

# **The Process Of Investigating Civil Servants (PPNS) Customs Regional Office Of The Directorate General Of Customs And Excise (DJBC) North Sumatra In Cracking Down And Investigating Customs Smuggling In Its Jurisdiction**

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## **Abstract**

Smuggling and illegal sectors have severely damaged Indonesia's economic structure. Indonesia's economy has been dominated by illegal market economy, the indication can be seen in the occurrence of a large difference between production capacity and domestic consumption levels, whereas the number of imports continues to decline. Actors can achieve large profits due to price differences or disparities, the gap between the index of production of large and medium industries and total consumption, including household consumption, is getting bigger. This reality proves the high level of smuggling in Indonesia. The research method used is normative and empirical juridical research. The nature of the research used in this study is descriptive analysis. The data sources used in this study are primary and secondary data. The method of data analysis used in this study is descriptive qualitative. Based on the results of the research, the conclusion in this study is the regulation of Customs crimes contained in the law of the Republic of Indonesia No. 17 of 2006 on amendments to Law No. 10 of 1995 on customs, which can be found in Article 103 letter A, Article 103 letter b, Article 103 letter c, Article 103 A, Article 103 letter d, Article 104 letter a, Article 104 letter b, Article 104 letter c, Article 104 letter d, Article 105, Article 107. As for smuggling as a customs crime, it is regulated in Article 102 and Article 102 A. Handling the eradication of counterfeit goods based on Law No. 17 of 2006 on customs at the Belawan Customs and Excise Office is carried out in several stages, namely through examination of goods by conducting document research and physical examination, investigating goods that are suspected of being fake or not in accordance with existing documents, taking action against goods that are strongly suspected of being counterfeit, and the last is investigating counterfeit goods located in the Belawan customs area or territory. In carrying out its functions, Belawan Customs and Excise Office often faces obstacles, including the Director General of Customs and Excise does not have its own provisions in handling the eradication of counterfeit goods, which means it is still interrelated with agencies related to these goods later. not having a clear basis for consideration in the form of guarantees or determining the amount for the suspension and issuance of counterfeit goods, the authority for the destruction of goods resulting from IPR violations is not clearly stated

**Keywords** Law Enforcement, Crime, Smuggling

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## **1. INTRODUCTION**

The economic and financial condition of the country is a reflection of the life of a nation. Therefore, the Government of the Republic of Indonesia is trying to emphasize the implementation of national development, especially in the economic development sector. Indonesia also carries out long-term national development aimed at realizing a just and prosperous society that is equitable materially and spiritually. The achievement of these development goals requires sources of development financing from within and outside the country. State financing for development comes from tax and non-tax sources . Tax revenues are all state revenues consisting of domestic taxes and international trade taxes. International Trade tax is all state revenues derived from import and export duties, as stipulated in the provisions of Article 1 Paragraph (22) of Law No. 1 of 2004 No. 5 and supplement to the State Gazette of the Republic of Indonesia No. 4355.

Trade is one of the alternatives to achieve an economic development, especially if it reaches an international scale, namely international trade, in international trade, buying and selling activities are called export-import transactions . Export is selling goods from within the country out of circulation of the Republic of Indonesia and the goods sold must be reported to the Directorate General of Customs and Excise of the Ministry of Finance, while import is buying goods from abroad into circulation of the Republic of Indonesia and the purchased goods must be reported to the Directorate General of Customs and Excise of the Ministry of Finance.

Taxation levies include import duty and excise levies, as stipulated in Article 11 paragraph (3) and explanation of the law of the Republic of Indonesia number 17 of 2003 on State Finance (State Gazette of the Republic of Indonesia 2003 Number 47 and supplement to the State Gazette of the Republic of Indonesia number 4286). In order for the economic democratic process to be well organized, a very strategic state regulation is the regulation of the control of resources by economic actors in order to realize the greatest prosperity for all people.

The role of Customs and Excise, in addition to being a source of state revenue, is also to protect domestic industry, protect the community, and expand employment, which is an important element in the national economic development process. Goods entering or leaving Indonesia must be inspected according to the law. In the case of goods entering or goods exiting the territory of Indonesia, it must be registered and pass the appropriate procedures. Law Number 10 of 1995 which was updated to Law number.17 of 2006 on customs determines, that in the framework of customs, that is, everything related to the supervision of the traffic of goods entering or exiting the Customs Area and the collection of customs duties, it is required

to make a customs declaration . The provisions and procedures of the customs declaration relate to 5 ways. First, the form, content and validity of the customs declaration and Customs logbook. Second, the submission and Customs Declaration. Third, Research, change, addition, and cancellation of Customs notices and records books. Fourth, the distribution and administration of Customs notices and customs records. Fifth, the use of complementary customs documents. As for the complementary customs documents are all documents that are used as a complement to the Customs Declaration. Such as, Invoice, bill of lading, packing, and manifest.

