



***BEA OFFICE AUTHORITY AND TAXES IN OBTAINING ACCESS TO
FINANCIAL INFORMATION FOR CUSTOMS VALUE
DETERMINATION***

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ABSTRAK

In import activities, importers will submit an Import Declaration of Goods for the imported items based on the documents they possess. They will self-assess the customs tariff and value for calculating the customs duties, as well as calculate and pay the applicable charges, including customs duties, value-added tax, luxury goods tax, and income tax. The Customs and Excise Officer will determine the customs value based on the Import Declaration of Goods submitted by the importer, as stipulated by the Customs Law. On one hand, importers may potentially declare a lower customs value to reduce the charges, while on the other hand, the Customs and Excise Officer may be skeptical and potentially set a higher customs value. The condition can lead to potential unfairness and discrepancies in the determination of customs value. In this thesis, the author uses two theories, namely Plato's theory of justice and Philipus M. Hadjon's theory of authority, to analyze the problem formulation of how the determination of customs value is implemented and how to make it more accurate and objective. The research method used in this study is normative juridical research. The author utilizes secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Data collection techniques involve the use of documents and library materials for secondary legal data. The legal material analysis used in this research is interpretation, employing juridical methods to discuss legal issues. The research findings indicate that the determination of customs value carried out by the Customs and Excise Officer is regulated by legislation and implemented according to applicable provisions. However, there is a lack of authority to access financial information possessed by the Customs and Excise Officer. This lack of authority has the potential to result in unfair customs valuations and abuse of power. Such conditions can lead to unfair competition and legal uncertainty. Therefore, it is necessary to provide access to financial information for customs officers in the determination of customs value, so that the customs value, which represents the transaction value between importers and exporters, can be accurately determined and encourage a more accurate and objective customs valuation.

Keywords: BEA, Customs value determination, Financial information access

INTRODUCTION

A country's economy will be affected by the level of international trade, in the form of export and import activities. International trade transactions will determine how much foreign exchange income and expenditure and how much state levies can be received from export duties, import duties, and taxes in the context of imports.

In customs activities in the field of imports, the importer will make a customs declaration in the form of a Goods Import Notification (PIB) for the goods it imports based on the documents it has, determine its self-assessment of customs tariffs and values for the calculation of import duties, and calculate and pay the amount of state levies in the form of import duties, value added tax, value added tax on luxury goods, and income tax as referred to in Article 22 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times lastly by Law Number 7 of 2021 concerning Harmonization of Tax Regulations. The basis for calculating import duties is the transaction value of the imported goods concerned, which consists of the acquisition price of the goods plus transportation costs and insurance costs. In customs terms, the transaction value is known as customs value. This is by the provisions in Article 15 paragraph (1) of Law Number 10 of 1995 concerning Customs as amended by Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs (hereinafter referred to as the Customs Law) which reads: "The customs value for the calculation of import duty is the transaction value of the goods concerned".

The transaction value of imported goods is known with certainty by the parties involved, namely the seller abroad (exporter) and the buyer in the country (importer) through the correspondence process in the framework of ordering goods (purchase order) and trade agreement (sales contract) which in this case includes the price of goods as well as payment for goods and costs both before and after receipt of goods. The importer should correctly include all components of the transaction value so that when calculating the state levy to be paid, it is correct and there is no overpayment or underpayment of state levy.

The Goods Import Notification that has been made by the importer or his proxy is submitted to the Customs and Excise Officer at the customs office of the Directorate General of Customs and Excise (DGCE) electronically for research. Based on the provisions in Article 16 paragraph (2), paragraph (3), and paragraph (4) of the Customs Law, it is stated that:

- (2) Customs officials may determine the customs value of imported goods for the calculation of import duties before the submission of a customs declaration or within 30 (thirty) days from the date of the customs declaration.
- (3) If the determination as referred to in paragraph (1) and/or paragraph (2) results in an underpayment of import duty unless the importer files an objection as referred to in Article 93 paragraph (1), the importer shall be obligated to pay the underpaid import duty by the determination.
- (4) Importers who misstate the customs value for the calculation of import duties resulting in underpayment of import duties are subject to administrative sanctions in the form of a fine of at least 100% (one hundred percent) of the underpaid import duties and a maximum of 1000% (one thousand percent) of the underpaid import duties."

Based on the provisions in Article 84 paragraph (1) of the Customs Law, it is stated that: "Customs and Excise officials are authorized to request importers or exporters to submit books,

records, correspondence relating to import or export, and take samples of goods for inspection of customs declarations."

Referring to these provisions, there is authority possessed by Customs and Excise Officers as public officials. In essence, authority is the power given to state equipment to run the wheels of government.

To determine the customs value of imported goods, Customs and Excise Officers research transaction values based on data and supporting documents provided by importers or their proxies and data owned by DGCE. The research includes the completeness of supporting documents, the suitability of data between documents, and the suitability of data in supporting documents with data in PIB. If the Customs and Excise Officer believes that the transaction value is correct according to the data and documents, the Customs and Excise Officer shall determine the customs value according to the notified transaction value. Conversely, if there are doubts about the transaction value or data discrepancies, the Customs and Excise Officer shall determine the customs value by the method determined and based on available and measurable data. This determination based on available data may be a decision of the Customs Officer that does not provide justice to either the importer or the state.

