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Legal guidance and supervision of imported clothing products based on Indonesian national standards (SNI)

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Abstract

The imported clothing market in Indonesia has experienced significant growth in recent years. However, with the increase in clothing imports also comes issues related to product quality and safety standards. The Indonesian National Standard (SNI) is a regulation that governs the quality and safety of products, including imported clothing. Thus, it is important to implement effective legal guidance and supervision to ensure that imported clothing complies with SNI. This study aims to analyze the legal guidance and supervision of imported clothing products based on SNI. The research method used is the normative legal research method. The data collection technique in this research was carried out by a literature study obtained from Google Scholar. Data analysis is carried out using qualitative methods. The results show that the Indonesian government has issued laws and regulations governing the legal guidance and supervision of imported clothing products based on SNI. These regulations include Law Number 20 of 2014 concerning Standardization and Conformity Assessment, Government Regulation Number 102 of 2020 concerning National Standardization, and Minister of Trade Regulation Number 20 of 2021 concerning Import Policy and Regulation. However, implementing legal guidance and supervision of imported clothing products based on SNI is still not optimal. The obstacles faced include the lack of understanding of imported business actors about SNI, the lack of competent human resources to carry out guidance and supervision, and the lack of coordination between related agencies.

Keywords: Guidance, supervision, law, import, Indonesian national standard (SNI)

Introduction

The imported clothing market in Indonesia has experienced significant development in recent years. Over the last 33 years, export and import activities of clothing and accessories in Indonesia have shown continued increasing growth. The value has been many times higher than imports of similar goods. There has also been rapid growth in imports of other finished textile goods over the past four years, with the highest achievement in 2021 reaching US\$328 million. It is a historical achievement because the value is higher than exports of the same product, namely US\$189 million. In 2022, the situation remains the same. Meanwhile, imported used clothing entering the domestic market also experienced a significant increase. In the last five years, the value of used clothing imports reached US\$8.6 million. The UK is the largest contributor to imported used clothing to Indonesia, valued at US\$4.9 million, followed by Australia (US\$921.9 thousand) and Japan (US\$656.8 thousand). In 2022, the textile and apparel industry will record growth of 9.3% and contribute 5.6% to the economy. During the 2011-2022 period, the contribution of the textile and apparel industry to the national economy experienced fluctuations. In 2013, its contribution peaked in the last 11 years, namely 6.5%^[1]

Despite a significant increase in clothing imports in Indonesia, quality standards and product safety issues are a major concern. It is a serious problem that affects the imported clothing industry in Indonesia. Some of the problems that arise include product quality that does not meet the standards expected by consumers, potential health hazards from chemicals or dangerous substances in clothing, the existence of counterfeit or imitation products that harm consumers and violate brand rights, as well as the conformity of imported products with the Indonesian

National Standards applies. Indonesian National Standards (SNI) regulate the quality and safety of products, including imported clothing^[2]. So, it is important to carry out effective legal guidance and supervision to ensure that imported clothing complies with SNI.

Previous research by Khaidir^[3] examined the legal aspects arising from weak supervision of illegal second-hand clothing imports. Based on the research results, it was found that the issue regarding the entry of illegally imported second-hand clothing was related to weak supervision, which can be studied from several legal aspects, including economic, legal aspects, trade legal aspects, environmental legal aspects, health legal aspects, and consumer protection legal aspects. Legislation that can be used as a reference for monitoring illegal imports of used clothing includes Law No. 17 of 2006 concerning Customs, Law No. 7 of 2014 concerning Trade, Law No. 32 of 2009 concerning Environmental Protection and Management, and Law No. 8 of 1999 concerning Consumer Protection. Customs and excise institutions have a very important role for the Unitary State of the Republic of Indonesia in supervising illegal imports of used clothing into Indonesian defense areas.

Another research by Lestary examines "the government's supervision of the ban on imports of used clothing products based on the ministerial regulation number 51 of 2015 concerning the ban on imports of used clothes. The research results show that (1) inspection indicators on the supervision of the ban on imported used clothes have not been carried out properly. (2) inspection indicators during supervision are not carried out by searching for evidence, inspections are carried out, inspections are carried out, (3) indicators investigations are difficult to carry out because there is no significant inspection and testing of used clothing because it is difficult to prove that the goods are truly illegal (4) in

indicators assessment, public awareness to no longer buy used imported clothing is needed, and domestic products can dominate the market in their own country" ^[4]. The absence of research regarding legal guidance and supervision of imported clothing products based on Indonesian National Standards (SNI) is a novelty in this research. This research analyzes legal guidance and supervision of imported clothing products based on SNI.

