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Analysis of Import Duty Policy On the Protection of the Local Industry Sector (Cross-Country E-Commerce Case Study)

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ABSTRACT. *The analysis of import duty policies on the protection of the local industry sector, especially in the context of cross-border e-commerce, has become very relevant amid the rapid development of digital trade. This study aims to evaluate the impact of import duty policies implemented by the Indonesian government on local industries and Micro, Small and Medium Enterprises (MSMEs). With increasing access to imported goods through e-commerce platforms, the challenges for local products are growing. New policies that regulate the amount of import duties, including the possibility of high tariffs, are expected to suppress the inflow of foreign goods that can harm domestic industries. Through this case study, it is hoped that an effective solution can be found to create a balance between the protection of local industries and ease of access for consumers in the digital era. The findings of this study are expected to provide better policy recommendations to support the growth of the domestic industrial sector.*

Keywords: *Policy, Duties, Ecommerce, Industry*

1. INTRODUCTION

Smooth trade with balanced imports and exports will bring several benefits as a predictor of a country's economic stability. Domestic/local trade players should be given maximum assistance in the form of education and ease of doing business through government regulations. The monitoring function must also be applied to import policies to keep imported commodities circulating in Indonesia. The more imports that enter a country, especially in developing countries, is not a good scenario for the country, especially in today's digital era, this technological improvement has a huge influence on changes in shopping styles. *E-Commerce* refers to the process of selling, buying, or exchanging goods/services and information using computer networks such as the internet. Consumers are given various conveniences in selling or buying an item along with technological advances, especially in the trade sector such as *E-Commerce*, because it is effective, efficient, and adaptable. Manufacturers benefit from *E-Commerce* innovations in the form of ease in expanding product sales, cost management without having to monitor market prices, and guaranteed cash flow.

Along with the rapid advancement of technology, the introduction of E-Commerce innovations has greatly helped the world in gaining a larger market share for manufacturers.

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Due to the ease of marketing products, manufacturers can sell their products to the international market without any worries, as the advancement of online commerce is aided by technical advancements in freight forwarding systems. As a result, the presence of imported goods poses additional challenges for local producers in promoting their products in their own country. The new policy contained in the Minister of Finance Regulation No. 199/PMK.010/2019 on Customs, Excise, and Taxes on Imported Consignment Goods is a solution provided by the government to reduce the number of imported goods from outside which is getting out of control thanks to the moratorium approved by the finance minister in the forum of the Ministerial Conference in the WTO in February-March 2024. *De Minimis*

reduction is the exemption of import duties on foreign products entering Indonesia. For local producers, this is a breath of fresh air in the middle of an arid desert because with this new policy, even relatively cheap imported products will still be taxed when they enter Indonesia, as explained in article 13, which states that imported consignments may be exempted from import duties with a customs value of a maximum of USD 3. This means that imported goods with prices above USD 3 will be subject to import duties.

In international trade, the smooth movement of products between imports and exports is crucial to a country's economic stability. Especially in developing countries like Indonesia, where domestic companies need help to compete in the global market. Consumers and producers have benefited greatly from e-commerce, a trade innovation. However, the prevalence of imported goods on e-commerce platforms presents a significant hurdle for local companies. As a result, appropriate government regulations, such as stricter import taxes, are essential to protect the local sector.

Problem Formulation

a. How does the trade of illegal products, such as the import of second-hand clothing through e-commerce, create challenges for local industries?

b. Are current regulations, such as PMK No. 142/2021, effective enough to protect local industries from the impact of cross-border trade, especially in e-commerce?

2. LITERATURE REVIEW

a. Import Duty

According to Ali Purwito: Import tax or import duty is an amount levied and collected by a country and is a mandatory action against people who import goods from outside the customs area. Notify the customs authorities in accordance with the provisions of Law Number governing the use, control, temporary use or re-entry of goods imported into the customs area.

According to Law Number 10 Year 1995 on Import Duties as amended by Law Number 17 Year 2006, Article 1[3]: "Import duties are based on the Customs Law imposed on imported goods. It is a government tax item.

According to Jafar (2015: 17), said: "Import duty is a government tax levied on goods imported for their intended use. "The provisions stipulated by the Minister of Finance at the time an import activity is reported and a registration number is obtained from customs officials.

