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Legal Aspects of Determining Import Tax Rates for Foreign Products Based on WTO Provisions

Wiwik Sri Widiarty
Universitas Kristen Indonesia, Jakarta, Indonesia, Email: wiwik.widiarty@gmail.com

Mohammad Belayet Hossain
Curtin University Malaysia, Sarawak, Malaysia, Email: belayet.hossain@curtin.edu.my

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ABSTRACT

Import taxation has become increasingly important as countries seek to protect domestic industries while complying with the legal framework of the World Trade Organization (WTO). In Indonesia, import taxes function as both a source of state revenue and an instrument for regulating international trade. This study analyzes the international legal framework governing import taxation under the WTO and the General Agreement on Tariffs and Trade (GATT) 1994, examines Indonesia's legal framework, and evaluates the conformity of Indonesia's import tariff regulations with WTO provisions. The research employs a qualitative normative legal method using statutory, conceptual, and historical approaches. The legal sources examined include the Agreement Establishing the WTO, GATT 1994, Law Number 7 of 1994 concerning the Ratification of the WTO Agreement, Law Number 10 of 1995 concerning Customs as amended by Law Number 17 of 2006, Law Number 7 of 2014 concerning Trade, and Law Number 17 of 2017 concerning the Protocol to Amend the Marrakesh Agreement. The findings indicate that Indonesia's import taxation framework is generally consistent with WTO principles of non-discrimination, transparency, legal certainty, and trade facilitation. However, greater regulatory harmonization and consistent implementation remain necessary to strengthen compliance with international trade obligations while safeguarding national economic interests.

1. Introduction

International Trade Law is an important branch of international law that governs the rules and regulations that direct and oversee trade between countries around the world.[1] The purpose of international trade is to facilitate cross-border commerce and ensure that international business transactions occur fairly, efficiently, and in accordance with the interests of all parties involved. This is a crucial foundation in the dynamics of the modern global economy, especially as each country seeks to gain competitive advantage through the cross-border exchange of goods and services. This activity not only drives economic growth but also influences national policy structures, which must adapt to global regulations and connecting countries through the exchange of goods and services.[2]

The ratification of the Protocol to Amend the Marrakesh Agreement through Law Number 17 of 2017 affirms Indonesia's commitment to strengthening harmony between international and national law.[3] Furthermore, Law Number 7 of 2014 concerning Trade provides a clear legal basis for the implementation of foreign trade and international trade cooperation. This regulatory framework strengthens Indonesia's position in facing global dynamics and prepares a national trade system that is more responsive to international economic developments.[4]

International trade activities in the import sector can help a country obtain goods or services not available domestically.[5] Imports are trade activities that bring goods from other countries into the country. This activity can be carried out by companies, individuals, or even countries. Imports are not only crucial for economic growth but also play a significant role in state revenue through international trade taxes. Taxes, including import duties on imported goods, are an important source of revenue for the government. International trade taxes serve as an instrument to increase state revenue, protect domestic industries, regulate the flow of goods, and maintain a trade balance.[6]

The government is reviewing 900 imported consumer goods that will be subject to import income tax (*Pajak Penghasilan*/PPh). This is being done to improve the Current Account Deficit (CAD) and thus stabilize the rupiah. This step could invite retaliation from the countries of origin of the imported products, if any international

[1] Wiwik Sri Widiarty., Buku Ajar Hukum Perdagangan Internasional, 2023, page.45. See too, Shamel Azmeh, Christopher Foster, and Jaime Echavarri., The international trade regime and the quest for free digital trade, *International studies review,* Vol.22, no.3, 2020, page.681.

[2] Suryanto, and Poni Sukaesih Kurniati., Analisis perdagangan internasional Indonesia dan faktor-faktor yang memengaruhinya, *Intermestic: Journal of International Studies,* Vol.7, no.1, 2022, page.115. See too, Sulthon Sjahril Sabaruddin., Dampak perdagangan internasional Indonesia terhadap kesejahteraan masyarakat: Aplikasi structural path analysis, *Bulletin of Monetary Economics and Banking,* Vol.17, no.4, 2015, page.445.

[3] Achdwiyanto Yudi Hartono, and Ahmad Zainul Hamdi., An International Law and National Resilience Perspective for Internationalizing Religious Moderation as Indonesia's Soft Diplomacy Legal Instrument in ASEAN, *Khazanah Hukum,* Vol.8, no.1, 2026, page.103.

[4] Saidina Putri, and Hendra Ibrahim., Peranan perdagangan internasional terhadap perekonomian Indonesia, *Jurnal Minfo Polgan,* Vol.12, no.2, 2023, page.2426.

[5] Alan V. Deardorff., International provision of trade services, trade, and fragmentation, *Review of International Economics, Vol.*9, no.2, 2001, page.238. See too, Primadi Candra Susanto, Mochammad Subagio, Gratia Atanka Barus, Wenny Desty Febrian, and Indra Sani., International Trade: Economic Growth Supports Export and Import Activities, *Greenation International Journal of Economics and Accounting,* Vol.2, no.1, 2024, page.48.

