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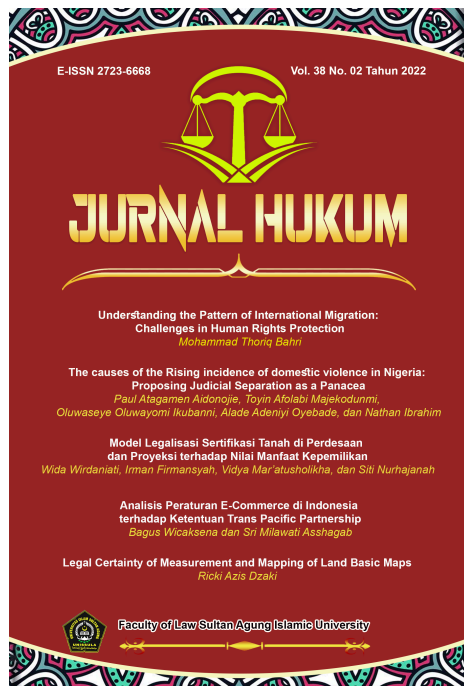
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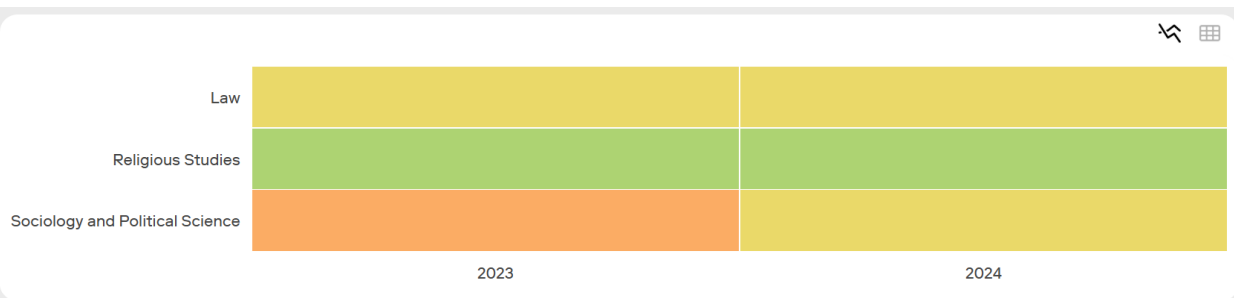
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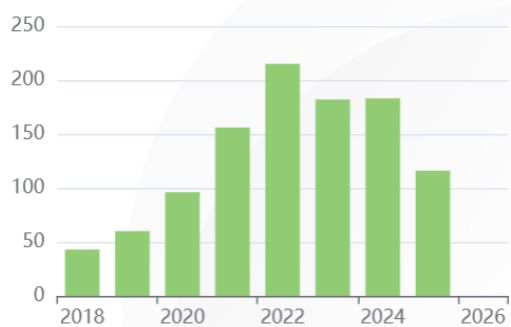
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Abstract	

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.

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**LEGAL CERTAINTY IN INTERNATIONAL TRADE AND FAIRNESS
FOR BUSINESS ACTORS REGARDING TAX RATES
IMPORTS OF FOREIGN PRODUCTS IN INDONESIA BASED ON THE
WORLD TRADE ORGANIZATION (WTO)**

WIWIK SRI WIDIARTY

FAKUKTAS HUKUM UKI
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Abstrak

The role of law is very large in international trade relations regulated by the WTO. The WTO is responsible for regulating international trade by providing a regulatory framework including taxes and dispute resolution between its member countries. Imports are a form of international trade carried out by the Indonesian government to meet domestic needs. Goods entering Indonesia are subject to taxes aimed at protecting domestic industries, controlling imports so as not to harm the country's economy, and accommodating justice in terms of tax imposition on business actors. One of the main principles in international trade law is the principle of justice and legal certainty: International trade law must be fair and provide legal certainty for all parties involved in trade transactions. The purpose of this study is the form of regulation in determining import tax rates for foreign products in Indonesia for business actors based on WTO provisions. The theories used are the theory of legal certainty (by Gustav) and the theory of justice (John Rawls). By using the juridical normative research method, it is known that the form of regulation in determining the import tax rate of foreign products in Indonesia for business actors is based on WTO provisions, namely Article 12 to Article 17A and Article 12 paragraph 1 of Law Number 10 of 1995, which states that "Imported goods are subject to import duty based on a maximum tariff of 40% (forty percent) of the customs value for calculating import duty". The application of the provisions of import duty of forty percent refers to Law Number 7 of 1994 concerning Ratification of the Agreement on the Establishment of the World Trade Organization, as explained in the Explanation of Law Number 10 of 1995 Article 12 paragraph 1. The legal basis for the application of tariffs is accommodated through Law No. 10 of 1995 concerning Customs, Law No. 17 of 2006 concerning Amendments to the Basis for the Establishment and Implementation of Tariffs on Export and Import of Goods based on Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise and Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.oII/2011, concerning the Determination of the Goods

Clarification System and the Imposition of Import Duty Tariffs on Export and Import of Goods.

A. Background

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 International trade law is a set of rules and regulations that govern trade interactions between countries around the world.

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 regulations² and connecting countries through the exchange of goods and services³.

The ratification of the Protocol to Amend the Marrakesh Agreement through Law No. 17 of 2017 affirms Indonesia's commitment to strengthening harmony between international and national law. Furthermore, Law No. 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

¹ Wiwik Sri Widiarty, *Buku Ajar, Hukum Perdagangan internasional*, (Yogyakarta, Publika Global Media, 2023), hlm. 9

² Poni Sukaesih Kurniati Suryanto, Suryanto, "Analisis Perdagangan Internasional Indonesia dan Faktor-Faktor Yang Memengaruhinya," *Intermestic: Journal of International Studies* 7, no. 1 2022, hlm. 104.

³ Sabaruddin, "Dampak Perdagangan Internasional Indonesia terhadap Kesejahteraan Masyarakat: Aplikasi Structural Path Analysis". *Buletin Ekonomi Moneter dan Perbankan*, 17(4), 2015. hlm. 433.

⁴ Putri & Ibrahim dkk, "Peranan Perdagangan Internasional Terhadap Perekonomian Indonesia," *Jurnal Minfo Polgan* 12, no. 2 2023, hlm. 2427

International trade activities in the import sector can help a country obtain goods or services not available domestically. 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.⁵ The government is reviewing 900 imported consumer goods that will be subject to import income tax (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 trade regulations (World Trade Organization/WTO) are violated. Article 22 import income tax (PPh) rates have actually 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.⁶

In line with the coercive nature of taxes, their collection must be based on solid legal principles, particularly those of justice, legal certainty, and utility. One of the fundamental principles underpinning Indonesia's tax system is the Principle of Legality, which implies that all tax collection can only be carried out in accordance with statutory provisions.

The law plays a significant role in international trade relations regulated by the WTO, leading it to be called "the most important change in the

⁵ Unggul, S., & Prakasa, W, "Perdagangan Internasional dan Ham: Relasinya dengan Sustainable Development". Satria Unggul Wicaksana Prakasa, 9(1), 2018, hlm. 36.

⁶ Kumparan Bisnis, Kemendag: Kenaikan Pajak Impor 900 Komoditas Tak Langgar Aturan WTO, <https://kumparan.com/kumparanbisnis/kemendag-kenaikan-pajak-impor-900-komoditas-tak-langgar-aturan-wto-1535683125010285147> di unduh dari 12 Juni 2026

jurisprudence of the global economy in the second half of the 20th century."⁷ The WTO is responsible for regulating international trade by providing a regulatory framework and dispute resolution mechanisms between its member countries. The trade principles of the WTO are similar to those of the GATT, namely non-discrimination, most-favored-nation treatment, and national treatment in the areas of taxation and domestic regulations. This means that foreign companies operating in a country must be treated equally and fairly as domestic companies.⁸ John Rawls conceptualized justice as fairness, embodying the principle that free and rational individuals who desire to advance their interests must ensure that the law provides a sense of certainty, justice, and benefit to society.

Gustav Radbruch, in his theory, stated that legal certainty is an absolute requirement for a good legal system. However, in practice, the provisions of laws and regulations in Indonesia often create uncertainty. Consequently, when implemented in practice, these regulations create confusion because they contain norms that do not create legal certainty. 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.⁹ 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. Based on the background above, the problem in this research can be formulated as: what is the form of regulation in determining the import tax rates for foreign products in Indonesia for business actors based on WTO provisions?

C. Literature Review

1. Theory of Legal Certainty (Gustav)

⁷ James Cameron and Kevin R.Gray, *Principles of International Law in the WTO Dispute Settlement Body*, dalam *International and Comparative Law Quarterly*, Vol. 50, April 2001, hlm. 5.

⁸ Lepi T. Tarmidi, "WTO dan Indonesia", *Jurnal Ekonomi dan Pembangunan Indonesia*, Vol. 2, No. 2, Januari Lepi, 2002

⁹ Barus & Santoso, Barus LB and Santoso D, "The Legal Certainty of Tax Amnesty: A Lesson Learned from Indonesia" 2 *Journal of Tax Law and Policy*, 2023, hlm. 109

Legal certainty is one of the aims of law, Gustav Radbruch explains in his combined ethical and utility theory that the legal concept is that law aims for justice, benefit and certainty.¹⁰ Gustav Radbruch said that the highest justice is conscience. People who obey the law too simply often end up harming justice¹¹. According to Gustav Radbruch, there are four fundamental things related to the meaning of legal certainty, namely: first, the law must be positive, meaning it is legislation; second: the law must be based on facts, not judges' judgments; third: the facts that form the basis of the law must be clearly formulated; fourth: positive law must not change frequently).

The implementation of rules creates legal certainty, according to Gustav Radbruch, the law must contain three essential values, namely:¹²

- a. The principle of legal certainty (*rechtmatigheid*). This principle is examined from a juridical perspective.
- b. The principle of legal justice (*gerechtigheit*). This principle is examined from a philosophical perspective, where justice is equal rights for all before the courts.
- c. The principle of legal utility (*zwechmatigheid* or *doelmatigheid* or utility).

Legal certainty is a product of law, or more specifically, legislation. Gustav Radbruch argues that legal certainty is a product of law, or more specifically, legislation.¹³ Legal certainty is the certainty of a law. However, legal certainty does not create justice because the definite value in a law mandates certain things, while the interests of individuals/citizens are never certain. For example, laws between citizens are made in a general manner (i.e., providing general regulations), even though the reasons are not always appropriate, given the diversity of human affairs, which are highly uncertain, whereas laws must establish certainty.

¹⁰ H. Chaerudin, *Filsafat Suatu Ikhtisar*, (Cianjur, FH UNSUR, 1999), hlm. 19

¹¹ Jeremies Lemek, *Mencari Keadilan Pandangan Kritis Terhadap Penegakkan Hukum di Indonesia*, (Yogyakarta: Galang Press, 2007), hlm. 25.

