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An Analysis of Indonesian Customs Law in Facing Cross-Border Digital Trade: Regulatory Challenges and Adaptive Strategies

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Abstract: Cross-border digital trade (cross-border e-commerce) has transformed the global customs landscape, including in Indonesia. This study examines the readiness and response of national customs laws to the flow of digital goods across national jurisdictions. Using a normative juridical approach and policy analysis, the study identifies regulatory challenges, oversight gaps, and adaptive strategies needed to safeguard fiscal interests and consumer protection. Key challenges identified include massive undervaluation practices, gaps in law enforcement against corporate entities, and the inability of the existing Customs Law to regulate Commercial Transaction Data as legal evidence. This article offers specific recommendations for customs law reform that are more responsive to the digital era, including proposed amendments to Law Number 17 of 2006 concerning Customs in Articles 1, 15, 22, and 102.

Keyword: Customs, Digital Trade, Undervaluation, Legal Reform, Customs Law.

INTRODUCTION

The development of information technology has given rise to the exponential growth of cross-border digital trade (e-commerce). The flow of goods entering Indonesia via postal shipments and courier logistics services has reached millions of packages per month, bringing significant consequences to the integrity of the national customs system. Although Minister of Finance Regulation (PMK) Number 199/PMK.010/2019 has reduced the de minimis value limit to USD \$3, oversight gaps remain wide open due to massive undervaluation practices, where consolidating importers systematically report the value of goods far below the actual transaction price.

This situation creates two fundamental problems: first, state fiscal losses from potential lost revenue from Import Duties and Taxes (PDRI); second, market distortions and unfair competition that cause losses to the domestic manufacturing industry and MSMEs. Currently, Law Number 17 of 2006 concerning Customs is not totally adaptive to the nature of data and the speed of digital transactions. Therefore, in-depth examinations are needed to

develop adaptive strategies and legal reforms at the legislative level so that customs supervision can keep pace with the pace of digital trade.

Research Problem

Based on this background, the problem formulation in this research includes:

1. How are regulatory challenges and oversight gaps in Indonesian customs law identified in the face of massive undervaluation practices in cross-border digital trade?
2. How can adaptive strategies and prescriptive legal reforms at the Customs Law level be formulated to safeguard fiscal interests and protect domestic industries?

METHOD

This study employs a normative legal research method. The data used include primary legal materials (Law Number 17 of 2006, related Ministerial Regulations), secondary legal materials (scientific journals, WCO studies, and policy reports), and tertiary legal materials (legal dictionaries and encyclopedias). The analysis was conducted qualitatively, referring to the interpretation of legislation and the formulation of prescriptive legal policy (reform) recommendations.

Library Review

1. WCO (World Customs Organization) Digital Customs Framework

The WCO has established key principles for global customs administration through its E-Commerce Package: Framework of Standards on Cross-Border E-Commerce policy package. This framework emphasizes two main points. First, Data Integration: the exchange of pre-arrival data between e-commerce platforms, logistics, and customs to improve risk management. Second, Simplification and Facilitation: the use of simplified valuation methods for low-value shipments. This concept shows that, in the digital era, supervision can no longer rely only on physical inspections. It must be data-centric, in line with the needs of the proposed reforms.

2. The De Minimis Principle and the WTO Customs Valuation Agreement

The de minimis concept, meaning minor legal details are disregarded, is a globally recognized trade facilitation tool. In Indonesia, it appears in Article 25 Paragraph (3) of the Customs Law. However, customs value must still follow the WTO Customs Valuation Agreement (Article VII GATT 1994), which requires valuation to be based on the actual transaction price.

Undervaluation contradicts the transaction value principle. While PMK 199/2019 lowered the de minimis limit to USD \$3 (FOB), its effectiveness is limited because the law does not require e-commerce platforms to provide transaction (selling price) data. Without mandated data, Customs must accept values reported by consolidating importers.

3. Critical Review of PMK 199/PMK.010/2019

Minister of Finance Regulation Number 199/PMK.010/2019 is a rapid government response to the surge in imported goods. The reduction of the De Minimis threshold (from USD \$75 to USD \$3) successfully reduced the exemption facilities that are vulnerable to abuse. However, legally, this PMK faces normative limitations: (1) as a derivative regulation, it cannot create new legal obligations at the law level, such as requiring Electronic System Trading Providers (PPMSE) to submit Commercial Transaction Data; and (2) the PMK focuses on the outcome (lowering the threshold), not on the source of the problem (upstream data manipulation). This study suggests the need to raise the level of Data Integration regulation from the PMK to the level of law, as proposed through amendments to Article 15.

RESULTS AND DISCUSSION

Regulatory Challenges and Oversight Gaps in the Digital Era

The gap in oversight in the digital era lies not only in the technicalities of physical inspections, but also in the absence of a legal basis that binds upstream data sources.

1. Undervaluation and Customs Data: Although PMK 199/2K-010/2019 has set a De Minimis threshold of \$3, this value can only be effectively monitored if the reported Customs Value is valid. The absence of a legal basis in the Customs Law requiring Electronic Trading Providers (PPMSE) to present Commercial Transaction Data (actual selling prices) electronically and pre-arrival allows for massive undervaluation practices to proceed unhindered at the legal level.
2. Limited Corporate Accountability: Current customs law tends to focus on the submission of physical documents and inspections at Customs Offices. It limits law enforcement against corporate entities (PPJK or PPMSE) that systematically manipulate data. Existing sanctions provisions do not specifically target corporations or digital data manipulation.
3. Inefficiency in Valuing Low-Value Shipments: The massive volume of shipments makes the application of standard customs valuation methods (methods I to VI) inefficient. A legal basis is needed to implement Simplified Valuation and Composite Tariff which can speed up the process but remain fair and internationally recognized.

