



The Application of Import Used Clothing Buying and Selling Transactions in Indonesia Under the Review of Article 47 Paragraph (1) of Law Number 7 of 2014 Concerning Trade

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This research discusses the application of second-hand imported clothing trading transactions in Indonesia that are regulated by Article 47 Paragraph (1) of Law Number 7 of 2014 concerning Trade. The issue discussed in this thesis is to determine how the application of Article 47 Paragraph (1) of Law Number 7 of 2014 concerning Trade regulates the trading transactions of second-hand imported clothing in Indonesia and what legal impacts arise from the trading of second-hand imported clothing in Indonesia on the domestic clothing industry. This is analyzed in detail based on legal position, legal consequences, and seller responsibilities in trading second-hand imported clothing. The method used is normative juridical research by collecting data from primary and secondary legal materials such as legislation, books, journals, and previous research results that are relevant to the research discussion. The results of this research indicate that trading of imported second-hand clothing in Indonesia must comply with the regulations set by the law, and trading of second-hand imported clothing that does not comply with these regulations may result in sanctions such as import restrictions or even business closure. Furthermore, strict supervision is necessary from the relevant authority to limit the trading of second-hand imported clothing in Indonesia, and sellers must be cautious in conducting transactions in order to avoid legal sanctions.

1. Introduction

Indonesia is a country that is very closely related to trade activities. This finally encourages the community to make trading activities an obligation of transactions that aim to obtain the desired goods. The word

"trade" is formed from the root word "trade" which according to the Big Dictionary Indonesian, the meaning of the word "trade" is interpreted as a job related to selling or buying goods that aim to make a profit (KBBI, n.d.).

Domestic trade refers to the exchange of goods within the borders of a country and is not extended to its outer limits. In essence, it is a form of trade that only involves the transfer of goods within a specific region of a country and its transactions are limited to within the country. Therefore, interactions among traders only occur within a particular region designated by cities, districts, and provinces. On the other hand, international trade involves the exchange of goods between two different countries, allowing parties from both countries to communicate with each other. This type of trade can occur through land, sea, or air transportation. International trade is defined as the movement of goods and their transactions across borders, as recorded by customs and taxation policies. This trade is also known as import and export trade (Rinaldy, Ikhlas, & Utama, 2018).

In this case, import and export trade (international trade) is characterized by the form of policy through the imposition of customs tariffs and taxes. The imposition of tariffs aims to limit the freedom of international trade where a good or commodity can have an impact on the economy of a country, especially on the market of the goods. So that the procurement of these imported goods, both capital goods, raw materials, and consumer goods needs to be paid with foreign exchange. Likewise, foreign company services such as transportation, development, insurance, must also be paid with foreign exchange and foreign exchange (Feriyanto, 2015).

Import trade activities in Indonesia occur because of the open market system that allows these import activities to take place. One of them is in the clothing trade sector. In the clothing trade sector, it is characterized by a large amount of market demand, one of the driving factors of clothing import activities from abroad, both new apparel and used clothes with conditions that are still suitable for use. This used clothing was previously imported by importers from various countries such as America, China, Japan to other Asian regions to be resold at a cheaper price than the new price of the item. With the existence of used imported clothes, this eventually becomes a problem in Indonesia because imported used clothes are still in great demand by people in Indonesia. This can be seen from the increasing number of imported second-hand

clothing traders that are often found, both in the form of physical stores to online stores that sell imported used clothes.

This imported second-hand clothing is now better known as thrift. Thrift is one of the business models in the field of clothing that is increasingly popular from year to year, especially by millennials and generation Z. Thrifting is the activity of buying used goods in the form of clothes that are sold at cheaper prices and the condition of the goods is still suitable for use. The practice of buying and selling thrift clothes can be found in several major cities in Indonesia such as Yogyakarta, Semarang, Surabaya, Jakarta, Kalimantan and other regions. In this buying and selling activity, thrift clothing traders sell very diversely, both from clothes with ordinary brands to famous brands. How to trade thrift clothes is also very diverse, ranging from units, wholesale, auctions, business packages, to target unloading systems (Gafara, n.d.).