¹² Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, (Jakarta: Kencana, 2008), hlm. 158

¹³ *Ibid*, hlm 20

The imperfection of the law in practice is partially accommodated because judges, when applying the law in real-life situations, in interpreting regulations, can use free interpretations to eliminate or reduce injustice. However, efforts to reduce legal certainty are not always feasible. Thus, the law is forced to sacrifice justice to the benefit of efficacy: it is forced to compromise. In fact, there are a large number of legal regulations that do not achieve justice at all, but are based solely on the benefit of efficacy.

One of the main principles of international trade law is the principle of justice and legal certainty: International trade law must be fair and provide legal certainty for all parties involved in trade transactions. This aligns with Gustav Radbruch's view of legal certainty: law is a positive force capable of regulating the interests of every individual in society and must always be obeyed, even if the law is deemed unjust. Legal certainty is a state of certainty, a provision, or a stipulation.

2. Theory of Justice (John Rawls)

John Rawls, an American philosopher who is considered one of the leading political philosophers of the 20th century, stated that justice is the first virtue of social institutions, as is truth in a system of thought¹⁴ John Rawls put forward the idea in his book, *A Theory of Justice*, that the theory of justice is a method for studying and producing justice. Rawls's theory is based on two principles: equal rights and economic equality. He argued that equal rights must be regulated at the lexical level, meaning that the difference principle will operate if no basic rights are revoked (there are no violations of human rights). Furthermore, economic equality is an implication of equal rights, meaning that economic equality will be achieved if no violations of human rights occur¹⁵ In conclusion, these two principles of John Rawls are interconnected in establishing justice.

Rawls's principle of justice emphasizes the fulfillment of basic rights so that the principle of inequality can be implemented. In other words, economic

¹⁴ Rawls John, *A Theory of Justice, Revised Edition*, (Oxford, OUP, 1999), hlm. 3.

¹⁵ John Rawls, *A Theory Of Justice*, Revised Edition (Massachusetts: Harvard University, 1996), hlm. 71, Lihat juga Andra Ata Ujan, *Keadilan dan Demokrasi; Telaah Teori Keadilan John Rawls* (Yogyakarta: Kanisius, 2001), hlm. 19.

inequality is valid if it does not violate basic human rights. This aligns with international trade law, which must ensure continuity and fairness between parties. In this regard, the WTO, as an international authority in the field of international trade, is expected to uphold the rule of law in the global community. This aligns with John Rawls's conception of justice as fairness, which embodies the principle that free and rational individuals who desire to advance their interests are expected to receive equal status when entering the community they desire. This is a fundamental requirement for them to enter the community they desire¹⁶.

D. Research methods

The research used in this study is normative law (normative juridical). Normative legal research, or doctrinal legal research, or dogmatic legal research, or legislative research, which is referred to in Anglo-American literature as legal research, is internal research within the legal discipline¹⁷.

Normative legal research is usually "only" a documentary study, using legal sources in the form of laws and regulations, court decisions/rules, contracts/agreements/contracts, legal theories, and scholarly opinions. Another name for normative legal research is doctrinal legal research, also referred to as library research or documentary study¹⁸. It is called doctrinal legal research because this research is conducted or aimed only at written regulations or legal materials. It is also called library research or document study because this research is mostly conducted on secondary data found in libraries¹⁹.

The legal materials in this research include:

1. Article 5 paragraph (1), Article 11, and Article 20 of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 7 of 1994 concerning Ratification of the Agreement

¹⁶ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: PT Citra Aditya Bakti, 2000), hlm. 163

¹⁷ Ronny Hanitijo Soemitro, *Metode Penelitian Hukum, Metodologi Penelitian Ilmu Sosial, (Dengan Orientasi Penelitian Bidang Hukum*, (Semarang: Universitas Diponegoro, 1999), hlm. 15.

¹⁸ Bambang Waluyo, *Penelitian Hukum Dalam Praktek*, (Jakarta: Sinar Grafika, 1996), hlm. 13

¹⁹ Wiwik Sri Widiarty, *Buku Ajar Metode Penelitian Hukum*, (Yogyakarta, Publika Global Media, 2024). hlm. 27

Establishing the World Trade Organization

3. Law Number 17 of 2017 concerning the Protocol to Amend the Marrakesh Agreement
4. Law Number 24 of 2000 concerning International Agreements
5. Law Number 7 of 2014 concerning Trade
6. Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs

This research examines and analyzes secondary data related to international trade, import tax rates for foreign products in Indonesia, the World Trade Organization (WTO), and fairness for business actors. This research uses several approaches, including the Statutory approach and the Conceptual approach²⁰ and historical approach. The object of study of normative legal research is focused on the legal norm system, including legal rules or regulations related to the structure of a legal event system²¹.

E. Discussion

1. International Trade Law

The formation of the World Trade Organization (WTO) in 1995 was a key point in the consolidation of international trade rules, particularly through instruments such as the General Agreement on Tariffs and Trade (GATT) which emphasized liberalization, non-discrimination, and transparency²². The international trade system established through the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) has been based on the principles of liberalization, non-discrimination, and maintaining mutually agreed-upon tariffs by member countries. Schmitthoff defined international trade law as "the body of rules governing private commercial relations involving various countries," stating that the rules within the GATT framework are the primary foundation of trade relations between countries.

²⁰ *Ibid*, hlm.93-95

²¹ *Ibid*, hlm. 35

²² Muhammad Rafi Darajati, "Ketaatan Negara Terhadap Hukum Perdagangan Internasional", *Refleksi Hukum* 5, No. 1 2020, hlm. 15

International trade is essentially the process of exchanging goods or services between countries with the aim of achieving mutual benefit or profit from trade.²³ In the multilateral framework, the WTO is present as the only international institution that specifically regulates trade between countries, with the main function of managing the agreements resulting from the Uruguay Round, supervising trade practices, providing a forum for settlement, and providing technical support to developing countries.²⁴ The WTO is a pioneer in the liberalization of world trade, namely a trading system in which goods can be imported and exported without tariffs, quotas or other constraints.²⁵

The steps in the import process are as follows:

1. Registration and Licensing. The first step is to register as an official importer by obtaining an Import Identification Number (API). Additionally, you need to register with the Indonesia National Single Window (INSW) to access online customs services.
2. Goods Import Notification (PIB). Complete the PIB form, detailing the goods to be imported, such as the type, value, and quantity. This form is submitted to the customs office to notify the proposed import.
3. Calculation and Payment of Customs Duties and Import Taxes. After submitting the PIB, the Directorate General of Customs and Excise will calculate the import duties and taxes you must pay based on the type and value of the goods. Payment is made through a designated bank.
4. Goods Inspection. After payment, the goods will be inspected. This inspection can include document verification or a physical inspection, depending on the type of goods and the importer's status.

²³ Aprita & Adhitya, *Hukum Perdagangan Internasional*,. (Depok: Rajawali Pers, 2020), hlm. 42

²⁴ Widiatedja, *Indonesia's Export Ban On Nickel Ore: Does It Violate The World Trade Organization (WTO) Rules?*. *Journal World Trade*: 2021), hlm. 55

²⁵ Rastuti & Khoirudin dkk, *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 Litigasi*, 26(1), 2025, hlm. 26

5. Goods Release. After all procedures are completed and payment is made, the goods will be released from the port and ready to be shipped to their destination.

Indonesia's membership in the WTO requires the country to align various aspects of trade regulations with multilaterally agreed principles. This situation has led to significant changes in the approach to trade law and policy, both in terms of simplifying procedures, complying with international standards, and a commitment to fair competition in the global market.

International trade law originates from various sources, one of which is the World Trade Organization (WTO), an organization that plays a crucial role in the formation and enforcement of international trade law. Several articles in WTO documents expressly state provisions recognized in international law. For example, Article VIII of the Marrakech Agreement Establishing the World Trade Organization states that the WTO has legal personality and enjoys privileges and immunities in carrying out its functions. These privileges and immunities are similar to those guaranteed in the Convention on the Privileges and Immunities of Specialized Agencies, approved by the UN General Assembly on November 21, 1947.

The implementation of international trade in both goods and services (trade in goods and services) in international trade is a dynamic regulation in the context of the GATT/WTO. The General Agreement on Tariffs and Trade / World Trade Organization (GATT/WTO) is the regulation of the implementation of international trade for all GATT/WTO members. The regulation is through the Uruguay Round agreement process (Uruguay Round) which was held in Marrakesh (Morocco) on April 15, 1994.²⁶

The presence of GATT/WTO has experienced a long journey, namely since 1940 and began to be formulated in 1947 through the 1947 GATT negotiations.¹⁴ Therefore, there are several important points related to the

²⁶ Rasheed Khalid, dkk., *The World Trade Organization and Developing Countries*, (Austria, The OPEC Fund for International Development, 1999), hlm.1.

presence of GATT/WTO itself, namely²⁷: (a) As a manifestation of an international agreement that provides and determines regulations through a drafting process and has been agreed upon by each participating country; (b) As an international institution to formally implement all applicable regulations of the GATT followed by the agreement to establish the World Trade Organization; and (c) Regarding the dispute settlement process (Dispute Settlement Mechanism), it has become a mechanism through procedures and a more formal institutional form.

The important principles contained in the GATT/WTO include:²⁸ (a) Minimum Standard Principle; (b) Standard of identical treatment; (c) Standard of national treatment; (d) Most-favored-nation treatment; (e) Standard of the open door; (f) Standard of preferential treatment; (g) Standard of equitable treatments. Some important principles within the WTO that relate to the Trade Facilitation Agreement include the following: First, the Most-Favored Nations principle requires that a trade policy must be implemented on a non-discriminatory basis.²⁹ Based on this principle, all member countries are bound to give other countries equal treatment in the implementation of import and export policies and other costs. This principle requires that equal treatment for each country must be carried out immediately and unconditionally³⁰. Then this principle also requires that a first country (importer) provide international trade facilities or conveniences to a second country (exporter).³¹ Therefore, these facilities should be provided to other exporting countries. Therefore, a country that provides benefits to one country must be able to provide similar benefits to other countries.

²⁷ Suardi dan Mallawa, “Pengaturan World Trade Organization dalam Hukum Internasional serta Konflik Kepentingan Antara Negara Maju dan Negara Berkembang”, *Jurnal Inspirasi*, No.XIII, (Januari 2012), hlm. 3

²⁸ Hata, *Perdagangan Internasional dalam Sistem GATT dan WTO: Aspek Hukum dan Non Hukum*, (Bandung, Refika Aditama, 2006), hlm.53.

²⁹ Dony Yursa Pebrianto, “Implikasi Prinsip Most Favoured Nation terhadap Pengaturan Tarif Impor di Indonesia“, *Wajah Hukum*, Vol.2, No.1 (2018), hlm. 30.

³⁰ Article 1 The General Agreement on Tariffs and Trade, Geneva July 1994, hlm.2.