One important thing to note here is that the correctness of the transaction value data is only assessed based on the data and supporting documents provided by the importer. Thus, if the importer is honest, it will provide complete and correct data and documents. On the other hand, if the importer has a bad intention to violate the law or does not understand the data and supporting documents required by the Customs and Excise Officer, the importer may provide incomplete data and supporting documents or even manipulate the data and supporting documents. In this case, there is no device or mechanism for Customs and Excise Officers to test and assess the correctness of data and supporting documents from other parties, such as data from banks. As has been understood that in the majority, importers make payment transactions to overseas suppliers through banking services.

In addition to the authority to determine the customs value of PIB, the Customs Law also authorizes Customs and Excise Officers to conduct audits as stipulated in Article 86 paragraph (1) of the Customs Law which reads: "Customs and Excise officials are authorized to conduct customs audits of persons as referred to in Article 49". Meanwhile, Article 50 paragraph (1) of the Customs Law stipulates that:

"At the request of the Customs and Excise Officer, the person as referred to in Article 49 shall be obliged to submit financial statements, books, records, and documents that serve as evidence of the basis for bookkeeping, letters relating to business activities including electronic data, as well as letters relating to activities in the field of customs for customs audit".

Even in this audit authority, the examination of Customs and Excise Officers is carried out on data and documents provided by the auditee, not accompanied by the authority or tools to test and assess the correctness of data and documents from parties other than auditees such as banks.

Based on the description above, it is known that the authority of Customs and Excise Officers to conduct research on transaction values in the context of determining the customs value notified in the customs declaration and the authority to conduct audits is not accompanied by the authority to obtain supporting data and documents from other parties or authorities so that sometimes there is an unoptimal transaction research which results in the determination of the customs value being inaccurate. This is sometimes also caused by importers who deliberately do not submit complete and correct data and documents.

As a consequence of the Customs Officer's determination that is different from the customs value notified by the importer, there is an excess or underpayment of state levies. In the majority of cases, the impact is the underpayment of state levies, forcing the importer to settle the bill in the amount of the Customs Officer's determination. This bill can then lead to a dispute between the importer and the Customs and Excise Officer. Legal efforts that can be made by importers in resolving the dispute are filing an objection to the Director General of Customs and Excise and/or filing an appeal to the Tax Court, and even filing a review to the Supreme Court.

This should be a strong reason and consideration to authorize Customs and Excise Officers to obtain supporting data and documents from other parties or authorities to improve accuracy and objectivity in determining customs value. With this authority, it can provide confidence to importers to always comply and declare the customs value correctly because at any time Customs and Excise Officers can test and assess the accuracy of the data and documents submitted. Accuracy and objectivity in determining customs value on the one hand will optimize state revenue because importers will pay import duties and taxes in the context of imports as much as they should, while on the other hand, it can support the continuity and progress of entrepreneurs because of fair and objective treatment in fulfilling state levy obligations and will create healthy business competition to encourage the improvement of the national economy.

According to the results of the search, research related to the authorization of access to financial information to Customs and Excise Officers for the determination of customs value has never been carried out by other researchers. However, based on observations and literature searches via the internet, there are several theses and journals related to the determination of customs value and access to financial information, as follows.

1. Riesfandiari (2019) conducted a study entitled "Review of the Work System and Customs Value Infrastructure at DGCE Using the WCO Diagnostic Tool". In this study, recommendations for improvement were made to optimize the DGCE work system using the WCO diagnostic tools, one of which was a formal consultation procedure between the technical unit and the central unit (Subdirectorate of Customs Value) and an information exchange policy with other countries' customs administrations.
2. Sari and Nugraha (2018) conducted a study entitled "Financial Information Access Policy on Taxpayer Behavior and its Implications for the Level of Taxpayer Compliance". Research on the impact of access to financial information was only examined on tax provisions. The results

of this study prove the influence of the Financial Information Access Policy on Taxpayer Compliance through Taxpayer Behavior, which is 29.4%.

3. Suharto (2021) conducted research with the title "Application of De Minimis Value in the Process of Determining the Customs Value of Imported Shipment Goods at KPPBC TMP B Pekanbaru". The study aims to assess the impact of de minimis value on the determination of the customs value of imported consignment goods at KPPBC TMP B Pekanbaru. The results showed that there were difficulties when deciding according to the provisions of the customs value, this was due to the commodity of goods that were determined to be difficult to find customs value information. Another problem found is that the customs value database is not used as an instrument to test the reasonableness of the customs value of the goods concerned.
4. Previous research, including the three studies above, generally focused on technical and procedural aspects of customs value determination, such as calculation methods, case analysis, work systems, and impact research. Meanwhile, this research makes a different contribution from previous studies. This study wants to look further by analyzing the authority possessed by Customs and Excise Officers in conducting customs value research. This includes the potential authority of Customs Officers to gain access to relevant financial information in ensuring accurate and objective customs value determination.

In addition, many previous studies have also found research on the authority to access financial information in the field of taxation. In contrast to this, this research focuses on the authority of Customs and Excise Officers in obtaining access to financial information relevant to the determination of customs value. This study will investigate how the authority of Customs and Excise Officers can produce accurate and objective customs value determinations with them through access to financial information.

RESEARCH METHODS

Research is a scientific activity related to analysis and construction that is carried out methodologically, systematically, and consistently. Methodological means by certain methods and methods, systematic is based on a system, while consistent means the absence of things that contradict a certain framework.

Legal research according to Soerjono Soekanto is:

"Scientific activities, which are based on certain methods, systematics, and thoughts, which aim to study one or several certain legal symptoms, by analyzing them. In addition, it also conducts an in-depth examination of the legal facts, and then seeks a solution to the problems arising in the legal symptoms".

