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RECONSTRUCTION OF THE ROLE OF CUSTOMS ADMINISTRATION IN FREE TRADE ACCORDING TO THE LEGAL POLITICS OF INTERNATIONAL COOPERATION

Ardiansyah
SEKOLAH TINGGI ILMU HUKUM IBLAM
ardiansyah@iblam.ac.id

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Abstract : *The role of customs is vital in the implementation of FTAs. However, relatively little research is devoted to the role of customs under the FTA scheme. The juridical problem regarding the role of the customs authority from the aspect of international trade law can be seen from the many disputes over FTA import duty tariff by customs. International disputes regarding the Rules of Origin (RoO) continue to escalate more with the increasing volume of international trade devoted to preferential treatment, such as the Free Trade Agreement (FTA) scheme. Identification of the problems studied in this study is how to reconstruct the role of customs in free trade under international cooperation legal politics. Normative legal research is carried out using two approaches, namely: a conceptual approach (conceptual approach) and a statutory approach (statute approach), to examine problems in the content of legal norms, which are the legal basis for Customs Administration actions. The research aims to direct the establishment of law in the field of FTAs in line with Indonesian legal and constitutional politics. The results findings indicate that there is a conflict of interest in the main task of collecting state revenues with the consequences of the FTA in the form of tariff reductions. The target of state revenue from the international trade sector is eroded with the reduction in FTA import duties. A reconstruction of the role of Customs is needed in the development of FTA law in line with The Politics of International Cooperation Law. The reconstruction is carried out, firstly, by reforming the customs vision so that it is not merely revenue-oriented. Secondly, Reconstructing customs law that is clear, detailed, simple, and has legal certainty so that there is no ambiguity, multiple interpretations, and inconsistency in its application. Then, building a new paradigm of compliance framework based on cooperative compliance to create transparency and mutual understanding between importers and customs authorities and, finally, enhance tariff liberalization and synergy with Tax Administration.*

Keywords: *customs, free trade, reconstruction, legal politics*

INTRODUCTION

An importation from a country bound by a free trade agreement with Indonesia will be subject to preferential tariffs if the imported goods are believed to come from the FTA member country concerned. Provisions on the origin of goods are generally regulated in the WTO Agreement on Rules of Origin (ROO). This means that preferential tariff cannot be given as long as the requirements in the ROO are not met. The requirements or criteria referred to include 3 (three) things, namely a. Origin Criteria; b. Direct Consignment Criteria; and c. Procedural Provisions (Arfiansyah Darwin & Purjono 2017).

International disputes over the provisions of the country of origin (Rules of Origin / RoO) continue to increase even more with the increasing volume of international trade aimed at preferential treatment (such as the Free Trade Agreement (FTA) scheme). However, relatively little research has been devoted to the role of customs under the FTA scheme (Jisoo Yi 2016).

The determination of FTA import duty tariff by the Customs Administration according to Article 13, paragraph 1 letter a of the Customs Law is often disputed in the Tax Court. Juridical problems from the aspect of international trade law over the many disputes over FTA tariffs reflect Indonesia's policy in implementing FTA provisions as part of the FTA international agreement, which also comes from the World Trade Organization (WTO) Agreement that Indonesia has ratified. Customs duties can be used to protect or protect domestic industries from unfair trade (Estevadeordal and Suominen 2003) by imposing additional import duties on imported goods, such as anti-dumping duties, import duties on subsidies (subsidies), and import duties on security measures (safeguards) (Reza Zaki 2021).

The sociological problem of the aspect of legal expediency over the many FTA import duty tariff disputes in the Tax Court and continuing to the Supreme Court through the Review process (PK) has given rise to In-efficiency in the form of extra time, costs, and energy for importers and also for the Government. The time required to resolve disputes up to the PK process in the Supreme Court takes at least two years or even up to five years. Of course, the costs that must be incurred for the benefit (such as hiring a lawyer, transportation costs, experts, and others) and the uncertainty of cash flow will harm the business world. The Government, in this case, the Customs Administration, also requires a relatively large amount of human resources, costs, and time in the determination process on the frontline, the examination at the objection level, and the appeal process in the Tax Court as well as the PK process in the Supreme Court. Thus efforts toward justice, certainty, and legal expediency for all parties are not reflected in this condition (Cerah Bangun 2018).