Regulations regarding the import of used clothing have actually been regulated by the Government as stated in Law Number 7 of 2014 concerning Trade as the highest legal regulation for used clothing import activities. Article 47 paragraph (1) of the law states that every importer is obliged to import goods in a new state. What is meant by "In a new state" is goods that have not been used at all and goods are made directly from the factory. So that all types of goods that have been registered as imported goods must also be in accordance with the provisions of applicable taxation and customs. If the goods are not registered from taxation and customs then the goods are contraband (illegal).

In addition, the ban on imported used clothing is also regulated in the Minister of Trade Regulation Number 40 of 2022 concerning Amendments to the Minister of Trade Regulation Number 18 of 2021. In the regulation, it is stated that used clothes and other used goods are included in goods that are prohibited from import by tariff post or HS 6309.00.00 with a description of used clothing and other used goods listed in part IV Types of used bags, used sacks, and used clothes.

Due to the policy banning the importation of used clothing, Adian Napitulu, a member of the Indonesian Democratic Party of Struggle faction of the House of Representatives of Indonesia, voiced his opinion. He stated, "So, who exactly is being defended by the Trade Minister and the Minister of Cooperatives and Small and Medium Enterprises, is it the clothing industry in China or Indonesia's Small and Medium Enterprises (SMEs)? Let us be honest with ourselves." Adian's statement suggests that the ban on importing used clothing is actually just part of the government's attempt to pave the way for the importation of ready-to-

wear clothing into the country. Adian also mentioned that 80% of ready-to-wear clothing imports come from China, while imports from Bangladesh, India, Vietnam, and other countries only make up about 15%, leaving a maximum of 5% of market space for domestic products, which are already being competed for by large companies such as Sritex and thousands of SMEs, including import used clothing. Based on this data, Adian doubts who the Trade Ministry and the Ministry of Cooperatives and SMEs are genuinely supporting. Adian suspects that the two ministries are actually scapegoating used clothing imports, despite the fact that the phenomenon of importing ready-to-wear clothing is more dangerous for SMEs. Adian also questioned the stubborn attitudes of Trade Minister Zulkifli Hasan and Minister of Cooperatives and SMEs Teten Masduki in prohibiting the importation of used clothing into the country. According to Adian, 80% of SMEs in Indonesia are being killed by ready-to-wear clothing imported from China (Suryarandika, n.d.).

With the statement from Adian that the policy of banning the import of clothing is still questionable. But in fact, currently there are still many traders throughout Indonesia, both offline and online, who sell and trade imported second-hand clothes of this brand freely and blatantly. Not only traders, consumer interest in imported used clothes is still very high. This is based on the benefits that arise from used clothes that can be felt by the community. This trade in used imported clothing has a resale value that has a benefit to be able to help the community meet their needs, although in this trade activity will also have a negative impact in the form of losses for industry players, to public health (Ishadi SK, n.d.).

2. Method

The research methods that the author uses in this research uses a type of normative legal research based on the rules in laws and regulations. The normative research method will examine the rules that apply in society and the reality that occurs in society. In this study, the author uses two approaches, including the statute approach and the conceptual approach. The Statute approach itself is carried out by reviewing all laws and regulations related to legal issues and topics of discussion that are being handled. Furthermore, the author also takes a conceptual approach, namely studying the views and doctrines that develop in legal science. In addition to doctrines, principles, and legal norms, researchers also involve interviews with business actors and related parties as sources of information. Then the data is analyzed with related norms or principles, principles, and theories, so that the author can get the right conclusion on the research conducted.

The data collection technique carried out by the author is to review the regulations related to the research being researched, including based on literature studies, which are reviewing literature related to research, and Document Studies, which are reviewing various rules in accordance with the research. The primary legal materials used in this study consist of Law Number 7 of 2014 concerning Trade, Regulation of the Minister of Trade of the Republic of Indonesia No. 51 of 2015 concerning the Prohibition of Import of Used Clothing, Regulation of the Minister of Trade Number 12 of 2020 concerning Prohibited Import Goods, Regulation of the Minister of Trade of the Republic of Indonesia Number 40 of 2022 concerning Amendments to the Regulation of the Minister of Trade Number 18 of 2021 concerning Export Prohibited Goods and Prohibited Goods Import. Secondary legal materials needed in this study are books, law journals, then articles related to this research.

