion, resulting in a trade deficit in several sectors. Membership in BRICS may facilitate expanded market access, although it also poses the risk of intensifying competitive pressures on domestic industries. Consequently, it is essential to examine the impact of this membership on free trade legislation and legal protection frameworks for domestic companies.

This study seeks to analyze the normative influence of Indonesia's participation in BRICS on international and domestic trade law structure. It will employ a normative research technique to analyze relevant legislative provisions at national and international levels and assess the effects of BRICS membership on Indonesia's trade policies. Statistical data and case studies will be employed to further the study, encompassing Indonesia's trade trends with BRICS nations and their effects on the domestic business sector.

The diagram below illustrates Indonesia's trade statistics with BRICS nations over the preceding five years. It indicates a substantial rise in trade volume, particularly with China and India. However, this increase is accompanied by challenges such as import dependency and uneven competition.

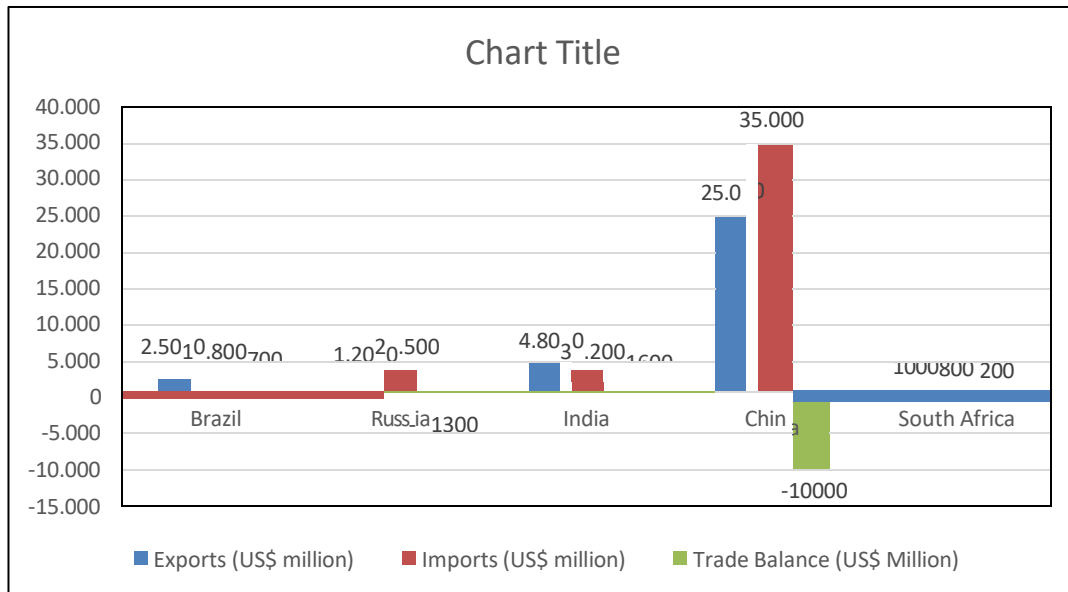


Figure 1. Indonesia's trade statistics with BRICS nations over 5 years

The diagram illustrates Indonesia's intricate trading relationship with BRICS nations. Exports to India and Brazil exhibit a surplus. However, the trade deficit with China and Russia reveals a significant reliance on imports from these nations. This raises apprehensions over the competitiveness of domestic sectors should Indonesia join BRICS without sufficient protective measures. For instance, Indonesia's manufacturing and agricultural sectors may struggle to compete with inexpensive goods from China and India.

This research will address the primary question: How does Indonesia's BRICS membership affect free trade policies and the legal protection of domestic entrepreneurs? By analyzing legal and economic aspects, this study is expected to provide policy recommendations supporting national interests while leveraging the opportunities of BRICS membership. This research will examine how Indonesia might leverage international legal instruments, including trade agreements and dispute resolution processes, to safeguard the interests of domestic enterprises.

