

JURIDICAL ANALYSIS OF THE ROLE AND FUNCTION OF CUSTOMS TO PREVENT THE Smuggling of Goods to Realize INCREASING STATE INCOME (STUDY ON TYPE B Customs and Excise Commission in BATAM)

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ABSTRACK

In the Juridical Analysis of the Role of Customs and Excise in Supervising and Preventing Crimes of Smuggling of Goods at the Customs Commission Type B Batam, it aims to discuss the legal arrangements for the role of customs in supervising and preventing criminal acts of smuggling of goods and the implementation of obstacle factors, obstacles and solutions for the role of customs in supervising and preventing the crime of smuggling of goods (research study at the Customs and Excise KPU type B Batam). This study aims to determine the Juridical Analysis of the Role of Customs and Excise in Supervising and Preventing the Crime of Smuggling of Goods at the Customs Commission Type B Batam. The research conducted is descriptive research with the method normative legal approach (normative juridical) is carried out by means of study literature. Data collection tools used in this research are data in the form of document studies and literature searches and by using additional data in the form of interviews. The results of the study indicate that the general legal arrangement of Customs and Excise authority according to Law No. 17 of 2006 is, Customs and Excise receives reports or information from someone about a criminal act, summons people to be heard and examined as suspects or witnesses, examines, seeks, and collect information on criminal acts, arrest and detain people suspected of committing criminal acts, request information and evidence from suspects who commit criminal acts. For this reason, it is hoped that with the existence of complete legal rules and firm witnesses related to the crime of smuggling of goods, all related elements are able to understand the legal rules made to protect the public from the threat of danger, and legal rules should be emphasized so that no more criminal acts of smuggling of goods occur.

Key Words : *Customs and Excise, Crime, Smuggling of Goods*

1. INTRODUCTION

The territory of the Unitary State of the Republic of Indonesia, two-thirds of which is territorial waters, is a challenge for the government or related agencies to provide protection to the Indonesian people from the entry of dangerous goods and illegal goods.

For the eradication of the entry of illegal goods, you can viewed from two aspects, namely: the aspect of saving foreign exchange, which is very much needed in the ongoing development and is needed both for payments for goods that cannot be produced in Indonesia, as well as payments for experts from abroad (Adrian Sutedi, 2021). From another aspect, it is able to protect the growth of a developing industry, which is still unable to compete with foreign production, so it can be expected to reduce unemployment which is currently a problem in increasing national income.

In relation to eradicating smuggling, the Directorate General of Customs and Excise is an institution that functions as a gateway for the traffic flow of goods in international trade, therefore the Directorate General of Customs and Excise is required to be able to give as much positive influence as possible and maximize negative influences in Indonesian trade.

Customs authorities are aware that attempts at irregularities, fraud and smuggling occur in any part of the world, including our country. For this reason, in increasing the effectiveness of supervision in order to optimize the prevention and prosecution of smuggling, clearer regulations are needed in the implementation of customs. In order to overcome this, there are three things that underlie the duties and roles of customs, namely the first is discipline in carrying out the duties of supervision and service to the community. Second, there is a strong legal basis to exercise the authority in taking the necessary actions, especially in growing public trust in this agency. Third, anticipate changes in accordance with the demands of the world of international trade.

Each government organizational unit, its duties and functions are an inseparable part of the existence of that organizational unit. Determination of the duties and functions of an organizational work unit is important because it becomes the legal basis for the organizational unit in its activities as well as signs in the implementation of tasks and coordination at the application level in the field. In order to understand the duties and functions of the Directorate General of Customs and Excise (DJBC), it is better to first know the duties and functions of the Ministry of Finance as the parent organization of the DJBC. The task of the ministry of finance in article 2 of the regulation of the minister of finance number 100/pmk.01/2008 concerning the organization and working procedures of the ministry of finance is that the Ministry of Finance has the task of assisting the President in carrying out some of the government's tasks in the field of finance and state assets. As for Article 3 of the Regulation of the Minister of Finance number 100/pmk.01/2008 concerning the organization and work procedures of the Ministry of Finance, in carrying out these tasks, the Ministry of Finance carries out the following functions:

1. National policy formulation, implementation policy, and technical policy in the field of finance and state assets.
2. Implementation of government affairs in the field of finance and state assets.
3. Management of State Property/Wealth which is their responsibility.
4. Supervision of the implementation of tasks in the field of finance and State assets.
5. Submission of reports on evaluation results, suggestions, and considerations in the field of finance and State assets to the President.

The crime that often occurs in the customs sector is the crime of smuggling. The crime of smuggling in the customs sector is a crime in the form of a violation of the rule of law in the customs sector. The legal source of customs crime is Law Number 10 of 1995 concerning Customs. The Customs Law came into force on April 1, 1996, contained in the State Gazette Number 75 of 1995 as amended by Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs.

Goods from neighboring countries are smuggled from the official port or port of mice. The port of mouse is an unofficial port that becomes an opening for smugglers to smuggle illegal goods or to avoid excise duty. As in the Batam area, an area close to neighboring Singapore and Malaysia, imported goods can easily enter Batam's territorial waters legally and illegally, in fact on the ground, many people are looking for loopholes so that illegal imports can run smoothly. Even though sea patrols are routinely carried out by security forces, there are still loopholes for smugglers to supply used clothing to Batam.

Duty is a levy imposed by a country on exported or imported goods. Meanwhile, excise is a state levy imposed on goods that have the characteristics stipulated in the legislation. The Customs and Excise Operations Facility Base is a technical implementing

unit within the Directorate General of Customs and Excise which is under and responsible to the Director General of Customs and Excise.

The need for activities in supervising and preventing criminal acts of smuggling of goods is increasingly widespread considering that Indonesia is a country with large borders that directly borders with neighboring countries such as Singapore, Malaysia, Timor Leste so that the Indonesian Government in this case through Customs and Excise is authorized and has the task Maintain the flow of goods delivery so that it is legal/licensed.

2. PROBLEM FORMULATION

1. What are the legal arrangements regarding the role and function of Customs and Excise to prevent the smuggling of goods in order to realize an increase in state revenue at the Batam Type B Customs Commission?
2. How is the implementation of obstacle factors and solutions for the role and function of Customs to prevent the smuggling of goods in order to realize an increase in state revenue at the Customs Commission Type B Batam?

3. METHODOLOGY

3.1 Research Approach

In writing this thesis the author uses an empirical legal research method which the researcher does at the Customs Commission Type B Batam and is supported by the normative legal research method that the researcher does with document/library studies and also interviews. This research analysis uses a descriptive qualitative method because it will describe the condition of the subject and/or object of research which includes government agencies and/or private institutions, organizations and society.

3.2 Data Sources and Data Collection Tools

Sources of data in this study are primary data and secondary data. Primary data sourced from interviews at the Customs Commission Type B Batam. Secondary data collection is carried out through library research by reviewing books, journals, research results, conventions and laws and regulations as well as through internet media regarding matters related to research problems.

Primary data was obtained by conducting field research by interviewing informants and respondents related to the object of this research. As for the informants and respondents, all staff and employees as well as the Head of Enforcement and Investigation of the Customs Commission Type B Batam.

3.3 Data Analysis

The data that has been obtained, both primary data from field research, and secondary data obtained from library research are generalized and then analyzed qualitatively. This data analysis is an effort to find and organize data systematically to increase the researcher's understanding of the problem under study and present it as a research finding. (Idham, 2014).

4. RESULTS AND DISCUSSION

Problem analysis is an activity carried out to find a solution or a way out of a problem under study and explain the rules for a problem. Problem analysis is used to train someone in solving a case so that solutions and solutions are obtained regarding the problems to be discussed. In the analysis the author can present opinions and solutions to the problems to be

discussed. Against this analysis, a conclusion will arise which from these conclusions will be obtained suggestions that will later be useful so that existing problems do not occur again.