The relevant Minister of Finance may exempt import duties on imported goods for certain reasons as stipulated in Law No. 17/2006 on the Amendment to Law No. 10/1995 on Customs. The purpose of collecting import duties on goods is to provide revenue to the state. The higher a country's level of protection of its domestic products, the higher the import duty imposed. Based on Article 12 of Law Number 10 of 1995 concerning Customs, imported goods are subject to import duties at a maximum of forty percent (40%) of the customs value for the calculation of import duties. Specifically, import tax can be defined as a goods transfer tax imposed on the entry of goods into the customs territory from outside the customs territory. The tax falls under the category of indirect taxes levied by Customs and the Directorate General of Excise and Taxes (DGCE).

b. E-Commerce

Electronic commerce is the sale and purchase of products, services, or information over a computer network (Internet). (Ilmawati, 2011). In e-commerce, buyers and sellers interact online, reducing business operational costs and improving delivery and productivity. The business processes involved in e-commerce are paperless, as e-commerce has electronic data exchange options such as email and electronic money transfer. E-commerce includes business-to-business (B2B), business-to-consumer (B2C), business-to-government (B2G), consumer-to-consumer (C2C), and mobile commerce (M-trade) (Niranjanamurthy et al., 2013).

c. E-Commerce Moratorium

An e-commerce moratorium is a policy that temporarily stops or suspends online trading activities. This policy is usually implemented in an effort to protect consumers, ensure data security, and safeguard the interests of local industries. In this literature review on e-commerce moratoriums, it is important to examine the definition and concept of a moratorium in the context of digital trade, as well as the factors that drive its implementation.

The history of e-commerce development shows that moratorium policies can result from a variety of issues, such as online fraud, lack of adequate regulation, and negative impacts on local businesses. The economic impact of a moratorium is diverse, including reduced sales for businesses and potential job losses, but on the other hand, it can create opportunities for better regulatory enforcement and stronger consumer protection.

Studies of countries or regions that have implemented moratoria can provide insights into the outcomes of these policies, including challenges faced, such as dissatisfaction from businesses and consumers, as well as potential benefits in the long term. In conclusion, the e-commerce moratorium is a complex issue that requires attention to its multiple impacts and responses from various stakeholders**.**

3. METHODS

The type of legal research used is normative juridical. Normative juridical research technique is a scientific research approach to determine the truth by using the logic of legal science from a normative point of view. Because this research is normative juridical, the technique used is a statutory approach to understand the hierarchy and principles of law. By using a statutory approach, the author wants to examine the authority of the Directorate General of Customs and Excise as one of the fiscal institutions that has the authority to oversee the entry of imported goods into the customs area with the aim of maximizing state revenue based on Law Number 10 of 1995 concerning Customs, as amended by Law Number 17 of 2006.

4. RESULT AND DISCUSSION

Challenges in Tax and Duty Regulation

a. Regulatory Inequality

Tax and import duty regulations in Indonesia face significant challenges due to differences in tax rules between countries. Each country has different tax policies and rates, which often creates uncertainty for businesses. For example, provisions regarding income tax and value-added tax (VAT) vary, so companies operating across borders must navigate these complexities to ensure compliance. In addition, differences in tax administration systems can lead to tax evasion and other non-compliant practices, costing the state revenue and creating unfairness in the market. These challenges are further compounded by the development of the digital economy, where many transactions are conducted online without physical presence. This makes it difficult for tax authorities to establish fair and transparent tax obligations. Countries such as Indonesia strive to adapt their regulations to match international practices, but are often hampered by national interests and differences in administrative capacity. For example, new provisions regarding imported goods subject to import duty rates based on certain classifications show the government's efforts to tighten supervision, but implementation still faces various obstacles. In addition, customs regulations must also address challenges related to imported goods that do not meet national standards. Strict policies are needed to protect consumers and domestic industries from the negative impacts of uncontrolled imported goods. Transparency in tariff setting and administrative processes is key to ensure that these policies are applied fairly. In this context, international cooperation is essential to reach a more harmonized agreement on taxation and import duties, so that international trade can take place more smoothly and fairly for all parties.

The lack of uniformity in the customs duty mechanisms applied also includes challenges in tax and customs duty regulations caused by a lack of coordination and synchronization between relevant ministries. This results in uncertainty for businesses in understanding and complying with applicable regulations, increasing the risk of tax evasion and non-compliance with import duty rules. Many businesses and the general public are not well-informed about the rules for shipping goods, so they often do not understand their obligations. In addition, differences in tariff classifications and documents required for imported goods are also an issue. Errors in the classification of goods can result in improper calculation of import duties, potentially leading to fines or trade disputes. Thus, a comprehensive revamping of the import duty mechanism is essential to improve the efficiency of international trade as well as public confidence in the Customs institution.

b. Law Enforcement Issues

Digitalization of the Economy is one of the challenges in tax and duty regulation. Multinational companies can now generate income in other countries without a physical presence, which makes taxation complicated. The Indonesian Ministry of Finance, through the Head of the Fiscal Policy Agency, emphasized that tax policy must adapt to this transformation in order to tax fairly in the countries where income is generated.