2. Research Method

This research methodology was selected to systematically analyze the enforcement of legal protections for female workers, emphasizing adherence to the prevailing legal framework in Indonesia. The primary methodology employed in this research is the statutory approach. This technique involves examining legislation and regulations about the legal

protections of female workers. This review mainly addresses employment termination and workplace violence. This research seeks to perform a thorough, inclusive, and systematic analysis of legal measures implemented to safeguard female workers in Indonesia. The legal instruments examined in the study are Law Number 6 of 2023 and Minister of Women's Empowerment and Child Protection Regulation Number 1 of 2023. This strategy aims to yield a comprehensive understanding of the legal protections afforded to female workers and the degree of their application by relevant regulations. This analysis also seeks to assess the efficacy of current regulations in ensuring sufficient protection. Additionally, this research's findings would aid in reinstating legislative rules and practices concerning the protection of female workers in Indonesia.

Normative research methodologies systematically analyze the enforcement of legal protections for female workers by the prevailing legislative framework in Indonesia. This research employs a statutory method, analyzing legislation and regulations pertinent to the legal protection of female workers. The principal data sources for this research are Law Number 6 of 2023, Article 153, and Regulation of the Minister of Women's Empowerment and Child Protection Number 1 of 2023. The compilation of legal materials in normative legal research is executed through library or document studies, involving the gathering of legal regulations pertinent to women's employment law issues, as well as legal texts, journals encompassing foundational legal principles, expert legal perspectives (doctrine), outcomes of legal research publications, and legal dictionaries. The legal encyclopaedia employs the snowball method, followed by a classification based on sources and hierarchy via a note card/diary notebook format. A thorough study is conducted. Data analysis is conducted by finding legal facts through assessing electronic media news, investigating relevant media for legal facts, and analyzing the application of legal norms to these facts. The flow diagram illustrates data analysis.

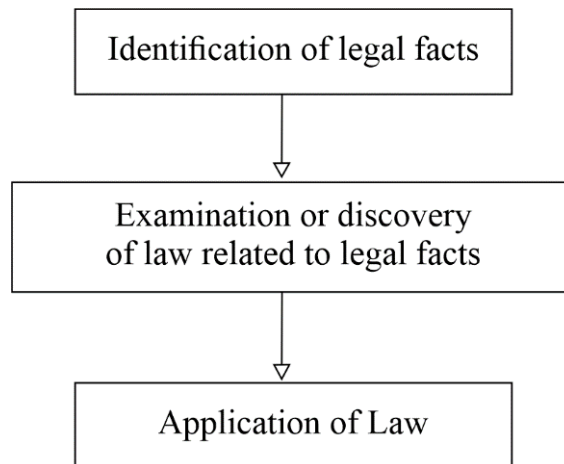


Figure 2. Flow of Data Analysis

3. Results and Discussion

Understanding BRICS: Background and Purposes of Organization

BRICS stands for Brazil, Russia, India, China, and South Africa, five developing countries that formed an economic and political alliance in 2009³. BRIC (without South Africa) was initially established as an informal forum to discuss global economic issues and enhance cooperation among its member countries⁴. In 2011, South Africa officially joined, so the organisation's name changed to BRICS⁵. The group was born out of an awareness of the need to strengthen the voice of developing countries in global economic governance, which developed countries have dominated through institutions such as the G7 and the International Monetary Fund (IMF).

The primary purpose of establishing BRICS is to create a dialogue platform that allows member countries to share views and strategies in dealing with global economic challenges⁶. One of its key priorities is the reform of international financial governance, including increased representation of developing countries in the IMF and World Bank. BRICS also aims to

³ Ryan Philip Azarya, "Akibat Hukum Bergabungnya Indonesia dalam Aliansi BRICS (Brazil, Russia, India, China, South Africa)" (Undergraduate thesis, Universitas Sriwijaya, 2024),

https://digilib.unsri.ac.id/opac/index.php?p=show_detail&id=319178&keywords=

⁴ Veronika Srikandi, "Dampak Bergabungnya Afrika Selatan dalam Asosiasi BRICS terhadap Pembangunan Ekonomi Afrika Selatan (2013-2015)" (Undergraduate thesis, Universitas Lampung, 2019), <http://digilib.unila.ac.id/id/eprint/54874>

⁵ Marshadea Aisyah and Siti Aliyuna Pratisti, "Kebijakan Luar Negeri Indonesia Terhadap Eksistensi BRICS Pada Masa Pemerintahan SBY (2009–2013) Dan Jokowi (2014–2023)", *Padjadjaran Journal of International Relations*, Vol. 7 No. 1, January 2025, p. 115–33.

