

Law Enforcement Against Perpetrators of Imported Clothing Smuggling as an Economic Crime

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Abstract

Smuggling at present has reached an alarming level, no longer merely constituting an economic offense but amounting to an economic crime. The smuggling of goods, particularly textiles, has caused significant losses and adversely affected the national economy. The state's response in establishing a special task force to address smuggling has, in practice, been unable to eradicate the influx of smuggled goods in a comprehensive manner. Measures undertaken thus far have proven inadequate in resolving the problem. The sanctions provided under Law No. 17 of 2006 on Customs, in the form of criminal penalties and/or fines, are considered insufficient if the objective is to recover the losses suffered by the state, both in terms of taxation and other economic consequences. In reality, such sanctions have failed to create a deterrent effect, leaving the state in a position of continual loss. Policies and regulations governing the importation of secondhand clothing are already clear; however, their implementation continues to face obstacles. Enforcement trends are on the rise, indicating a stronger governmental response. Nevertheless, the effectiveness of supervision remains constrained by geographical conditions and the ever-evolving modus operandi of offenders. Enforcement actions have contributed positively to the protection of the domestic textile industry and to state revenue.

I. Introduction

Indonesia, as a maritime nation, consists of numerous islands separated by the sea, which in turn has given rise to many small ports that are not subject to state supervision. As an archipelagic state whose waters directly border neighboring countries, Indonesia requires strict oversight of the transport of goods to and from its territory by sea within the customs area in order to prevent smuggling, particularly inter-island transport of certain goods (Explanatory Memorandum to Law No. 17 of 2006 amending Law No. 10 of 1995 on Customs). Moreover, due to Indonesia's geographical position, its waters are frequently traversed by foreign vessels engaged in trade, thereby placing Indonesia squarely within international customs routes.

Article 1(2) of Law No. 17 of 2006 amending Law No. 10 of 1995 on Customs provides that the customs area is the territory of the Republic of Indonesia covering land, sea, and the airspace above, as well as certain designated areas within the Exclusive Economic Zone and the continental shelf, within which the provisions of the Customs Law apply. Furthermore, Article 1(3) defines a customs zone as a designated area within a seaport, airport, or other designated location for the traffic of goods, which is placed entirely under the supervision of the Directorate General of Customs and Excise. The extensive Indonesian coastline has resulted in the proliferation of "rat ports" (*pelabuhan tikus*) exploited by smugglers to import goods.

Adam Smith, as cited in Yudi Wibowo, defines smuggling as the act of a person who violates the law of a state, even though he may be ignorant of the law and otherwise regarded as a good citizen, never convicted of any crime, and without criminal intent. Baharudin Lopa, on the other hand, defines smuggling as the act of importing or transporting goods inter-island without complying with applicable laws and regulations, or without fulfilling customs formalities prescribed by statute. Elizabeth A. Martin, also cited in Yudi Wibowo, defines smuggling as a violation of export or import law, particularly with respect to goods subject to duties or taxes imposed by customs officials, or the habitual importation of goods without payment of such duties and taxes.

The regulation of smuggling is set out in Article 102 of Law No. 17 of 2006 amending Law No. 10 of 1995 on Customs (hereinafter referred to as the *Amendment to the Customs Law*), which provides that smuggling shall include any person who:

- a) Transports imported goods not listed in the manifest as referred to in Article 7A(2);
- b) Unloads imported goods outside the customs zone or other places without the permission of the head of the customs office;
- c) Unloads imported goods not listed in the customs declaration as referred to in Article 7A(3);
- d) Unloads or stores imported goods still under customs supervision in a place other than the designated or permitted destination;
- e) Conceals imported goods unlawfully;
- f) Removes imported goods whose customs obligations have not been fulfilled from the customs zone, bonded storage, or other places under customs supervision without the approval of customs officials, thereby resulting in non-collection of state levies under this law;
- g) Transports imported goods from temporary storage or bonded storage which do not arrive at the intended customs office and cannot prove that the matter was

beyond his control;

- h) Intentionally misstates the type and/or quantity of imported goods in the customs declaration.

Such acts are punishable as smuggling in the field of importation by imprisonment for a minimum of one (1) year and a maximum of ten (10) years, and a fine of not less than IDR 50,000,000 (fifty million rupiah) and not more than IDR 5,000,000,000 (five billion rupiah).