In carrying out the approach to problems related to this research topic, the following research methods were used.

Type of Research

The type of research used in this research is normative juridical legal research. Normative legal research according to Abdulkadir Muhammad is legal research that examines written law

from various aspects, namely aspects of history, theory, comparison, composition, philosophy and structure, scope and consistency, material, formality, and binding force of law, general explanation of Article by Article, formality and binding force of law, and legal materials used, but does not examine the applied or implementation aspects, so normative legal research can also be referred to as "dogmatic legal research" or "theoretical legal research" (dogmatic theoretical law search). Normative legal research means that all problems studied in this research always refer to legal reviews, both normatively and based on the views of legal experts, and are also included in the scope of legal dogmatics that examine or examine legal rules. Dogmatic legal science has a "sui-generis" character.

This research analyzes normatively the importance of granting the authority to access financial information to Customs and Excise Officers, as currently granted to the Director General of Taxes based on Law Number 9 of 2017 concerning the Stipulation of Government Regulation instead of Law Number 1 of 2017 concerning Access to Financial Information for Tax Purposes into Law.

RESULTS AND DISCUSSION

Customs Valuation Agreement

The Customs Valuation Agreement, the implementation of Article VII of the General Agreement on Tariffs and Trade (GATT), is an international agreement that provides guidelines and principles for determining the customs value of imported goods. This agreement was negotiated during the Uruguay Round of Multilateral Trade Negotiations, which concluded in April 1994. This agreement elaborates and clarifies Article VII of the Multilateral Agreement on Trade in Goods - GATT (1947), and its official name is "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994".

The main objective of the Customs Valuation Agreement is to ensure that the customs value of imported goods is determined in a fair, uniform, and transparent manner. The customs value is the basis for calculating duties and taxes levied on imported goods, as well as for statistical purposes. By establishing clear rules for determining customs values, the agreement aims to prevent arbitrary or discriminatory practices that may hinder international trade.

The Agreement sets out six methods for determining the customs value of imported goods. The Agreement states that the primary basis for the customs value of imported goods is the "transaction value" of the goods - the price paid or payable when the goods are sold for export. Payment can be direct or indirect. An example of indirect payment is the settlement by the buyer of a debt owed by the seller.

According to this agreement, the authorities of the customs administration may only add the following to the transaction value of a good i.e.:

1. certain costs, if charged by the buyer, which are not included in the price paid or payable for the goods, including brokerage commissions and fees, container fees, and packaging fees;

2. the value of certain goods and services, if provided by the buyer at a lower price and not included in the price, such as materials, components, and parts incorporated in the imported goods; tools, molds, or dies used in the production of the imported goods; materials consumed in the production of the imported goods; and engineering, development, art, design work, or plans necessary for the production of the imported goods;
3. royalties or license fees related to the goods being valued that are payable by the buyer as a condition of sale; and,
4. proceeds from the resale, disposal, or use of imported goods acquired by the seller.

This agreement allows the customs administration to include or exclude the following in the determination of customs value:

1. the cost of transporting the goods to the port or other place of importation;
2. charging, unloading, and handling fees; and
3. insurance costs.

The agreement also covers certain situations where the transaction value of imported goods is not acceptable for duty purposes. This occurs: when there are restrictions (with some exceptions) on the transfer or use of the goods by the buyer; when the sale or price of the goods is subject to conditions or consideration for which value cannot be determined; when part of the proceeds of the use of the goods by the buyer flows to the seller; or, with some exceptions, when the buyer and seller are "related" (for example, they are business partners, employers, employees, officers, or directors in each other's companies).

It also provides for certain cases where imported goods cannot be determined using transaction value. In such cases, the treaty provides for other methods of valuation. The first alternative is to determine the value of import duties based on the transaction value of identical goods sold for export to the same country. If there are no identical goods, the customs authorities will use the transaction value of similar goods sold for export to the same country. If there are no identical or similar goods sold for export to the same country, the value of identical or similar goods when sold in the country of import may be used. Alternatively, the computed value may be used; this Agreement explains how this value should be calculated. When all attempts fail, customs authorities must use "reasonable means by the general principles and provisions of this Agreement" to determine the value of the imported goods.

The agreement emphasizes the importance of transparency and encourages customs administrations to provide clear and accessible information on their duty assessment practices. It also encourages cooperation and exchange of information between customs administrations to ensure consistent application of the provisions of the agreement. To ensure compliance with the Customs Valuation Agreement, the WTO provides a dispute settlement mechanism. If a member country believes that another member country is not properly applying the agreement, they can

request consultations with the other country. If the issue cannot be resolved through consultations, it can be submitted to a dispute settlement panel for adjudication.

The Customs Valuation Agreement has played an important role in facilitating international trade by providing a common framework for customs value research practices. This agreement has helped reduce uncertainty and disputes related to customs valuation, thereby promoting the smooth flow of goods across national borders. By establishing clear rules and guidelines, this agreement has contributed to a more predictable and transparent trading environment, which is important for the growth and development of global trade.