³¹ Dony Yursa Pebrianto, *op.cit*, hlm.32

Normatively, this principle is regulated in Article 1 (1) of the GATT, which essentially provides an understanding that any advantage, favor, privilege, or immunity from a WTO member country for a product granted to another country must be implemented immediately and unconditionally. This provision actually applies to the same product (like product), whether sourced from or provided to every WTO member country³². As for³³: (a) import duties and other duties imposed on the export-import mechanism in making payments; (b) the mechanism for imposing import duties and other types of duties; (c) the overall regulation of exports or imports; and (d) the imposition of domestic taxes that can have an impact on the sales process and on the use of imported products. Second, the principle of National Treaty is regulated in Article III of the GATT, which states³⁴:

“The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production”.

Based on the formulation of this article, it can be seen that this principle requires that a country's products imported into a country should be treated as equally as possible to domestic products.³⁵. Then, this principle also prohibits differential treatment between foreign goods and domestic goods, which means that when an imported good has entered the domestic market of a member country, the imported good must be treated the same as domestic goods.³⁶. Besides that, the principle of National Treatment is essentially also a

³² The General Agreement on Tariffs and Trade, Geneva July 1994, hlm.2

³³ John H. Jacksson, *World Trade and the Law of GATT: A Legal Analysis of the General Agreement on Tariffs and Trade*, (Indianapolis, The Boobs-Merill Company, 1969), hlm. 256.

³⁴ *Ibid*, hlm. 256.

³⁵ Huala Adolf, *Hukum Perdagangan Internasional*, (Jakarta, PT. RajaGrafindo Persada, 2017), hlm.111

³⁶ Suardi dan Mallawa, “Pengaturan World Trade Organization dalam Hukum Internasional serta Konflik Kepentingan Antara Negara Maju dan Negara Berkembang”, *Jurnal Inspirasi*, No.XIIII, Januari 2012, hlm.. 7.

limited implementation of the principle of Equality of Opportunity³⁷. These two principles are related in the context of minimizing all obstacles or obstacles in international trade. This condition is a manifestation of the agreement of each WTO member country to have a guarantee that all obstacles to international trade cannot be eliminated by the implementation of discriminatory regulations. Third, the principle of Non-Discriminatory Administration of Quantitative Restrictions requires the prohibition of quantitative restrictions or limitations on export or import activities in any form, such as setting quotas, using licenses, and monitoring payments for imported and exported products.³⁸ It was agreed that the basis of the trade facilitation agreement is Articles V, VIII, and X of the General Agreement on Tariffs and Trade (GATT) 1994. These articles provide rules that have existed since 1947, including: (1) Article V, Freedom of Transit; (2) Article VIII, Fees and Formalities Connected with Importation and Exportation; and (3) Article X, Publication and Administration of Trade Regulations.

The existence of trade facilitation agreements has actually become national policy. This can be seen through several policies such as reducing costs and improving port facilities, simplifying procedures and permits, implementing a National Single Window, and increasing transparency. The discussion on trade facilitation is essentially about simplifying customs rules and minimizing inefficiencies that are a source of delays and lag times in trade between countries.

Documentation requirements often lack transparency and are often duplicated in many locations³⁹. This problem is exacerbated by the lack of cooperation between traders and authorized distributors. This situation is understandable, given that in recent years, efficiency can be improved through

³⁷ Amrita, dkk., *The Oxford of the World Trade Organization*, (Oxford, Oxford University Press, 2012), hlm. 682

³⁸ Huala Adolf, op.cit., hlm.113.

³⁹ Hariyadi, *Kesiapan Fasilitasi Perdagangan dan Upaya Merebut Peluang Rezim Perdagangan Bebas Kawasan dan Global*, dalam Achmad Suryana, *Fasilitasi Perdagangan Kesiapan Indonesia Menghadapi Persaingan Global*, (Jakarta, Pusat Penelitian Badan Keahlian DPR RI dan PT Balai Pustaka 2016), hlm. 8.

integrated global supply chains that can increase added value. Furthermore, regarding the Indonesian Trade Facilitation Agreement itself, Government Regulation No. 17 of 2017 concerning the Ratification of the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization (Protocol Amending the Marrakesh Agreement Concerning the Establishment of the World Trade Organization) is also being implemented. The presence of this government regulation serves as a foundation and commitment for Indonesia to realize and implement international provisions related to the Trade Facilitation Agreement in international trade. Article 26 of the Vienna Convention on the Law of Treaties (VCLT 1969) states that⁴⁰ : *“Every treaty in force is binding upon the parties to it and must be performed by them in good faith”*. This means that every international agreement ratified by a country is binding and must be implemented in good faith. Thus, Indonesia's commitment to ratifying the Trade Facilitation Agreement demonstrates its commitment to implementing its provisions..

2. Import Tax Rates for Foreign Products

A tariff is a tax imposed on goods imported by a political power into another territory. This tax specifically applies to goods imported from one political power to another, or the tax rate imposed on those goods. Article 23A of the 1945 Constitution of the Republic of Indonesia stipulates that "taxes and other compulsory levies for state purposes shall be regulated by law." This norm is not merely a technical provision, but a constitutional guarantee of citizens' rights against potential state arbitrariness in tax collection.

Import duties, also known as tariffs, are a type of tax imposed on imported goods.⁴¹ Meanwhile, according to Law No. 17 of 2006 concerning amendments to Law No. 10 of 1995 concerning Customs, Article 1 point 15

⁴⁰ Rumusan Artikel 26 Vienna Convention on the Law of Treaties 1969, United Nations, Treaty Series, Vol.1155, 2005, hlm. 11.

⁴¹ Paul R. Krugman dan Maurice Obstfeld, *Ekonomi internasional teori dan kebijakan diterjemahkan Dr. Faisal Basri, International Economics Cet. I*; (Jakarta:PT Indeks, 2004), hlm. 233

defines state levies based on this Law which are imposed on imported goods. Meanwhile, the legal basis underlying the existence of import duties is Article 12 paragraph (1) of Law No. 10 of 1995 concerning Customs and taking into account Law No. 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization (Agreement on the Establishment of the World Trade Organization). Meanwhile, in Law No. 17 of 2006 concerning Amendments to Law No. 10 of 1995, this article has not been changed at all. This means that in implementing import duties, the legal basis is Law No. 10 of 1995 concerning Customs, Article 12 paragraph (1) and not Law No. 17 of 2006 concerning Amendments to Law No. 10 of 1995 concerning Customs. Exceptions and changes to tariff rates are subject to other provisions, including articles and paragraphs other than Article 12 paragraph (1) and decisions and regulations from the Ministry of Finance, which oversees the Directorate General of Customs and Excise.

In the Indonesian legal system, taxes occupy a strategic position as one of the state's primary instruments in carrying out its functions of governance, development, and the redistribution of welfare. Classically, taxes are understood as mandatory, compulsory contributions paid by citizens to the state based on law, without direct compensation, and used to finance general expenditures.⁴²

According to Law No. 28 of 2007 concerning General Provisions and Tax Procedures, tax is a mandatory contribution to the state owed by individuals or bodies which is mandatory based on the law, without receiving direct compensation and is used for state needs for the greatest prosperity of the people.⁴³ These import activities generate taxes, which are the main source of state revenue. Poerwadarminata⁴⁴, argues that imports mean the entry of goods from a foreign country.

⁴² Adrian Sutedi, *Hukum Pajak*. Sinar Grafika. Jakarta., 2022

⁴³ Sony dan Isnianto, *Panduan Praktis Perpajakan*. (Yogyakarta: Andi Offser, 2009), hlm. 1

⁴⁴ Poerwadarminata, *Kamus Umum Bahasa Indonesia*, (Jakarta, PN Balai Pustaka, 2007), hlm. 441

Taxes or obligations arising from import activities include import duties, Value Added Tax (VAT), Luxury Goods Sales Tax (PPnBM), and Income Tax Article 22 (PPH 22). Data obtained from the official website of the Ministry of Finance, accessed on March 25, 2018, shows that the customs sector contributes 27% of state revenue. This demonstrates the crucial role of customs in state revenue, thus necessitating oversight.

The complexity of tax regulations, differing interpretations between taxpayers and fiscal authorities, and the dynamics of the global economy often trigger legal disputes in the tax sector. This is particularly evident in the context of taxes on import and export activities, which fall within the scope of customs law. Import tax disputes concern not only the fiscal interests of the state but also legal certainty for businesses, the competitiveness of national industries, and compliance with international trade standards.⁴⁵

Legal certainty requires that every taxpayer must be able to clearly and precisely understand the type of tax imposed, the subject and object of taxation, the basis for imposition, the rate, and the collection procedures. This principle is accommodated in Law Number 6 of 1983 concerning General Provisions and Tax Procedures (UU KUP), as last amended by Law Number 7 of 2021 concerning Harmonization of Tax Regulations. Article 2 paragraph (1) and Article 23 paragraph (2) of the KUP Law emphasize that tax collection must be carried out based on the law and its implementing regulations. Therefore, any administrative action by the tax authorities that does not have a clear legal basis has the potential to violate the principle of legality and can be legally annulled.

3. Form of Regulation in Determining Import Tax Rates for Foreign Products in Indonesia for Business Actors Based on WTO Provisions

Provisions specifically governing tariffs are set out in Articles 12 through 17A. Article 12, paragraph 1 of Law Number 10 of 1995, states that "Imported goods shall be subject to import duty based on a maximum tariff of

⁴⁵ Wibowo A, *Hukum Dagang Internasional*, 2025

40% (forty percent) of the customs value for the purpose of calculating import duty." The application of the forty percent import duty provision refers to Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization, as explained in Article 12, paragraph 1 of the Explanation of Law Number 10 of 1995.

The legal basis for the application of tariffs is accommodated through Law Number 10 of 1995 concerning Customs, Law Number 10 of 1995 concerning Customs, and Law Number 10 of 1995 concerning Customs. 17 of 2006 concerning Changes to the Basis for the Establishment and Implementation of Tariffs on Export Import of Goods based on Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise and Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.oII/2011, concerning the determination of the goods clarification system and the imposition of import duty tariffs on export import of goods.

There are various types of tariff determination, including export duties, which are taxes/duties imposed on goods transported to another country (outside the customs area). Transit duties are taxes/duties imposed on goods passing through a country's borders with their final destination in another country. Import duties are taxes/duties imposed on goods entering a country (toll area).

The enactment of Law of the Republic of Indonesia Number 17 of 2017 concerning Ratification of the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization (Protocol Amending the Marrakesh Agreement Concerning the Establishment of the World Trade Organization) serves as a basis for Indonesia's proper implementation of the provisions related to the Trade Facilitation Agreement. This is evident in Article 2 of the 1969 Vienna Convention on the Law of Treaties, which states:⁴⁶

⁴⁶ Artikel 2 Vienna Convention on the Law of Treaties 1969, dimuat dalam United Nations, Treaty Series, Vol.1155, p.331, 2005, p.3.