Fiscal problems are aspects of the legal certainty of state revenues. Customs duties are an effective instrument in achieving economic development goals, such as import restrictions on luxury goods. By raising import duties on certain goods reduces the import of such goods. Although the decrease in state revenue from import duties is due to the decrease in the number of imports, at the same time, it lowers the cost of consumption. In addition, domestic identical goods products are the choice of substitute goods for consumers to help the domestic industry as well (Kartika 2013).

In terms of state revenue, thecustoms duty tariff is very influential. Customs duties are one of the sources of state revenue. The collection of import duties is administratively more viable than the collection of taxes in the country. Therefore, to optimize state revenues, one of which is through optimizing the

implementation of FTA tariffs in an equitable, useful, and certain manner (Wales and Wales 2012). The more disputes that require a long resolution time, the certainty of import duties that must be paid to the state becomes increasingly unclear, making it difficult for the state budget (Cogan 2011).

Based on the description above, the problem studied in this study is how to reconstruct the role of customs in free trade through the legal politics of international cooperation. This is important considering that the implementation of FTA Customs Duty tariffs carried out by Customs and Excise Officials according to Article 13 paragraph 1 letter a of the Customs Law is widely disputed and leads to defeat in the Tax Court by basing on the FTA international agreement (Hamida Amri Safarina 2021).

Legal research from this question is carried out with two approaches, namely: a conceptual approach and a statue approach to examine problems in the content of legal norms that are the legal basis for Customs and Excise policies. It is likely that there will be inharmonization, inconsistency, and inconsistency of legal norms at the level of operational implementation with the agreement on the purpose of the objectives and the FTA agreement. In addition, it is important to direct the formation of law in the field of FTA in line with the Politics of Indonesian law and constitution, especially the Politics of International Cooperation Law (Bernard L. Tanya 2011).

Reconstruction means building or returning something based on the original event, whereas, in reconstruction, there are primary values that must remain in the activity of rebuilding something according to the original condition. If reconstruction is associated with a concept or idea or idea of law, it means that legal reconstruction is interpreted as a process to rebuild or reorganize ideas, ideas or concepts about law (Kbbi.web.id 2021). Based on the foregoing, the author submits the research title "Reconstruction of the Role of Customs Administration in Free Trade According to the Legal Politics of International Cooperation".

RESEARCH METHODOLOGY

This research is normative juridical research (legal research) and comparative law (comparative law). Normative legal research (legal research) is research that refers to the norms contained in laws and regulations, international conventions, treaties, court decisions, and norms that live in society. Normative legal research is a type of research commonly used in legal development activities, commonly called legal dogmatics. This research is also called doctrinal research, which is research carried out to find legal rules that determine what are the juridical rights and obligations of legal subjects in a particular society (Ali and others 2017). Wignjosoebroto defines doctrinal legal research as research on a law that is conceptualized and developed based on doctrines adopted by the conception and or the bearer (Bernhard Arief Sidharta 2009). This research

uses normative legal research methods because the main problem in this study is related to legal issues. As stated by Marzuki, the scope of legal issues includes legal dogmatics, legal theory, and legal philosophy (Soetandyo Wgnosoebroto 2016). The legal issues in legal dogmatics are in the form of practical aspects of legal science, namely: (1) the occurrence of multi-interpretation of a regulatory text; (2) the occurrence of a legal vacuum; and (3) the occurrence of differences in interpretation of the facts. It is explained that legal issues at the level of legal theory must contain legal concepts, and legal issues in the scope of legal philosophy must be related to legal principles (Peter Mahmud Marzuki 2011). Moreover, normative legal research is not merely a study of legal texts (Ibrahim 2006). As Friedman interprets law not in the sense of "rules" and "regulations" or positive law only, but law in the sense of a "legal system" consisting of structure, substance, and culture(Friedman and Hayden 2017). In this study, legal research was conducted on positive law, namely laws and regulations related to FTA Import Duty tariff.