Transaction Research and Customs Value Determination in the Customs Law

The Customs Law is a legal basis that regulates various aspects related to customs activities in Indonesia. One of the important aspects regulated in the Customs Law is the authority to determine customs value by Customs and Excise Officers. Article 16 and Article 17 of the Customs Law are the focal points in this discussion, which are the legal basis for the authority of Customs and Excise Officers and the Director General of Customs and Excise in determining or re-determining customs value and outlining the procedures and implications of determining the customs value. Nevertheless, Article 15 of the Customs Law is a guide in calculating and determining customs value for Customs and Excise Officers. Therefore, before describing the authority of Customs and Excise Officers, it is necessary to describe Article 15 of the Customs Law which regulates the legal guidelines for determining customs value.

Article 15 of the Law is a special section that regulates customs value. Article 15 consists of 7 (seven) paragraphs that generally regulate the guidelines for determining customs value starting from transaction value, identical goods, similar goods, deduction method, computation method, and repetition method.

Article 15 paragraph (1) explains that the customs value used to calculate import duties is the transaction value of the goods concerned. This transaction value includes the price paid or supposed to be paid by the buyer to the seller for the goods exported to the customs area. In addition, the transaction value also includes some costs paid by the buyer that have not been included in the price paid or should have been paid, such as commissions and services (except purchase commissions), packaging costs that are an integral part of the goods, packing costs which include material costs and packing labor wages. Transaction value also includes the value of goods and services such as materials, components, parts, tools, molds, and similar items contained in imported goods, materials used in the manufacture of imported goods, and techniques, developments, artwork, designs, plans, and sketches necessary for the manufacture of imported goods. If such goods and services are supplied by the purchaser free of charge or at a reduced price, for production and sale for export of the imported goods purchased, and the price has not been included in the price actually or reasonably paid for the imported goods concerned, such value is also included in the transaction value. In addition, royalties and license fees payable by the buyer as a condition of the sale and purchase of imported goods are also included in the transaction value.

In addition, two additional criteria must be met to consider two goods as identical. First, the goods must be produced by the same producer in the same country. This means that the goods originate from the same producer and are produced in the same country, thus having the same origin. Secondly, the goods can also be considered identical if they are produced by another producer in the same country.

Thus, if in certain cases it is not possible to determine the actual transaction value, for example, due to incomplete or unreliable information, then the customs value for the calculation of import duties will be determined based on the transaction value of goods identical to the goods being imported. In this case, the transaction value of identical goods will be used as a reference for determining the customs value and calculating the amount of import duty payable on the imported goods.

Transaction Research and Customs Value Determination in the Ministerial Regulation

PMK on Procedures for Determining Tariffs, Customs Values, and Administrative Sanctions, as well as Determinations of the Director General of Customs or Customs Officials. The PMK on Procedures for Determining Tariffs, Customs Values, and Administrative Sanctions, as well as Determinations of the Director General of Customs or Customs and Excise Officers, was first published in 2008 and has been amended 3 (three) times, most recently in 2018. The PMK initially consisted of 20 articles and then currently has 21 articles along with the deletion and addition of articles in the PMK amendment.

In the PMK on Procedures for Determining Rates, Customs Values, and Administrative Sanctions, as well as Determination of the Director General of Customs and Excise or Customs and Excise Officers, in addition to regulating the customs value, it also regulates the determination of rates and also the determination of administrative sanctions in the form of fines. The results of the author's research show that there are at least 9 articles that are directly related to the determination or re-determination of customs value. These articles are Article 3, Article 4, Article 5, Article 9, Article 10, Article 10A, Article 10B, Article 12, and Article 13.

Article 3 has similar arrangements to those in Article 16 of the Customs Law, which includes arrangements regarding the authority to decide, the period of determination, and the shortage or overpayment of import duty as a result of the determination. However, in Article 3 there are additional arrangements, namely in article (1a) and paragraph (3). In paragraph (1a), it is further stipulated that the determination of customs value made by the Customs and Excise Officer is stated in writing only if the result of the determination of customs value is different from the customs value in the customs declaration. Therefore, if the determination of the customs value made by the Customs Officer is the same as the customs value on the PIB, no written determination shall be issued. In paragraph (3), it is stipulated that if the Customs Officer does not decide on the customs value within the specified period of 30 days from the date of the customs declaration, the customs value notified in the PIB is accepted and deemed to have been determined by the Customs Officer. To determine the customs value, Article 4 authorizes the Customs Officer to conduct a physical inspection of imported goods after the PIB is submitted. Thus, physical inspection is a

tool for Customs and Excise Officers to determine the actual or supposed customs value. Article 4 also regulates the consequences if there is a difference in the customs value determined by the Customs and Excise Officer as a result of physical inspection in the form of payment of import duty shortages and administrative sanctions in the form of fines.

Article 5 regulates more technically the type of letter issued if there is a determination of customs value by a Customs and Excise Officer. In this article, the determination of customs value that results in underpayment or overpayment of import duties and/or taxes in the context of import is stated in the Letter of Determination of Customs Tariff and/or Value (SPTNP). This SPTNP is then regulated to function as a determination of Customs and Excise Officials; notification; and billing or basis for refunding overpayments to Importers.

Article 9 regulates objections where importers can submit written objections to the Director General of Customs and Excise over the determination of customs value made by the Customs and Excise Officer. Furthermore, Article 13 stipulates that if a person in this case can be an importer or his attorney objecting to the determination of the Director General, he can appeal only to the tax judicial body.

Article 10 further regulates the reassignment made by the Director General of Customs and Excise. Article 10 is the same material as Article 17 of the Customs Law. This article stipulates that the Director General of Customs and Excise may re-determine the customs value within 2 (2) years from the date the PIB is registered. Article 10 further stipulates that the reassignment of customs value is carried out through a re-study or customs audit. In addition, article 10 also regulates the consequences if the customs value resulting from the re-determination is different from the customs value notified to the importer, which can be in the form of a shortage or overpayment of import duties and/or taxes in the context of import.