⁶ Muhammad Fawwaz Afif et al., "BRICS: Tantangan Dan Peluang Dalam Tata Kelola Global." *TRANSBORDERS: International Relations Journal*, Vol. 8 No. 1, December 2024, p. 36–44

promote intra-BRICS trade, reduce dependence on major currencies such as the US dollar, and diversify global supply chains. In this context, BRICS is often considered an alternative to the Western-led global economic system.

Since its establishment, BRICS has become a more formal organization with many concrete initiatives. One important achievement is the establishment of the New Development Bank (NDB) in 2014⁷, which aims to finance infrastructure and sustainable development projects in member countries and other developing countries. In addition, BRICS has developed frameworks to enhance cooperation in technology, energy, education, and security.

The success of BRICS in building synergies among member countries is reflected in the significant increase in intra-BRICS trade over the past decade. According to data from the Brazilian Ministry of Foreign Affairs, trade between BRICS members will reach more than \$300 billion by 2022, up from only about \$27 billion in 2006. This shows that BRICS is not just a dialogue forum but also an important player in the global trade architecture. One of the BRICS member countries is China, where the 21st century is known as the era of China's rise, which is often referred to as The Rise of China phenomenon⁸. In addition, China has also shown its ability as a regional power in Asia and is considered to have the potential to become a global hegemon after the United States⁸.

In the context of Indonesia's membership, the country's joining BRICS in 2023 marks a strategic move to strengthen its economic and political position at the international level. As a country with a large population, abundant natural resources, and a strategic location in Southeast Asia⁹, Indonesia is expected to contribute significantly to the BRICS agenda, particularly in promoting free trade and regional economic cooperation. However, this decision also brings its challenges, especially in balancing domestic economic interests with the commitment to free trade principles promoted by BRICS.

Mechanism of Economic Cooperation and Free Trade in BRICS

Economic cooperation within BRICS is based on the principle of mutual benefit and focuses on strengthening trade and investment relations among member countries. One of the main mechanisms used to achieve this goal is

⁷ Nova Elia, "Pengaruh Good Governance dan Trade Openness terhadap Pertumbuhan Ekonomi (Studi Kasus pada Negara-Negara BRICS Tahun 2014-2020)" (Undergraduate thesis, Universitas Lampung, 2023), <http://digilib.unila.ac.id/id/eprint/72639>

⁸ Deny Susanto, "Belt Road Initiative (BRI) Dan Kerangka Kebijakan Hukum Ekonomi Indonesia", JUEB: Jurnal Ekonomi Dan Bisnis, Vol. 1 No. 3, September 2022, p. 82–89

⁹ Hannah Annisa and Fatma Ulfatun Najicha, "Konsekuensi Geopolitik Atas Perdagangan Internasional Indonesia", Jurnal Global Citizen: Jurnal Ilmiah Kajian Pendidikan Kewarganegaraan, Vol. 10 No. 2, December 2021, p. 8–14.

the promotion of free trade by removing or reducing tariff and non-tariff barriers. BRICS member countries have agreed to prioritize intra-BRICS trade by creating a more open and transparent business environment¹⁰. This includes signing bilateral or multilateral agreements designed to facilitate the flow of goods, services and capital between members.

In addition, BRICS also promotes the diversification of global supply chains through cooperation in strategic sectors such as energy, technology, and infrastructure¹¹. For example, the New Development Bank (NDB), established by BRICS, has provided loans to fund infrastructure projects in member countries, including constructing transportation networks and renewable energy. Such funding not only improves connectivity between member countries but also supports inclusive and sustainable economic growth. In the context of free trade, this cooperation enables member countries to reduce their dependence on traditional trading partners from the West and strengthen economic independence.