In the grand theory, the author uses John Austin's theory of legal certainty where the law is seen as an order from the holder of the highest authority where the order cannot be contested. In the middle theory the author uses the theory of Lawrence Meir Friedman. Lawrence Meir Friedman's theory suggests that the effectiveness and success of law enforcement depends on three elements of the legal system, namely the legal structure (structure of law), legal substance (substance of the law) and legal culture (legal culture). Furthermore, the author's applied theory uses the next theory, the author's applied theory uses the Development Law Theory from Mochtar Kusumaatmadja to make law as a means of community renewal, not as a tool for community renewal or as a law as a tool of social engineering.

Customs and Excise is a directorate (agency under the department/ministry) which is in charge of customs and excise duties. The Customs Directorate is under the Ministry of Finance. Customs itself means additional fees imposed on commodity goods that are traded, especially for goods originating from outside a certain area (eg the territory of the Republic of Indonesia). The higher the demand for these goods in the international market, the more expensive the duties will be. The crime of smuggling is a crime related to by releasing goods or money from Indonesia abroad (export) or the entry of goods or money from abroad into Indonesia (imports). (Shoufnir Cibro, 2002).

4.1 Legal arrangements regarding the role and function of Customs and Excise to prevent the smuggling of goods in order to realize an increase in state revenue at the Customs Commission Type B Batam.

The problem of smuggling has a very deep and complex substance. The formal aspects of procedural activities, especially those related to the prevention and suppression of smuggling are relatively easy. Problems always arise once we start to "deviate" from the standard process. The causes of deviations can be many, varied and have different levels of depth. Each other depends on the existing mode of "intervention". Customs and Excise itself has many internal problems, including aspects of budget infrastructure, systems and procedures, under invoices, misclassification, wrong notifications, "intelligence" audits to the quality of human resources including leadership from each strata which is already concentrated with an atmosphere that is not conducive (Ali Purwito, 2015).

The three groups of problems interact with each other, influence each other, press each other, so that it becomes very complicated, every improvement effort with the provisions of idealism, enthusiasm, motivation, must clash with the "wall". Maybe they don't like Customs and Excise or an orderly port, so take advantage of these complications. Moreover, they have various practical, material and political interests. This very deep problem, and may exist at various strata, mainly stems from the problem of belief that has dared to be highlighted, recognized and corrected. Vision, mission, strategy must be a practical and philosophical commitment so that we do not get lost. Without these things, it is not surprising that the attitudes of the officers on the surface are: no commercial, positive judgment, incompetent, inconsistent, closed, intimidating, and in many cases causing confusion.

Indonesia has regulated criminal sanctions for smuggling in the provisions of Article 102, Article 102 A and Article 102 B of the Customs Law, particularly the crime of smuggling in the import sector with a minimum imprisonment of 1 (one) year and a maximum imprisonment of 10 (ten) years. and a minimum fine of Rp. 50,000,000.00 (fifty

million rupiah) and a maximum of Rp. 5,000,000,000.00 (five billion rupiah); and the crime of smuggling in the export sector with a minimum imprisonment of 1 (one) year and a maximum imprisonment of 10 (ten) years and a minimum fine of Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 5,000. 000,000.00 (five billion rupiah); and the crime of smuggling which results in disruption of the foundations of the country's economy shall be punished with a minimum imprisonment of 5 (five) years and a maximum imprisonment of 20 (twenty) years and a minimum fine of Rp. 5,000,000,000.00 (five billion rupiah). and a maximum of Rp. 100,000,000,000.00 (one hundred billion rupiah).