[6] Satria Unggul Wicaksana Prakasa., Perdagangan Internasional Dan Ham: Relasinya Dengan Sustainable Development, *Jurnal Hukum Novelty,* Vol.9, no.1, 2018, page.44.

trade regulations (World Trade Organization/WTO) are violated. Article 22 import income tax rates have been set for 900 commodities. This list of consumer goods is contained in Minister of Finance Regulation Number 34 of 2017. The regulation stipulates that import tax or import PPh rates are imposed at different levels for each commodity, ranging from 2.5 percent to 10 percent based on the selling price. However, not all goods are subject to the increase in import PPh.[7] From the perspective of constitutional law and administrative law, taxes are viewed not merely as a source of state revenue (budgetary function) but also as a regulatory tool (regular function) used by the government to direct people's economic behavior, control inflation, encourage investment, and protect domestic industry.[8] Therefore, the design and implementation of tax policies have broad implications not only for state finances, but also for social justice, legal certainty, and public trust in business actors.

Although Indonesia has established a comprehensive legal framework governing import taxation through Law Number 10 of 1995 concerning Customs, Law Number 17 of 2006, Law Number 7 of 2014 concerning Trade, and Law Number 17 of 2017 concerning the Protocol to Amend the Marrakesh Agreement, practical implementation continues to raise legal issues. Normatively (das sollen), import tax policies should comply with the principles of legality, legal certainty, justice, and WTO principles of non-discrimination, Most-Favoured-Nation treatment, and National Treatment.[9] Empirically (*das sein*), however, the implementation of import taxation policies, including the increase of import taxes on selected imported products, has generated debate regarding their consistency with WTO obligations and their implications for legal certainty and fairness for business actors. This issue is increasingly important because Indonesia must balance its sovereign authority to regulate taxation with its international commitments under the WTO legal framework. Import taxation has evolved beyond its budgetary function into a strategic instrument influencing trade competitiveness, investment certainty, and domestic industrial protection.[10]

Previous studies have examined WTO principles, customs law, taxation, and

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[7] kumparanBISNIS., Kemendag: Kenaikan Pajak Impor 900 Komoditas Tak Langgar Aturan WTO. *kumparan*, August 31, 2018. Retrieved on July 1, 2026 from: https://kumparan.com/kumparanbisnis/kemendag-kenaikan-pajak-impor-900-komoditas-tak-langgar-aturan-wto-1535683125010285147

[8] Leo B. Barus, and Didit Santoso., The Legal Certainty of Tax Amnesty: A Lesson Learned from Indonesia, *Journal of Tax Law and Policy,* Vol.2, no.3, 2023, page.1.

[9] Lawrence Joseph Williams., Transfer Pricing and the World Trade Organization Agreement: The compatibility of transfer pricing principles contained in Bilateral and Multilateral Tax Treaties with the WTO non-discrimination norms, PhD diss., Department of Law, Stockholm University, 2024, page.8.

[10] Giovanni Maggi, and Andrés Rodrıguez-Clare., Import penetration and the politics of trade protection, *Journal of International Economics,* Vol.51, no.2, 2000, page.296. See too, Doniyorbek Ruziokhunov, and Umida Yuldasheva., The role of government tax regulations on attracting foreign investments, *Academic Journal of Science, Technology and Education,* Vol.1, no.8, 2025, page.8.

Indonesia's compliance with international trade law.[11] Nevertheless, these studies generally discuss these issues separately. There remains limited research comprehensively analyzing the synchronization between Indonesia's import tax regulations and WTO provisions through the perspectives of legal certainty and justice. This constitutes the research gap addressed by this study. This research contributes theoretically by integrating WTO principles with Indonesian customs and taxation law through the theories of legal certainty and justice. Practically, it provides legal guidance for policymakers, law enforcers, and business actors in formulating and implementing import tax regulations consistent with domestic legislation and WTO obligations.

Accordingly, this study aims to analyze the international legal framework governing import taxation under the WTO and GATT, examine Indonesia's legal framework on import taxation, and evaluate the conformity of Indonesia's import tariff regulations with WTO provisions.The research addresses the following questions: (1) What is the international legal framework governing import taxation under the World Trade Organization (WTO) and the General Agreement on Tariffs and Trade (GATT); (2) What is the legal framework governing import taxation on foreign products in Indonesia; (3) To what extent are Indonesia's import tariff regulations consistent with the provisions and principles of the World Trade Organization (WTO).

2. Research Methods

This study employs a qualitative normative legal research method, as it focuses on examining legal norms governing import tax rates for foreign products in Indonesia and evaluating their conformity with the legal framework of the World Trade Organization (WTO). Normative legal research is appropriate because it analyzes legal principles, statutory regulations, international legal instruments, and legal doctrines rather than relying on empirical field data.[12] The research applies three complementary approaches: the statutory approach, the conceptual approach, and the historical approach. The statutory approach is used to examine the hierarchy and consistency of Indonesian legislation and WTO legal instruments regulating import taxation.[13] The conceptual approach analyzes legal doctrines and theories concerning legal certainty, justice, legality, and WTO principles, including Most-

[11] Muhammad Bayu Arrasya., Navigating Global Trade: Indonesia's Trajectory within 30 Years of the WTO, *Audi Et AP: Jurnal Penelitian Hukum,* Vol.5, no.1, 2026, page.6. See too, Mari Pangestu, Sjamsu Rahardja, and Lili Yan Ing., Fifty years of trade policy in Indonesia: New world trade, old treatments, *Bulletin of Indonesian Economic Studies,* Vol.51, no.2, 2015, page.253; Muhammad Reza Zaki Syariffudin, Muhammad Qaulan Sadida, Muhammad Adjie Nugroho, and Christopher Michael Cason., The Compatibility of Donald Trump's Reciprocal Tariff with WTO and Indonesia's National Interests, *Journal of Judicial Review,* Vol.27, no.2, 2025, page.365.