However, implementing a free trade policy in BRICS countries has also faced significant challenges. One of the main issues is the economic disparity among member countries. As one of the world's largest economies, China has much greater production capacity and competitiveness than other member countries such as Brazil or South Africa¹². This imbalance can create a situation where countries with smaller economies feel pressured by the dominance of Chinese products in their domestic markets¹³. To address this issue, BRICS has developed mitigation mechanisms, such as import quotas and subsidies for local industries, although their effectiveness is still a matter of debate.

Another challenge is the harmonization of trade regulations among member countries. Each country has different legal systems and trade policies, often complex to harmonize¹⁴. For example, product quality standards, security rules, and customs procedures can vary significantly, slowing down the flow of goods between members. To overcome these obstacles, BRICS has

¹⁰ Eko Nordiansyah, "Dampak Bergabungnya Afrika Selatan ke BRICS terhadap Pertumbuhan Ekonomi Afrika Selatan (2011-2013)" (Undergraduate thesis, UIN Syarif Hidayatullah, 2015), <https://repository.uinjkt.ac.id/dspace/handle/123456789/27241>

¹¹ Hengki Fernanda, "Kebijakan Ekonomi BRICS Penyeimbang Global Terhadap Dominasi Barat: Doni Hendrik, Hengki Fernanda", *Jurnal Administrasi Nusantara*, Vol. 7 No. 1, June 2024, p. 58–65.

¹² Muhammad Amsal Sahban, 2018, *Kolaborasi Pembangunan Ekonomi di Negara Berkembang* (Vol. 1), Makassar: CV Sah Media.

¹³ Gusti Ayu Ketut Rencana Sari Dewi, 2022, *Perekonomian Indonesia*, Makassar: Rizmedia Pustaka Indonesia

¹⁴ Muh Syah Quddus, "Analisis Konvergensi Hukum Ekonomi Internasional: Tantangan Hukum Bagi Indonesia Dalam Mengharmonisasikan Kepentingan Brics Dan Asean", *Equality: Journal of Law and Justice*, No. 2 No. 1, February 2025, p. 62–88

established various technical forums tasked with harmonizing regulations and improving the interoperability of trading systems¹⁵. An example is the establishment of the BRICS Business Council, which serves as a platform for discussions between businesses and policymakers to identify and resolve trade barriers.

Economic cooperation within BRICS also includes initiatives to reduce the dominance of major currencies, such as the US dollar, in international trade transactions¹⁶. Member countries have started using their local currencies in bilateral transactions to reduce exchange rate volatility and currency conversion costs. This move not only improves trade efficiency but also strengthens the financial autonomy of member states. However, the transition to large-scale use of local currencies still requires time and better coordination, as the financial infrastructure supporting the system is not yet fully mature.

Overall, economic cooperation and free trade mechanisms within BRICS offer great opportunities for member countries to strengthen their economic ties and enhance global competitiveness. However, challenges arising from economic disparities and the complexity of regulatory harmonization must be carefully addressed for this cooperation to achieve optimal results for all parties.

Positive Impact of Indonesia's Membership in BRICS on Free Trade Policy

Indonesia's membership in BRICS opens the door to significantly increased free trade and economic opportunities, which can positively impact the national economy. One of the main benefits of this membership is greater access to the large markets of BRICS member countries, such as China, India, and Russia¹⁷. With a combined population of over 3 billion people and a collective Gross Domestic Product (GDP) that accounts for more than 25% of total global GDP, BRICS offers excellent potential for Indonesia to expand its export base. Indonesia's leading products, such as crude palm oil (CPO), textiles, electronics, and fishery products, have great opportunities to increase market penetration in BRICS member countries.

In addition, free trade policies adopted within the BRICS framework can also encourage foreign direct investment (FDI) into Indonesia¹⁸. BRICS member

¹⁵ Hikmat Zakky Almubaroq et al., 2025, *Mengelola Ketidakpastian: Strategi Pertahanan di Tengah Dinamika Global*, Bandung: Indonesia Emas Group.