Literature Review

Legal development is a process or activity that aims to develop, maintain, and improve the legal system in a country. It includes various efforts to keep the law relevant, effective, and positively impact society. Legal development also ensures that society understands and obeys the law and that the national legal system develops following social, economic, and political developments. "Legal development must focus on creating awareness and legal cultural norms to encourage the equitable distribution of legal knowledge among society and support the development of the national legal system" ^[5]. "The National Legal Development Agency is the main institution equivalent to Echelon I level under the Ministry of Law and Human Rights of the Republic of Indonesia, which has the responsibility to carry out national legal development following the provisions of applicable laws and regulations" ^[6].

Legal Supervision

Supervision is an action taken to observe, assess, and, if necessary, make improvements to the implementation of a task to ensure that its implementation follows the plan and achieves the expected goals ^[7]. Supervision aims to prevent inappropriate actions or deviations, whether related to budgets, procedures, or authority ^[8]. Legal supervision is a process or activity carried out to monitor, assess, and supervise the law's implementation and compliance with applicable legal regulations. It involves law enforcement, monitoring the judicial process, and various efforts to ensure that the law is applied fairly and following the provisions applicable in a country. Legal supervision can also involve institutions such as the police, prosecutors, courts, and other law enforcement agencies in maintaining order, justice, and legal protection in society.

Imported Products

Goods originating from foreign countries are referred to as imported goods. Import activity is purchasing goods from abroad to meet basic domestic needs ^[9]. Imports can be divided into several types based on their activities ^[10]: a) Imports for Use - This type of import includes importing goods or services to be used, owned, or controlled by residents or communities in the country of import; b) Temporary Import refers to import activities aimed at sending the goods back abroad within three years; c) Import for Re-Export - Import for re-export is transporting imported goods still in the customs area to send the goods back abroad. This type differs from temporary imports because re-export imports occur when imported goods experience problems, such as not following the order, being damaged, wrongly delivered, not meeting technical requirements or changes to applicable regulations; d) Onward Transport Import - Onward transport import is transporting imported goods from one office to another without any unloading process; e) Import of stockpiles-

Import of stockpiles refers to transporting imported goods from one office to another by carrying out the unloading process before transportation is carried out.

Indonesian National Standard (SNI)

The Indonesian National Standard (SNI) is "the only standard that applies nationally in Indonesia. Establishing SNI is carried out by the Technical Committee (previously known as the Technical Committee) and then formalized by the National Standardization Body (BSN). For SNI to be widely accepted by the various parties involved, the following principles from the WTO Code of Good Practice must be adhered to" ^[11]: a) Openness - SNI must be open to all parties who have an interest so that they can participate in the SNI development process; c) Transparency - The SNI development process must be transparent so that all interested parties can follow the stages of SNI formation from planning to determination and easily access all information related to SNI development; c) Consensus and Impartiality - The process of establishing SNI must be impartial and reach a consensus among all parties involved. It ensures that all interests can be accommodated fairly; d) Effectiveness and Relevance - SNI must be effective and relevant, considering market needs and ensuring that SNI does not conflict with applicable regulations. It is important to facilitate trading; e) Coherence - SNI must be consistent with international standards so that Indonesia is not isolated from the global market and can participate in international trade smoothly; f) Development Dimension - SNI must consider development aspects by paying attention to public and national interests in increasing national economic competitiveness.

Research Method

"The research method used is a normative legal research method. According to Peter Mahmud Marzuki, normative legal research is finding legal rules, principles, and doctrines to answer the legal issues faced" ^[12]. In this research, data collection techniques were carried out through a literature study from Google Scholar. Literature study is an effective approach for collecting secondary information from literature, articles, journals, and scientific publications related to research topics ^[13]. Data was obtained from text sources relevant to legal guidance and supervision of imported clothing products based on Indonesian National Standards (SNI) in Indonesia. The sources used include scientific articles, research reports, related legal regulations, and academic publications. Data analysis was carried out using qualitative methods. The results of data analysis are then presented descriptively.