Achievement of macroeconomic or national economy still has problems and constraints, one of which is not optimal space for fiscal stimulus which at the same time is still faced with the need to increase the ratio of tax revenues. In terms of State Revenue, several problems are faced, namely: not all primary commodity prices have shown improvement, import performance has not improved, still limited tax base, Indonesia's position is not strong enough in cooperation between countries in the field of taxation, and still low taxpayer compliance. International traders to reduce the tax burden or even get rid of it, and avoid the convoluted administration is not uncommon to commit illegal acts.

Customs violations according to the Kyoto Convention are any violation or attempted violation of the customs law (customs offense, means any breach or attempt breach of law) customs violations according to the WCO Handbook for commercial Fraud Investigators are sorted into 16 main types of violations in the field of customs, including one of which is smuggling . Smuggling is basically a criminal offense related to export and import activities, where the perpetrators of criminal acts commit or try to spend/enter goods from or into the Indonesian customs territory without heeding the provisions of Law No. 17 of 2006 concerning Amendment No. 10 of 1995 concerning Customs.

Smuggling and illegal sectors have severely damaged Indonesia's economic structure. Indonesia's economy has been dominated by illegal market economy, the indication can be seen in the occurrence of a large difference between production capacity and domestic consumption levels, whereas the number of imports continues to decline. Actors can achieve large profits due to price differences or disparities, the gap between the index of production of large and medium industries and total consumption, including household consumption, is getting bigger. This reality proves the high level of smuggling in Indonesia. The crime of smuggling is very detrimental and disrupts the balance of Indonesian life. Losses due to smuggling reach up to trillions of rupiah in a year. The limited state revenue has an impact on the limited fiscal capacity of the government, especially to finance development while maintaining the momentum of economic growth.

Taking into account these things, it is necessary to increase the study of smuggling as a consideration to achieve more effective policies regarding the prevention and control of smuggling, both in terms of prevention, countermeasures, and the process of applying the law. Smuggling even occurs in the most basic things in human life, namely the smuggling of foodstuffs, such as rice, fruits, onions, meat, and others. On December 14, 2018, after going through research, investigation and intelligence activities based on information and data from BC Belawan, North Sumatra, successfully thwarted an attempt to smuggle natural resources in the form of rattan bars. Head of Belawan Customs Office, Haryo Limanseto revealed the chronology of the rattan bar action. Based on information received from the public that there will be illegal exports of rattan through the Port of Belawan. Customs and Excise officers immediately conducted research and examination of export activities in the field considering that rattan is one type of item that is prohibited from export based on regulation of the Minister of Trade No. 44/M-DAG/PER/7 / 2012.

Finally, Customs and Excise officers detected a loss of 3 export notification documents with the name of the type of Goods Notified, namely betelnut (areca nut) made by CV. ZM with destination countries Singapore and China. "Based on the analysis of the examination and investigation of related documents, the results of the investigation found nine containers and obtained rattan in the form of bars of 2,546 bundles with a total weight of 154,910 Kg. Smuggling as an acute problem in Indonesia , Customs Enforcement Efforts by customs officials, to prevent the emergence of State losses, is not the only preventive effort that can be done. The losses referred to in this case is the lack of real money and a definite amount (can be calculated) due to illegal acts either intentionally or negligently, derived from state levies that are not paid or not paid to the state treasury by smugglers in the form of: (1) state levies in the form of import duties and taxes (Value Added Tax/VAT, income tax/, (2) state levies in the form of export duties where the imposition of export duties on exported goods is further regulated by government regulations. (3) Non-Tax State Revenue (PNBP) in the framework of import and export of goods.

The financial losses of the state and the country's economy caused, ultimately hinder the implementation of national development aimed at realizing the greatest prosperity of the people . The eradication of smuggling is very important to be discussed among law enforcers, as well as students who will become law enforcement candidates and several related agencies that have the authority and supervision over the implementation of import and export of goods, because it is one of the factors hindering the long-term economic development goals for the country.