The formulation of criminal sanctions for smuggling as stipulated in the provisions of Article 102, Article 102 A, and Article 102 B of Law Number 17 of 2006 above basically applies criminal sanctions in the form of imprisonment and cumulative fines, by prioritizing imprisonment first. first and then followed by cumulative fines (Yudi Wibowo, 2017). However, if the fine cannot be paid, it can be replaced with imprisonment in accordance with the provisions of Article 30 of the Criminal Code, so that this is very detrimental to the state.

The border area is an area that is very prone to conflict. Considering that Indonesia is one of the countries in the world that has more than seventeen thousand islands spread over various regions with a very long coastline of about 81,900 kilometers, this country which is located on the equator also has land (continental) and sea (maritime) border areas.).

It cannot be denied that the supervision and security carried out by the government have not been fully optimal to minimize the smuggling of illegal goods. The Indonesian government noted that the largest smuggling is located in the Riau Archipelago, Batam.

Based on data from the Batam Customs Commission, state losses due to illegal economic practices during 2014-2015 were estimated to reach Rp. 67,013,897,509,000. This illegal economic practice is, of course, caused by many factors that have been discussed by researchers in previous chapters. From the results of the research as a whole, the authors summarize some of the causes of rampant illegal economic practices in the form of smuggling and illegal trade of electronic goods in Batam City.

However, the only thing left is the media don't dare to publish too much because they also get a share. Bribery practices also often occur at official ports in Batam. By falsifying documents, smugglers can easily supply illegal goods into Batam. However, this must be rewarded in exchange for 20-25 million to irresponsible elements at these official ports. Not only confessions from unscrupulous officers, from the author's interviews with B.M smugglers, they openly admit that they have 'backing' in the government body, in this case the security institutions. This mutually beneficial relationship, of course, was strictly closed by unscrupulous officers in order to maintain the good name of the institution and its personality.

From this it appears that the moral ugliness of the individual apparatus is also the reason that there are still illegal economic practices that harm the state up to billions of rupiah every year. which he has. However, various conditions make illegal economic practices in Batam City seem endless. The scope of illegal practices in Batam in 2015-2016 are:

No	Month-year	Number of Cases in the News	Scope of Illegal Practice
1	January 2015	4	Smuggling
2	February 2015	3	Smuggling
3	March 2015	1	Smuggling
4	April 2015	8	Smuggling, Narcotics, Immigration, Trafficking

5	May 2015	2	Smuggling, Narcotics, Illegal trading (software piracy)
6	June 2015	5	Smuggling, Narcotics, Immigration
7	July 2015	5	Immigration, smuggling
8	August 2015	6	Smuggling, Narcotics, Immigration
9	September 2015	10	Smuggling, Money Laundry, Illegal Logging
10	October 2015	12	Smuggling, Money Laundry, Immigration
11	November 2015	6	Smuggling, Money Laundry
12	December 2015	2	Smuggling, Narcotics
13	January 2016	4	Smuggling, Narcotics
14	February 2016	3	Smuggling, Disposal Waste
15	March 2016	3	Smuggling, Narcotics, Waste Disposal
16	April 2016	1	Narcotics
17	May 2016	9	Smuggling, Illegal trading (pirated VCD), Narcotics
18	June 2016	10	Smuggling, Narcotics
Total		100	

4.2 Implementation, constraints and solutions to the role and function of Customs and Excise to prevent the smuggling of goods in order to realize an increase in state revenue at the Customs KPU Type B Batam.

The crime of smuggling is caused by several factors including geographical factors, production markets and society. Geographically, Indonesia consists of thousands of islands, the location of Indonesia is at the crossroads of two continents with a broad coastline with countries that are already advanced in the industrial sector, providing opportunities or opportunities, even stimulating overseas entrepreneurs to commit acts against the law. by importing goods illegally into the jurisdiction of the Republic of Indonesia.