More technically, this article also regulates that the shortage or overpayment of import duties and/or taxes in the context of imports is stated in the Letter of Re-determination of Customs Tariff and/or Value (SPKTNP). This SPKTNP is then regulated to function as a determination of the Director General of Customs and Excise; notification to the importer; and billing or the basis for returning the overpayment to the importer. If the importer or his/her proxy objects to the Director General of Customs' re-determination, the importer or his/her proxy may file an objection only with the tax judicial body.

PMK on Customs Value for Calculation of Import Duty

The PMK on Customs Value for Calculation of Import Duty was issued in 2022 replacing Minister of Finance Regulation Number 160/PMK.04/2010 on Customs Value for Calculation of Import Duty as amended several times, most recently by Minister of Finance Regulation Number 62/PMK.04/2018 on the Second Amendment to Minister of Finance Regulation Number 160/PMK.04/2010 on Customs Value for Calculation of Import Duty.

The main objective of this PMK is to provide clearer legal certainty in the process of determining customs value. In addition, this MoF Regulation also aims to improve services and supervision in the customs sector and utilize information technology systems to improve the

efficiency of customs business processes. It is expected that with this PMK, there will be effectiveness and transparency in the calculation of customs duties, as well as more optimal utilization of information technology.

This PMK is a regulation that regulates further provisions in Article 15 of the Customs Law, especially the details of each customs value determination method. In addition, the main principle regulated in this PMK is that the customs value for the calculation of import duties is the transaction value of imported goods that meet certain requirements. This customs value refers to the customs value in international commercial terms (incoterms) cost, insurance, and freight (CIF). The next discussion will elaborate on further provisions that are more detailed regarding the determination of customs duties based on the method of determining customs value.

Transaction Value of Relevant Goods

Based on the MoF Regulation on Customs Value for Import Duty Calculation, it is stipulated that transaction value in the context of taxation and import duty imposition refers to the price paid or that should have been paid by the Buyer to the Seller for goods sold for export into the Customs Area. In addition, transaction value also includes costs and/or values that must be added if such costs have not been included in the price paid or that should have been paid.

Fundamentally, the transaction value should be based on a sale and purchase transaction taking place between a Buyer and a Seller. This ensures that the value reflects the price agreed upon and incurred in the context of trade. The price paid or payable is the total payment that the Buyer has made or will make to the Seller for the imported goods. This includes all payments made by the Buyer, both to the Seller and for the Seller's account, related to the purchase and importation of the goods.

In calculating the price paid or payable, an element of discount and/or warranty common in trade may be taken into account. That is, if there is a discount or warranty given in a sale and purchase transaction, the value may affect the price paid or payable.

The PMK also further regulates the costs and/or values that must be added to the transaction value. First, fees paid by the Buyer that have not been included in the price paid or that should have been paid. Examples are commissions and brokerage services, except for purchase commissions. In addition, packing costs must also be taken into account if the packing is related to customs interests and becomes an integral part of the imported goods. Packing costs that include material costs and packing labor should also be added.

Furthermore, there is the value of "assisted" goods and services that must be calculated. This includes materials, components, parts, and similar items contained in the imported goods. In addition, tools, molds, and similar items used for the manufacture of imported goods must also be taken into account. Materials used in the manufacture of imported goods are also included in the value assist. In addition, if any engineering, development, artwork, design, planning, and sketches are performed outside the Customs Area and are necessary for the manufacture of the imported goods and are supplied by the Buyer, the value of these should also be added.

Buyers must pay royalties and license fees as a condition of buying and selling imported goods. If such royalties and license fees have not been included in the price paid or that should have been paid, they must be added to the calculation of import duties. The value of the proceeds must also be taken into account. This is the value of any portion of the proceeds or income derived by the Buyer and due to the Seller from the sale, utilization, or use of the imported goods in question. If the value of the proceeds is not included in the price paid or payable, it must be added.

In addition, the cost of transportation of imported goods to the port of destination within the Customs Area, the cost of loading, unloading, and handling related to the transportation of imported goods, as well as the cost of insurance for the transportation of imported goods must also be added in the calculation of import duties. All these costs and values must be carefully calculated by the provisions stipulated in the PMK on Customs Value for Calculation of Import Duty.

In addition to regulating the costs that must be added, the PMK on Customs Value for Calculation of Import Duty also values or costs that are not included in the transaction value which includes several things. First, costs arising from activities carried out by the Buyer for its benefit are not included in the transaction value. This means that costs incurred due to internal activities carried out by the Buyer do not have to be added to the transaction value.

Furthermore, costs that are separate from the price paid or payable, as well as costs and/or values incurred after the goods are imported, are also not included in the transaction value. For example, costs incurred after the imported goods arrive at their destination, such as storage costs or repair costs incurred after importation, do not have to be added to the transaction value.

The provision further states that the cost of internal taxes in the exporting country is also not included in the transaction value. This means that if any taxes are levied in the exporting country, the buyer does not need to include these costs in the calculation of the transaction value. Finally, interest and dividends are also excluded from the transaction value. This means that if the buyer pays interest or dividends related to the import transaction, these costs do not have to be added to the transaction value.