Doctrinal research uses more primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are legal materials that are authoritative, meaning that they have authority such as legislation, official records, or minutes in making laws and judges' decisions (Peter Mahmud Marzuki 2011). The primary legal material is the basic norms, the constitution, laws and regulations, court decisions, and treaties(Soekanto 2017). This research is often referred to as doctrinal research (Soetandyo 1974) because it refers to legal analysis as stated by Dworkin, law as it is written in the book and law as it decided by judge through judicial process (Magalhães Filho and Matos 2019).

DISCUSSION

1. Theory Review

a. Welfare Rechts State theory

The Welfare Rechts State theory is seen as appropriate because the problem to be analyzed about the settlement of FTA import duty tariff disputes is the duty and responsibility of the state to enforce law and justice on business practices to protect and obtain its right to achieve welfare. n the dictionary Indonesian Welfare State is defined as a state that has a social system based on the assumption that political bodies have a social responsibility towards each of their citizens. A welfare State, also called a social state (the state that provides services to society), is a designation for countries that implement democracy not only in the sense of division of power but also includes an economic dimension. Such an expansion of the meaning of

democracy is a democratic development that emerged in the 20th century (Miriam Budiardjo 2015).

One of the initiators of the thought of the welfare state was Friedmann, who stated that the state serves to provide welfare for its people (welfare state) and that welfare, among other things, is derived from economic activity. Friedmann stated that the function of the state is as a welfare organizer (state as provider), as a regulator {state as regulator), as an entrepreneur {state as an entrepreneur), and as a referee {state as umpire) (Rostow and Friedmann 1972).

The welfare state has the characteristics of a public service (community service). With such a character, the welfare state pays more attention to and cares about the fate or prosperity of society as a whole than the fate (interests) of the individual. Concern for the fate of the majority of disadvantaged members of society can be implemented by the government in the welfare state through cross-subsidy mechanisms. In the cross-subsidy mechanism, the rich help the majority of the poor. In the cross-subsidy process, the government acts as an operator in charge of distributing assistance to underprivileged groups of people through laws and regulations set by the government(Sibuea and Mandagi 2016).

Referring to the Grand Theory of the state of welfare law, the Customs Administration, as an organizational unit under the Ministry of Finance, basically carries out its mandate as a State Financial Manager who prioritizes the perspective of the general welfare (prosperity) and the perspective of protection to citizens (security) in the implementation of their duties. This principle is in line with the mandate in the fourth paragraph of the Preamble to the 1945 Constitution and Article 23 of the 1945 Constitution jo. Article 33 of the 1945 Constitution, which is formally and materially implemented through Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs and Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise (Direktorat Jenderal Bea Dan Cukai 2020).

b. Legal Theory of Development in Free Trade

Mochtar Kusumaatmadja stated that if we mean it in a broad sense, then the law is not only a whole of principles and rules governing human life in society but also institutions and processes that embody the enactment of these rules in reality. In other words, normative information solely about the law is not enough if we want to carry out thorough legal guidance and change. Furthermore, Mochtar Kusumaatmadja said that law as a social rule cannot be separated from the values that apply in a society, that it can be attributed that the law is a reflection of the values that apply in that society. So, the function of law is a means of renewal of society as the concept of legal science is derived from the theory of "law as a tool of social engineering" in a

wider range and scope (Kusumaatmadja 2002).