Based on the results of the author's interview on July 28, 2021 with the staff of the Batam Customs and Excise Commission Type B, K.N Acbar stated that in the last 5 years the following were the number of cases of smuggling of goods in Batam:

Year	Number of Cases	*) Data Update until August 10, 2021.
2017	868 Cases	
2018	580 Cases	
2019	554 Cases	
2020	516 Cases	
2021	306 Cases	

Indonesia as a developing country wants to rely on its own industrial sector, but the industrial sector is still far from what is expected, while countries around Indonesia that are already advanced in their industrial fields such as Singapore, Malaysia, and others have difficulty in marketing industrial products. Indonesia with a dense population, makes countries around Indonesia that are advanced in the industrial sector have the opportunity or opportunity to market their industrial products to Indonesia by carrying out various marketing methods including illegal acts, such as by exporting goods from their country by providing incorrect data when making documents for goods entering Indonesia or even through pure smuggling (Ali Purwito, 2019).

The crime of smuggling in Indonesia is influenced by several factors that have a causal relationship. These factors include (Shoufnir Chibro, 2017):

1. Geographical Factor

The breadth of the archipelago consisting of thousands of large and small islands, namely Asia and Australia and two oceans with wide-spread coastlines and which are very close to neighboring countries that have already progressed both in the economic and industrial fields open up opportunities or opportunities, or even stimulate entrepreneurs (local and foreign) to smuggle.

2. Domestic Industry Condition

It is undeniable that the condition of the domestic industry also influences the emergence of the crime of smuggling, because as is well known, domestic industrial production is generally still in the development stage, so the results are still not reliable. The high cost of production makes the products less able to compete with foreign products. This situation is compounded by the high cost of transportation and the lack of transportation facilities, causing obstacles in distribution and marketing. The price of goods made in China is much cheaper than the same goods produced domestically, even though the cost of labor in China is still much higher than that of domestic workers. So this is no less confusing for entrepreneurs and decision makers in our country. This situation illustrates that domestic production is still unable to compete with imported goods. With the price disparity between local products and imported products, it is possible for smugglers to take action.

3. Natural Resources

The factor of Indonesia's natural resources also influences the frequency of smuggling. This can be noticed by the abundance of our natural wealth in the form of raw materials that other countries want to be used as a source of export commodities for the countries concerned. Indonesia's natural wealth and earth are abundant, such as logs, rattan (reason), ebony (ebony), protected animals and others, all of which are desperately needed by other countries.

4. Over production

In countries that have developed and are well-established in the industrial sector and their economy there are times when they experience overproduction, for example, countries adjacent to our country such as Japan, Taiwan, South Korea, Hong Kong, Singapore and others where this country have difficulty in marketing their products. This situation by irresponsible entrepreneurs is then used for the greatest benefit and profit in an illegitimate or illegal way, namely trying to import their wares into other countries through smuggling (Anwar, 2016).

5. Transportation

The smuggling problem will also be determined by the transportation factor. Certain regions in Indonesia in bringing goods for the community's basic needs often experience delays, due to the lack of smooth relations between one island and another. Even such as Nias Island, Simeulue (Sinabang), Singkel and others some time ago often depended on natural conditions (weather) if you wanted to bring daily necessities to the area because land connections from other areas were not yet available. As a result, people in such remote areas often enter their basic necessities illegally (sometimes brought by large foreign ships). her to Indonesia.

6. Mentality

Indonesia, which is blessed by God with abundant natural wealth, a large population, may be proud and grateful for God's grace. However, if those who control and manage all these resources are dishonest, then it is not impossible that our country will continue to suffer as a poor country. The perpetrators or smugglers are generally not people or entrepreneurs with small capital, but people with large capital. So, if the mentality of our officers in dealing with the persuasion and seduction of the smugglers is not strong and firm, of course it becomes soft food for smugglers who have a clever and cunning brain (Baharudin Lopa, 2019).