[12] Soemitro, Ronny Hanitijo., Metode Penelitian Hukum, Metodologi Penelitian Ilmu Sosial, (Dengan Orientasi Penelitian Bidang Hukum), *Pelatihan Metodologi Ilmu Sosial, Bagian Hukum dan Masyarakat FH Undip* (1999). See too, Wiwik Sri Widiarty., Buku Ajar Hukum Perdagangan Internasional, 2023, page.42.

[13] Selamat Lumban Gaol, Johannes Triestanto, Annisa Aminda, and Raudhotul Jannah., Import Regulations and the Protection of Domestic Products: An Indonesian Economic Law Perspective, *International Journal of Health, Economics, and Social Sciences (IJHESS),* Vol.8, no.2, 2026, page.1383.

Favoured-Nation (MFN), National Treatment, and non-discrimination.[14] Meanwhile, the historical approach is employed to understand the development of Indonesia's import tax regulations and its legal commitments following the ratification of the Marrakesh Agreement.

This research relies exclusively on secondary legal data, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization, Law Number 17 of 2017 concerning the Protocol to Amend the Marrakesh Agreement, Law Number 24 of 2000 concerning International Agreements, Law Number 7 of 2014 concerning Trade, and Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs. Secondary legal materials comprise books, peer-reviewed journal articles, and scholarly publications, while tertiary legal materials include legal dictionaries and other reference materials.

Data were collected through library research by systematically reviewing legislation, international agreements, legal literature, and academic publications relevant to import taxation and WTO law. The collected legal materials were analyzed using qualitative normative legal analysis through descriptive and prescriptive methods.[15] The analysis involved interpreting legal norms, comparing Indonesian import tax regulations with WTO provisions, identifying the relationship between das sollen and das sein, and formulating legal arguments regarding the conformity of Indonesia's import taxation policy with its international trade obligations.

3. Results and Discussion

3.1. International Trade Legal Framework under the World Trade Organization (WTO) and General Agreement on Tariffs and Trade (GATT)

The establishment of the World Trade Organization (WTO) in 1995 marked a significant milestone in the development of the international trading system by consolidating global trade rules under a single institutional framework. Built upon the foundation of the General Agreement on Tariffs and Trade (GATT), the WTO promotes trade liberalization through the principles of transparency, non-discrimination, and tariff commitments agreed upon by member states.[16] International trade law is defined as the body of legal rules governing commercial

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[14] Jonathan Crowe., The role of contextual meaning in judicial interpretation, *Federal Law Review*, Vol.41, no.3,2013, page.433.

[15] Putri Wulandari., Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches, *Archipel: Journal of Indonesian Interdisciplinary Studies,* Vol.1, no.6, 2026, page.19.

[16] Thirukodikaval N. Srinivasan., Nondiscrimination in GATT/WTO: was there anything to begin with and is there anything left? *World Trade Review,* Vol.4, no.1, 2005, page.83. See too, Muhammad Rafi Darajati., Ketaatan negara terhadap hukum perdagangan internasional, *Refleksi Hukum: Jurnal Ilmu Hukum,* Vol.5, no.1, 2020, page.31.

relations between countries, with the GATT framework serving as the principal legal basis for trade relations among nations.

International trade refers to the exchange of goods and services across national borders with the objective of obtaining mutual economic benefits. Within this framework, the WTO serves as the primary international organization responsible for administering multilateral trade agreements, supervising trade policies, providing dispute settlement mechanisms, and offering technical assistance to developing countries.[17] Through these functions, the WTO seeks to establish a predictable and rules-based trading system that minimizes barriers such as excessive tariffs, quotas, and other restrictions while promoting fair competition in international markets.[18]

The implementation of import activities follows administrative procedures regulated by domestic customs authorities. Importers are generally required to obtain an (*Angka Pengenal Importir*/API), register with the Indonesia National Single Window (INSW), submit a (*Pemberitahuan Impor Barang*/PIB), fulfill customs duties and import tax obligations, undergo customs inspection, and complete customs clearance before imported goods are released into the domestic market. These procedures demonstrate that international trade is not merely an economic activity but also a legal process requiring compliance with both national legislation and international commitments.

Indonesia's accession to the WTO requires the harmonization of domestic trade regulations with internationally accepted legal principles. Consequently, Indonesia has undertaken various legal and institutional reforms aimed at simplifying customs procedures, increasing transparency, facilitating trade, and ensuring compliance with multilateral obligations. Such reforms strengthen legal certainty for business actors while enhancing Indonesia's competitiveness within the global trading system.[19]

The WTO derives its legal authority from the Marrakesh Agreement Establishing the World Trade Organization. Article VIII of the Marrakesh Agreement recognizes the WTO as an international organization possessing legal personality together with the privileges and immunities necessary for carrying out its functions.[20] These legal characteristics place the WTO within the broader framework of international

[17] I. Gusti Ngurah Parikesit Widiatedja., Indonesia's export ban on nickel ore: Does it violate the world trade organization (wto) rules? *Journal of World Trade,* Vol.55, no.4, 2021, page.23.

[18] Tuti Rastuti, and Andian Achya Dzikriyyah Khoirudin., Politik Hukum Indonesia dalam Menghadapi Retaliasi Perang Dagang China terhadap Amerika Serikat Berdasarkan Prinsip Proteksionisme: Indonesia's Legal Policy in Responding to China's Trade War Retaliation Against the United States Based on the Principle of Protectionism, *Litigasi,* Vol.26, no.1, 2025, page.50.