3. Results & Analysis

3.1. Application of Article 47 Paragraph (1) of Law Number 7 of 2014 concerning Trade in Regulating Transactions of Buying and Selling Used Imported Clothes in Indonesia

Transaction is a commercial activity that establishes a legal relationship between two parties, namely the seller and the buyer, each carrying obligations that must be fulfilled. Failure to comply with such obligations may lead to legal consequences (Dirdjosisworo, 2006).

The main topic of this research is about second-hand imported clothing, which is still in existence today due to the public's avid interest in purchasing these imported used clothes at a relatively low cost and being directly imported from foreign countries. Although the government has already banned the trading of second-hand imported clothing, it is still prevalent in the market, such as in traditional markets, retail stores, and even online marketplaces. In this trading activity, the used clothing is the object of exchange and is directly imported, which means that it also involves commercial activities or the exchange of imported goods. Importing is bringing goods from foreign countries to enter the customs area of the Republic of Indonesia (Sood, 2011).

The Law Number 7 of 2014 Regarding Trade is a legal product that has been established and approved by authorized officials. Its main purpose is to regulate the procedures and system of trading in the territory of the Republic of Indonesia. As the government has officially ratified it, this law can control domestic and international trading activities through control and policies. The control and policies concerning domestic and international trade are aimed at improving efficiency and effectiveness of

distribution, enhancing business climate, certainty of doing business and promoting greater access to domestic products in the market.

Regarding the discussion on the import of second-hand clothing transactions, Article 47 (1) of Law No. 7 of 2014 concerning Trade explicitly states that "every importer is obligated to import goods in new condition." The law unequivocally prohibits the importation of second-hand goods, as the government requires all imported goods to be in new condition.

This means that the government has expressly prohibited the buying and selling of clothes that have been used and used before, and the government also has the authority not to allow imported used clothes to enter Indonesian territory. Although currently buying and selling imported used clothes is still often found both in offline and online stores, the laws and regulations must still be obeyed and enforced because if you violate these laws and regulations, there will be severe sanctions.

Based on the facts, the Government has emphasized Article 47 paragraph (1) of Law Number 7 of 2014 concerning trade aims to establish existing prohibitions in domestic trade activities, such as the prohibition of imported goods entering with the aim of protecting health, national security, the environment, and protecting intellectual property. One of them is a ban on the import of used goods. But in fact, imported used clothing transactions are still often found in the community where the application of regulations is still not optimal. In this case, the Central Statistics Agency noted that imports of used clothing in Indonesia have reached 26.22 tons with an import value of US\$ 272,146 in 2022. This number increased compared to 2021, which was only 7.94 tons with an import value of USD 44,136 (Julianto, n.d.).

The import of second-hand clothing is an ongoing activity in Indonesia. From January to March 2023, approximately 14,934 bales of imported second-hand clothing worth an estimated Rp 118 billion have been destroyed by the government. The details of the destruction are as follows: 730 bales worth Rp 10 billion in Pekanbaru; 7,580 bales worth Rp 80 billion in Cikarang; 824 bales worth Rp 11 billion in Sidoarjo, and finally, 5,800 bales worth Rp 17 billion in Batam. This destruction is intended to protect domestic textile industry and micro, small and medium enterprises (MSMEs). Despite the government's ban on the importation of second-hand clothing, the intention of business actors and fashion enthusiasts to use these imported clothes remains unbroken (Safitri, 2023).

Regarding the importation of secondhand clothing, the Directorate General of Customs and Excise (DGCE) has spoken out on the matter. Nirwala Dwi Heryanto revealed that "used clothing imports into Indonesia come through various routes, both by land and sea, using various methods." Nirwala also explained that in 2022, the DGCE has taken action against illegal secondhand clothing imports 234 times, with an estimated value of IDR 24.21 billion. This is an increase compared to 165 cases in 2021 with goods valued at IDR 17.42 billion, and 169 cases in 2020 with goods valued at IDR 10.37 billion. The vulnerable points for the entry of secondhand clothing imports into Indonesia are spread across several regions, using various methods (Baladiah & Silviana, 2023).