Discussion

Standards help bridge the interests of consumers with the interests of business actors or producers because applying appropriate standards to a product can fulfill the interests of both parties ^[14]. Product standardization is the most important thing in ensuring a product's suitability to be traded nationally and internationally.

Indonesian National Standards (from now on referred to as SNI) are standards that apply in Indonesia and are the minimum requirements for distributing products in Indonesian territory. Of course, this provision must be complied with by all parties who wish to distribute their products throughout Indonesia because it is mandatory to

ensure this goal is achieved. Effective market monitoring and law enforcement activities are required, which is the obligation of the government of the Republic of Indonesia. Based on Government Regulation Number 102 of 2000 Article 12 paragraph (2) concerning National Standardization explains that SNI is voluntary to be implemented by business actors. In connection with the interests of safety, security, public health, or preservation of environmental functions and/or economic considerations, technical agencies can compulsorily enforce some or all of the technical specifications and/or parameters in the Indonesian National Standards following Article 12 paragraph (3) of Government Regulation Number 102 of 2000 concerning National Standardization^[15].

The existence of SNI, which is product standardization in Indonesia, has the aim as stated in Article 3 of Law no. 20 of 2014 concerning Standardization and Conformity Assessment, states "Standardization and conformity assessment aims to: a) Increase quality assurance, production efficiency, national competitiveness, healthy and transparent business competition in trade, business certainty and business capabilities as well as technological innovation capabilities; b) Increasing protection for consumers, business actors, workers, and other communities as well as the state, both from the aspects of safety, security, health and preserving environmental functions; and c) Increase certainty, smoothness and efficiency of trade transactions in goods and/or services domestically and abroad"^[16].

Law Number 8 of 1999 concerning Consumer Protection (from now on referred to as UUPK)". Article 8 paragraph (1) letter a UUPK has explicitly regulated standardization, that "business actors are prohibited from producing and/or trading goods or services that do not meet or are not following the required standards and statutory provisions." Standardization is related to efforts to fulfill the rights that consumers have as regulated in Article 4 UUPK letters a, c and f, namely: "the right to comfort, security, and safety in consuming goods and/or services: the right to correct, clear, and honest regarding the condition and guarantee of goods and/or services; the right to receive consumer guidance and education"^[17].

Clothing is "one of the basic needs of humans, and in every activity carried out by humans, they need clothing to cover and protect themselves. People's attitudes and behaviors are more likely to buy imported used clothes because foreign brands tempt them. Especially in middle-class economic communities, apart from necessity, people think that using foreign brands will be able to improve their social status"^[18]. Used clothing is clothing that is or has been worn previously. Nowadays, many imported used clothes are traded in traditional and modern markets.

Article 47, paragraph 1 of Law Number 7 of 2014 concerning Trade, states that every importer⁴ is obliged to import goods in new conditions. Meanwhile, Law Number 7 of 2014 concerning Trade defines the meaning of import as the activity of bringing goods into the customs area. One of the ways the government carries out import activities is to meet domestic needs. It is stated in Article 1 number (13) of Law Number 10 of 1995 concerning Customs, which has been amended⁴o Law Number 17 of 2006, stating that import is the activity of bringing goods into the customs area.

Customs notification processing for imported goods is carried out by the transporter/importer. If customs processing is not carried out by himself, the importer can give his authority to the Customs Management Services Entrepreneur (PPJK). Apart from being regulated in the Customs Law, "PPJK is also regulated in Minister of Finance Regulation Number 65/PMK.04/2007 dated 20 June 2007 concerning Entrepreneurs Managing Customs Services and Regulation of the Director General of Customs and Excise Number P-22/BC/2007 dated 4 July 2007 concerning Implementation Guidelines for the Granting of Registration Numbers and Supervision of Entrepreneurs in Customs Services"^[19].

Minister of Trade Regulation No. 12 of 2020, which regulates the prohibition on the import of used clothing issued at this time, is not in line with one of the Regulations of the Minister of Finance, where the Regulation of the Minister of Trade strictly prohibits import activities of used clothing. In contrast, the Regulation of the Minister of Finance Number 6/PMK/010/2017 provides that The tariff or import duty is 35% on used clothes, so the two regulations lack synergy. The prohibition rules for importing used clothing are also regulated in Law Number 8 of 1999 concerning Consumer Protection, which also states that "business actors are prohibited from trading damaged, defective, used and contaminated goods without providing complete and correct information regarding what is⁴ended"^[20].