## **2. RESEARCH METHOD**

The type of research chosen is normative legal research that is research establish the law as a system of norms. The system of norms in question is about the principles, norms, rules and regulations. Peter Mahmud Marzuki that: 'normative legal research is a process of finding a rule of law, principles of law, as well as legal doctrines to answer legal problems faced. Normative legal research conducted to produce argumentation, theory or a new concept as a prescription in solving the problem at hand. research normative law is also called doctrinal legal research, namely research aimed at to provide a detailed systematic explanation of the rule of law governing the field of specific legal rules, analyze the relationship between the rules of law one denhan the other, explaining the elusive parts of a rule of law and it also includes predictions of the future development of a particular rule of law. Doctrinal legal research is library-based research whose focus is analysis of primary legal materials. This type of research is based on the thought that this study to analyze a system of norms or rules.

## **3. RESULT AND ANALYSIS**

In Law No. 17 Of 2006 On Amendments To Law No. 10 of 1995 on Customs does not specify in detail the forms of Investigation efforts to address counterfeit goods and pirated products. However, functionally as a traffic controller of imported and / or exported goods in the customs area of Kppbc Belawan can refer to the Job Descripton section that follows up on the findings from the results of document research and physical examination. This investigation effort was carried out by Customs and Excise officials in the field of supervision. This provision has been regulated in Article 9 of regulation of the Minister of Finance No. 139/PMK.04/2007 on customs inspection in the field of imports, namely : "In the case based on customs inspection there:

- a. Unannounced imported goods
- b. Goods prohibited or restricted for import.

Then the document inspecting officer submits the customs declaration along with the complementary customs documents to the Customs and excise officer responsible for supervision for investigation". In the examination of the article has also been done that, implicitly the treatment of Customs and excise for officers can conduct investigations into indications of counterfeit goods and pirated products that are the result of IPR violations. Because the position (ex-officio) is in his territory. As an effort to guide the steps that are then set can apply to the Travel Agreement Article 58 trip'S Agreement : "If members request the competent authorities to act on their own initiative and suspend the release of the goods in connection with prima facie evidence obtained that intellectual property

rights are infringed: a. The competent authority may at any time request information from the rights holders that may assist them in exercising this authority; b. Importers and rights holders must be notified immediately of the suspension. Shal members only exclude public authorities and officials responsible for appropriate remedial action if action is taken or intended in good faith".

In Article 58 letter A, it is stated that the competent authorities (meaning Customs and Excise officials) may at any time request information from the rights holders that helps them exercise their authority. Of course, this information request after being coupled with other information obtained in the field, can be a means of evidence, for example ; the name of the rights holder is different from the name of the Importer/Exporter of goods on the manifest document, while the importer/exporter does not receive power of attorney for it from the rights holder. In Article 3 Of Law No. 15 of 2001 on trademarks it is stated that the protected trademark is a registered trademark. Each registered mark is contained in the General Register of Marks. As for the applicant for trademark protection or his attorney is given a trademark certificate (Article 27 paragraph (2) of law no.15 of 2001). But something similar is not contained in the copyright provisions. There is no registration obligation for copyright. Copyright is the exclusive right for creators or copyright holders to announce or reproduce their creations that arise automatically after a work is born without prejudice to the applicable laws and Regulations (Article 2 of law no. 19 of 2002 on copyright).

While in Article 1 Item 5 of Law No. 19 of 2002 on copyright mentioned that, the meaning of "announcement " is the reading, broadcasting, display, sale, distribution, or dissemination of a work by using any tool including the internet media or doing in any way so that a work can be read, heard, or seen by others. Furthermore, in Article 5 it is stated that, unless otherwise considered as the creator is :

- a. The person whose name is registered in the General Register of creations; or
- b. A person whose name is mentioned in a creation who is announced as the creator of a creation.

From the description above, the author argues that the sources of information that can be used by Customs and Excise officials for the adequacy of evidence of violations of import/export of goods resulting from IPR violations can be obtained from : a. The right holder of the trademark is in the form of a trademark certificate and from the copyright holder is in the form of proof of receipt of copyright registration at the Department of Law and human rights or proof of announcement of the work in question. b. Department of Law and Human Rights, which is in the form of a General

Register of brands for brands that have been registered. For copyright, if it is registered it can be seen in the General Register of works. c. Information from an association of owners or rights holders, such as the Karya Cipta Indonesia Foundation. d. Profiles of companies or people who have committed IPR violations are collected by other law enforcement officials. e. Information collected by Customs and Excise officials themselves from other parties as well as from the development of physical examination results of imported or exported goods.