One of them is on the east coast of the islands of Sumatra, Batam, and Riau Islands via unofficial ports, the mode of entry is to hide these used clothes in border crossing goods and even smuggled through the luggage of public transportation passengers, to use small paths through the forest that are difficult to detect by officers from Customs. With the discovery of this illegal smuggling of used imported clothes, the Customs insists that goods imported into the territory of the Republic of Indonesia must be in a new state, except for certain goods allowed by the government and exempted by the rules of the relevant ministry. Therefore, the government's ban on illegal second-hand clothing imports is a policy measure aimed at protecting the public from the negative health effects of used clothing, as well as safeguarding the interests of the Small and Medium Enterprises (SMEs) that have suffered losses due to the trading of imported second-hand clothing. As such, the government is committed to supporting and encouraging all Indonesian citizens to purchase locally-made products that are of comparable quality to imported goods (Wijaya & Andriasari, 2022).

3.2. Legal Effects of Used Import Clothing Sale and Purchase Transactions in Indonesia on the Domestic Clothing Industry

The phenomenon of imported used clothing is indeed economically very efficient and as a saving for consumers because the goods sold are relatively very cheap, however, for the government and textile entrepreneurs, especially in the Micro, Small and Medium Enterprises sector, it can have great potential to harm the country's economy. The impact of the sale of imported second-hand clothing in Indonesia is very detrimental to the domestic convection industry. Although it has been banned by the Government, until now there are still many people who buy imported used clothes. That the imported used clothes are very threatening to consumer health because they cause pain in the human

body for those who wear them, such as itching, flu, and other skin diseases.

In addition, imported used clothing also kills the trade of Small and Medium Industries because these imported products can be sold at the same price as Small and Medium Industry products, especially in textile products. Small convection and local tailors also declined in income as they were forced to compete with imported products. Consumers can also be disadvantaged because with the existence of imported used clothes, quality may not be guaranteed and damage human health. As a result, many Micro, Small and Medium Enterprises entrepreneurs feel confused about the phenomenon of buying and selling imported used clothes, even though the law has also been in effect.

The Micro, Small and Medium Enterprises industry in Indonesia continues to experience rapid development. However, as a result of the import of used clothing, it has become an obstacle and a loss for Micro, Small and Medium Enterprises as a whole, as well as the potential loss of labor to tens or even thousands of people. The phenomenon of imported used clothing also has an impact on product sales. This means that a decrease in sales will reduce production, which potentially does not require more labor. Based on data from the Central Bureau of Statistics, the government could lose up to IDR 19 trillion in revenue due to the entry of 320 thousand tons of imported used clothing into Indonesia. 320 thousand tons is a fairly large amount, because if it is containerized, the used clothing is 1,333 per month, and 16,000 per year. As a result, the sanctions imposed related to the prohibition of buying and selling imported used clothing are in accordance with Article 111 of Law Number 7 of 2014 concerning Trade which states that "Every Importer who imports goods in a non-new condition as referred to in Article 47 paragraph (1) shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp5,000,000,000.00 (five billion rupiah)".

Seeing the activity importation of secondhand clothing, the government subsequently established more specific regulations regarding such imports. Ultimately, on July 14, 2015, the Minister of Trade enacted Regulation Number 51/M-DAG/PER/7/2015 that pertains to the Prohibition of Importing Secondhand Clothing. Broadly speaking, this regulation explains that the importation of used clothing may potentially pose health and environmental hazards, thus rendering them unsafe for public use or consumption.

After the enactment of Trade Minister Regulation Number 51/M-DAG/PER/7/2015, which prohibited the import of used clothing, the government subsequently repealed and replaced it with a new regulation. The government then issued a new regulation, Trade Minister of the Republic of Indonesia Regulation Number 12 of 2020 regarding Goods Prohibited from Import, which was lawfully promulgated on February 25, 2020. Article 2 Paragraph (3) broadly states that imported goods prohibited by this ministerial regulation are listed in the annex to this regulation. Annex II of this regulation specifies the goods prohibited from importation, such as bags and sacks used for packaging goods, including used clothing.