Regulation of the Minister of Trade Number 51/M-DAG/PER/7/2015 "concerning the Prohibition of Importing Used Clothing is a derivative of article 47 paragraph (1) of Law Number 7 of 2014 concerning Trade so that the principle of *lex specialist derogat legi generali* applies, namely the rule of law specific ones can override general legal rules. Thus Law Number 7 of 2014 concerning Trade and Regulation of the Minister of Trade Number 51/M-DAG/PER/7/2015 concerning Prohibition of Clothing Imports. Bekasi can override Law Number 8 of 1999 concerning Consumer Protection, namely Article 8 paragraph (2)"^[21].

After the issuance of the Prohibition on importing used clothes as written in Minister of Trade Regulation Number 18 of 2021, "which has been amended by Minister of Trade Regulation Number 40 of 2022 concerning Amendments to Minister of Trade Regulation Number 18 of 2021 concerning Export Prohibited Goods and Import Prohibited Goods, used clothing entrepreneurs in this market are confused about getting second-hand clothes imported from abroad when this law comes into effect. Many entrepreneurs are trying to sell clothes that sell at Senen Market but still prioritize new ones, so government regulations permit this. It was created so that people who want to buy used clothes remember that they may contain undesirable things resulting from them being sold, such as skin diseases"^[22].

Used clothing is clothing that is or has been worn previously. Nowadays, many imported used clothes are traded in traditional and modern markets^[18]. "Legal certainty to protect consumers includes, among other things, increasing the dignity of consumers and opening access to information about goods and/or services for them, fostering an honest and responsible attitude among business actors. Consumer protection in Article 2 UUPK is based on benefits, justice, balance, consumer security, safety, and legal certainty. According to Buyamin"^[23] "consumer

protection is carried out as a joint effort based on 5 (five) principles that are relevant in national development, namely: a) The principle of benefit, intended to mandate that all efforts in implementing consumer protection must provide maximum benefits for the interests of consumers and business actors as a whole; b) The principle of justice, intended to ensure maximum participation of all people and provide opportunities for consumers and business actors to obtain their rights and carry out their obligations fairly; c) The principle of balance, intended to provide a balance between the interests of consumers, business actors and the government in material and spiritual terms; d) The principle of consumer security and safety, intended to provide guarantees for security and safety to consumers in the use, use and utilization of goods and/or services consumed or utilized; and e) The principle of legal certainty, intended for business actors and consumers to obey the law and obtain justice in implementing consumer protection, and for the state to guarantee legal certainty".

Support tightening supervision of imported used clothing needs to be done in various ways, including collaborating with various ministries/institutions (Ministry of Trade) to support several policies that focus more on SMEs, committing to e-commerce associations to independently monitor the distribution of imported used clothing, as well as opening a complaint hotline to accommodate MSMEs selling imported used clothing who are affected^[24].

Conclusion

The Indonesian government has issued several laws and regulations that regulate legal guidance and supervision of imported clothing products based on Indonesian National Standards (SNI). Some relevant regulations include Law Number 20 of 2014 concerning Standardization and Conformity Assessment, Government Regulation Number 102 of 2020 concerning National Standardization, and Minister of Trade Regulation Number 20 of 2021 concerning Import Policies and Regulations. Even though these regulations exist, implementing legal guidance and supervision of imported clothing products based on SNI has still not reached the optimal level. Several obstacles faced in its implementation include a lack of adequate understanding from import business actors regarding SNI. Apart from that, there is also a shortage of human resources with sufficient competence to carry out coaching and supervision effectively. It includes the need for experts who understand clothing products' quality and safety standards. The lack of coordination between related agencies is also an obstacle to implementing this guidance and supervision. To ensure that imported products comply with SNI, closer cooperation between related institutions, such as the Ministry of Trade, the Ministry of Law and Human Rights, and the National Standardization Body (BSN), is needed. Efforts to increase the effectiveness of legal guidance and supervision of imported clothing products based on SNI require better understanding, increasing the competency of related human resources, and increasing coordination between related institutions. In this way, the government can ensure that imported clothing products meet the quality and safety standards set, thereby protecting consumers and supporting the sustainable development of the imported clothing industry.

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