Transaction Value of Identical and Similar Goods

The second and third methods of determining customs value are based on the transaction value of identical or similar goods. The transaction value of identical or similar goods can be used as a reference, provided that it meets certain requirements. First, the transaction value of identical or similar goods must come from the unit of goods in the import customs declaration whose customs value has been determined based on the transaction value. This means that the transaction value used must come from similar goods that already have a customs value determined based on the transaction value method.

The second and third methods of determining customs value are based on the transaction value of identical or similar goods. The transaction value of identical or similar goods can be used as a reference, provided that it meets certain requirements. First, the transaction value of identical or similar goods must come from the unit of goods in the import customs declaration whose customs value has been determined based on the transaction value. This means that the transaction

value used must come from similar goods that already have a customs value determined based on the transaction value method.

Furthermore, the level of trade and quantity of goods in question must be the same between the imported goods notified in the import customs declaration being determined for customs value and the goods that serve as a benchmark for the value of identical transactions or similar goods. This means that the quantity of goods and the level of trade must be comparable between the goods being notified and the goods that serve as a benchmark for the value of identical transactions or similar goods.

Finally, the mode of transportation used must also be the same between the notified imported goods and the goods that serve as a reference for identical transaction values. This means that the imported goods being determined for customs value and the goods being referred to must use the same mode of transportation.

Deduction Method

The deduction method is one of the methods used in determining the customs value of imported goods. In this method, the customs value is determined based on the unit price that occurs when the Importer sells the imported goods in the market within the Customs Area. This deduction method can be applied to the imported goods in question, identical goods, or similar goods with the same conditions as when imported.

In the deduction method process, the customs value of imported goods is reduced by the costs incurred after the goods are imported. These costs include several things, including commissions or profits and general expenses arising from the sale of imported goods in the market within the Customs Area. Furthermore, also included in the reduction of customs value are transportation costs, insurance, loading costs, unloading costs, and other costs borne by the Buyer after the imported goods arrive at the port of destination within the Customs Area. In addition, import duties, excise duties, and taxes related to the import process are also calculated and deducted from the customs value.

Computational Methods

The computational method is one of the methods used in determining the customs value of imported goods. This method is carried out by summing up the elements that form the customs value of the imported goods concerned. These elements include the cost or value of raw materials and manufacturing processes or other processes carried out in producing the imported goods.

In addition, in the computational method, profits and general expenses equal to or close to the profits and general expenses of sales of similar goods made by producers in the same exporting country for shipment into the Customs Area are also taken into account. This aims to obtain an estimate of customs value that is comparable to the customs value of similar goods produced by producers in the country of origin.

Furthermore, the computation method also considers costs paid by the Buyer that have not been included in the price paid or that should have been paid, assistance, royalties and license fees, proceeds, transportation costs, loading, unloading, and handling costs, and insurance costs. This

method can be used in situations where the Seller and Buyer are Interconnected Persons, and the producer or its proxy is willing to provide information to the Customs Officials on the elements forming the customs value. They must also be willing to provide facilities for further inspection if necessary.

Fallback Method

The fallback method is one of the methods used in determining customs value. This method is used when no other method can be applied or the required data is not available. This repetition method is carried out by repeating the principles and provisions of the previous method and other methods that have been determined as long as they are supported by Real Evidence or Objective and Measurable Data.

However, there are some restrictions on the application of the repetition method. First, this method may not be based on the selling price of domestically produced goods. In addition, it is not permitted to use a system that determines a higher value if there are two or more alternative comparative values. The price of goods in the exporting country, production costs that are not by the computation method for Identical Goods or Similar Goods, the price of goods exported to other countries outside the Customs Area, benchmark prices, as well as arbitrarily or fictitiously set values may also not be the basis for the repetition method.

The Authority of the Directorate General of Customs and Excise in Disclosing Bank Secrets

Based on the Letter issued by the Financial Services Authority (OJK) to all Bank Directors Number S-19/D.03/2020 concerning the Authority of the DGCE in disclosing Bank Secrets, it is stated that in carrying out the functions, duties, and authorities to collect state revenues, DGCE collects import duty and/or excise debtors including confiscating the assets of debtors in the form of account balances. To support the needs of DGCE, DGCE has the authority to obtain bank secrecy based on Law Number 9 the Year 2017 on Stipulation of Government Regulation instead of Law Number 1 the Year 2017 on Access to Financial Information.

The authority granted in the letter is important because DGCE is responsible for the collection of import and excise duties, which is one of the sources of state revenue. DGCE has an important role in maintaining the debt insurer's compliance with import duty and excise obligations. If a debtor fails to pay import duty or excise, DGCE has the right to collect the obligation.

In carrying out collections, DGCA can confiscate the assets of the insurer, including bank account balances. This can be done after the DGCA obtains information about the insurer who has not paid import duties or excise duties from the bank concerned. In this case, the DGCA can coordinate with banks to confiscate the assets of the insurer contained in the bank account.

However, the authority of the DGCA in the letter is limited to the confiscation of the assets of the insurer. This means that the DGCA has the authority to take over or confiscate assets owned by debt insurers who have not paid import duties or excise. Therefore, it is important to note that the authority of the DGCA does not include access to financial information in the research process or the determination of customs values. In other words, DGCA does not have the authority to

access financial information to conduct research or determine customs values related to goods subject to import duties or excise duties given the confidential nature of financial information and the need for a strong foundation in obtaining authority.