““treaty” means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;”

Based on the formulation of the article above, the elements and requirements of every international agreement are: 1) an international agreement; 2) made between countries; 3) made in written form; 4) governed by international law that creates international obligations; and 5) has a nomenclature in the agreement. Therefore, the presence of the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization, which includes the Agreement on Trade Facilitation in the Annex, is an international agreement according to the Vienna Convention on the Law of Treaties. This relates to the elements and requirements of international agreements contained in the agreement. These elements include: 1) International Agreement, that there is a protocol Amending the WTO with the Annex Agreement on Trade Facilitation; 2) Concluded between states, that this agreement is made by WTO members in the form of countries; 3) In written form, in the form of a protocol with the Annex in the form of an agreement; 4) Governed by international law, regulated by the Marrakesh Agreement in the form of a WTO body; and 5) Whatever its particular designation, it is made under the name Protocol and Agreement.

Import duty is a levy or charge on imported goods collected by the Directorate General of Customs and Excise (DJBC) of the Ministry of Finance of the Republic of Indonesia. The regulations regarding import duty on imported goods are stipulated in Law Number 17 of 2006 concerning Amendments to Law Number 10/1995 concerning Customs. This Compulsory Import Duty or BMI is intended to protect domestic industries from similar goods. The following are the types of import duty on imported goods based on Chapter IV of the Customs Law:

1. Safeguard Import Duty (BMTP), also known as safeguard duty, is an import duty imposed on imported goods, especially those that are

already largely imported. BMPT is implemented to protect domestic industries from similar goods that suffer serious losses.

2. Anti-Dumping Import Duty (BMAD), an anti-dumping import duty, or BMAD, is imposed on imported goods determined to be dumped. Dumped goods are goods priced lower than similar goods domestically. BMAD is implemented to protect domestic industries from losing competitiveness.
3. Countervailing Import Duty (BMP). This type of countervailing import duty, or BMP, is an import duty imposed on imported goods originating from countries that treat Indonesian exports discriminatorily.
4. Countervailing Import Duty (BMI). This type of countervailing import duty, or BMI, is imposed on imported goods that are found to be subsidized by the government of the exporting country.

Import tax, or PDRI, is calculated excluding import duties and excise taxes. Import tax, or PDRI, consists of several types of taxes, namely: Value Added Tax (VAT); Income Tax Article 22 (PPH 22 Import); and Luxury Goods Sales Tax (PPnBM). PDRI, or import tax, is calculated based on the imported value of the goods. The import value is the value of the goods in international commercial terms CIF (Cost, Insurance, and Freight).

The following are several types of import taxes

1. Import Duty (BM) This is the main tariff applied to imported products. The tariff varies depending on the type of product. For example, raw materials such as fabric may be subject to a low tariff, while finished products such as clothing and cars may be subject to a tariff of up to 30% or even more.
2. Import Value Added Tax (VAT). Like domestic products, imported products are also subject to VAT of 11%. This tax is calculated based on the value of the goods plus the import duty. This means that the higher the value of the imported goods, the higher the VAT that must be paid.
3. Import Sales Tax on Luxury Goods (PPnBM). Luxury goods such as sports cars, gold jewelry, and expensive watches are subject to additional tax. The rate depends on the type of goods and their level of luxury.

4. Income Tax (PPH) Article 22. This tax is applied to imported goods and the rate varies depending on the type of goods and the importer's tax status.

Import tax rates are not always the same for every item. Here are some factors that influence the tariff rate:

1. Type of Goods. Staple goods are usually subject to lower import duties, while luxury goods or locally produced goods are subject to higher tariffs.
2. Country of Origin of Goods. Indonesia has trade agreements with several countries. Goods from these countries are often subject to lower or even duty-free tariffs.
3. Anti-Dumping Policy. If imported goods are sold at very low prices (dumping) to damage the domestic market, the government can impose additional tariffs to protect local industries.

International trade law exists to create a fair and structured framework for countries involved in international trade, ensuring that such trade takes place efficiently, based on principles such as fair treatment and protection against discrimination.⁴⁷ Furthermore, this law plays a crucial role in helping resolve disputes that may arise between countries, either through negotiation or international arbitration, so that these conflicts can be resolved peacefully. Thus, international trade law serves as a crucial foundation for the formation of a complex and interconnected global trade system, and plays a central role in regulating economic relations between countries in the modern era⁴⁸.

According to Gustav Radbruch, justice and legal certainty are integral components of law. He argued that justice and legal certainty must be considered and maintained for the sake of a nation's security and order. Ultimately, positive law must always be obeyed. This is based on the theory of legal certainty and the values it seeks to achieve, namely justice and happiness.

Legal certainty means that it does not give rise to doubt (multiple interpretations) and is logical in the sense that it forms a system of norms with

⁴⁷ Wiwik Sri Widiarty, *op.cit*, 2024, hlm. 9

⁴⁸ Wiwik Sri Widiarty, *op.cit*, 2024, hlm. 10

other norms, thus preventing conflict or normative conflict. Normative conflicts arising from regulatory uncertainty can take the form of norm contestation, norm reduction, or normative distortion. Mainstream thinking assumes that legal certainty is a state in which human behavior, whether individual, group, or organization, is bound and within the boundaries outlined by legal rules. Therefore, legal certainty is the certainty of legal rules, not the certainty of actions toward or actions in accordance with legal rules. The phrase "legal certainty" fails to truly describe the certainty of behavior toward the law.

F. Conclusion and Suggestions

Based on the discussion above, it can be concluded that the form of regulation in determining the import tax rate of foreign products in Indonesia for business actors is based on WTO provisions, namely Article 12 to Article 17A. In Article 12 paragraph 1 of Law Number 10 of 1995, it is stated that "Imported goods are subject to import duty based on a maximum tariff of 40% (forty percent) of the customs value for calculating import duty". The application of the provisions of import duty of forty percent refers to Law Number 7 of 1994 concerning Ratification of the Agreement on the Establishment of the World Trade Organization, as explained in the Explanation of Law Number 10 of 1995 Article 12 paragraph 1. The legal basis for the application of tariffs is accommodated through Law No. 10 of 1995 concerning Customs, Law No. Law No. 17 of 2006 concerning Amendments to the Basis for the Establishment and Implementation of Tariffs on Exports and Imports of Goods, based on Law No. 39 of 2007 concerning Amendments to Law No. 11 of 1995 concerning Excise and Regulation of the Minister of Finance of the Republic of Indonesia No. 213/PMK.0II/2011, concerning the Establishment of a Goods Clarification System and the Imposition of Import Duty Tariffs on Exports and Imports of Goods.

Taxes are a key source of state revenue, essential for meeting the government's economic and budgetary needs. International trade taxes and import

duties on imported goods are important sources of government revenue, serving to increase state revenue, protect domestic industries, regulate the flow of goods, and maintain a trade balance.

- a. Importing businesses should better understand import tax rates for foreign products based on the following:
- b. Businesses are advised to be more proactive in understanding and understanding each tax regulation to increase their awareness and compliance with their tax obligations.
- c. Tax authorities are advised to increase tax outreach and education, particularly regarding tax sanctions, for taxpayers.

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#53595 Review

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**LEGAL CERTAINTY IN INTERNATIONAL TRADE AND FAIRNESS
FOR BUSINESS ACTORS REGARDING TAX RATES IMPORTS OF
FOREIGN PRODUCTS IN INDONESIA BASED ON THE ¹⁰⁷WORLD
TRADE ORGANIZATION (WTO)**

Abstrak

The role of law is very large in international trade relations ⁷³regulated by the WTO. ¹³⁵The WTO is responsible for regulating international trade by providing a regulatory framework including taxes and dispute resolution between its member countries. Imports are a form of international trade carried out by the Indonesian government to meet domestic needs. Goods entering Indonesia are subject to taxes aimed at protecting domestic industries, controlling imports so as not to harm the country's ⁸⁵economy, and accommodating justice in terms of tax imposition on business ⁵⁹actors. One of the main principles in international trade law is the principle of justice and legal certainty: International trade law ¹⁰⁶must be fair and provide legal certainty for all parties involved in trade transactions. The purpose of this study is the form of regulation in determining import tax rates for foreign products ³in Indonesia for business actors based on WTO provisions. The theories used are the theory of legal certainty (by Gustav) and the theory of justice (John Rawls). By using the juridical normative research method, it is known that the form of regulation in determining the import tax rate of foreign products in Indonesia for business ⁴actors is based on WTO provisions, namely Article 12 to Article 17A and ⁶⁰Article 12 paragraph 1 of Law Number 10 of 1995, which states that "Imported goods are subject to import duty based on a maximum ¹³tariff of 40% (forty percent) of the customs value for calculating import ¹³duty". The application of the provisions of import duty of forty percent refers to Law Number 7 of 1994 concerning Ratification of the Agreement ⁵⁶the Establishment of the World Trade Organization, as explained in the Explanation of Law Number 10 of 1995 ³⁰Article 12 paragraph 1. The legal basis for the application of tariffs is accommodated through Law No. 10 of 1995 concerning Customs, Law No. 17 of 2006 concerning Amendments to the Basis for the ⁸Establishment and Implementation of Tariffs on Export and Import of Goods based on Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise and Regulation of the Minister of Finance of the ¹⁸Republic of Indonesia Number 213/PMK.oII/2011, concerning the Determination of the Goods Clarification System and the Imposition of Import Duty Tariffs on Export and Import of Goods.

A. Background

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 International trade law is a set of rules and regulations that govern trade interactions between countries around the world.

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 regulations² and connecting countries through the exchange of goods and services³.

The ratification of the Protocol to Amend the Marrakesh Agreement through Law No. 17 of 2017 affirms Indonesia's commitment to strengthening harmony between international and national law. Furthermore, Law No. 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. 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

¹ Wiwik Sri Widiarty, *Buku Ajar, Hukum Perdagangan internasional*, (Yogyakarta, Publikasi Global, 2023), hlm. 9

² Poni Sukaesih Kurniati Suryanto, Suryanto, "Analisis Perdagangan Internasional Indonesia dan Faktor-Faktor Yang Memengaruhinya," *Intermestic: Journal of International Studies* 7, no. 1 2022, hlm. 96-104.

³ Sabaruddin, "Dampak Perdagangan Internasional Indonesia terhadap Kesejahteraan Masyarakat: Aplikasi Structural Path Analysis". *Buletin Ekonomi Moneter dan Perbankan*, 17(4), 2015. hlm. 433.

⁴ Putri Ibrahim dkk, "Peranan Perdagangan Internasional Terhadap Perekonomian Indonesia," *Jurnal Minfo Polgan* 12, no. 2 2023, hlm. 2427

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.⁵ The government is reviewing 900 imported consumer goods that will be subject to import income tax (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 trade regulations (World Trade Organization/WTO) are violated. Article 22 import income tax (PPH) rates have actually 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.⁶

In line with the coercive nature of taxes, their collection must be based on solid legal principles, particularly those of justice, legal certainty, and utility. One of the fundamental principles underpinning Indonesia's tax system is the Principle of Legality, which implies that all tax collection can only be carried out in accordance with statutory provisions.