However, the government has repealed the aforementioned regulation by renewing it with a new regulation, namely the Minister of Trade of the Republic of Indonesia Regulation No. 40/2022 Regarding Changes to Minister of Trade Regulation No. 18/2021 Regarding Prohibited Export and Import Goods which was lawfully enacted on June 14th, 2022. In essence, the regulation states that used clothing and other used items are included in the goods prohibited for importation, marked by HS tariff code 6309.00.00 which is listed under the section IV of Attachment II, entitled "Used Clothing and Other Used Items" with a description of used bags, sacks, and clothing.

Table 1. Classification of Secondhand Clothing.

Preloved	Thrifting	Awul-awul Clothing
Preloved refers to personal items of clothing that have been purchased but not yet worn, only worn a few times, or gifted, but are now being sold to others because they do not fit properly, are not suitable, or no longer fit to be worn again. Preloved items are typically purchased from local products and are not necessarily secondhand imported clothing. Preloved encompasses a variety of clothing items, such as shirts, pants, t-shirts,	Thrifting refers to secondhand clothing that is imported from foreign countries. These garments were previously owned and used by consumers in their country of origin. Thrifting typically consists of high-end, well-known brands that are sold at a premium price. However, once these items are brought to Indonesia, they are sold at a very affordable price despite their good quality and suitability for reuse. Typically, the quantity	"Awul-awul" clothing are former garments imported from foreign countries, in a state deemed unsuitable for wearing and hazardous to one's health. These garments are commonly found in various traditional markets and street sides, arriving in large ballpressed forms. Sold at incredibly cheap, affordable prices for society, these "awul-awul" clothes are frequently prohibited by the government, as they are deemed unwearable and fit only

bags, and even shoes.	of clothing sold corresponds to the demand from consumers; frequently sold items include shirts, pants, t-shirts, and jackets.	for disposal and destruction.
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Source: Thamara, N, "The Responsibility of Business Actors in the Importation of Secondhand Clothing (a Study in the Melati Market, Medan)." ETD Unsiyah Journal, July 8, 2020.

Observing the phenomenon of imported secondhand clothing worn by the young and adult population in Indonesia, the existence of the trade of secondhand clothing has progressively risen over the years. The factors contributing to the proliferation of this commerce in Indonesia are twofold:

1. The Internal factor

This factor is triggered by conditions that exist within oneself, such as lifestyle and motivation.

2. The External factor

This factor is influenced by external aspects, such as the environment, product quality, and price.

4. Conclusion

Based on the previously discussed research, the author draws the following conclusions:

1. Article 47 paragraph (1) of Law No. 7/2014 on Trade is the government's effort to apply quality standards to goods to be sold or marketed in the country, namely by increasing technical requirements and quality standards for imported products, so that the government tries to protect consumers and maintain market quality to reduce the negative impact of selling imported used clothing that does not meet standards.
2. The author concludes that whether imported secondhand clothing is banned in Indonesia or not depends on the type of clothing. Clothing that falls under the category of "awul-awul" is banned from being sold again, as they are deemed unfit for use and may be considered as trash. However, clothing that falls under the categories of "Thrifting" and "Preloved" may not be banned, as they are secondhand clothing from an individual's personal collection and are sold again due to reasons such as an ill-fitting size or no longer being worn. "Preloved"

items are usually purchased from local or foreign products in Indonesia and may not necessarily be secondhand imported clothing.

5. Suggestion

Based on the research that has been done, the author conveys several suggestions based on information from the results of the study, including the following:

1. The government should further improve the ban on imported used clothing, as it aims to provide protection to consumers and the domestic industry, so that applicable rules must be enforced to ensure that all parties comply and help generate healthy and fair trade.
2. The government should take extra strict action and supervision of business actors and importers who are still selling imported used clothing into the Indonesian market, because these goods are not included in trade goods and are not suitable for resale in Indonesia, because these goods should be destroyed.

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