¹⁶ Elayne Selma Ashara, Agus Subagyo, and Yusep Ginanjar, "Dampak Kerjasama BRICS terhadap Dominasi Nilai Dolar Amerika Serikat (AS) di Tahun 2022", *Diplomacy and Global Security Journal: Jurnal Mahasiswa Magister Hubungan Internasional*, Vol. 1 No. 1, October 2024, p. 297-314.

¹⁷ Probo Darono Yakti and I Gede Wahyu Wicaksana, 2022, *BELT AND ROAD INITIATIVE: Eskalasi Rivalitas Amerika Serikat-Tiongkok*, Surabaya: Airlangga University Press.

¹⁸ Surya Bakti et al., "Indonesia Dalam BRICS: Dampak Bagi Perekonomian Nasional", *KALIANDA HALOK*

countries, especially China and India, are major investors in infrastructure and industrial projects in various parts of the world. By being part of BRICS, Indonesia can utilize this capital flow to finance strategic infrastructure development, such as ports, toll roads, and power plants, which are crucial for long-term economic growth. Foreign investment can also bring advanced technology and knowledge transfer¹⁹, which will improve domestic industries' productivity and competitiveness.

Membership in BRICS also benefits Indonesia from funding initiatives undertaken through the New Development Bank (NDB). As a financial institution established by BRICS, the NDB has provided loans at competitive interest rates to support sustainable development projects in member countries²⁰. For Indonesia, this means an opportunity to obtain cheaper funding for national priority projects, such as renewable energy development, climate change mitigation, and agricultural sector modernization. With this funding support, Indonesia can accelerate its economic transformation towards a greener and more inclusive growth model.

On the other hand, free trade policies in BRICS can also encourage the diversification of Indonesia's exports²¹. Indonesia's exports are still dominated by raw commodities such as palm oil, coal²², and minerals²³. However, with the growing demand from BRICS countries for high-value-added products, such as electronic appliances, automotive, and pharmaceutical products, Indonesia can start expanding its domestic production base to meet the needs of this market. This diversification effort will reduce Indonesia's dependence on raw commodity exports, increase economic value-added, and create new jobs in the manufacturing and services sectors.

Finally, membership in BRICS can also strengthen Indonesia's diplomatic and economic position on the global stage²⁴. As an active member of this

GAGAS, Vol. 8 No. 1, January 2025, p. 66–75.

¹⁹ Deddy Ibrahim Rauf, "Dampak Investasi Asing Langsung Terhadap Pertumbuhan Ekonomi Indonesia", Jurnal Ilmu Manajemen, Bisnis Dan Ekonomi (JIMBE), Vol. 2 No. 1, December 2024, p. 107–16.

²⁰ Halifa Haqqi, 2021, Studi Diplomasi Kawasan Asia Selatan, Surakarta: UNISRI Press

²¹ M Husein Sawit, "Perubahan Perdagangan Pangan Global Dan Putaran Doha WTO: Implikasi Buat Indonesia", Analisis Kebijakan Pertanian, Vol. 6 No. 3, August 2016, p. 199–221

²² Rahmat Maulana Sidik, 2018, "CPO Indonesia Ditolak Uni Eropa, Kenapa", Jakarta: Indonesia for Global Justice.

²³ Deki Sunardi, Rina Oktaviani, and Tanti Novianti, "Analisis Daya Saing Dan Faktor Penentu Ekspor Komoditas Unggulan Indonesia ke Organisasi Kerjasama Islam (OKI)", Jurnal Ekonomi Dan Kebijakan Pembangunan, Vol. 3 No. 2, December 2014, p. 95–110

²⁴ Jayanti Herawati et al., "Peran Politik Bebas Aktif dalam Kerja Sama Ekonomi Dunia: Studi Kasus Indonesia Bergabung Dalam Forum Internasional Brics", Jurnal Multidisiplin Inovatif, Vol. 8 No. 11, November 2024, p. 101-108.

organization, Indonesia can play an important role in shaping the global trade agenda and negotiating more favourable policies for developing countries. This will give Indonesia greater leverage in international forums such as the World Trade Organization (WTO) and the G20 and allow the country to lead efforts to reform global economic governance to be more equitable and inclusive.