Furthermore, Article 102B of the Customs Law stipulates that violations under Articles 102 and 102A which disrupt the national economy shall be punishable by imprisonment for a minimum of five (5) years and a maximum of twenty (20) years, and a fine of not less than IDR 5,000,000,000 (five billion rupiah) and not more than IDR 100,000,000,000 (one hundred billion rupiah).

The Minister of Trade, Zulkifli Hasan, has stated that in every province of Indonesia there are between 30 and 40 warehouses storing illegal imported goods, which are then sold online. It is suspected that such goods entered Indonesia without Harmonized System (HS) codes and without SNI certification, often through unsupervised "rat ports." These goods are subsequently stored in warehouses and sold via online platforms, making them difficult for authorities to trace.

It is also possible that illegal imported goods enter Indonesia through official channels rather than only through "rat ports," due to the vast Indonesian coastline and its direct land and sea borders with other countries. The eastern coast of Sumatra, East Kalimantan, Sulawesi, and East Nusa Tenggara are regions with many unauthorized ports, particularly the eastern coast of Sumatra, Batam, and the Riau Islands, dominated by *landing spots* serving as informal ports. Smuggling is particularly prevalent in the Malacca Strait and the eastern coast of Sumatra using the "undeclare" modus operandi, whereby secondhand clothing is hidden among other legally imported goods. Similar practices occur along the Kalimantan border, especially in West Kalimantan, such as Sintete, Jagoi Babang, and Entikong, which border directly with Sarawak, Malaysia. Here, smuggling is carried out under the guise of passenger baggage or via small forest routes (Wibi Pangestu Pratama, 2023).

The Director of Special Economic Crimes, Criminal Investigation Agency of the Indonesian National Police (*Bareskrim Polri*), Inspector General Whisnu Hermawan, stated that investigative and prosecutorial measures are conducted by the police outside customs areas. The Directorate of Special Economic Crimes of Bareskrim Polri has taken enforcement action by securing 3,332 bales of used clothing (*ballpress*), including 1,500 bales from the Tritant Point warehouse complex in Cipadung Wetan, Bandung, West Java; 226 bales from the Jakarta-Cikampek toll road KM 34, Cikarang, Bekasi II; and 1,606 bales from the Customs Office at Tanjung Priok, Jakarta (Rahel Nada Chaterine, Krisiandi, 2024).

The problem to be addressed from the foregoing description is how law enforcement against perpetrators of secondhand clothing imports has been carried out, given the fact that the trade in imported secondhand clothing continues to grow, both in thrift shops and in online sales.

The previous research is as follows: "Smuggling and Illegal Trading in the Red Belt of the Eastern Sector and the Western Sector of the Indonesia-NTT-Democratic Republic

of Timor Leste (RDTL) Border." which discusses the high number of goods entering and leaving the border without strict supervision and these goods are directly received by collectors to be resold to consumers. The goods that enter are all types of goods including used imported clothing. Where this smuggling often involves jockeys on land routes in the sense of using back roads and via sea by motorboat. This focuses more on how legal certainty will be realized in law enforcement against business actors in the imported used clothing trade if there are conflicting regulations regarding the import of used clothing, namely between the regulations contained in Law No. 7 of 2014 concerning Trade which are explained in the Regulation of the Minister of Trade No. 40 of 2022 concerning Amendments to the Regulation of the Minister of Trade No. 18 of 2021 concerning Prohibited Export Goods and Prohibited Import Goods with the Regulation of the Minister of Finance Number 26/PMK.010/2022 concerning the Determination of the Goods Classification System and the Imposition of Import Duty Tariffs on Imported Goods, one of the points of which is to impose a 35% tax on the import of used clothing and the like, in addition, in several cases and decisions that what is used to ensnare the perpetrators of the used clothing import business is not Law Number 7 of 2014 concerning Trade but Law Number 17 of 2006 concerning Amendments to Law Number 10 concerning Customs, which states that PPNS DJBC is given the right to conduct investigations into criminal acts in the import sector and can even directly hand over to the Prosecutor's Office without consultation and examination by Police investigators.

The overlapping of regulations governing imported goods, especially the import of used clothing, has caused many obstacles in the law enforcement process in the field, this can be seen from the large number of imported used clothing that is sold openly. Indeed, in principle, law enforcers should apply the principle of *lex specialis derogat legi generali*, which means that general laws must be set aside if there are legal regulations that specifically regulate the same thing with the aim of avoiding conflicts between norms and determining which law should be prioritized or applying the principle of *lex superior derogat legi inferior*, but the reality is not that easy because in some cases, the business actors who import used clothing

2. Research Method

This study also employs a normative juridical approach supported by empirical data (*socio-legal research*). The normative juridical approach is utilized to examine applicable legislation, such as Law No. 7 of 2014 on Trade and Minister of Finance Regulation No. 26/PMK.010/2022, while empirical data are employed to assess the implementation and effectiveness of supervisory policies in practice.