Thus, if sufficient preliminary evidence has been obtained, the Customs and Excise supervision officer submits the preliminary evidence to the Prevention and Investigation Officer for further efforts. According to Mr. Galih, head of Investigation and BarangHasil Action section of Regional Office of DGT North Sumatera, every problem that occurs must have obstacles or difficulties in overcoming it, can not be separated from the constraints of handling criminal acts of smuggling of imported goods carried out by individuals. There are also those who refuse to be examined by DGT officers. However, the obstacles that we experience can basically be overcome and because now there is a pretrial process related to the determination of suspects, there have also been several times pretrial related to the crime of smuggling imported goods that we investigate.

To avoid smuggling, Customs and Excise in its place and position establishes the authority to: 1. Check all kinds of vehicles and goods loaded if suspicious. 2. Ordered suspected ships to stop at anchor, conduct inspections to prevent smuggling except warships and government ships. 3. Dismantle suspicious vehicles on guilty charges. 4. Examine the prohibited items and their restrictions. 5. Officers appointed by the Chief Inspectorate of the Directorate of Customs and Excise are authorized to inspect buildings suspected of storing contraband in violation of field regulations.

The actions of the customs authorities against the irregularities committed above are: 1. Stop and inspect the means of transporting goods on it. 2. Order that the means of Transport be taken to the customs office or to another suitable place for inspection. 3. Perform sealing, locking, and gluing of safety marks required against those on it that have not been complied with customs obligations and other goods that must be initiated according to applicable laws and regulations.

Based On Article 54 Of Law No.17 of 2006, then in Indonesia the request by the holder or owner of the right is submitted to the chairman of the Commercial Court. By choosing the path of request through this court, The Commercial Court has the authority to determine the temporary suspension of the issuance of goods and to decide cases of IPR violations. Article 51 of the trip's Agreement also stipulates that in the event that the owner or rights holder has sufficient evidence to suspect the importation of goods that violate trademark rights or copyrights, he may submit a written

request to the competent authorities both administratively and judicially for the suspension of the issuance of such goods by Customs and Excise. Trip's does not specify to which party (competent authorities) this request for suspension of detention should be submitted, this depends on the conditions in force in each country, thus the request can be submitted to the court (judicial) or to other agencies (administrative) including those submitted directly to the customs authorities.

Thus, the role of the Customs and Excise Office is passive, namely in the form of a suspension of the issuance of goods based on a written order of the chairman of the Commercial Court at the request of the owner or IPR holder by submitting sufficient evidence of IPR violations accompanied by the placement of guarantees to be risked.

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The suspension of the issuance of goods based on authority due to office is regulated in Article 62 of Law No.10 of 1995 and Law No.17 of 2006 on Customs is as follows: "the act of suspension of the issuance of imported or exported goods may also be carried out out of office by Customs and Excise officials if there is sufficient evidence that the goods are or come from the result of trademark or copyright infringement". Further in Article 63 mentioned : "The provision of suspension of the issuance of goods suspected of being the result of intellectual property rights infringement does not apply to the luggage of passengers, crew of transportation facilities, border crossers, or goods sent by post or deposit services that are not intended for commercial purposes". Finally in Article 64 explained that ; 1. Control of the import or export of goods suspected to be the result of infringement of intellectual property rights, other than trademarks and copyrights as provided for in this law, is established by government regulation. 2. Further

provisions necessary for the implementation of Article 54 to Article 63 shall be regulated by government regulation.

The ex-officio actions of customs officials can be said to be active, namely the suspension of the issuance of imported or exported goods on ex-officio authority based on sufficient evidence of IPR violations. In Article 62, it does not elaborate on the meaning of the act of suspension due to office and its scope. This action is only carried out when there is sufficient evidence, and its purpose is to prevent the circulation of goods that violate trademarks and copyrights that adversely affect the economy in general.

Ex-officio authority in the field of IPR by Customs and Excise officials is only written briefly and of course still needed implementing regulations. In Article 62 paragraph (2) of Law No. 10 of 1995 and Law No. 17 of 2006 on customs states that, further provisions necessary for the implementation of Article 54 to Article 63 are further regulated by government regulations. But until now, the government regulation in question has never existed. It also has no implementing provisions at its lower level governing the implementation of Article 62. The absence of clear and strong regulatory provisions will affect the effectiveness of Customs and Excise performance throughout Indonesia and Kppbc Belawan in particular.