[19] Ahmad Rivialdi, Mohamad Tohari, and Hono Sejati., The Influence of Global Economic Integration on Indonesia's Compliance with International Trade Law in Maintaining Trade and Investment Stability, *Greenation International Journal of Law and Social Sciences,* Vol.3, no.3, 2025, page.1193. See too, Muhammad Reza Syariffudin Zaki, Muhammad Haykal Armanto, Rafsi Azzam Hibatullah Albar, and Stefan Koos., Safeguarding Sovereignty: Indonesia's Solution to the Raw Materials Case in WTO, *Indonesian Journal of International Law,* Vol.20, no.4, 2023, page.6.

[20] Noemi Gal-Or., Responsibility of the WTO for Breach of an International Obligation under the Draft Articles on Responsibility of International Organizations, *Canadian Yearbook of International Law/Annuaire canadien de droit international,* Vol.50 no.3, 2013, page.222.

law and enable it to administer international trade agreements effectively.

Historically, the multilateral trading system evolved from the GATT negotiations initiated in 1947 before being institutionalized through the WTO in 1995 following the successful conclusion of the Uruguay Round negotiations held in Marrakesh, Morocco, in 1994.[21] The creation of the WTO represented a major institutional advancement by transforming GATT from a provisional agreement into a permanent international organization equipped with a comprehensive dispute settlement mechanism and broader legal authority over international trade in goods and services.

The legal framework established by GATT and the WTO is founded upon several fundamental principles that ensure fairness and predictability in international trade. Among the most important is the Most-Favoured-Nation (MFN) principle, stipulated in Article I of GATT, which requires that any trade advantage, privilege, or concession granted by one-member state to another must immediately and unconditionally be extended to all WTO members. This principle prohibits discriminatory treatment in the application of tariffs, customs duties, and other trade-related measures, thereby creating equal trading opportunities among member states.[22]

Another fundamental principle is the National Treatment principle contained in Article III of GATT. This provision requires imported products that have entered the domestic market to receive treatment no less favorable than similar domestic products with respect to internal taxation, regulations, distribution, and commercial use. By prohibiting discriminatory domestic measures that favor local products, the National Treatment principle promotes equality of competition while preventing disguised forms of trade protectionism.[23]

Complementing these principles is the prohibition of discriminatory quantitative restrictions on imports and exports. GATT discourages the use of quotas, licensing requirements, and similar non-tariff barriers that may unnecessarily restrict international trade.[24] Instead, member countries are encouraged to rely on transparent tariff mechanisms that can be monitored and negotiated multilaterally. This approach provides greater legal certainty for traders while ensuring that market access remains predictable.

Trade facilitation has become another essential component of the WTO legal

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[21] Deden Rafi Syarfiq Rabbani., Telaah kritis TFA WTO (World Trade Organization): Analisis terhadap implementasi kebijakan perdagangan internasional di Indonesia, *Jurnal Hukum Lex Generalis* 2, no.1, 2021, page.23.

[22] Dony Yusra Pebrianto., Implikasi Prinsip Most Favoured Nation terhadap Pengaturan Tarif Impor Di Indonesia, *Wajah hukum, Vol.*2, no.1, 2018, page.40.

[23] Deden Rafi Syarfiq Rabbani., Telaah kritis TFA WTO (World Trade Organization): Analisis terhadap implementasi kebijakan perdagangan internasional di Indonesia, *Jurnal Hukum Lex Generalis* 2, no.1, 2021, page.25.

[24] Trebilcock Michael, and Michael Fishbein., International trade: barriers to trade, In *Research Handbook in International Economic Law*, Edward Elgar Publishing, 2007, page.53.

framework. The Trade Facilitation Agreement (TFA), which is primarily based on Articles V, VIII, and X of GATT 1994, seeks to simplify customs procedures, reduce administrative costs, improve transparency, and expedite the movement of goods across borders.[25] These provisions regulate freedom of transit, fees and formalities related to importation and exportation, as well as the publication and administration of trade regulations. By reducing procedural inefficiencies, the TFA contributes to greater efficiency within global supply chains and strengthens international economic integration.

Indonesia has demonstrated its commitment to implementing these international obligations through the ratification of the Protocol Amending the Marrakesh Agreement by Law Number 17 of 2017. This legislation serves as the legal basis for implementing the Trade Facilitation Agreement within Indonesia's domestic legal system. National policies promoting customs modernization, the Indonesia National Single Window, procedural simplification, and increased transparency reflect Indonesia's efforts to fulfill its obligations under WTO law while improving the efficiency of cross-border trade.

The legal force of Indonesia's international commitments is reinforced by Article 26 of the Vienna Convention on the Law of Treaties (VCLT) 1969, which embodies the principle of pacta sunt servanda. This principle establishes that every treaty in force is binding upon its parties and must be performed in good faith.[26] Consequently, once Indonesia ratifies an international agreement, including WTO instruments, the state assumes a legal obligation to implement its provisions consistently within its domestic legal framework.

The WTO and GATT establish a comprehensive legal framework governing international trade through the principles of non-discrimination, legal certainty, transparency, and trade facilitation. These principles not only regulate relations among member states but also guide national governments in formulating trade policies that balance domestic economic interests with international legal obligations. For Indonesia, adherence to WTO rules provides both legal certainty for business actors and a stable foundation for participating effectively in the increasingly integrated global trading system.