On the one hand, legal renewal means the prioritization of goals to be achieved by using the law as a means. Because the law comes from society and lives and proceeds in society, legal renewal cannot be separated from society. One of the things that must be faced is social reality in a broad sense. In this regard, the planned changes should be carried out thoroughly, with the initiative that the parties are the ones who are the role models of the community. Thus, changes in the field of law will be woven into other areas of life as a means of changing existing societies and certifying changes that have occurred in the past. Then other factors may affect it. On the one hand, there may be supporting factors, but on the other hand, it may be a barrier to the process of law functionally and effectively (Soekanto 2017).

In legal theory, one form of legal intervention is to realize justice, and of course, it is inseparable from the provisions governing free trade with the trade principles in the provisions of the WTO. This is also in line with what John Rawls stated in his theory of justice, that justice is honesty and equality (justice as fairness). That is, it provides the greatest benefit to the least benefited and opens up fair opportunities (Faiz 2017). Justice as a concept based on the principle of equality and inequality where social values, freedom and opportunity, income and prosperity based on self-respect must be distributed among others (Suherman 2008).

c. The Politics of International Cooperation Law

Legal politics is about ideals/expectations, so there must be a vision first. The vision of the law, of course, must be established in advance, and it is in that path of vision that the form and content of the law is designed to realize the vision. Legal politics philosophically means talking about the arrangement of justice, as well as ensuring that justice is realized under the guarantee of clear rules, thus giving benefit to the good of man. That is the core of the supremacy of justice initiated by Gustav Radbruch. Radbruch does not separate aspects of justice and expediency from the most basic thing in law, namely justice (Bernhard Arief Sidharta 2009).

To know how a state guarantees the welfare of its people, it must be seen how the philosophy and constitution of the country interprets the welfare of its people. Pancasila as the basis of the state states the philosophy of the welfare of its people in the 2nd Precept of Pancasila, "Just and civilized humanity" and the 5th Precept "Social justice for all Indonesian people" (Asshiddiqie 1993). The philosophy of the country clearly and unequivocally interprets and guarantees the welfare of the people in a fair and civilized manner and applies to all Indonesians without favoritism. The state philosophy on welfare was then formulated in the 1945

Constitution as the state constitution. The 1945 Constitution formulated how concrete the welfare was in the Preamble to the 1945 Constitution and in the Torso of the 1945 Constitution (Asshiddiqie 2006).

The welfare paradigm that existed in the preamble to the 1945 Constitution was further elaborated in Article 33 and Article 34, which in the construction of the 1945 Constitution before the amendment was in a chapter in the title of Social Welfare. In substance, after the amendment of the 1945 Constitution (period 1999-2002), problems related to the economy and welfare were regulated in CHAPTER XIV regarding the national economy and social welfare. Article 33 of the 1945 Constitution regulates the National Economy, and Article 34 of the 1945 Constitution regulates social welfare. Economic Law Development to Support the Achievement of Indonesia's Vision 2030, explained by Prof. Adi Sulistiono, namely directing legal development to support the realization of sustainable economic growth (Adi Sulistiyono 2007).

Legal politics as an ideal/hope and Indonesia's Vision 2030 in the field of legal development regulates issues related to the economy, especially the business world and the industrial world, as well as creating investment certainty, especially law enforcement and protection. The renewal of legal materials is directed to continue to pay attention to the plurality of the prevailing legal order and the influence of globalization as an effort to increase legal certainty and protection, law enforcement and human rights (HAM), legal awareness, as well as legal services that instill justice and truth, order and welfare in the context of organizing a state that is increasingly orderly, orderly, smooth, and globally competitive (Adi Sulistiyono 2007).

The politics of law as an ideal/hope and the legal vision of economic development are embodied in the National Long-Term Development Plan (RPJPN) 2005-2025. The vision of national economic development in the 2005-2025 RPJP is "The realization of an economy that is developed, independent, and able to significantly expand the improvement of people's welfare based on economic principles that uphold healthy competition and justice, and play an active role in the global and regional economy by relying on the nation's capabilities and potential" (Bappenas/Kementerian PPN 2019).