Thus, Indonesia's membership in BRICS opens new economic opportunities²⁵ and provides a strategic platform to strengthen domestic economic foundations and enhance global competitiveness²⁶. If managed well, these positive impacts can catalyse sustainable and inclusive economic growth.

Negative Impact of Indonesia's Membership in BRICS on Local Industry

While Indonesia's membership in BRICS offers many opportunities, the free trade policies adopted within the framework of this organization also bring serious challenges to local industries. One of the main risks is increased competition from imported products, especially from BRICS member countries with larger and more efficient production bases, such as China and India. These imported products are often offered at more competitive prices than local ones, threatening the sustainability of Indonesia's small and medium enterprises (SMEs). SMEs are the backbone of the national economy, contributing around 60% of GDP and absorbing more than 97% of the workforce²⁷. An import surge could hamper SME growth and increase unemployment rates if not adequately protected.

In addition, free trade policies within BRICS may create deflationary pressure on the domestic industrial sector²⁸. With the increasing volume of cheap imports, local producers may be forced to lower the prices of their products to remain competitive. These price reductions, if not offset by increased efficiency or innovation, may reduce the profit margins of local firms and hamper their ability to invest in product quality or technology improvements. In the long run, this may lead to industry stagnation and even the loss of some sectors that cannot compete.

Another issue that arises is the over-reliance on imports of capital goods and

²⁵ Muhammad Wilda Nurifqi, Flori Mardiani Lubis, and Prilla Marsingga, "Pengaruh Organisasi Brazil, Rusia, India, China Dan Afrika Selatan (BRICS) Dalam Kerja Sama Ekonomi Global", *TRANSBORDERS: International Relations Journal*, Vol. 8 No. 1, December 2024, p. 1–11

²⁶ Putri Puja Lestari, Siti Maftukhatul Rohmah, and Aditya Ramadhani, "Kerja Sama Regional Dan Multilateral Sebagai Upaya Meningkatkan Daya Saing Ekonomi Indonesia", *Indonesian Journal of Political Studies*, Vol. 4 No. 1, April 2024, p. 40–53

²⁷ Ulfa Roudhotun Nurul Janah and Frances Roi Seston Tampubolon, "Peran Usaha Mikro, Kecil, Dan Menengah Dalam Pertumbuhan Ekonomi: Analisis Kontribusi Sektor Umkm Terhadap Pendapatan Nasional Di Indonesia", *PENG: Jurnal Ekonomi Dan Manajemen*, Vol. 1 No. 2, July 2024, p. 739–46

²⁸ Zhao Yongsheng, 2020, *Reformasi Kelembagaan Dalam Sistem Keuangan Tiongkok*, Jakarta: Yayasan Pustaka Obor Indonesia

raw materials from BRICS countries. Indonesia still imports many capital goods, such as industrial machinery and technological equipment, from China and India⁷. This dependence can make local industries vulnerable to global price fluctuations and supply chain disruptions, especially in economic or geopolitical turmoil²⁹. In the event of instability in trade relations with BRICS countries, local industries could face serious difficulties meeting their operational needs.

Furthermore, free trade policies can also trigger dumping practices when BRICS member countries sell their products in the Indonesian market at prices below the cost of production to dominate the market. This practice can harm local producers who cannot compete with unrealistic prices. Although Indonesia has an antidumping mechanism stipulated in Trade Law No. 7/2014, its implementation often faces obstacles, such as a lack of accurate data and complicated processes. As a result, local industries may not get adequate protection from this unfair trade practice.

Finally, free trade policies within BRICS may also exacerbate economic inequality in Indonesia. Well-established sectors with access to technology and sufficient capital may benefit more from trade liberalization. In contrast, traditional and labour-intensive sectors, such as agriculture and handicrafts, may fall further behind. This could widen the gap between urban and rural areas and worsen the socio-economic conditions of people who depend on these sectors.