3.2. Legal Framework of Import Taxation on Foreign Products in Indonesia

Import tariffs constitute one of the principal fiscal instruments used by a state to regulate the movement of imported goods while simultaneously protecting domestic industries and generating public revenue. In general, a tariff refers to a tax imposed on goods entering the customs territory of a country from another

[25] Willie Shumba., WTO Trade Facilitation Agreement: Has the Trade Facilitation Agreement improved aspects of GATT Article VIII? *Global Trade and Customs Journal,* Vol.19, no.5, 2024, page.45. See too, Willie Shumba., Transparency Measures in the Trade Facilitation Agreement: Have these improved the scope of GATT Article X? *Acta Universitatis Danubius. Juridica,* Vol.21, no.1, 2025, page.143.

[26] Daniel Davison-Vecchione., Beyond the forms of faith: Pacta Sunt Servanda and loyalty, *German Law Journal,* Vol.16, no.5, 2015, page.1185. See too, Nadiya Salsabila., Enlightenment and its Impact To Vina Convention on The Law of Treaties 1969, *International Journal of Latin Notary,* Vol.5, no.1, 2024, page.22.

jurisdiction. Unlike ordinary domestic taxes, import tariffs perform both fiscal and regulatory functions because they contribute to state revenue while influencing trade patterns, industrial competitiveness, and economic policy. Consequently, the regulation of import taxation must be based on clear legal authority and remain consistent with Indonesia's constitutional principles as well as its international obligations under the World Trade Organization (WTO).

The constitutional basis for taxation in Indonesia is established in Article 23A of the 1945 Constitution of the Republic of Indonesia, which provides that "taxes and other compulsory levies for state purposes shall be regulated by law." This provision reflects the principle of legality, requiring every tax obligation to have a statutory basis enacted through legislation.[27] Consequently, the imposition of taxes cannot rely solely on administrative discretion but must be implemented according to laws that guarantee legal certainty and protect taxpayers against arbitrary state action.

Within Indonesia's customs system, import duties represent the primary levy imposed on imported goods. Article 1 point 15 of Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs defines import duty as a state levy imposed on imported goods under customs legislation.[28] The principal legal basis for imposing import duties remains Article 12 paragraph (1) of Law Number 10 of 1995 concerning Customs, which was not amended by Law Number 17 of 2006.[29] Therefore, the authority to impose import duties continues to derive from the original Customs Law, while subsequent amendments primarily strengthen customs administration and enforcement. Any adjustment to tariff rates or exceptions is further regulated through other statutory provisions and regulations issued by the Ministry of Finance, particularly those administered by the Directorate General of Customs and Excise.

Indonesia's customs legislation must also be interpreted within the framework of its international commitments following the ratification of the Agreement Establishing the World Trade Organization through Law Number 7 of 1994. As a WTO member, Indonesia retains sovereign authority to determine its import tariff policies, provided that such policies comply with WTO principles concerning tariff commitments, transparency, Most-Favoured-Nation (MFN) treatment, and

[27] R. Aryo Hatmoko., Implementasi Makna Filosofi Pasal 23a UUD 1945 dalam Pembentukan Peraturan Perpajakan di Bawah Undang-Undang Sebagai Peraturan Pelaksanaan (Tinjauan Kewenangan Atribusi dan Diskresi Atas Pengaturan Pajak Pusat dan Kepabeanan), PhD diss., Universitas Kristen Indonesia, 2025, page.36.

[28] Moch Yusuf Bachtiar., Bea Masuk Impor Tinjauan Hukum Islam Dan Uu Nomor 17 Tahun 2006 Tentang Perubahan Atas Uu Nomor 10 Tahun 1995 Tentang Kepabeanan, *Jurisdictie: Jurnal Hukum dan Syariah,* Vol.5, no.2, 2014, page.207.

[29] Iwan Kurniawan., Sengketa Pengajuan Banding terhadap Penetapan Nilai Kepabean dalam Ekspor-Impor:(Analisis Putusan Mahkamah Agung Nomor: Put/52674/pp/m. xviia/19/2014), *Krtha Bhayangkara,* Vol.13, no.2, 2019, page.218.

National Treatment.[30] Accordingly, the legal framework governing import taxation serves not only domestic fiscal objectives but also functions as an instrument for implementing Indonesia's obligations under international trade law.

Within the Indonesian legal system, taxation occupies a strategic position as one of the state's principal instruments for financing governance, development, and public welfare. Classical tax theory defines taxation as a compulsory contribution imposed by law without direct compensation and intended to finance public expenditure.[31] This definition is reaffirmed in Law Number 28 of 2007 concerning General Provisions and Tax Procedures, which defines tax as a mandatory contribution owed by individuals or legal entities for the greatest prosperity of the people. Consequently, taxation performs both a budgetary function by generating state revenue and a regulatory function by influencing economic activity and protecting national economic interests.

Import activities generate several fiscal obligations in addition to import duties. These include Import Value Added Tax (VAT), Luxury Goods Sales Tax (*Pajak Penjualan atas Barang Mewah*/PPnBM), and Income Tax Article 22 (PPh Article 22).[32] Import duty primarily serves as a border protection measure and revenue source, while VAT ensures equal tax treatment between imported and domestically produced goods. PPnBM applies to luxury products to regulate consumption patterns, whereas Article 22 Income Tax functions as an advance tax collection mechanism for imported goods.[33] Collectively, these fiscal instruments establish a comprehensive taxation system governing international trade while ensuring fairness between imported and domestic products.

The importance of import taxation is reflected in its significant contribution to national revenue. According to data published by the Ministry of Finance, the customs sector contributes approximately 27 percent of state revenue. This demonstrates that customs administration constitutes an important component of Indonesia's fiscal policy. At the same time, import taxation also functions as an instrument for protecting domestic industries, regulating the flow of imported goods, and maintaining the balance between national economic interests and international trade commitments.