In both ways, Kppbc Belawan can make efforts to prevent the circulation of counterfeit goods and pirated products in accordance with the customs authority. But from the results of the author's research, until now since the enactment of Law No. 10 of 1995 jo Law No. 17 of 2006 concerning Customs, there has never been a request submitted by the IPR Holder to suspend the issuance of imported or exported goods from the customs area that are suspected to be the result of a violation of IPR provisions. Seeing the above, it is very possible that in the future the request for suspension of the issuance of imported or exported goods from the Customs Area initiated by the owner/IPR holder may never exist, even if there may be a very small amount. Therefore, law enforcement activities involving the import and export of goods that are suspected of violating IPR, will rely more on the active role of Customs and Excise officials.

Customs officials are authorized to take action in the field of Excise to ensure the rights of the state and compliance with the provisions of legislation in the field of excise. Each enforcement activity must be accompanied by a letter of proof of enforcement. The proof of action letter is intended to provide legal certainty for the parties affected by the action and avoid arbitrary actions of officials beadan excise. Enforcement in the field of excise as intended, includes actions such as: a.Termination; b.Examination; c.Prevention; d.Sealing.e. Do not serve orders excise tax / other proof of payment.

Enforcement and investigation activities are actually further actions of customs control. Tabean supervision is carried out through document

research, physical examination, post-import audit, and patrol if there is a violation or criminal act, it will be followed up with action or even Investigation. Document research or audits that find false documents will be immediately followed up with an investigation. Likewise, if a physical examination is found prohibited items will be followed up with an investigation According to Mr. Galih, head of the investigation section and the results of the prosecution goods Regional Office of North Sumatra DJBCTHE number of personnel assigned at each port, airport, and the sea depends on the volume of passengers using aircraft and ships in different ports depending on the number of busy activities or density of passengers. But on average if at the airport or at the ferry port in 1(one) team on duty usually amounts to 5 to 10 people depending on the density of activity at the airport or at the ferry port. Unlike the container port, the personnel assigned there are more than the personnel at the airport and at the port of the ship.

Regarding the authority of PPNS Customs and Excise in relation to the investigation of counterfeit goods and pirated products that are violations of IPR, the author examines that although Customs and Excise officials are Investigators of civil servants (PPNS) in cases of customs violations, but PPNS Customs and Excise in the field of IPR does not have the authority “ex-officio” or “out of office”. This is because IPR violations in the field of import and / or export are not included in customs crimes. In the provisions of Article 102 to Article 106 of Law No.10 of 1995 jo Law No.17 of 2006 on customs, which includes customs crimes are as follows : a. Whoever imports or exports or tries to import or export goods without observing the provisions of this law is punished for smuggling. b. Submit customs notices and / or complementary customs documents and or provide false or falsified oral or written information used for the fulfillment of customs obligations; c. Removing imported goods from the Customs Area or from bonded stockpiles, without the approval of Customs and Excise Officials with a view to circumventing the payment of customs duties and / or other state levies in the framework of imports; d. Make, approve, or as well as in the addition of false data into books or records; e. Hoarding, storing, possessing, buying, selling, exchanging, acquiring, or giving away imported goods originating from criminal acts referred to in Article 102; f. Transporting goods originating from criminal acts referred to in Article 102; g. Destroy, alter, cut off, hide or dispose of any books or records which this law requires to be kept; h. Omit, approve, or participate in the omission of information from Customs notices, customs supplementary documents, records; or i. Storing and / or providing blank trade invoices from companies domiciled abroad that are known to be able to be used as a complement to Customs notices

under this law; j. Unload imported goods in another place from the place specified according to customs legislation; k. Without permission to open, remove or damage locks, seals, or safety signs that have been installed by Customs and Excise officials; l. Importers, exporters, temporary hoarding companies, bonded hoarding companies, Customs Service management companies, or transportation companies that do not implement the provisions referred to in Article 49, Article 50, or Article 51 and such actions cause financial losses to the state.