In addition, tax rate competition between countries Many countries lower tax rates to attract investment, but this practice can lead to the loss of important revenues needed for public services. Initiatives such as Pillar 2 of the OECD aim to address this issue by implementing a global minimum tax rate, but its implementation requires customization of tax systems in each country and a deep understanding of different regulations. Finally, the inability to track and tax cross-border transactions worsens the situation for developing countries. Many of them are losing significant revenue because they cannot impose customs duties on electronically traded digital goods and services. Research shows that over any given period, developing countries lose billions of dollars due to this inability.

With the increasing volume of international trade and easy access to information, many companies seek to utilize legal loopholes to reduce their tax liabilities. This often occurs through transfer pricing practices, where multinational companies shift income to countries with lower tax rates. The lack of clarity in cross-border tax regulations makes it difficult to monitor this practice, resulting in the country losing significant potential tax revenue. Customs regulations must also adapt to meet the challenges of tax evasion. In some cases, imported goods can enter without strict inspection, making it difficult for authorities to charge the appropriate duties. This not only costs the state revenue but also gives an unfair advantage to businesses that avoid tax obligations. Therefore, it is important for the government to improve transparency and accountability in the process of imposing taxes and duties, as well as apply new technologies to strengthen monitoring and enforcement systems.

c. Technology Influence

Many developing countries face difficulties in implementing an effective tax system, especially in the digital era characterized by cross-border businesses. The current global tax architecture tends to refer to developed country standards, which makes it difficult for developing countries to meet these standards. This is exacerbated by the inadequacy of technology and data infrastructure needed to support efficient tax collection. The existing tax system still focuses on the physical presence of companies, while many economic activities are now conducted virtually. Limitations in information technology systems and accurate data make it difficult for the government to identify and collect taxes from these companies. In addition, globalization and digitalization also increase the risk of eroding tax revenues through tax avoidance and profit shifting practices. Developing countries often lack the capacity to counter these practices, which can result in significant revenue loss.

International Law Adjustment Strategy

a. Multilateral Cooperation

The OECD through the BEPS Project plays an important role in addressing the issue of tax avoidance by multinational enterprises (MNEs), especially in the context of e-commerce that can be detrimental to the local industry sector. By implementing Pillar I, the OECD shifts taxation rights to the country where the market is located, allowing countries such as Indonesia and Malaysia to tax e-commerce transactions that occur in their territory, even though the multinational company operates abroad. In addition, Pillar II, which regulates minimum tax rates (*Global Anti-Base Erosion/GloBE*), reduces unfair tax competition practices between countries, avoiding the transfer of profits to countries with low tax rates or tax havens. This initiative helps countries with a growing local industrial sector to protect their tax base, reduce losses caused by profit shifting, and ensure fairer and more consistent tax revenues, supporting economic growth and local industrial sector development.

The World Trade Organization (WTO) faces significant challenges in addressing the evolving digital economy, particularly with regard to cross-border data flows and digital trade disputes. The General Agreement on Trade in Services (GATS) framework, established in 1995, is largely inadequate to regulate digital services and the complexities of the internet age. GATS fails to effectively manage cross-border data flows, with regulations mainly applying to financial services and not addressing important sectors such as digital advertising, audiovisual services and other digital industries. While there are temporary measures such as a customs moratorium on electronic transmissions, the current rules do not take into account rapid technological advances, such as geolocation tracking and taxation of digital content, which complicate global data flows. Furthermore, the WTO dispute settlement system has struggled to address digital trade conflicts due to its limited application to the nuances of e-commerce, privacy issues, and internet governance. As a result, countries are increasingly turning to bilateral agreements and preferential trade agreements (PTAs) to address these issues, which, while more flexible, often lack comprehensive solutions for the global digital marketplace. For the WTO to remain relevant in the digital economy, substantial reforms are needed to bridge this gap and adapt its framework to modern trade realities.

b. Tax Policy Harmonization

Laws and regulations in Indonesia related to trade facilitation include several laws that regulate various important aspects of international trade activities and goods control, such as Law No. 7 of 2014 on Trade, which regulates the scope of trade and foreign trade policies including harmonization of standards with trading partner countries, and Law No. 10 of 1995 on Customs as amended by Law No. 17 of 2006, which includes provisions on the imposition of import duties and the calculation of import duties on imported goods. In addition, tax as the main source of state revenue is regulated in Law No. 16 of 2009 on General Provisions and Tax Procedures amended by Law No. 7 of 2021, which states tax as a compulsory contribution that is compelled by law. *The Trade Facilitation Agreement* (TFA) and *National Single Window* (NSW) support the simplification of international trade procedures, which are related to customs and the collection of import duties, export duties, and excise regulated in Law No. 11 of 1995 on Excise which is also amended by Law No. 7 of 2021. Overall, this regulation aims to improve efficiency and transparency in international trade, as well as ensure that taxes and other state levies can play an optimal role in financing national development, with taxes being a very strategic and dominant source of revenue in the country's economy.