Despite the existence of a comprehensive legal framework, the implementation of import taxation frequently gives rise to legal disputes due to the complexity of customs regulations, differing interpretations between taxpayers and customs authorities, and the evolving nature of international trade. Disputes commonly

[30] Wiwik Sri Widiarty, Jihyun Park, and Tria Sasangka Putra., A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia, *Jurnal Hukum UNISSULA,* Vol.41, no.3, 2025, page.751.

[31] Adrian Sutedi., *Hukum pajak*, Sinar Grafika, 2022, page.31.

[32] Charnovitz, Steve., *Border tax equalization*. The World Trade System: Trend and challenges, MIT Press, 2015.

[33] Rati Widyaningsi Latif., Dampak Pajak atas Barang Mewah Terhadap Penjualan Barang Elektronik: Analisis Peraturan Menteri Keuangan Nomor 121/PMK. 011/2013, *Lambung Mangkurat Law Journal,* Vol.1, no.1, 2016, page.57. See too, Debi Amelia Sagita, Nadia Pratiwi, Nazwa Aulia Sani, Yordan Prayoga, and Dini Vientiany., Analisis Penerapan Pajak Penghasilan Pasal 22 pada Kegiatan Impor Barang di Indonesia, *Jurnal Akademik Ekonomi Dan Manajemen,* Vol.3, no.2, 2026, page.849.

arise concerning customs valuation, tariff classification, rules of origin, and the application of preferential tariff schemes. These disputes affect not only state revenue but also legal certainty for business actors, the competitiveness of domestic industries, and Indonesia's compliance with international trade standards.[34] Consequently, customs administration requires transparent procedures and consistent interpretation of legal norms to minimize uncertainty.

The principle of legal certainty therefore occupies a central position within Indonesia's import taxation framework. Every taxpayer must be able to determine clearly the applicable tax obligations, including the taxable object, tax base, tariff rate, customs valuation method, payment procedures, and available legal remedies. This principle is embodied in Law Number 6 of 1983 concerning General Provisions and Tax Procedures, as last amended by Law Number 7 of 2021 concerning Harmonization of Tax Regulations.[35] Article 2 paragraph (1) and Article 23 paragraph (2) emphasize that tax collection must always be conducted pursuant to statutory provisions and their implementing regulations. Administrative actions undertaken without an explicit legal basis may therefore violate the principle of legality and become subject to judicial review or administrative annulment.[36]

From the perspective of legal theory, legal certainty requires that import tax regulations be formulated clearly, applied consistently, and interpreted uniformly by customs authorities. Business actors engaged in international trade must be able to anticipate the fiscal consequences of import activities without facing contradictory administrative interpretations. Consistent implementation of customs legislation not only strengthens taxpayer confidence but also supports Indonesia's commitment to maintaining a transparent and predictable trading environment in accordance with WTO obligations.

Indonesia's legal framework governing import taxation reflects the integration of constitutional principles, customs legislation, tax administration law, and international trade commitments. This framework seeks to ensure that import taxation performs its dual role as a source of state revenue and a regulatory instrument for international trade while upholding legal certainty, fairness, and compliance with the multilateral trading system established by the WTO. Such harmonization is essential to balancing Indonesia's sovereign fiscal authority with its responsibilities as a member of the international trading community.

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[34] Agus Wibowo., Hukum Dagang Internasional, *Penerbit Yayasan Prima Agus Teknik,* 2025, page.17.

[35] Evie Rachmawati Nur Ariyanti, and Ita Nailul Mutiah., Hak dan kewajiban wajib pajak serta otoritas perpajakan setelah keluarnya Undang-Undang Nomor 7 Tahun 2021 tentang harmonisasi peraturan perpajakan, *ADIL: Jurnal Hukum,* Vol.14, no.1, 2023, page.14.

[36] Bradley Selway., The Principle behind Common Law Judicial Review of Administrative Action—The Search Continues, *Federal Law Review,* Vol.30, no.2, 2002, page.227. See too, Koen Lenaerts, and Jan Vanhamme., Procedural rights of private parties in the community administrative process, *Common Market Law Review,* Vol.34, no.3, 1997, page.23.

3.3. Regulation of Import Tariffs in Indonesia under World Trade Organization (WTO) Provisions

The regulation of import tariffs in Indonesia is primarily governed by Articles 12 to 17A of Law Number 10 of 1995 concerning Customs, as amended by Law Number 17 of 2006. Article 12 paragraph (1) provides that imported goods are subject to import duties based on a maximum tariff of 40 percent of the customs value used for calculating import duty.[37] The application of this maximum tariff is closely linked to Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization (WTO), which serves as the legal foundation for Indonesia's participation in the multilateral trading system. Consequently, the determination of import tariffs must not only comply with domestic customs legislation but also remain consistent with Indonesia's commitments under WTO law.[38]

The legal framework governing import tariffs consists of an integrated set of national regulations. In addition to Law Number 10 of 1995 and its amendment under Law Number 17 of 2006, tariff implementation is supported by Law Number 39 of 2007 concerning Amendments to the Excise Law and implementing regulations issued by the Ministry of Finance, including Minister of Finance Regulation Number 213/PMK.011/2011 concerning the Goods Classification System and the Imposition of Import Duty Tariffs. These regulations provide legal certainty regarding customs classification, tariff determination, and customs administration while ensuring that import tariff policies are implemented transparensively and consistently.