Therefore, without proper mitigation policies in place, Indonesia's membership in BRICS could significantly negatively impact local industries. It is important for the government to devise strategies to protect domestic companies' interests while still capitalizing on the opportunities offered by free trade.

Normative Legal Analysis: Implications of Free Trade Policy on National Regulation and Legal Protection

Indonesia's membership in BRICS demands the alignment of national regulations with free trade principles promoted by this organization. In the context of normative law, this analysis aims to evaluate how free trade policies affect domestic regulations governing legal protection for local companies. One of the main aspects that need to be considered is whether the existing national regulations can provide adequate protection for domestic companies without contradicting the free trade commitments that have been agreed upon within the BRICS framework.

²⁹ Fauzin, "Pengaturan Impor Pangan Negara Indonesia yang Berbasis Pada Kedaulatan Pangan", Jurnal Pamator: Jurnal Ilmiah Universitas Trunojoyo, Vol. 14 No. 1, April 2021, p. 1-9.

In general, free trade policies often entail reducing or eliminating tariff and non-tariff barriers, which may conflict with protectionist regulations previously implemented to protect local industries. For example, Trade Law No. 7 of 2014 and Industry Law No. 3 of 2014 regulate various protection mechanisms, such as import quotas, special tariffs, and incentives for national industries. However, free trade policies within BRICS may require Indonesia to revise or repeal some of these provisions to facilitate a freer flow of goods and services. This poses a dilemma between protecting domestic companies and the commitment to create a more open trading environment.

One legal instrument that can balance these two interests is implementing a safeguard mechanism³⁰. Under Article 21 of the Trade Law, the government can impose safeguard measures if imports of certain products increase significantly and negatively affect local industries. These measures include imposing additional tariffs, import quotas, or other temporary restrictions. In the BRICS context, this mechanism can be used as a mitigation tool to protect domestic companies from uncontrolled import surges due to trade liberalization. However, the application of safeguards must be made carefully so as not to be perceived as a violation of the agreed free-trade commitments.

In addition, competition law also plays an important role in protecting domestic companies from unfair trade practices, such as dumping and illegal subsidies. Law No. 5/1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition provides a legal basis for following up on cases of dumping and subsidies that harm local producers. However, this law's effectiveness depends on law enforcement agencies' ability, such as the Business Competition Supervisory Commission (KPPU), to identify and address violations quickly and fairly. This challenge is made more complex in the BRICS context due to differences in legal and regulatory systems among member countries.

It is also important to consider regulatory harmonization between national regulations and international commitments. As a member of the WTO and various other regional trade agreements, Indonesia must harmonize its trade policies with international standards³¹. Membership in BRICS adds a new layer of complexity, as the country must ensure that its domestic regulations comply with free trade principles and support its strategic interests. One

³⁰ Mira Utami and Umar Aris, "Implementasi Penerapan Prinsip Kerjasama Perdagangan Bebas dalam Kebijakan Nasional Terkait Tindakan Pengamanan Perdagangan (Safeguard)", *Iblam Law Review*, Vol. 5 No. 1, January 2025, p. 76–88

³¹ Deden Rafi Syafiq Rabbani, "A Critical Study Of TFA WTO (World Trade Organization): Analysis Of The Implementation Of International Trade Policies In Indonesia", *Jurnal Hukum Lex Generalis*, Vol. 2 No. 1, January 2021, p. 14–39.

approach is revising existing laws, such as the Investment and Job Creation Law, to ensure that they support a conducive investment climate while protecting local industries.

Finally, the normative legal aspect also includes protecting intellectual property rights (IPR), an integral part of free trade policy³². In the BRICS framework, protecting intellectual property rights is essential to encourage innovation and technology transfer, which can improve domestic companies' competitiveness. However, implementing strict IPR laws can also pose challenges for local companies that may not have the resources to access or protect their patents and trademarks. Therefore, the government needs to ensure that IPR regulations protect foreign investors' interests and support domestic companies to innovate and compete in the global market.