The law plays a significant role in international trade relations regulated by the WTO, leading it to be called "the most important change in the jurisprudence of the global economy in the second half of the 20th century."⁷ The WTO is responsible for regulating international trade by providing a regulatory framework and dispute resolution mechanisms between its member countries. The trade principles of the WTO are similar to those of the GATT, namely non-discrimination, most-favored-nation treatment, and national treatment in the areas

⁵ Unggul, S., & Pratiwi, W., "Perdagangan Internasional dan Ham: Relasinya dengan Sustainable Development". Satria Unggul Wicaksana Prakasa, 9(1), 2018, hlm. 36.

⁶ Kumparan Bisnis, Kemendag: Kenaikan Pajak Impor 900 Komoditas Tak Langgar Aturan WTO, <https://kumparan.com/kumparanbisnis/kemendag-kenaikan-pajak-impor-900-komoditas-tak-langgar-aturan-wto-1535683125010285147> di unduh dari 12 Juni 2026

⁷ James Cameron and Kevin R.Gray, *Principles of International Law in the WTO Dispute Settlement Body*, dalam *International and Comparative Law Quarterly*, Vol. 50, April 2001, hlm. 5.

of taxation and domestic regulations. This means that foreign companies operating in a country must be treated equally and fairly as domestic companies.⁸ John Rawls conceptualized justice as fairness, embodying the principle that free and rational individuals who desire to advance their interests must ensure that the law provides a sense of certainty, justice, and benefit to society.

³ Gustav Radbruch, in his theory, stated that legal certainty is an absolute requirement for a good legal system.³⁰ However, in practice, the provisions of laws and regulations in Indonesia often create uncertainty. Consequently, when implemented in practice, these regulations create confusion because they contain norms that do not create legal certainty. 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.⁹ 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.⁷⁰ Based on the background above, the problem in this research can be formulated as: what is the form of regulation in determining the import tax rates for foreign products in Indonesia for business actors based on WTO provisions?

C. Literature Review

1. ⁸⁹ Theory of Legal Certainty (Gustav)

Legal certainty is one of the aims of law, Gustav Radbruch explains in his combined ethical and utility theory that the legal concept is that law aims for justice, benefit and certainty.¹⁰ Gustav Radbruch said that the highest justice is conscience.⁸⁶ People who obey the law too simply often end up harming justice¹¹. According to

⁷⁷ Lepi T. Tarmidi, "WTO dan Indonesia", *Jurnal Ekonomi dan Pembangunan Indonesia*, Vol. 2, No. 2, Januari Lepi, 2002, hlm. 82.

⁹ Barus & Santoso, Barus LB and Santoso D, "The Legal Certainty of Tax Amnesty: A Lesson Learned from Indonesia" 2 *Journal of Tax Law and Policy*, 2023, hlm. 109

¹⁰ H. Chaerudin, *Filsafat Suatu Ikhtisar*, (Cianjur, FH UNSUR, 1999), hlm. 19

¹¹ Jeremias Lemek, *Mencari Keadilan Pandangan Kritis Terhadap Penegakkan Hukum di Indonesia*, (Yogyakarta: Galang Press, 2007), hlm. 25.

Gustav Radbruch, there are four fundamental things related to the meaning of legal certainty, namely: first, the law must be positive, meaning it is legislation; second: the law must be based on facts, not judges' judgments; third: the facts that form the basis of the law must be clearly formulated; fourth: positive law must not change frequently).

The implementation of rules creates legal certainty, according to Gustav Radbruch, the law must contain three essential values, namely:¹²

- a. The principle of legal certainty (*rechtmatigheid*). This principle is examined from a juridical perspective.
- b. The principle of legal justice (*gerechtigheit*). This principle is examined from a philosophical perspective, where justice is equal rights for all before the courts.
- c. The principle of legal utility (*zwechmatigheid* or *doelmatigheid* or utility).

Legal certainty is a product of law, or more specifically, legislation. Gustav Radbruch argues that legal certainty is a product of law, or more specifically, legislation.¹³ Legal certainty is the certainty of a law. However, legal certainty does not create justice because the definite value in a law mandates certain things, while the interests of individuals/citizens are never certain. For example, laws between citizens are made in a general manner (i.e., providing general regulations), even though the reasons are not always appropriate, given the diversity of human affairs, which are highly uncertain, whereas laws must establish certainty.

The imperfection of the law in practice is partially accommodated because judges, when applying the law in real-life situations, in interpreting regulations, can use free interpretations to eliminate or reduce injustice. However, efforts to reduce legal certainty are not always feasible. Thus, the law is forced to sacrifice justice to the benefit of efficacy: it is forced to compromise. In fact, there are a large number of legal regulations that do not achieve justice at all, but are based solely on the benefit of efficacy.

One of the main principles of international trade law is the principle of justice and legal certainty: International trade law must be fair and provide legal certainty

¹²Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, (Jakarta: Kencana, 2008), hlm. 158

¹³ *Ibid*, hlm 20

for all parties involved in trade transactions. This aligns with Gustav Radbruch's view of legal certainty: law is a positive force capable of regulating the interests of every individual in society and must always be obeyed, even if the law is deemed unjust. Legal certainty is a state of certainty, a provision, or a stipulation.

2. Theory of Justice (John Rawls)

John Rawls, an American philosopher who is considered one of the leading political philosophers of the 20th century, stated that justice is the first virtue of social institutions, as is truth in a system of thought¹⁴ John Rawls put forward the idea in his book, *A Theory of Justice*, that the theory of justice is a method for studying and producing justice. Rawls's theory is based on two principles: equal rights and economic equality. He argued that equal rights must be regulated at the lexical level, meaning that the difference principle will operate if no basic rights are revoked (there are no violations of human rights). Furthermore, economic equality is an implication of equal rights, meaning that economic equality will be achieved if no violations of human rights occur¹⁵ In conclusion, these two principles of John Rawls are interconnected in establishing justice.

Rawls's principle of justice emphasizes the fulfillment of basic rights so that the principle of inequality can be implemented. In other words, economic inequality is valid if it does not violate basic human rights. This aligns with international trade law, which must ensure continuity and fairness between parties. In this regard, the WTO, as an international authority in the field of international trade, is expected to uphold the rule of law in the global community. This aligns with John Rawls's conception of justice as fairness, which embodies the principle that free and rational individuals who desire to advance their interests are expected to receive equal status when entering the community they desire. This is a fundamental requirement for them to enter the community they desire¹⁶.

43

¹⁴ Rawls John, *A Theory of Justice, Revised Edition*, (Oxford, OUP, 1999), hlm. 3.

¹⁵ John Rawls, *Theory Of Justice*, Revised Edition (Massachusetts: Harvard University, 1996), hlm. 71, Lihat juga Andra Ata Ujan, *Keadilan dan Demokrasi; Telaah Teori Keadilan John Rawls* (Yogyakarta: Kanisius, 2001), hlm. 19.

¹⁶ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: PT Citra Aditya Bakti, 2000), hlm. 163

⁹³ D. Research methods

⁴⁴ The research used in this study is normative law (normative juridical). Normative legal research, or doctrinal legal research, or dogmatic legal research, or legislative research, which is referred to in Anglo-American literature as legal research, is internal research within the legal discipline¹⁷.

²⁹ Normative legal research is usually "only" a documentary study, using legal sources in the form of laws and regulations, court decisions/rules, contracts/agreements/contracts, legal theories, and scholarly opinions. ⁵ Another name for normative legal research is doctrinal legal research, also referred to as library research or documentary study¹⁸. It is called doctrinal legal research because this research is conducted or aimed only at written regulations or legal materials. It is also called library research or document study because this research is mostly conducted on secondary data found in libraries¹⁹.

The legal materials in this research include:

- ⁹⁴ 1. Article 5 paragraph (1), Article 11, and Article 20 ³¹ of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization
- ⁷⁸ 3. Law Number 17 of 2017 concerning the Protocol to Amend the Marrakesh Agreement
- ¹²⁷ 4. Law Number 24 of 2000 concerning International Agreements
- ⁴⁰ 5. Law Number 7 of 2014 concerning Trade
6. Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs

This research examines and analyzes secondary data related to international trade, import tax rates for foreign products in Indonesia, ⁴ the World Trade Organization (WTO), and fairness for business actors. This research uses several

²⁰ ¹⁷ Ronny Hanitijo Soemitro, *Metode Penelitian Hukum, Metodologi Penelitian Ilmu Sosial, (Dengan Orientasi Penelitian Bidang Hukum*, (Semarang: Universitas Diponegoro, 1999), hlm. 15.

¹⁸ Bambang Waluyo, *Penelitian Hukum Dalam Praktek*, (Jakarta: Sinar Grafika, 1996), hlm.

¹³ ²⁴ ¹⁹ Wiwik Sri Widiarty, *Buku Ajar Metode Penelitian Hukum*, (Yogyakarta, Publika Global Media, 2024). hlm. 27

¹⁴ approaches, including the Statutory approach and the Conceptual approach²⁰ and historical approach. The ⁵³ object of study of normative legal research is focused on the legal norm system, including legal rules or regulations related to the structure of a legal event system²¹.

E. Discussion

1. International Trade Law

⁶⁹ The formation of the World Trade Organization (WTO) in 1995 was a key point in the consolidation of international trade rules, particularly through instruments ¹⁷ such as the General Agreement on Tariffs and Trade (GATT) which emphasized liberalization, non-discrimination, and transparency²². The international trade system established through the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) has been ⁵⁴ based on the principles of liberalization, non-discrimination, and maintaining mutually agreed-upon tariffs by member countries. Schmitthoff defined ¹²⁰ international trade law as "the body of rules governing private commercial relations involving various countries," stating that the rules within the GATT framework are the primary foundation of trade relations between countries.