Within international trade, tariffs are generally classified according to their function. Export duties are imposed on goods leaving a country's customs territory, transit duties apply to goods passing through a country's territory before reaching another destination, while import duties are imposed on goods entering the customs territory.[39] Among these categories, import duties constitute the principal instrument used by Indonesia to regulate foreign products entering the domestic market. Besides generating state revenue, import duties function as an important policy instrument for protecting domestic industries against unfair competition and maintaining national economic stability.

Indonesia's commitment to implementing WTO rules was further strengthened through the enactment of Law Number 17 of 2017 concerning the Ratification of the Protocol Amending the Marrakesh Agreement Establishing the World Trade

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[37] Maysarah., Analisis Hukum Terhadap Pengaturan Kualifikasi Komoditi Dalam Penerapan Tarif Pada Barang Export Import (Studi Kantor Pengawasan dan Pelayanan Bea dan Cukai Tipe Madya Pabean Belawan), *DE LEGA LATA: Jurnal Ilmu Hukum,* Vol.5, no.2, 2020, page.140.

[38] Wiwik Sri Widiarty, Jihyun Park, and Tria Sasangka Putra., A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia, *Jurnal Hukum UNISSULA,* Vol.41, no.3, 2025, page.750. See too, Boris Rigod, and Patricia Tovar., Indonesia–Chicken: Tensions between international trade and domestic food policies? *World Trade Review,* Vol.18, no.2, 2019, page.234.

[39] Richard Goode, George E. Lent, and P. D. Ojha., Role of Export Taxes in Developing Countries (Rôle des taxes d'exportation dans les pays en voie de développement)(Función de los derechos de exportación en los países en desarrollo), (*Staff Papers-International Monetary Fund*, 1966), page.480.

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Organization.[40] This legislation incorporates the Trade Facilitation Agreement (TFA) into Indonesia's legal system and demonstrates the country's commitment to simplifying customs procedures, increasing transparency, and improving the efficiency of cross-border trade. The legal validity of this ratification is reinforced by Article 2 of the Vienna Convention on the Law of Treaties (1969), which recognizes treaties as written international agreements concluded between states and governed by international law.[41] Accordingly, the Protocol Amending the Marrakesh Agreement constitutes a binding international agreement that creates legal obligations for Indonesia to implement WTO provisions in good faith.

Import duties are collected by the Directorate General of Customs and Excise (DJBC) under the Ministry of Finance based on the Customs Law. Their primary objective extends beyond revenue generation to include the protection of domestic industries from imported products that may cause material injury to local producers.[42] In accordance with Chapter IV of the Customs Law, Indonesia recognizes several categories of additional import duties designed to address specific trade situations. Safeguard Import Duty is imposed when a surge in imports threatens serious injury to domestic industries. Anti-Dumping Import Duty applies to imported goods sold below their normal value in the exporting country, thereby preventing unfair pricing practices that undermine domestic producers. Countervailing Import Duty is imposed to offset subsidies granted by exporting countries that distort fair competition, while retaliatory or countermeasure duties may be applied in response to discriminatory trade practices affecting Indonesian exports. These trade remedies are consistent with WTO agreements, which permit members to adopt protective measures under specific legal conditions while preventing arbitrary protectionism.

In addition to import duties, imported goods are subject to Import Duties and Taxes (*Pajak Dalam Rangka Impor*/PDRI), consisting of Import Value Added Tax (VAT), Income Tax Article 22 on imports, and Luxury Goods Sales Tax (*Pajak Penjualan atas Barang Mewah*/PPnBM).[43] The calculation of these taxes is based

[40] Andre Isra Adipura, and Huala Adolf Dan Prita Amalia., Trade Facilitation Agreement Wto: In Indonesia Perspective, *South East Asia Journal Of Compemporary Business, Economics And Law,* Vol.23, no.1, 2020, page.21.

[41] Ulf Linderfalk., *On the interpretation of treaties: the modern international law as expressed in the 1969 Vienna Convention on the Law of Treaties*, Springer Science & Business Media, 2007, page.73.

[42] Lucky Nugroho, and Teguh Winoto., Analysis of the Implementation of Import Duty and Import Tax on Consignments in Indonesia: An Islamic Perspective in Realizing Fiscal Justice, In *Proceeding of International Students Conference of Economics and Business Excellence*, vol. 1, no.1, 2024, page.76. See too, Tony Sudirgo, and Wagiman Wagiman., Legal Protection of Importing Companies From Import Duty Exemption of Imported Goods Sold to Representatives of Foreign Countries (Study of Decision Number 1265/B/Pk/Pjk/2017), *UNES Law Review,* Vol.6, no.1, 2023 page.2702.

[43] Ricky Agung Bimantoro., Pengaruh Pajak Dalam Rangka Impor (PDRI), Nilai Pabean dan Jumlah Barang Terhadap Penerimaan Bea Masuk (Studi Pada KPPBC Tipe Madya Cukai Kediri Periode Tahun 2012-2016), PhD diss., Universitas Brawijaya, 2018, page.32.

on the customs value of imported goods using the Cost, Insurance, and Freight (CIF) method, ensuring that tax liabilities accurately reflect the economic value of imported products. Import duty constitutes the primary border tariff, while VAT ensures equal taxation between imported and domestic products.[44] PPnBM is imposed on luxury goods to regulate consumption and maintain tax equity, whereas Income Tax Article 22 functions as a prepayment mechanism within Indonesia's income tax system. Together, these fiscal instruments establish a comprehensive framework governing the taxation of imported goods.