The data are analyzed qualitatively using a descriptive-analytical method. The analysis is conducted through the following steps: (1) inventory and classification of legal materials; (2) examination of the conformity between legal norms and field practices; and (3) evaluation of the effectiveness of regulations through comparison with enforcement data from 2020 to 2025.

3. Results and Discussion

Clothing needs (*sandang*) constitute one of the three primary human needs, alongside food (*pangan*) and shelter (*papan*). Clothing needs encompass everything

related to apparel, whether for protecting the body, adapting to the climate, signifying identity, or fulfilling aesthetic and cultural purposes.

According to the *Kamus Besar Bahasa Indonesia* (Great Dictionary of the Indonesian Language), clothing needs refer to garments or apparel. These are classified into two categories: primary needs, namely functional everyday clothing required by everyone such as shirts, trousers, and undergarments; and secondary or tertiary needs, which include clothing for specific purposes such as formal wear, work uniforms, branded apparel, or traditional attire. In its development, however, clothing needs have been strongly influenced by fashion trends and the fashion industry, economic and social conditions of society, globalization and media, and most importantly, the influence of well-known brands.

The fulfillment of clothing needs forms part of the broader national economy. This is reflected in the growth of the textile and garment industry, domestic and international clothing trade including export and import activities, and, more recently, the proliferation of *thrifting*, namely the circulation of imported secondhand clothing in society. The problem of thrifting has emerged not merely as a local issue but as a global concern, which gradually undermines the national economy, particularly investment in the textile and garment sector.

Indonesia, as an archipelagic state, comprises approximately 17,024 islands (based on official data from the Geospatial Information Agency, released in 2022 and recognized by the United Nations). Meanwhile, according to data from the Ministry of Transportation in 2023, there are 1,605 registered ports in Indonesia. Comparing these figures reveals that of the 17,024 islands, only around 1,605 ports are formally recorded, indicating the existence of numerous “rat ports” (*pelabuhan tikus*) across the country that are unsupervised.

The proliferation of such “rat ports” has complicated law enforcement against smugglers. Among the most frequently smuggled items are imported secondhand clothes. The prohibition of secondhand clothing imports is explicitly regulated under Law No. 7 of 2014 on Trade, particularly Article 47(1), which states that the government prohibits the importation of goods that endanger security, health, and the environment. This provision is further clarified in Minister of Trade Regulation No. 40/M-DAG/PER/9/2022, which confirms that secondhand clothing is among the prohibited import items. In addition, taxation and customs aspects are regulated under Minister of Finance Regulation No. 26/PMK.010/2022.

Despite the existence of these regulations, the illegal importation of secondhand clothing remains rampant. Data from the Ministry of Trade (*Kemendag*) indicate that in 2023 there was a significant increase in the detection of secondhand clothing smuggling in several major ports, including Tanjung Priok, Belawan, and Tanjung Perak (Kemendag, 2023). Furthermore, the Central Statistics Agency (*BPS*) recorded anomalies in certain HS codes suspected of being used to disguise the entry of secondhand clothing (BPS, 2024).

This phenomenon highlights that the effectiveness of supervision and enforcement policies continues to face major challenges. One of the primary obstacles lies in the limited coordination among institutions, ranging from the Directorate General of

Customs and Excise and the Ministry of Trade to regional law enforcement authorities. On the other hand, strong market demand for secondhand clothing—particularly among *thrifting* businesses—has become a principal driver of smuggling.

From the perspective of economic law, this practice harms the state by potentially reducing tax and customs revenues and by fostering unfair competition for the domestic textile industry (Sari & Pratama, 2022). From a criminal law perspective, such conduct may be categorized as an economic crime in the field of trade and customs, as regulated both under the Trade Law and the Customs Law (Law No. 17 of 2006).

Accordingly, it is essential to undertake a comprehensive study of the existing policies and regulations, to evaluate the effectiveness of their enforcement, and to formulate strategies for improvement in order to ensure legal certainty and the protection of national interests. Such study is also expected to contribute to the development of public policy that is adaptive to market dynamics while preserving the integrity of Indonesia's legal system.