⁹⁷ International trade is essentially the process of exchanging goods or services between countries with the aim of achieving mutual benefit or profit from trade.²³ In the multilateral framework, ¹¹³ the WTO is present as the only international institution that specifically regulates trade between countries, with the main function of managing the agreements resulting from the Uruguay Round, supervising trade practices, providing ⁴⁸ a forum for settlement, and providing technical support to developing countries.²⁴ The WTO is a pioneer in

²⁰ *Ibid*, hlm.93-95

²¹ ¹⁰⁰ hlm. 35

²² Muhammad Rafi Darajati, "Ketaatan Negara Terhadap Hukum Perdagangan. Internasional", *Refleksi Hukum* ¹⁴ No. 1 2020, hlm. 15

²³ Aprita & Adhitya, *Hukum Perdagangan Internasional*, (Depok: Rajawali Pers, 2020), hlm. ¹⁴ 42

²⁴ Widiatedja, *Indonesia's Export Ban On Nickel Ore: Does It Violate The World Trade Organization (WTO) Rules?*. *Journal World Trade*: 2021), hlm. 55

the liberalization of world trade, namely a trading system in which goods can be imported and exported without tariffs, quotas or other constraints.²⁵

The steps in the import process are as follows:

1. Registration and Licensing. The first step is to register as an official importer by obtaining an Import Identification Number (API). Additionally, you need to register with the Indonesia National Single Window (INSW) to access online customs services.
2. Goods Import Notification (PIB). Complete the PIB form, detailing the goods to be imported, such as the type, value, and quantity. This form is submitted to the customs office to notify the proposed import.
3. Calculation and Payment of Customs Duties and Import Taxes. After submitting the PIB, the Directorate General of Customs and Excise will calculate the import duties and taxes you must pay based on the type and value of the goods. Payment is made through a designated bank.
4. Goods Inspection. After payment, the goods will be inspected. This inspection can include document verification or a physical inspection, depending on the type of goods and the importer's status.
5. Goods Release. After all procedures are completed and payment is made, the goods will be released from the port and ready to be shipped to their destination.

Indonesia's membership in the WTO requires the country to align various aspects of trade regulations with multilaterally agreed principles. This situation has led to significant changes in the approach to trade law and policy, both in terms of simplifying procedures, complying with international standards, and a commitment to fair competition in the global market.

International trade law originates from various sources, one of which is the World Trade Organization (WTO), an organization that plays a crucial role in the formation and enforcement of international trade law. Several articles in

²⁵ Rastuti & Khoirudin dkk, 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 Litigasi*, 26(1), 2025, hlm. 26

WTO documents expressly state provisions recognized in international law. For example, Article VIII of the Marrakech Agreement Establishing the World Trade Organization states that the WTO has legal personality and enjoys privileges and immunities in carrying out its functions. These privileges and immunities are similar to those guaranteed in the Convention on the Privileges and Immunities of Specialized Agencies, approved by the UN General Assembly on November 21, 1947.

The implementation of international trade in both goods and services (trade in goods and services) in international trade is a dynamic regulation in the context of the GATT/WTO. The General Agreement on Tariffs and Trade / World Trade Organization (GATT/WTO) is the regulation of the implementation of international trade for all GATT/WTO members. The regulation is through the Uruguay Round agreement process (Uruguay Round) which was held in Marrakesh (Morocco) on April 15, 1994.²⁶

The presence of GATT/WTO has experienced a long journey, namely since 1940 and began to be formulated in 1947 through the 1947 GATT negotiations.¹⁴ Therefore, there are several important points related to the presence of GATT/WTO itself, namely²⁷: (a) As a manifestation of an international agreement that provides and determines regulations through a drafting process and has been agreed upon by each participating country; (b) As an international institution to formally implement all applicable regulations of the GATT followed by the agreement to establish the World Trade Organization; and (c) Regarding the dispute settlement process (Dispute Settlement Mechanism), it has become a mechanism through procedures and a more formal institutional form.

The important principles contained in the GATT/WTO include:²⁸ (a) Minimum Standard Principle; (b) Standard of identical treatment; (c) Standard

²⁶ Rasheed Khalid, dkk., *The World Trade Organization and Developing Countries*, (Austria, The OPEC Fund for International Development, 1999), hlm.1.

²⁷ Suardi dan Mallawa, "Pengaturan World Trade Organization dalam Hukum Internasional serta Konflik Kepentingan Antara Negara Maju dan Negara Berkembang", Jurnal *Inspirasi*, No.X, (Januari 2012), hlm. 3

²⁸ Hata, *Perdagangan Internasional dalam Sistem GATT dan WTO: Aspek Hukum dan Non*

¹ of national treatment; (d) Most-favored-nation treatment; (e) Standard of the open door; (f) Standard of preferential treatment; (g) Standard of equitable treatments. Some important principles within the WTO that relate to the Trade Facilitation Agreement include the following: First, the Most-Favored Nations principle requires that ²³ a trade policy must be implemented on a non-discriminatory basis.²⁹ Based on this principle, all member countries are bound to give other countries equal treatment in the implementation of import and export policies and other costs. This principle requires that equal treatment for each country must be carried out immediately and unconditionally³⁰. Then this principle also requires that a first country (importer) provide international trade facilities or conveniences to a second country (exporter).³¹ Therefore, these facilities should be provided to other exporting countries. Therefore, a country that provides benefits to one country must be able to provide similar benefits to other countries.

Normatively, this principle is regulated in ⁷⁹ Article 1 (1) of the GATT, which essentially provides an understanding that any advantage, favor, privilege, or immunity from a WTO member country for a product granted to another ¹³⁶ country must be implemented immediately and unconditionally. This provision actually applies to the same product (like product), whether sourced from or provided to every WTO member country³². As for³³: (a) import duties and other duties imposed on the export-import mechanism in making payments; (b) the mechanism for imposing import duties and other types of duties; (c) the overall regulation of exports or imports; and (d) the imposition of domestic taxes that can ¹⁰² have an impact on the sales process and on the use of imported

² *Hukum*, (Bandung, Refika Aditama, 2006), hlm.53.

²⁹ Dony Yursa Pebrianto, "Implikasi Prinsip Most Favoured Nation terhadap Pengaturan Tarif Impor di Indonesia", *Wajah Hukum*, Vol.2, No.1 (2018), hlm. 30.

³⁰ Article 1 The General Agreement on Tariffs and Trade, Geneva July 1994, hlm.2.

³¹ ¹ Dony Yursa Pebrianto, *op.cit*, hlm.32

³² ² The General Agreement on Tariffs and Trade, Geneva July 1994, hlm.2

³³ John H. Jacksson, *World Trade and the Law of GATT: A Legal Anlysis of the General Agreement on Tariffs and Trade*, (Indianapolis, The Boobs-Merill Company, 1969), hlm. 256.

products. Second, ⁸⁷ the principle of National Treaty is regulated in Article III of the GATT, which states³⁴:

“The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production”.

Based on ³⁸ the formulation of this article, it can be seen that this principle requires that a country's products imported into a country should be treated as equally as possible to domestic products.³⁵ Then, this principle also prohibits differential treatment between ⁴⁷ foreign goods and domestic goods, which means that when an imported good has entered the domestic market of a member country, the ¹⁰³ imported good must be treated the same as domestic goods.³⁶ Besides that, ¹¹ the principle of National Treatment is essentially also a limited implementation of the principle of Equality of Opportunity³⁷. These two principles are related in the context of minimizing all obstacles or obstacles in international trade. This condition is a manifestation of the agreement of each WTO member country to have a guarantee that all ¹³⁸ obstacles to international trade cannot be eliminated by the implementation of discriminatory regulations. Third, the principle of Non-Discriminatory Administration of Quantitative Restrictions requires ⁴⁶ the prohibition of quantitative restrictions or limitations on export or import activities in any form, ¹²⁹ such as setting quotas, using licenses, and monitoring payments for imported and exported products.³⁸ ⁶ It was agreed that the basis of the trade facilitation agreement is Articles V, VIII, and X of the General Agreement on Tariffs and Trade (GATT) 1994. These articles provide

³⁴ ⁴¹, hlm. 256.

³⁵ Huala Adolf, *Hukum Perdagangan Internasional*, (Jakarta, PT. RajaGrafindo Persada, 2017), hlm.111

³⁶ Suardi dan Mallawa, “Pengaturan World Trade Organization dalam Hukum Internasional serta Konflik Kepentingan Antara Negara Maju dan Negara Berkembang”, *Jurnal Inspirasi*, No.XIII, Januari 2012, hlm.. 7.

³⁷ Amrita, dkk., *The Oxford of the World Trade Organization*, (Oxford, Oxford University Press, 2012), hlm. 682

³⁸ Huala Adolf, op.cit., hlm.113.

⁶ rules that have existed since 1947, including: (1) Article V, Freedom of Transit; (2) Article VIII, Fees and Formalities Connected with Importation and Exportation; and (3) Article X, Publication and Administration of Trade Regulations.

The existence of trade facilitation agreements has actually become national policy. This can be seen through several policies such as reducing costs and improving port facilities, simplifying procedures and permits, implementing a National Single Window, and increasing transparency. The discussion on trade facilitation is essentially about simplifying customs rules and minimizing inefficiencies that are a source of delays and lag times in trade between countries.

³⁸ Documentation requirements often lack transparency and are often duplicated in many locations³⁹. This problem is exacerbated by the lack of cooperation between traders and authorized distributors. This situation is understandable, given that in recent years, efficiency can be improved through integrated global supply chains that can increase added value. Furthermore, regarding the Indonesian Trade Facilitation Agreement itself, Government Regulation ³⁹ No. 17 of 2017 concerning the Ratification of the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization (Protocol Amending the Marrakesh Agreement Concerning ¹⁰¹ the Establishment of the World Trade Organization) is also being implemented. The presence of this government regulation serves as a foundation and commitment for Indonesia to realize and implement international provisions related to the Trade Facilitation Agreement in international trade. ⁶⁴ Article 26 of the Vienna Convention on the Law of Treaties (VCLT 1969) states that⁴⁰ : “Every treaty in force is binding upon the parties to it and must be performed by them in good faith”. This means that every international agreement ratified by a country is

³⁹ ¹ Hariyadi, *Kesiapan Fasilitasi Perdagangan dan Upaya Merebut Peluang Rezim Perdagangan Bebas Kawasan dan Global, dalam Achmad Suryana, Fasilitasi Perdagangan Kesiapan Indonesia Menghadapi Persaingan Global*, (Jakarta, Pusat Penelitian Badan Keahlian DPR RI dan PT Balai Pustaka 2016), hlm. 8.

⁴⁰ Rumusan Artikel 26 Vienna Convention on the Law of Treaties 1969, United Nations, Treaty Series, Vol.1155, 2005, hlm. 11.

binding and must be implemented in good faith. Thus, Indonesia's commitment to ratifying the Trade Facilitation Agreement demonstrates its commitment to implementing its provisions..

2. Import Tax Rates for Foreign Products

A tariff is a tax imposed on goods imported by a ⁴⁹ political power into another territory. This tax specifically applies to goods imported from one political power to another, or the tax rate imposed on those goods. ⁶⁶ Article 23A of the 1945 Constitution of the Republic of Indonesia stipulates that "taxes and other compulsory levies for state purposes shall be regulated by law." This norm is not merely a technical provision, but a constitutional guarantee of citizens' rights against potential state arbitrariness in tax collection.