Efforts to realize this vision are through 7 Development Missions, namely:

1. Realizing national security that is able to maintain territorial sovereignty, support economic independence by securing maritime resources, and reflect Indonesia's personality as an archipelagic country.
2. Realizing a developed, balanced, and democratic society based on the State of law.
3. Realizing a free-active foreign policy and strengthening its identity as a maritime State.

4. Realizing a high, developed, and prosperous quality of life for Indonesian people.
5. Creating a competitive nation.
6. Realizing Indonesia to be an independent, developed, strong, and national interest-based maritime country.
7. Creating a society with a personality in culture

The main goal to be achieved is to increase Indonesia's consistency in implementing a free and active foreign policy and its identity as a maritime country to realize a better world order, and fight for its national interests in order to achieve Indonesia's national goals. While the details of the targets are as follows:

1. The composition of the character of Indonesia's foreign policy is free and active based on national interests and identity as a maritime state.
2. Strengthening maritime diplomacy to accelerate the settlement of Indonesia's borders with 10 neighboring countries, ensure the territorial integrity of the Republic of Indonesia, maritime sovereignty and the security/welfare of the leading islands, and secure natural resources and EEZs.

Meanwhile, in particular, there are directives and policies to strengthen the role in international and regional cooperation. The targets to be achieved in strengthening Indonesia's role in international and regional cooperation are:

1. Increasing the quality of international cooperation to build mutual understanding between civilizations, and world peace, and address international problems that threaten mankind;
2. Indonesia's increasing role and leadership at the ASEAN regional level;
3. Indonesia's increasing role and leadership at the G-20 and APEC global levels;
4. Increased implementation of South-South and Triangular development cooperation;
5. Increased promotion and promotion of democracy and human rights;
6. Indonesia's increasing role in multilateral forums;
7. The strengthening of Indonesia's role in international and regional cooperation as indicated by (a) the decrease in average tariff barriers weighted in FTA partner countries by 6.78 in 2019; (b) a decrease in the non-tariff barrier index to 20 in 2019; (c) increase the percentage of national policy safeguards in international for a to 90%.

The RPJN is further divided into the medium-term development targets of 2020-2024, namely realizing an independent, developed, just, and prosperous Indonesian society through accelerating development in various fields by emphasizing the establishment of a solid economic structure based on competitive advantages in various regions supported by qualified and competitive human resources (Bappenas/Kementerian PPN 2019).

In the next five years, the targets to be realized to strengthen economic resilience for quality growth are as follows: 1. Increasing the carrying capacity and quality of economic resources as a modality for sustainable economic development; and 2. Increased added value, employment, investment, exports, and economic competitiveness (Kementerian PPN/ Bappenas [n.d.]).

2. Mandate and Strategic Role of DGCE Organization

a. Vision, Mission, and Main Functions of DGCE

The Directorate General of Customs and Excise (DGCE), as an organizational unit under the Ministry of Finance, basically carries out its mandate as a State Financial Manager who prioritizes the perspective of general welfare (prosperity) and the perspective of protection to citizens (security) in the implementation of their duties. This principle is in line with the mandate in the fourth paragraph of the Preamble to the 1945 Constitution and Article 23 of the 1945 Constitution jo. Article 33 of the 1945 Constitution, which is formally and materially implemented through Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs and Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise (Direktorat Jenderal Bea Dan Cukai 2020).

The realization of this role is reflected in the statement of the Vision, Mission, and Main Functions of the DGCE, which has been determined by the Decree of the Director General of Customs and Excise Number KEP-105 / BC / 2014 concerning the Vision, Mission, and Main Functions of the Directorate General of Customs and Excise. The implementation of the role of the DGCE is as stated in the 2015-2019 DGCE Strategic Plan document that the DGCE is one of the government institutions that has a very important role in moving the wheels of the national economy, especially facilitating the flow of goods to support the National Logistics System (SISLOGNAS), protecting the domestic community and industry, guarding the country's border areas, and carrying out collection of imported and exported goods that subject to levies under the law. This role has made a significant contribution to achieving high economic growth, especially in driving growth in the real sector through fiscal policies directed primarily at improving and protecting domestic industry and

investment and increasing the competitiveness of Indonesian products in the international market.(Direktorat Jenderal Bea Dan Cukai 2020)