7. Public

In the effort to tackle the crime of smuggling, there is often a lack of participation from the community, even though the mass media has been quite aggressive in making news about eradicating the crime of smuggling, maybe this is because the community feels lucky because they can buy goods exported from abroad from smuggled. with low price and high quality. We can see this situation in the past when the snake market in Tanjung Priok was still busy, where many clothes made in Japan and Taiwan were sold at prices far below the market. This is due to the people's thirst for quality goods while the people's own purchasing power is still low. And also due to the increasing number of consumers of luxury goods in Indonesia due to technological advances and the tendency of certain community members towards a prestige society. The above fact, where the need for luxury goods produced abroad is increasing, will be exploited by smugglers, by smuggling these luxury goods, because community leaders want it.

Meanwhile, the obstacles faced by Customs and Excise in managing documents are:

- a. Undisciplined port service users. Sometimes service users are unable to understand the applicable systems and procedures. Actually, all importers, both producers and producers, can manage their own documents without going through unofficial channels that have been happening in practice.
- b. The factor of the population or local community who is not strong against the applicable regulations and often makes deviations that can hinder the smoothness of the inspection process in the field.
- c. Geographical factors of customs areas at ports that lack supervision from security agencies that should be more careful and observant to see irregularities such as smuggling of goods that often occur and are rampant lately.
- d. The work procedures of customs officials who cannot stand the test are less effective in anticipating smuggling and irregularities that occur at the port.
- e. Strict and clear regulations are needed to take action against perpetrators smuggling and irregularities that occur in Harbor.

- f. Efforts made by Customs and Excise so that goods are not piled up at the port are stockpiling goods not at the port location but at the importer's location for certain goods, such as groceries, because the stockpiling location at the port is inadequate and can cause side effects. which is not expected. So even though the documents have not been checked, the goods can be released, but they are sealed and will be checked at the importer's warehouse where Customs and Excise officers are on standby to supervise the unloading of goods. As long as the goods are still under the control of Customs and Excise, they cannot be traded or produced.

The obstacles experienced by Customs and Excise in eradicating criminal acts are: smuggling. itself exists directly and indirectly, examples of indirect actions in the field are by placing a sticker containing the prohibition on carrying contraband, a sticker containing the obligation to report if the item exceeds 250 dollars installed in certain parts such as in front of the Customs door and Excise, while direct action is inspection at the inspection desk and at the international baggage collection point by using X-rays, conducting direct patrols in the field to anticipate passengers coming from abroad or within the country not to smuggle goods. For example, prohibited items such as drugs, while in the domestic sector, the only way to deal with it is to use X-ray inspection tools. Customs is divided into 2 parts, namely Customs and Smuggling Investigation (P2). The Customs Section is tasked with inspecting and examining the types of goods imported and exported from Indonesia to determine import and export duties.

5. CONCLUSION

From this research, the researcher drew several conclusions, namely:

1. Whereas, the legal arrangement in the role of customs in supervising and preventing criminal acts of smuggling of goods is based on Law of the Republic of Indonesia Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs, Law Number 39 of 2007 concerning Amendments Based on Law Number 11 of 1995 concerning Excise, Government Regulation (PP) Number 41 of 2021 concerning the Implementation of Free Trade Areas and Free Ports.
2. Whereas, the factors that become obstacles/obstacles in preventing and supervising criminal acts of smuggling of goods at the Customs KPU Type B Batam are: Geographical conditions that are close to neighboring countries, The emergence of illegal ports which are places for loading and unloading goods, Batam has become a Transitor areas for foreign products, Situations of high demand are exploited by outside businessmen and smugglers, There is 'cooperation' between smugglers and officers.

6. SUGGESTION

1. It is hoped that with complete legal rules and strict sanctions related to the criminal act of Smuggling of Goods, all elements related to the legal system, especially in crime criminal goods smuggling is able to understand that the rule of law is made to protect the public from threat of danger, and the rules should be understood so that goods smuggling does not happen again in Batam.

2. It is hoped that with the countermeasures carried out by the Batam Type B Customs Commission, either through criminal law or without using criminal law, it will be able to minimize the crime of smuggling goods in Batam.

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