Empirical Data in Pabean Value Setting To determine the customs value of imported goods, the Customs and Excise Officer conducts transaction value research based on data and supporting documents provided by the importer or his agent and data owned by the DGCA. Research includes the completeness of supporting documents, the suitability of data between documents, and the suitability of data in supporting documents with data in PIB. If the Customs and Excise Officer believes the correctness of the transaction value according to the data and documents, the Customs and Excise Officer determines the customs value according to the notified transaction value. Conversely, if there is a doubt in the transaction value or data discrepancy, the Customs and Excise Officer determines the customs value according to the established method and based on the available data.

CONCLUSION

The purpose of this study is to analyze the implementation of customs value assessment carried out by the Customs and Excise Officer and to analyze the authority of the Customs and Excise Officer to be able to produce an accurate and objective determination of customs value. Based on the discussion that has been described in the previous section, the conclusion of this study is as follows.

The determination of customs value carried out by Customs and Excise Officials is currently regulated by Article 16 and Article 17 of the Customs Law as well as derivative laws and regulations that further regulate the provisions for determining customs value. In this provision, the Customs and Excise Officer and the Director General of Customs and Excise have the authority to determine the customs value upon notification of the customs value by the importer. In its implementation, in the process of determining the customs value of the Customs and Excise Officer or Director General of Customs and Excise has tools and indicators such as *customs* value databases, physical examination results, information from importers, and/or audit results. The subsequent determination of the customs value may obtain an equal, higher, or lower determination of the customs value. Variations in the determination of customs values then result in consequences, namely underpayment including fines or overpayment. In the determination of the customs value.

The authority of the Customs Officer is currently specifically regulated under the Customs Law and there is no authority to access financial information. The absence of such authority does not reflect justice, potentially resulting in a distribution of burdens and rights that are not to the truth of Plato's theory of justice. The unfairness of collecting import duties and taxes in the context of imports will result in unfair business competition. Another important thing is that the absence of customs access authority results in the potential for misdetermination of customs values by Customs and Excise Officials which leads to the filing of objections and appeals that require high costs and time. From the perspective of authority, the injustice illustrates the problem with existing authority. With this urgency and *existing best practices*, it is necessary to authorize access to financial information to Customs and Excise Officials. The granting of such authority also needs to be careful, especially about data protection and privacy rights. Therefore, the legislation to be drafted certainly pays attention to the content that must be included including the authority given, the

purpose of use, sanctions and enforcement, procedures and requirements, and legal exceptions for the protection of privacy rights.

BIBLIOGRAPHY

- Armstrong, Mark, Simon Cowan, and John Vickers. *Regulatory Reform: Economic Analysis and British Experience*. MIT Press, 1994.
- Atmosudirdjo, Slamet Prajudi. *Hukum Administrasi Negara*. Edited by Slamet Prajudi Atmosudirdjo. Jakarta: Jakarta :: Ghalia Indonesia, 1994.
- Gadjong, Agussalim Andi. *Pemerintahan Daerah: Kajian Politik Dan Hukum*. 1st ed. Bogor: Ghalia Indonesia, 2007. <https://lib.ui.ac.id/detail.jsp?id=20355398>.
- Godfrey, Jayne, Allan Hodgson, Ann Tarca, Jane Hamilton, and Scott Holmes. *Accounting Theory*. 7th ed., 2010.
- Hadjon, Philipus M. "Tentang Wewenang." *Yuridika* 7, no. 5–6 (1997).
- Hidjaz, M K. *Efektivitas Penyelenggaraan Kewenangan Dalam Sistem Pemerintahan Daerah Di Indonesia*. Pustaka Refleksi, 2010. <https://books.google.co.id/books?id=4EsjcgAACAAJ>.
- HR, Ridwan. *Hukum Administrasi Negara*. Jakarta: Rajawali Pres, 2006.
- Indroharto. *Asas-Asas Umum Pemerintahan Yang Baik*. Bandung: Citra Aditya Bakti, 1994.
- Indroharto, Usaha Memahami Undang-undang Peradilan. "Usaha Memahami Undang-Undang Peradilan Tata Usaha Negara." *Buku II, Beracara Di Pengadilan Tata Usaha Negara, Sinar Harapan, Jakarta*, 1993.
- Kusumohamidjojo, Budiono. *Filsafat Hukum: Problematik Ketertiban Yang Adil*. Gramedia Widiasarana Indonesia (Grasindo), 2004.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Revisi. Jakarta : Kencana, 2019.
- Muhammad, Abdulkadir. *Hukum Dan Penelitian Hukum*. Bandung Citra Aditya Bakti, 2004.
- Muhtar, Mas'oeid. *Perbandingan Sistem Politik*. 11th ed. Yogyakarta: Gadjah Mada University Press, 1991.
- Nandang Alamsah Deliarnoor. et.al. *Teori & Praktek Kewenangan*. Edited by Purwowibowo. Bandung: PANDIVA BUKU, 2017.
- Nasution, Muhammad Syukri Albani. *Hukum Dalam Pendekatan Filsafat*. 2nd ed. Jakarta: Kencana, 2017.
- Rahardjo, Satjipto. *Ilmu Hukum*. 8th ed. Bandung: Citra Aditya Bakti, 2014.
- Rhiti, Hyronimus. *Filsafat Hukum Edisi Lengkap (Dari Klasik Ke Postmodernisme)*. Ctk. Kelima. Yogyakarta: Universitas Atma Jaya. 5th ed. Yogyakarta: Universitas Atma Jaya, 2015.
- Salim, HS, and Erlies Septiana Nurbani. *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi*. 5th ed., 2017.
- Santoso, Agus. "Hukum, Moral Dan Keadilan: Sebuah Kajian Filsafat Hukum," 2012.
- Setiadi, Elly M, and Usman Kolip. *Pengantar Sosiologi Politik*. Kencana, 2013.
- Sholehudin, Umar. *Hukum Dan Keadilan Masyarakat: Perspektif Kajian Sosiologi Hukum*. Malang: Setara Press, 2011. <https://lib.ui.ac.id/detail?id=20463314>.