Import duties, also known as tariffs, are a type of tax imposed on imported goods.⁴¹ Meanwhile, ¹⁷ according to Law No. 17 of 2006 concerning amendments to Law No. 10 of 1995 concerning Customs, Article 1 point 15 defines state levies based on this Law which ¹²⁵ are imposed on imported goods. Meanwhile, ⁹⁵ the legal basis underlying the existence of import duties is Article 12 paragraph (1) of Law No. 10 of 1995 concerning Customs and taking into account ¹⁰ Law No. 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization (Agreement on the Establishment of the World Trade Organization). Meanwhile, in Law No. 17 of 2006 concerning Amendments to Law No. 10 of 1995, this article has not been changed at all. This means that in implementing import duties, the legal basis is ³³ Law No. 10 of 1995 concerning Customs, Article 12 paragraph (1) and not ³³ Law No. 17 of 2006 concerning Amendments to Law No. 10 of 1995 concerning Customs. Exceptions and changes to tariff rates are subject to other provisions, including articles and paragraphs other than Article 12 paragraph (1) and

³⁷ Paul R. Krugman dan Maurice Obstfeld, *Ekonomi internasional teori dan kebijakan diterjemahkan Dr. Faisal Basri, International Economics Cet. I*; (Jakarta:PT Indeks, 2004), hlm. 233

decisions and regulations from ⁷⁴ the Ministry of Finance, which oversees the Directorate General of Customs and Excise.

In the Indonesian legal system, taxes occupy a strategic position as one of the state's primary instruments in carrying out its functions of governance, development, and the redistribution of welfare. Classically, taxes are understood as mandatory, compulsory contributions paid by citizens to the state ¹⁰⁹ based on law, without direct compensation, and used to finance general expenditures.⁴²

⁹ According to Law No. 28 of 2007 concerning General Provisions and Tax Procedures, tax is a mandatory contribution to the state owed by individuals or bodies which is mandatory based on the law, without receiving direct compensation and is used for state needs for the greatest prosperity of the people.⁴³ These import activities generate taxes, which are ¹⁴⁰ the main source of state revenue. Poerwadarminta⁴⁴, argues that imports mean the entry of goods from a foreign country.

⁶⁷ Taxes or obligations arising from import activities include import duties, Value Added Tax (VAT), Luxury Goods Sales Tax (PPnBM), and Income Tax ¹¹¹ Article 22 (PPH 22). Data obtained from the official website of the Ministry of Finance, accessed on March 25, 2018, shows that the customs sector contributes 27% of state revenue. This demonstrates the crucial role of customs in state revenue, thus necessitating oversight.

The complexity of tax regulations, differing interpretations between taxpayers and fiscal authorities, and the dynamics of the global economy often trigger legal disputes in the tax sector. This is particularly evident in the context of ⁹⁸ taxes on import and export activities, which fall within the scope of customs law. Import tax disputes concern not only the fiscal interests of the state but also

⁴² Adrian Sutedi, *Hukum Pajak*. Sinar Grafika. Jakarta., 2022

⁴³ ⁸³ py dan Isnianto, *Panduan Praktis Perpajakan*. (Yogyakarta: Andi Offser, 2009), hlm. 1

⁴⁴ Poerwadarminta, *Kamus Umum Bahasa Indonesia*, (Jakarta, PN Balai Pustaka, 2007), hlm.

legal certainty for businesses, the competitiveness of national industries, and compliance with international trade standards.⁴⁵

Legal certainty requires that every taxpayer must be able to clearly and precisely understand the type of tax imposed, the subject and object of taxation, the basis for imposition, the rate, and the collection procedures. This principle is accommodated in Law Number 6 of 1983 concerning General Provisions and Tax Procedures (UU KUP), as last amended by Law Number 7 of 2021 concerning Harmonization of Tax Regulations. Article 2 paragraph (1) and Article 23 paragraph (2) of the KUP Law emphasize that tax collection must be carried out based on the law and its implementing regulations. Therefore, any administrative action by the tax authorities that does not have a clear legal basis has the potential to violate the principle of legality and can be legally annulled.

3. Form of Regulation in Determining Import Tax Rates for Foreign Products in Indonesia for Business Actors Based on WTO Provisions

Provisions specifically governing tariffs are set out in Articles 12 through 17A. Article 12, paragraph 1 of Law Number 10 of 1995, states that "Imported goods shall be subject to import duty based on a maximum tariff of 40% (forty percent) of the customs value for the purpose of calculating import duty." The application of the forty percent import duty provision refers to Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization, as explained in Article 12, paragraph 1 of the Explanation of Law Number 10 of 1995.

The legal basis for the application of tariffs is accommodated through Law Number 10 of 1995 concerning Customs, Law Number 10 of 1995 concerning Customs, and Law Number 10 of 1995 concerning Customs. 17 of 2006 concerning Changes to the Basis for the Establishment and Implementation of Tariffs on Export Import of Goods based on Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning

⁴⁵ Wibowo A, *Hukum Dagang Internasional*, 2025

Excise and ⁶² Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.oII/2011, ¹⁸ concerning the determination of the goods clarification system and the imposition of import duty tariffs on export import of goods.

⁵⁷ There are various types of tariff determination, including export duties, which are taxes/duties imposed on goods transported to another country (outside the customs area). Transit duties are taxes/duties imposed on goods passing through a country's borders with their final destination in another country. Import duties are taxes/duties imposed on goods entering a country (toll area).

The enactment of ³⁴ Law of the Republic of Indonesia Number 17 of 2017 concerning Ratification of the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization ¹¹⁵ (Protocol Amending the Marrakesh Agreement Concerning the Establishment of the World Trade Organization) ¹¹⁹ serves as a basis for Indonesia's proper implementation of the provisions related to the Trade Facilitation Agreement. ⁶⁵ This is evident in Article 2 of the 1969 Vienna Convention on the Law of Treaties, which states:⁴⁶

““treaty” means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;”

Based on the formulation of the article above, the elements and requirements of every international agreement are: ⁵⁵ 1) an international agreement; 2) made between countries; 3) made in written form; 4) governed by international law that creates international obligations; and 5) has a nomenclature in the agreement. Therefore, the presence ⁵² of the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization, which includes the Agreement on Trade Facilitation in the Annex, is an international agreement according to the Vienna Convention on

⁴⁶ Artikel 2 Vienna Convention on the Law of Treaties 1969, dimuat dalam United Nations, Treaty Series, Vol.1155, p.331, 2005, p.3.

¹¹⁶ the Law of Treaties. This relates to the elements and requirements of international agreements contained in the agreement. These elements include: 1) International Agreement, that there is a protocol Amending the WTO with the ¹ Annex Agreement on Trade Facilitation; 2) Concluded between states, that this agreement is made by ⁴⁶ WTO members in the form of countries; 3) ¹ In written form, in the form of a protocol with the Annex in the form of an agreement; 4) Governed by international law, regulated by the Marrakesh Agreement in the form of a WTO body; and 5) Whatever its particular designation, it is made under the name Protocol and Agreement.

Import duty is a levy or charge on imported goods collected by ¹⁰ the Directorate General of Customs and Excise (DJBC) of the Ministry of Finance of the Republic of Indonesia. The regulations regarding import duty on imported goods are stipulated in ³² Law Number 17 of 2006 concerning Amendments to Law Number 10/1995 concerning Customs. This Compulsory Import Duty or BMI ⁴ is intended to protect domestic industries from similar goods. The following are the types of ¹¹⁷ import duty on imported goods based on Chapter IV of the Customs Law:

1. Safeguard Import Duty (BMTP), also known as safeguard duty, is an import duty imposed on imported goods, especially those that are already largely imported. BMPT is implemented to protect domestic industries from similar goods that suffer serious losses.
2. Anti-Dumping Import Duty (BMAD), an anti-dumping import duty, or BMAD, is imposed on imported goods determined to be dumped. Dumped goods are goods priced lower than similar goods domestically. BMAD is implemented to protect domestic industries from losing competitiveness.
3. Countervailing Import Duty (BMP). This type of countervailing import duty, or BMP, is an import duty imposed on imported goods originating from countries that treat Indonesian exports discriminatorily.

4. Countervailing Import Duty (BMI). This type of countervailing import duty, or BMI, is imposed ⁵⁷ on imported goods that are found to be subsidized by the government of the exporting country.

Import tax, or PDRI, is calculated excluding import duties and excise taxes. Import tax, or PDRI, consists of several ¹⁰⁸ types of taxes, namely: Value Added Tax (VAT); Income Tax Article 22 (PPh 22 Import); and Luxury Goods Sales Tax (PPnBM). PDRI, or import tax, is calculated ¹¹² based on the imported value of the goods. The import value is the value of the goods in international commercial terms CIF (Cost, Insurance, and Freight).

The following are several types of import taxes

1. Import Duty (BM) This is the main tariff applied to imported products. The tariff varies depending on the type of product. For example, raw materials such as fabric may be subject to a low tariff, while finished products such as clothing and cars may be subject to a tariff of up to 30% or even more.
2. Import Value Added Tax (VAT). Like domestic products, imported products are also subject to VAT of 11%. This tax is calculated based on the value ¹¹ of the goods plus the import duty. This means that the higher the value of the imported goods, the higher the VAT that must be paid.
3. Import Sales Tax on Luxury Goods (PPnBM). Luxury goods such as sports cars, gold jewelry, and expensive watches are subject to additional tax. The rate depends on the type of goods and their level of luxury.
4. Income Tax (PPh) Article 22. This tax is applied to imported goods and the ¹³⁰ rate varies depending on the type of goods and the importer's tax status.

Import tax rates are not always the same for every item. Here are some factors that influence the tariff rate:

1. Type of Goods. Staple goods are usually subject to lower import duties, while luxury goods or locally produced goods are subject to higher tariffs.
2. Country of Origin of Goods. Indonesia has trade agreements with several countries. Goods from these countries are often subject to lower or even duty-free tariffs.
3. Anti-Dumping Policy. If imported goods are sold at very low prices

(dumping) to damage the domestic market, the government can impose additional tariffs to protect local industries.

International trade law exists to create a fair and structured framework for countries involved in international trade, ensuring that such trade takes place efficiently, based on principles such as fair treatment and protection against discrimination.⁴⁷ Furthermore, this law plays a crucial role in helping resolve disputes that may arise between countries, either through negotiation or international arbitration, so that these conflicts can be resolved peacefully. Thus, international trade law serves as a crucial foundation for the formation of a complex and interconnected global trade system, and plays a central role in regulating economic relations between countries in the modern era⁴⁸.

According to Gustav Radbruch, justice and legal certainty are integral components of law. He argued that justice and legal certainty must be considered and maintained for the sake of a nation's security and order. Ultimately, positive law must always be obeyed. This is based on the theory of legal certainty and the values it seeks to achieve, namely justice and happiness.

Legal certainty means that it does not give rise to doubt (multiple interpretations) and is logical in the sense that it forms a system of norms with other norms, thus preventing conflict or normative conflict. Normative conflicts arising from regulatory uncertainty can take the form of norm contestation, norm reduction, or normative distortion. Mainstream thinking assumes that legal certainty is a state in which human behavior, whether individual, group, or organization, is bound and within the boundaries outlined by legal rules. Therefore, legal certainty is the certainty of legal rules, not the certainty of actions toward or actions in accordance with legal rules. The phrase "legal certainty" fails to truly describe the certainty of behavior toward the law.