The level of import tariffs is not uniform across all products but depends on several legal and economic considerations. The classification of goods significantly influences applicable tariff rates, as essential raw materials generally receive lower tariffs than finished or luxury goods in order to support domestic production while protecting strategic industries.[45] The country of origin also affects tariff determination because Indonesia has entered into various bilateral and regional trade agreements that provide preferential tariff treatment or duty exemptions for eligible products.[46] Furthermore, the government may impose additional duties where imported goods are sold at unfairly low prices through dumping practices or where subsidized imports threaten domestic industries. These mechanisms illustrate that tariff policy functions not only as a fiscal instrument but also as a legal measure for maintaining fair competition within international trade.

The WTO legal framework recognizes the right of member states to regulate import tariffs provided that such measures comply with the principles of transparency, non-discrimination, and legal certainty.[47] International trade law therefore establishes a structured legal framework that enables countries to regulate international commerce while preventing discriminatory trade practices and ensuring fair competition among trading partners. At the same time, WTO law provides institutional mechanisms for resolving trade disputes peacefully through consultation and dispute settlement procedures, thereby contributing to the stability and predictability of the global trading system.

From the perspective of legal theory, Gustav Radbruch emphasizes that justice and legal certainty constitute fundamental values of every legal system.[48] In the context of import tariff regulation, legal certainty requires that tariff provisions be formulated clearly, applied consistently, and interpreted uniformly so that business

[44] Michael Keen., VAT, tariffs, and withholding: Border taxes and informality in developing countries, *Journal of Public Economics,* Vol.92, no.10-11, 2008, page.1899.

[45] Bela Balassav., Tariff protection in industrial countries: an evaluation, *Journal of Political Economy, Vol.*73, no.6, 1965, page.581.

[46] Desy Andiani., Impact analysis of rules of origin on Indonesia export performance: Case study on Indonesia-Japan, *Cendekia Niaga,* Vol.8, no.2, 2024, page.140. See also, Stephen V. Marks., Non-tariff trade regulations in Indonesia: Nominal and effective rates of protection, *Bulletin of Indonesian Economic Studies,* Vol.53, no.3, 2017, page.349.

[47] Andrew D. Mitchell., The right to regulate and the interpretation of the WTO Agreement, *Journal of International Economic Law,* Vol.26, no.3, 2023, page.472.

[48] Anton-Hermann Chroust., The philosophy of law of Gustav Radbruch, *The Philosophical Review,* Vol.53, no.1, 1944, page.35.

actors can accurately determine their legal obligations.[49] Regulations that create ambiguity or inconsistent administrative practice may generate legal uncertainty, conflicting interpretations, and unnecessary disputes between importers and customs authorities. Therefore, effective implementation of import tariff regulations depends not only on comprehensive legislation but also on consistent enforcement and transparent administrative procedures.

Indonesia’s regulation of import tariffs demonstrates substantial conformity with WTO provisions by integrating domestic customs legislation with international trade obligations. The combination of the Customs Law, implementing regulations, and Indonesia’s ratification of the WTO Agreement and the Trade Facilitation Agreement provides a coherent legal framework for determining import tariffs. This framework allows Indonesia to protect domestic industries, secure state revenue, and regulate international trade while continuing to uphold the principles of legal certainty, fairness, transparency, and non-discrimination that underpin the multilateral trading system established by the WTO.

4. Conclusion

This study concludes that the international legal framework governing import taxation under the World Trade Organization (WTO) and the General Agreement on Tariffs and Trade (GATT) is founded upon the principles of non-discrimination, transparency, legal certainty, and trade facilitation. Through principles such as Most-Favoured-Nation (MFN), National Treatment, and the Trade Facilitation Agreement (TFA), the WTO establishes a predictable rules-based trading system that allows member states to regulate import tariffs while preventing arbitrary or discriminatory trade measures.

The study further finds that Indonesia has developed a comprehensive legal framework governing import taxation through the 1945 Constitution, the Customs Law, tax administration legislation, and the ratification of the WTO Agreement and the Protocol Amending the Marrakesh Agreement. These legal instruments provide a constitutional and statutory basis for imposing import duties and related import taxes while ensuring that taxation serves both fiscal and regulatory functions. Nevertheless, the implementation of import taxation continues to face challenges arising from regulatory complexity, differing legal interpretations, and the need to maintain legal certainty for business actors engaged in international trade.

Finally, this research demonstrates that Indonesia’s import tariff regulations are generally consistent with WTO provisions. The Customs Law, implementing regulations, and trade remedy mechanisms, including safeguard, anti-dumping, and countervailing duties, largely conform to WTO principles by balancing the protection of domestic industries with Indonesia’s international trade obligations. However, effective compliance requires that import tariff policies be implemented

[49] Erwan Bagja Erawan., Customs Valuation Disputes in Export-Import: Evaluating Objection and Appeal Procedures for Business Certainty, *Greenation International Journal of Law and Social Sciences,* Vol.3, no.3, 2025, page.1009.

transparently, consistently, and proportionately to avoid potential conflicts with WTO commitments. Therefore, policymakers should continue harmonizing domestic customs regulations with evolving WTO rules, strengthen administrative consistency within customs authorities, and improve legal certainty for importers. Future research is recommended to examine the practical implementation of Indonesia's import tariff policies through empirical analysis of customs dispute settlement, WTO trade dispute cases, and the impact of import taxation on domestic industrial competitiveness and international investment.

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