Thus, the normative legal analysis shows that free trade policies within BRICS have significant implications for national regulations and legal protection for domestic companies. To ensure that these policies provide maximum benefits to the national economy, careful harmonization between domestic regulations and international commitments is required, as well as the implementation of fair and effective protection mechanisms.

Policy Recommendations to Improve Legal Protection for Domestic Companies

The government must adopt strategic and comprehensive policy recommendations to ensure Indonesia's membership in BRICS does not harm domestic companies. One key step is the strengthening of local industry protection regulations through the revision of existing laws. For example, the Trade Law and Industry Law can be updated to include more specific provisions regarding safeguard mechanisms, import quotas, and protective tariffs that can be applied in emergencies. This revision should take into account the free trade principles promoted by BRICS so as not to create conflicts with international commitments.

In addition, the government also needs to strengthen enforcement agencies, such as the Business Competition Supervisory Commission (KPPU), to ensure that unfair trade practices, such as dumping and illegal subsidies, are effectively addressed. This could include increasing the agency's capacity through staff training, strengthening data collection systems, and implementing technology to monitor trade activities. With better capacity, the KPPU can be more responsive in identifying and cracking down on violations that harm domestic companies.

³² R. Rahaditya et al., "Tinjauan Yuridis Hak Atas Merek sebagai Hak Kekayaan Intelektual", Jurnal Sosial Humaniora Sigli, Vol. 6 No. 2, Desember 2023, p. 747–60.

Incentivising local companies is also important to improve their competitiveness amid trade liberalization. These incentives include tax reductions, technology subsidies, or special funding programs to support innovation and quality improvement. The government can work with financial institutions such as the New Development Bank (NDB) to fund projects to improve local industries' capacity. With this support, domestic companies can be better prepared to face competition from imported products and expand their export base.

Harmonization of national regulations with international standards should also be a priority. The government can establish a cross-sector working team tasked with ensuring that domestic regulations are aligned with free trade commitments within BRICS but still provide adequate protection for local industries. This team could conduct periodic evaluations of the impact of free trade policies on domestic companies and recommend regulatory adjustments if necessary. This harmonization will strengthen Indonesia's position in BRICS and increase foreign investors' confidence in the country's business climate.

Finally, the government must strengthen collaboration between the public and private sectors to ensure that the adopted policies align with domestic companies' needs. Dialogue forums such as the BRICS Business Council can be utilized to discuss challenges local firms face and formulate joint solutions. This collaboration can also include training and mentoring for local businesses to improve their understanding of international trade regulations and how to utilize them optimally.

By implementing these recommendations, the government can create an enabling environment for domestic firms to grow without compromising its commitment to free trade principles. This strategy will help Indonesia maximize the benefits of its membership in BRICS while protecting national economic interests.

4. Conclusion

Indonesia's membership in BRICS offers an excellent opportunity to strengthen the country's economic and geopolitical position on the international stage. With greater access to the markets of BRICS member countries, increased foreign investment, and funding support through the New Development Bank (NDB), Indonesia has the potential to accelerate economic growth and improve global competitiveness. However, these opportunities also come with significant risks, especially regarding the negative impact of free trade policies on local industries. Competition from cheaper imported products, deflationary pressures, and imbalances in the

global supply chain could threaten the sustainability of small and medium-sized enterprises (SMEs) and worsen economic inequality in the country.

Therefore, Indonesia's success in leveraging its membership in BRICS countries depends mainly on the government's ability to balance encouraging trade liberalization with protecting domestic firms. The policy recommendations presented, such as strengthening national regulations, increasing the capacity of law enforcement agencies, and incentivizing local industries, can be strategic steps to overcome this challenge. Harmonizing national regulations with international standards and strengthening collaboration between the public and private sectors will also play an important role in ensuring that the policies adopted are genuinely in line with the needs of the national economy.

Given the benefits and risks, Indonesia's membership in BRICS can be considered a strategic move with great potential to support long-term economic growth. However, its success depends on careful and sustainable policy implementation. With the right approach, Indonesia can utilize this membership to strengthen its domestic economic foundation, improve its global competitiveness, and expand its influence in the international trade architecture.

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