- Smith, A. *The Wealth of Nations*. Penguin Classics. Penguin, 2000.
https://books.google.co.id/books?id=a4s5j--_M1sC.
- Soekanto, Soerjono, and Mamudji Sri. *Penelitian Hukum Normatif*. 7th ed. Jakarta : Rajawali Pers, 2015 © 1983, 2015.
- Soerjono Soekanto. *Pengantar Penelitian Hukum*. Jakarta: UI-Press, 2010.
- Sunggono, Bambang. *Metode Penelitian Hukum*. Jakarta : Raja Grafindo, 2006.
- Syafrudin, Ateng. “Menuju Penyelenggaraan Pemerintahan Negara Yang Bersih Dan Bertanggung Jawab.” *Jurnal Pro Justisia Edisi IV, Universitas Parahyangan, Bandung*, 2000.
- United States Congress. Administrative Procedure Act (1946).
- Waluyo, Bambang. *Penelitian Hukum Dalam Praktek*. Jakarta : Sinar Grafika, 1996., 1996.
- Bandiyono, Agus, and Dhanny Andriani Karimah. “Implementasi Atas Pemberian Informasi Dan Bukti/Keterangan Dalam Halal Akses Informasi Keuangan Untuk Kepentingan Perpajakan.” *Jurnal Ilmiah MEA (Manajemen ... 5, no. 1 (2021): 562–84*.
<http://journal.stiemb.ac.id/index.php/mea/article/view/784>.
- Dahlan, Muhammad. “Shadow Economy, AEOI, Dan Kepatuhan Pajak.” *Scientax 2, no. 1 (2020): 39–56*. <https://doi.org/10.52869/st.v2i1.51>.
- Fattah, Damanhuri. “Teori Keadilan Menurut John Rawls.” *Jurnal TAPIS 9, no. 2 (2013): 1–23*.
- Furqon, Rahmat Heryat, Azhar Affandi, and Dadang Suwanda. “Ketidakpatuhan Wajib Pajak Dalam Aksi Korporasi Yang Berpotensi Menurunkan Penerimaan Pajak Negara.” *Ekonomis: Journal of Economics and Business 6, no. 2 (2022): 757*.
<https://doi.org/10.33087/ekonomis.v6i2.689>.
- Gupta, Sanjay, Shahabuddin Ahmed, and Mohammad Yunus. “Transparency and Accountability in Public Financial Administration: A Comparative Study of Indonesia, Malaysia, and Thailand.” *Public Administration and Development 49, no. 3 (2019): 271–83*.
<https://doi.org/10.1002/pad.1880>.
- Gustav, Radbruch. “Legal Philosophy, Dalam The Legal Philosophies of Lask, Radbruch, and Dabin, Translated by: Kurt Wilk.” Harvard University Press, Cambridge, Massachusetts, 1950.
- Handayani, Luh Putu Dian Handayani, and Gede Sri Darma. “Pengaruh Kebijakan Pemeriksaan, Kebijakan Akses Informais Keuangan Dan Forensik Digital Terhadap Kualitas Pemeriksaan Pajak.” *Syntax Literate 6, no. 3 (2021): 1260–72*.
- Nurhayati, Ismi, Maya Herma Sa’ari, Mochammsd Deny Firmanulloh, and Selpina Hermansyah. “Konsep Keadilan Dalam Perspektif Plato.” *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora 1, no. 01 (2023): 1–25*. <https://doi.org/10.11111/nusantara.xxxxxxx>.
- OECD. “Procedural Fairness : Transparency Issues in Civil and Administrative Enforcement Proceedings,” 2011.
- Peonidis, Filimon. “Bentham and the Greek Revolution: New Evidence.” *Journal of Bentham Studies 11, no. 1 (2009): 1–5*. <https://doi.org/10.14324/111.2045-757x.036>.
- Riesfandiari, Indri. “Tinjauan Atas Sistem Kerja Dan Infrastruktur Nilai Pabean Di DJBC

-
- Menggunakan WCO Diagnostic Tool.” *Jurnal Perspektif Bea Dan Cukai* 3, no. 2 (2019).
- Sari, Purnama Endah, and Erik Nugraha. “Kebijakan Akses Informasi Keuangan Terhadap Perilaku Wajib Pajak Dan Implikasinya Terhadap Tingkat Kepatuhan Wajib Pajak.” *Jurnal Tekun* 8, no. 1 (2018): 81–96.
- Suharto, Dafa Gusfananda. “Penerapan de Minimis Value Dalam Proses Penetapan Nilai Pabean Barang Kiriman Impor Pada KPPBC TMP B Pekanbaru.” *Jurnal Ilmiah Bidang Keuangan Negara Dan Kebijakan Publik* 1, no. 2 (2021): 164–74.
- World Trade Organization. *Agreement On Implementation Of Article VII Of The General Agreement On Tariffs And Trade 1994* (2011). <https://doi.org/10.1163/ej.9789004145665.i-1228.333>.