A. Regulation Concerning the Importation of Secondhand Clothing

1. Law No. 7 of 2014 on Trade

This Law affirms that the government has the authority to regulate trade governance, including the prohibition of imports of goods that endanger health, security, and the environment. Article 47(1) stipulates the prohibition of importing certain secondhand goods in order to protect domestic industries and consumers.

2. Minister of Trade Regulation (Permendag) No. 40 of 2022

This Regulation explicitly prohibits the importation of secondhand clothing, with the aim of safeguarding the domestic textile industry and public health. The prohibition is reinforced with administrative and criminal sanctions in accordance with statutory provisions.

3. Law No. 17 of 2006 on Customs

This Law regulates the mechanisms for the entry and exit of goods within the customs territory, including criminal provisions for violations of import prohibitions. The smuggling of secondhand clothing constitutes a customs violation punishable by imprisonment and fines.

4. Minister of Finance Regulation No. 26/PMK.010/2022

This Regulation establishes the system of goods classification and the imposition of import duties. Imported secondhand clothing falls within the category of prohibited goods under certain HS Code classifications.

B. Enforcement Against the Misuse of Secondhand Clothing Imports (2020-2025)

Table 1. Enforcement Data on the Misuse of Secondhand Clothing Imports

Year	Number of Enforcement Actions (ballpress)	Estimated Value of Goods (in billion IDR)
2020	169	10,37
2021	165	17,42
2022	220	23,91
Jan–Mar 2023	89	3,30

The above data were obtained from the Central Statistics Agency (*Badan Pusat Statistik* – BPS). Unfortunately, import data on secondhand clothing with HS codes for the period from December 2023 through 2024 and 2025 have not yet been released. In practice, however, field data indicate significantly higher figures.

The available data demonstrate an increase in enforcement actions and the value of confiscated goods from year to year, indicating more intensive supervisory efforts. Nevertheless, smuggling practices continue unabated. Major operations have been carried out at key ports such as Tanjung Priok and the Greater Jakarta area (*Jabodetabek*), with the value of seized goods reaching tens of billions of rupiah. Border “rat ports” likewise remain vulnerable points requiring strict supervision. Institutional synergy has improved, as evidenced by joint operations involving Customs, the National Police, and the Ministry of Trade. Even so, geographical constraints and the adaptive modus operandi of offenders remain the principal challenges.

C. Overall Evaluation

Table 2. Evaluation of Findings and Implications

Aspect	Findings	Implications
Operational Effectiveness	Increased enforcement and successful joint operations	Effective inter-agency synergy
Distribution of Enforcement	Focused on major ports, while rat ports remain vulnerable	Strengthening of supervision in high-risk areas required
Economic Impact	Large volumes of goods successfully confiscated	Significant protection for domestic industries
Obstacles	Geography and adaptive modus operandi of offenders	Adaptive strategies and field intelligence required

Obstacles in the enforcement of law against secondhand clothing imports include:

- Institutional Obstacles** – coordination between Customs, the National Police, and the Ministry of Trade is often suboptimal (Fiscal Policy Agency, 2023).
- Resource Obstacles** – limited numbers of supervisory officers at ports.
- Legal Obstacles** – ambiguity of norms at the implementation level and differing interpretations among institutions.

The influx of imported secondhand clothing into Indonesia’s textile market has had severe consequences for the textile industry. An increasing number of textile and garment factories have closed, leading to mass layoffs affecting thousands of workers. This situation has resulted in declining national per capita income, further weakening the state’s financial capacity. Accordingly, the smuggling of imported secondhand clothing may be classified as a form of economic crime that must be eradicated in a significant manner in order to revive the national economy.

Recommended measures include: strengthening inter-agency synergy through regular coordination forums and integrated information systems; optimizing supervision of *pelabuhan tikus* (rat ports) using advanced technology and intensive patrols; developing an integrated data system for real-time recording and evaluation of enforcement actions; educating business actors and the public on the negative impacts of illegal imports through sustained campaigns; enhancing the capacity of human resources and supervisory infrastructure; and enforcing the law firmly to create a deterrent effect

against violators.

4. Conclusion

Policies and regulations governing the importation of secondhand clothing are already clear; however, their implementation continues to face obstacles. Enforcement trends are on the rise, indicating a stronger governmental response. Nevertheless, the effectiveness of supervision remains constrained by geographical conditions and the ever-evolving *modus operandi* of offenders. Enforcement actions have contributed positively to the protection of the domestic textile industry and to state revenue.

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