Adaptive Strategy and Customs Law Reform

Adaptive strategies must be data-centric and harmonize Customs Law with global e-commerce practices, based on the four pillars of legal reform.

1. Pre-Arrival Data Integration: The key to oversight is legally binding digital platforms to submit Commercial Transaction Data before goods arrive. This data forms the foundation for Customs' Artificial Intelligence (AI)-based risk management systems.
2. Harmonization of Legal Concepts: Clear definitions of "Cross-Border Digital Shipments" and "Commercial Transaction Data" are needed in Customs Law to ensure a common perspective in law enforcement.
3. Corporate Audit and Accountability Reform: Expanding the target of Post-Customs Clearance Audits (PCAs) from individual consumers to business entities (PPJK/PPMSE) responsible for data transmission. It must be supported by expanded criminal sanctions against corporations found to have manipulated data.

CONCLUSION

Indonesian customs law, despite efforts to adapt it through the Minister of Finance Regulation (PMK), still faces fundamental challenges at the legislative level in addressing cross-border digital trade. The biggest gap is the lack of a binding legal obligation for Trade Providers to provide Commercial Transaction Data and the absence of adequate criminal sanctions for data manipulation by corporations.

Adaptive strategies must be implemented through prescriptive legal reform, focusing on four key amendments to Law Number 17 of 2006 concerning Customs.

Recommendation

The main recommendation of this research is to immediately amend Law Number 17 of 2006 concerning Customs with a focus on increasing digital data accountability and operational efficiency.

Proposed Amendment to Law Number 17 of 2006 concerning Customs

Table 1. Amendment to Article 1 (Definitions)

Article	Original Text (Normative Summary of Law No. 17/2006)	Proposed Amendment Text (To Become)
Article 1 Paragraph (37)	Delivered Goods are goods sent via Postal Providers in accordance with the provisions of laws and regulations in the postal sector.	Cross-Border Digital Shipments are Shipments traded through Electronic Trading Providers (PPMSE) and crossing customs areas.
Article 1 Paragraph (38) (New)	-	Commercial Transaction Data is information containing sales price data, seller and buyer identities, and product details listed on digital trading platforms (e-commerce) as a basis for verifying Customs Value.

Table 2. Amendment to Article 15 (Pre-Arrival Data Obligation)

Article	Original Text (Normative Summary of Law No. 17/2006)	Proposed Amendment Text (To Become)
Article 15 Paragraph (1)	Customs Notification as referred to in Article 10 must be submitted by the importer or exporter or their proxy to the Customs and Excise Official at the Customs Office.	The Customs Notification as referred to in Article 10 must be submitted by the importer or exporter or their proxy (Postal Operator or PPJK) to the Customs and Excise Official at the Customs Office.
Article 15 Paragraph (1a) (New)	-	In the case of Customs Notification relating to the import of Cross-Border Digital Shipments, the submission of data as referred to in paragraph (1) must be supported by Commercial Transaction Data sent electronically before the arrival of the goods by the Electronic Trading Provider (PPMSE) or the relevant Postal and Logistics Service Provider.
Article 15 Paragraph (1b) (New)	-	Further provisions regarding the types of Commercial Transaction Data and the mechanism for its submission are regulated by the Regulation of the Minister of Finance.

Table 3. Amendment to Article 22 (Tariffs and Customs Value)

Chapter	Original Text (Normative Summary of Law No. 17/2006)	Proposed Amendment Text (To Become)
Article 22 Paragraph (3)	The Minister of Finance shall determine the import duty rate not exceeding the highest rate and not being lower than the lowest rate as referred to in paragraph (1) and paragraph (2).	The Minister of Finance shall determine import duty rates that do not exceed the highest tariff and do not fall below the lowest tariff. Specifically for cross-border digital shipments, the Minister of Finance may determine a simplified composite tariff based on a specific customs value range.
Article 22 Paragraph (4) (New)	-	The Minister of Finance may determine a simplified customs valuation method for cross-border digital shipments, provided that it complies with international principles and aims to streamline supervision.

Table 4. Amendment to Article 102 (Sanctions)

Article	Original Text (Normative Essence of Law No. 17 of 2006)	Proposed Amendment Text (Becomes)
Article 102 (Opening Paragraph)	Shall be punished for committing a criminal act in the field of customs ... any person who:	Shall we be punished for committing a criminal act in the field of customs ... any person or corporation who:
Article 102 letter e	Submits a false or falsified Customs Declaration.	Submits a false or falsified Customs Declaration, or intentionally enters false, incorrect, and/or manipulated data and/or information, including the

Article	Original Text (Normative Essence of Law No. 17 of 2006)	Proposed Amendment Text (Becomes)
Article 102 letter g (New)	-	Customs Value, in the Commercial Transaction Data as referred to in Article 15 paragraph (1a). An Electronic Trading Platform Provider (PPMSE) or Postal and Logistics Service Provider who fails to fulfill the obligation to provide and submit Commercial Transaction Data in accordance with the provisions referred to in Article 15 paragraph (1a), resulting in state losses.

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