According to Mr. Galih, head of the investigation section and the results of the action goods Regional Office of North Sumatra DGT sanctions received by the perpetrators of the crime of smuggling of imported goods under the Customs Act there are 2 sanctions, namely administrative sanctions and criminal sanctions. Administrative sanctions are usually in the form of fines or payment of shortages of customs duties and taxes in the framework of imports. The criminal sanctions are divided into 2 more, namely fines and imprisonment, which are regulated in Article 102 to Article 105 of the customs law. Any person who carries out the transportation of imported goods and does not include manifest barang in its transportation, then the person may be penalized for smuggling imported goods and can be sentenced to imprisonment for a minimum of 1 year and a maximum of 10 years and a fine of at least Rp. 50.000.000. (Fifty Million Rupiah) and the largest Rp. 5.000.000.000. (Five Billion Rupiah). Therefore, for violations of the criminal act of smuggling imported goods can be subject to 2 sanctions at once, namely sanctions for compensation fines and sanctions for imprisonment. The size or size of the sanctions obtained by the perpetrators depends on the decision of the judge who handles the case, and from existing cases regarding the criminal act of smuggling imported goods, the perpetrators or suspects always get 2 sanctions at once, namely fines for compensation and sanctions for imprisonment and if the perpetrator cannot pay a fine for compensation, the fine is transferred to imprisonment according to the judge's decision. So it can be concluded that the handling of the next case is handed over to the police or PPNS Directorate General of IPR for further legal proceedings. On this basis, the authority of the Customs and Excise Office needs to be given a strong foundation, even if the holder or owner of the IPR does not object to the violation of his rights, the legal process must still be carried out on the basis of his violation of the IPR, not on the complaint of the holder or owner of the rights. Furthermore, it is stated that in the event that suspension action is taken based on ex officio Authority, the procedures as stipulated in the trademark law and Copyright Law shall fully apply. So it needs to be elaborated and further regulated in government regulations, so that it is clear the limits, scope and burden of responsibility. Thus, the efforts to eradicate counterfeit goods and pirated

products carried out by the Belawan Customs and Excise Office, the author examines the following:

- a. Imported and/or exported goods that are in the customs area under its authority, each will be removed from the customs area then subject to inspection in the form of document research and physical examination of goods. For document research, it is conducted by document inspection officials or computer systems, while physical examination is carried out by physical examination officials.
- b. From the findings of document research and/or physical examination, it is indicated that there are counterfeit and pirated goods resulting from IPR violations to be imported and / or exported, then an investigation is carried out by Customs and excise supervisory officials. The results of the investigation were handed over to Customs and Excise officials of the prevention and investigation section for further action.
- c. Customs and Excise officials of the prevention and Investigation Division then take action in the form of suspending the issuance of imported and/or exported goods that are strongly suspected to be counterfeit and pirated goods resulting from IPR violations. The suspension of the issuance of goods can be made on the basis of exofficial authority (exofficio) or due to the written determination of the chairman of the Commercial Court. This suspension of the issuance of goods is done to prevent counterfeit goods and pirated products from circulating to the public, but also to wait for further legal proceedings from related parties.
- d. Officials or the Customs and Excise Office then report the findings to the police and/or the Directorate General of IPR for investigation. The investigation process of this case was then handed over and handled by The Investigators of the National Police and PPNS Directorate of Customs and Excise.
- e. So officials or the Customs and Excise Office is not authorized to investigate, this is because of IPR violations in the field of import and/or export according to law No.10 of 1995 jo Law No. 17 of 2006 on Customs is not included in the customs crime but the crime of violation of IPR. Customs and Excise officials can only be Investigators of civil servants if they are related to customs crimes, so ex-officio Customs and Excise officials are not authorized to investigate IPR violations. 6. So it can be emphasized that in the event of IPR violations in the import and/or export of goods, the anticipatory action of the Customs and Excise Office is in the form of a temporary

suspension of the issuance of goods, which is possible for related parties to carry out further legal proceedings.

#### 4. CONCLUSION

The policy on customs crimes in the Customs Law No. 17 of 2006 on the amendment to the law of the Republic of Indonesia No. 10 of 1995 should have a formulation that emphasizes the aspect of returning state losses. In this case, the government can see the formulation of criminal sanctions as regulated in Singapore and Malaysia which states that if state losses are not paid in full, sanctions will be given in the form of imprisonment based on the scale of State losses. The prison sentence applied is in accordance with the nominal State loss in addition to more emphasis on the form of return, the formulation of this sanction is closer to its legal certainty value. Likewise with Non-penal policies that can be extracted from various other sources that also have a potential preventive effect. Other sources are, for example, the press / mass media, the use of technological advances (known as “technoprevention”) and the use of the potential preventive effects of law enforcement officers.

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