The paradigm of DGCE's role as one of the state revenue collectors and public service providers with the tagline "Customs Is Getting Better" means that DGCEis not only focused on carrying out its duties as a collector of state revenue from imports, exports, excise, and taxes in the context of other imports which are likened to picking fruit from trees only. Current conditions require DGCE as an organization that 'grows and picks fruit from trees that must be cared for' based on a sense of care, synergy, progress, and sustainability in carrying out the functions of industrial assistance, trade facilitator, community protector, and revenue collector which is carried out responsibly. This means that DGCE not only takes the 'fruit' directly but also has a process from start to finish that is related to each other. Thus, the paradigm of the role of DGCE can be seen macro by increasing economic growth and equity, Gross Domestic Product (GDP), investment, industry, labor, reducing poverty, and protection from goods that interfere with the condition of the nation and state from various aspects, through prudent management of customs and excise policies and the achievement of state revenues to increase public confidence.(Direktorat Jenderal Bea Dan Cukai 2020)

b. FTA Customs Duty Tariff Determination Procedure

Goods that are put into the Indonesian customs area are called imported and owed import duties. Imported goods are levied import duties based on specific tariffs or advalorum tariffs. The specific tariff is calculated in a certain rupiah form for each unit of goods. The advalorum tariff is based on the tariff in a certain percentage of the customs value (price) of the goods. The amount of tariff percentage can be seen in the Indonesian Customs Tariff Book (BTKI). The customs value is set based on six methods that are applied in the order of their hierarchy. The customs service has adhered to the principle of self-assessment; the importer or exporter is considered to be able to calculate for himself the import duty or exit duty to be paid, pay it to the bank or post office, and notify Customs and Excise using a customs notification. Upon notification, Customs and Excise officials may conduct customs inspections in the form of document research and/or physical inspection of goods. Customs and Excise officials may establish tariffs and customs values of imported goods before the submission of the customs notice or within 30 days from the date of the customs notification (Nugroho 2015).

An importation from a country bound by a free trade agreement with Indonesia will be subject to preferential tariffs if the imported goods are believed to come from the FTA member country concerned. Provisions on the origin of goods are generally regulated in the WTO Agreement on Rules of Origin (ROO).

This means that preferential tariff cannot be given as long as the requirements in the ROO are not met. The requirements or criteria referred to include 3 (three) things, namely a. Origin Criteria; b. Direct Consignment Criteria; and c. Procedural Provisions (Dedi Abdul Hadi 2013).

Certificate of origin (CoO) is a document issued by an authority in the country of producer or exporter of goods through a predetermined procedure. Only certain agencies and officials can publish it. The name of the agency, the name of the official, and the specimen of his signature are conveyed to other FTA participating countries and used as material to ensure the validity of the COO. The COO must be filed at the same time as the PIB submission. Upon the submission, Customs and Excise officials will conduct research that includes an examination of origin criteria, direct delivery criteria, and procedural provisions. If there are conditions that are not met, the preferential tariff is not given. The importer must pay import duties according to the MFN tariff (Hadi 2013).

Each FTA agreement has a non-completely uniform method/procedure in issuing and handling/examining COO. In general, as an effort to research the correctness/validity of the COO, Customs, and Excise officials can confirm with the COO issuing country. The act of doing such things that are deemed necessary is referred to as a retroactive check. COO-issuing countries have certain time limits for responding to retroactive checks. The issuing country is required to provide an answer within 90 days (not uniform for all FTA agreements) from the receipt of the retroactive check request. If there is no answer or the answer passes that period, then it can be a reason for the preferential tariff not being given. If a retroactive check answer has been submitted, the Customs Administration must notify the next steps taken by the COO issuing country. If the retroactive check answer is still unsatisfactory, a verification visit mechanism is provided. The authorities in the importing country conduct direct verification to the exporting country (Ahn and Kim 2018).