Digital Services Tax (DST) is a tax policy imposed on digital companies that operate in a particular country despite not having a physical presence in that country. It aims to tax digital companies that generate significant revenue through digital activities, subject to certain conditions, such as a turnover exceeding €7 million or having more than 100,000 users. The introduction of DST started in several European countries, such as France, the UK, Austria and India, in response to the inability of international consensus on taxing the digital economy. While DST is thought to create fairness in taxation by ensuring that digital companies operating in a particular country continue to pay taxes even if their revenues are shifted to countries with low tax rates, the policy has generated controversy. Some criticisms of DST include the potential for double taxation, unfairness, as well as the burden it places on consumers, while countries such as the United States have also threatened retaliation against countries that impose DST. Further research is needed to formulate a DST policy that can accommodate both pro and con views, as well as address the issues that could arise, especially in the Indonesian context, to ensure the sustainability of digital trade without sacrificing local industry sectors or creating unfairness in the tax system.

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c. Technology Utilization

The implementation of blockchain technology in the tax system, such as that of Estonia, shows great potential to improve efficiency, transparency, and security. Estonia, a pioneer in blockchain adoption, leverages this technology through its e-Residency program that allows foreign nationals to have a digital identity to conduct tax transactions online. Blockchain guarantees the authenticity of taxpayer data and facilitates more efficient management of identity data and tax transactions. Estonia's success in blockchain implementation includes increased efficiency of the tax process, reduction of tax irregularities and fraud, and ease of auditing by tax authorities. The technology offers high transparency as all transactions are recorded in a ledger that can be verified in real-time. Blockchain also reduces bureaucracy and intermediaries, resulting in time and cost savings. Nonetheless, the biggest challenge in its implementation is the lack of clear regulations, as well as coordination issues between relevant agencies and the readiness of adequate technological infrastructure. High implementation costs are also an obstacle for countries with limited resources. Therefore, while blockchain offers many benefits, its implementation requires strong cooperation between various parties and the development of flexible regulations to support the wider adoption of this technology.

Strengthening cross-border goods *tracking* systems can play an important role in import duty policies that aim to protect the local industrial sector. With a more efficient tracking system in place, the government can monitor the flow of goods in a more transparent and timely manner, allowing for better oversight of incoming imported goods. This benefits the local industrial sector, as it prevents the entry of imported goods that are not up to standard or are produced at unfair prices (e.g. through dumping).

5. CONCLUSION

The challenges of tax and customs regulation in the era of cross-border e-commerce are increasingly complex along with the development of digital technology. One of the main issues is the lack of clarity and inconsistency in tax regulations governing cross-border transactions. This leads to potential loss of tax revenue, especially for developing countries that do not yet have an adequate legal framework to deal with international digital businesses. According to an OECD report, the practice of tax avoidance through tax base shifting has resulted in significant revenue loss, ranging from 4-10% of total global tax revenue. Therefore, a collaborative approach between countries is required to formulate harmonized and effective tax policies. This collaborative approach is essential to create fairness in tax collection. In the context of e-commerce, local businesses are often at a disadvantage compared to foreign companies that are not taxed equally. Inconsistent regulations can create legal uncertainty for businesses, especially for Micro, Small and Medium Enterprises (MSMEs) that may not have the capacity to keep up with rapid regulatory changes.

Harmonization of tax policies will also support the effectiveness of law enforcement in the e-commerce sector. With international cooperation, countries can share information and best practices in monitoring and enforcing tax obligations. This is important to overcome the challenges of monitoring cross-border transactions, which is often difficult for domestic authorities to do. In addition, transparency in the taxation process will increase accountability and public trust in the tax system, thereby encouraging more optimal tax contributions from the e-commerce sector worldwide.

6. ADVICE

Strengthening import duty policies in protecting the local industrial sector can be done by developing and implementing a more sophisticated and integrated cross-border goods tracking system. The government can utilize the latest technologies, such as *blockchain* and *the Internet of Things* (IoT), to monitor and verify every movement of goods from the point of origin to the final destination in real-time. This will increase data transparency and accuracy, reducing the potential for smuggling or harmful trade practices, such as dumping or goods that do not meet quality standards. In addition, there needs to be closer cooperation between customs authorities in different countries to adopt a harmonized global tracking system, to facilitate more effective monitoring of the flow of imported goods and ensure compliance with applicable regulations. The government should also involve the private sector in the development of this system, including logistics companies, so that technology adoption is faster and in line with market needs. Strengthening this tracking system can support the protection of the local industrial sector by ensuring that incoming imported goods are of appropriate quality, as well as increasing the competitiveness of local products in the international market.

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