The implementation of retroactive checks and verification visits takes time until the final decision arrives. While waiting for the retroactive check process, there are no clear regulations governing how to manage the expenditure of imported goods. Whether import duties are taken into account based on preference tariff or MFN tariff. In practice, Customs and Excise officials implemented non-uniform measures. The procedure for issuing and receiving COO is regulated by the Operational Certification Procedures (OCP) of each FTA agreement. Although the substance of each OCP is more or less the same, some procedures in the OCP have some differences. The difference, for example, is in terms of the period of issuance of the COO calculated from the time of shipment. The OCP regulates the entire procedure from issuance, verification,

delivery of certificate of origin, and verification by the Customs Administration in the importing country, to flexibility in the FTA scheme (cuisongzi 2013).

Customs and Excise officials who receive the COO examine its validity or correctness based primarily on the provisions in each OCP. In principle, all OCPs regulate the procedure for issuing and receiving COO, but some things are specific to each OCP. Although the existence of COO has been started since the AFTA agreement in 1992, problems related to COO have only come to the fore after the FTA agreement became more numerous, especially after the existence of ACFTA. The issue of the validity and correctness of the COO has become increasingly prevalent since 2009. If the COO is in doubt, the Customs and Excise officials issue a Customs Decision Letter, which means that the preferential tariff cannot be given and the importer must pay off the shortfall in import duty that should be paid, which is the difference between the preferential tariff and the applicable general tariff (Nugroho 2015).

3. Reconstruction of the Role of Customs in the Development of FTA Law

One of the three elements that should receive attention in enforcement other than justice and legal certainty is expediency (doelmatigheid) (Mertokusumo 2014). The field of economic analysis of law or "Economic Analysis of Law" first emerged through the thought of Jeremy Bentham's utilitarianism which systemically tested how people acted with legal incentives and evaluated outcomes according to social welfare measures). Jeremy Bentham applied, one of the principles and schools of utilitarianism to the legal environment that is that human beings will act to obtain the greatest possible happiness and reduce suffering. Bentham argued that lawmakers should be able to produce laws that could reflect justice for all individuals. Adhering to the above principles, the legislation should be able to bring great happiness to the greatest number (Bernard Arief Sidharta 1995).

a. Reconstruction of Customs Vision

Darussalam stated that boosting revenue with minimal disputes is not impossible. Ideal revenue projections based on realistic numbers thus preventing obsessions to hit targets or cover shortfalls (Darussalam and others 2019). This will encourage the emergence of unintended tax consequences and the cost of compliance to increase so that the economic system becomes inefficient (Bird 2014). The stability of the state revenue system is needed by looking more at long-term interests and projections (Bird and Zolt 2005).

It is necessary to change the performance measurement indicators of customs authorities that are not solely revenue-oriented. According to Crandall, strategic goals should include improving compliance,

improving revenue productivity and efficiency, service orientation, and ensuring that the revenue collected can meet government spending. Therefore, other indicators such as administrative costs, service user satisfaction, socialization coverage, examination effectiveness, and dispute resolution time are equally important (Crandall 2010).

b. Formulation of legal certainty

Reconstructing customs law that is clear, detailed, simple, and legally correct so that there is no ambiguity, diverse interpretations, and inconsistencies in its application. This is by ensuring a transparent policy and legal formulation process supported by tax experts so as to gain public acceptability. In addition, such customs laws should be clarified in administrative guidelines in the field to avoid interpretations based on individual discretion (Wales and Wales 2012).

c. Reconstruction of tax payers Compliance through Cooperative Compliance

A new framework of tax payers compliance based on enhanced relationships or often called cooperative compliance (Siglé and others 2018). The new paradigm requires a relationship built on transparency, openness, mutual trust, and mutual understanding between taxpayers, customs authorities, and tax consultants. Thus, customs issues that have the potential to become disputes can be identified and discussed before they become the subject matter of the dispute. In other words, disputes can be resolved early (Cogan 2011).

d. Tariff liberalization and Synergy with Tax Administration

Strengthening indirect tax (value-added tax or VAT) regulations could help recover state losses arising from lower import tariff. VAT is also charged at the import stage and faces the risk of undervaluation, but state revenue losses can usually be saved back when the transaction is taxed at a later stage of the production and distribution chain of income through verification or post-importation audit checks. However, for goods that are not subject to tax or informal trade, for example, there is indeed difficulty in recovering state losses from sales tax proceeds (De Wulf and Sokol 2005).

e. Exchange of Information with the Customs Administration of the Exporting Country

The WCO Council has adopted the International Convention on Mutual Administrative Assistance in the Field of Customs in June 2003. These include provisions governing assistance in providing information for import or export assessments for import duties and taxes. Nevertheless this convention has not yet been

ratified, so it is too early to see how it can actually address the problems of applying customs values (Estevadeordal and Suominen 2003).

The Doha Ministerial Conference in Decision 8.3agreed that the Customs Administration may request assistance from the Customs Administration of the exporting State on the value of the goods and that the exporting member State offer cooperation and assistance by domestic laws and procedures, including providing information on the export value of the goods in question. As a result of the discussions, the WTO Customs Values Committee and the WCO Customs Value Technical Committee were mandated to identify and assess practical measures to address the concerns of some developing countries regarding the accuracy of notified values, including the exchange of information and guidelines for the use of customs value databases ('WTO | Ministerial Conferences - Doha 4th Ministerial - Implementation-Related Issues and Concerns' [n.d.]).

4. Reconstruction of Legal Culture

In reconstructing the law against resolving FTA import duty tariff disputes, there needs to be support to cultivate the following legal culture:

a. The business world, customs authorities, and customs consultants need to build a new framework of service user compliance based on enhanced relationships or often called cooperative compliance. The new paradigm is built on transparency, openness, mutual trust, and mutual understanding. Thus, customs issues that have the potential to become disputes can be identified and discussed before they become the subject matter of the dispute.
b. The government should stop being compulsive and avoid the paradigm that tax courts are the 'last goal' to decide disputes. When deciding to proceed with a tax dispute to the realm of the court, the government should conduct a cost-benefit review and analysis.
c. The culture of mutual respect between FTA member countries by the FTA's goal is to create a wider market openness (free trade for an open market) and establish closer economic cooperation with FTA partner countries.

In closing, the description above must be used as a basis for reconstructing the tax system and resolving disputes on the principle of fiscal justice. This principle includes legal certainty and fairness by the law, not retroactive, efficient, and collected by institutions trusted by the community. Furthermore, this principle will encourage a tax system characterized by a tax-compliant society, stable, certain, inclusive, and

in line with the times. Thus, efforts to increase revenue with minimal disputes can be achieved (Vanistendael 1996).

CONCLUSION

The root of the problem with the role of the Customs Administration is that there is a conflict of interest with the main task of collecting state revenue with the consequences of FTAs in the form of tariff reductions. There is a clash between the task to achieve the target of state revenue from the international trade sector and the consequences of the FTA scheme in the form of the elimination and reduction of import duty tariffs. The conflict of two interests (receipt of import duties and FTA scheme) gave rise to the emergence of implementing regulations that were out of sync with the intent and objectives of the FTA and led to many disputes in the Tax Court.

A reconstruction of the role of Customs Administration is needed in the development of FTA law in line with The Politics of International Cooperation Law: The reconstruction is carried out, firstly, by reforming the customs vision so that it is not merely revenue-oriented. Secondly, Reconstructing customs law that is clear, detailed, simple, and has legal certainty so that there is no ambiguity, multiple interpretations, and inconsistency in its application. Then, building a new paradigm of compliance framework based on cooperative compliance to create transparency and mutual understanding between importers and customs authorities. finally, enhancing tariff liberalization and synergy with Tax Administration.

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