F. Conclusion and Suggestions

⁶³Based on the discussion above, it can be concluded that the form of regulation in determining the import tax rate of foreign products in Indonesia for business actors is based on WTO provisions, namely Article 12 to Article 17A. ⁸⁴In Article 12 paragraph 1 of Law Number 10 of 1995, it is stated that "Imported goods are subject to import duty based on a maximum tariff of 40% (forty percent) of the customs value for calculating import duty". ⁶⁰The application of the provisions of import duty of forty percent refers to ¹³Law Number 7 of 1994 concerning Ratification of the Agreement on the Establishment of the World Trade Organization, as explained in the ⁵⁶Explanation of Law Number 10 of 1995 Article 12 paragraph 1. ¹¹⁸The legal basis for the application of tariffs is accommodated through Law No. ⁸¹10 of 1995 concerning Customs, Law No. 17 of 2006 concerning Amendments to the Basis for the Establishment and Implementation of Tariffs on Exports and Imports of Goods, based on Law No. ⁸39 of 2007 concerning Amendments to Law No. 11 of 1995 concerning Excise and Regulation of the Minister of Finance of the Republic of Indonesia No. 213/PMK.0II/2011, concerning ¹⁸the Establishment of a Goods Clarification System and the Imposition of Import Duty Tariffs on Exports and Imports of Goods.

⁹⁹Taxes are a key source of state revenue, essential for meeting the government's economic and budgetary needs. International trade taxes and import duties on imported goods are important sources of government revenue, serving to increase state revenue, protect domestic industries, regulate the flow of goods, and maintain a trade balance.

- a. Importing businesses should better understand import tax rates for foreign products based on the following:
- b. Businesses are advised to be more proactive in understanding and understanding each tax regulation to increase their awareness and compliance with their tax obligations.
- c. Tax authorities are advised to increase tax outreach and education, particularly regarding tax sanctions, for taxpayers.

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3	Keywords	Relevant and specific, consists of 3–5 words or phrases	Needs improvement
4	Introduction	• Background: Explain the general context of the legal issue underlying the research. • Legal Problem: Clearly state the main legal issue being analyzed. • Law Being Examined (<i>das sollen</i> vs <i>das sein</i>): Present the regulation that is the object of analysis, and highlight the gap between the legal norms (<i>das sollen</i>) and the actual practice (<i>das sein</i>). • Research Urgency: Explain why this topic is important and relevant at the present time. • Research Gap: Identify the gap in existing studies that has not been addressed by previous research. • State of the Art: Provide an up-to-date review of relevant theories or the most recent research in the field. • Significance of the Research: Describe the contribution of the research to the development of law, both theoretically and practically. • Research Objective: Clearly and concisely state the aim of the research. • Research Questions: Explicitly formulate 2–3 clear, specific, and well-defined research questions that	Need Revision

		are aligned with the legal issues examined in the study. The research questions should serve as the foundation for the analysis in the Results and Discussion section, ensuring that all arguments and findings systematically and coherently address the research objectives.	
7	Research Methodology	States type of research, approach, data sources, and technique	Needs improvement
8	Results	Please ensure that the Results and Discussion section is organized systematically and provides direct and coherent answers to the research questions formulated in the Introduction. Each finding, analysis, and argument presented should demonstrate a clear connection to the research focus, ensuring consistency between the issues examined, the analysis conducted, and the conclusions drawn.	Need Revision
11	Conclusion	Answers the research problems, concise, not deviating from the results. Relevant, applicable, and supports further research or policy	Major Revision
13	References Adequacy	• Uses primary sources (laws, court decisions, books, and journals), mostly from the last 5 years. • Make sure that all sources cited in the text are included in the reference list, and vice versa.	Needs improvement
14	Citation Consistency	Footnotes follow the required footnote and Chicago-style of citation	Needs improvement
15	Overall	Please ensure that the manuscript is in English.	



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#53595 Review

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

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Abstrak

The regulation of 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 serve not only as a source of state revenue but also as an instrument for regulating international trade. However, the implementation of import tariff policies continues to raise questions regarding their consistency with WTO principles and legal certainty. This study aims to analyze the international legal framework governing import taxation under the WTO and the General Agreement on Tariffs and Trade (GATT), examine Indonesia's legal framework on import taxation, and evaluate 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 based on primary, secondary, and tertiary legal materials collected through library research. The findings indicate that the WTO legal framework is founded on the principles of non-discrimination, transparency, legal certainty, and trade facilitation. Indonesia has established a comprehensive legal framework through customs, taxation, and trade legislation that is generally consistent with WTO provisions. Nevertheless, greater regulatory harmonization, consistent implementation, and stronger legal certainty are required to ensure compliance with international trade obligations while protecting national economic interests.

Keywords: Import Taxation, World Trade Organization, Customs Law, Legal Certainty.

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 International trade law is a set of rules and regulations that govern trade interactions between

¹ Widiarty, Wiwik Sri. "Buku Ajar Hukum Perdagangan Internasional." (2023). See too, Azmeh, Shamel, Christopher Foster, and Jaime Echavarri. "The international trade regime and the quest for free digital trade." *International studies review* 22, no. 3 (2020): 671-692.

countries around the world. 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 No. 17 of 2017 affirms Indonesia's commitment to strengthening harmony between international and national law.³ Furthermore, Law No. 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 (PPh). This is being done to improve the current account deficit (CAD) and

² Suryanto, Suryanto, and Poni Sukaesih Kurniati. "Analisis perdagangan internasional Indonesia dan faktor-faktor yang memengaruhinya." *Intermestic: Journal of International Studies* 7, no. 1 (2022): 104-122. See too, Sabaruddin, Sulthon Sjahril. "Dampak perdagangan internasional Indonesia terhadap kesejahteraan masyarakat: Aplikasi structural path analysis." *Bulletin of Monetary Economics and Banking* 17, no. 4 (2015): 433-456.

³ Hartono, Achdwiyanto Yudi, 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* 8, no. 1 (2026): 93-117. See too,

⁴ Putri, Saidina, and Hendra Ibrahim. "Peranan perdagangan internasional terhadap perekonomian Indonesia." *Jurnal Minfo Polgan* 12, no. 2 (2023): 2424-2428.

⁵ Deardorff, Alan V. "International provision of trade services, trade, and fragmentation." *Review of International Economics* 9, no. 2 (2001): 233-248. See too, Susanto, Primadi Candra, 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* 2, no. 1 (2024): 44-52.

⁶ Prakasa, Satria Unggul Wicaksana. "Perdagangan Internasional Dan Ham: Relasinya Dengan Sustainable Development." *Jurnal Hukum Novelty* 9, no. 1 (2018): 36-53.

thus stabilize the rupiah. This step could invite retaliation from the countries of origin of the imported products, if any international trade regulations (World Trade Organization/WTO) are violated. Article 22 import income tax (PPh) rates have actually 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 No. 10 of 1995 concerning Customs, Law No. 17 of 2006, Law No. 7 of 2014 concerning Trade, and Law No. 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

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 Barus, Leo B., and Didit Santoso. "The Legal Certainty of Tax Amnesty: A Lesson Learned from Indonesia." *Journal of Tax Law and Policy* 2, no. 3 (2023): 109-116.

⁹ Williams, Lawrence Joseph. "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.

¹⁰ Maggi, Giovanni, and Andrés Rodríguez-Clare. "Import penetration and the politics of trade protection." *Journal of International Economics* 51, no. 2 (2000): 287-304. See too, Ruziokhunov, Doniyorbek,

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

and Umida Yuldasheva. "The role of government tax regulations on attracting foreign investments." *Academic Journal of Science, Technology and Education* 1, no. 8 (2025): 6-10.

¹¹ Arrasya, Muhammad Bayu. "Navigating Global Trade: Indonesia's Trajectory within 30 Years of the WTO." *Audi Et AP: Jurnal Penelitian Hukum* 5, no. 01 (2026): 1-11. See too, Pangestu, Mari, Sjamsu Rahardja, and Lili Yan Ing. "Fifty years of trade policy in Indonesia: New world trade, old treatments." *Bulletin of Indonesian Economic Studies* 51, no. 2 (2015): 239-261; Syariffudin, Muhammad Reza Zaki, 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* 27, no. 2 (2025): 355-392.

¹² Soemitro, Ronny Hanitijo. "Metode Penelitian Hukum, Metodologi Penelitian Ilmu Sosial, (Dengan

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-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

Orientasi Penelitian Bidang Hukum)." *Pelatihan Metodologi Ilmu Sosial, Bagian Hukum dan Masyarakat FH Undip* (1999). See too, Widiarty, Wiwik Sri. "Buku ajar metode penelitian hukum." (2024).

¹³ Gaol, Selamat Lumban, 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)* 8, no. 2 (2026): 1380-1386.

¹⁴ Crowe, Jonathan. "The role of contextual meaning in judicial interpretation." *Federal Law Review* 41, no. 3 (2013): 417-442.

¹⁵ Wulandari, Putri. "Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches." *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 12-25.

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 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 Import Identification Number (API), register with the Indonesia National Single Window (INSW), submit a Goods Import Notification (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.

¹⁶ Srinivasan, Thirukodikaval N. "Nondiscrimination in GATT/WTO: was there anything to begin with and is there anything left?." *World Trade Review* 4, no. 1 (2005): 69-95. See too, Darajati, Muhammad Rafi. "Ketaatan negara terhadap hukum perdagangan internasional." *Refleksi Hukum: Jurnal Ilmu Hukum* 5, no. 1 (2020): 21-42.

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

¹⁸ Rastuti, Tuti, and Andian Achya Dzikiyyah 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* 26, no. 1 (2025): 26-66.

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 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,

¹⁹ Rivaldi, Ahmad, 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* 3, no. 3 (2025): 1188-1197. See too, Zaki, Muhammad Reza Syariffudin, 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* 20, no. 4 (2023): 6.

²⁰ Gal-Or, Noemi. "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* 50 (2013): 197-242.

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

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 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

²² Pebrianto, Dony Yusra. "Implikasi Prinsip Most Favoured Nation terhadap Pengaturan Tarif Impor Di Indonesia." *Wajah hukum* 2, no. 1 (2018): 29-41.

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

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

²⁵ Shumba, Willie. "WTO Trade Facilitation Agreement: Has the Trade Facilitation Agreement improved aspects of GATT Article VIII?." *Global Trade and Customs Journal* 19, no. 5 (2024). See too, Shumba, Willie. "Transparency Measures in the Trade Facilitation Agreement: Have these improved the scope of GATT Article X?." *Acta Universitatis Danubius. Juridica* 21, no. 1 (2025): 137-149.

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 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

²⁶ Davison-Vecchione, Daniel. "Beyond the forms of faith: Pacta Sunt Servanda and loyalty." *German Law Journal* 16, no. 5 (2015): 1163-1190. See too, Salsabila, Nadiya. "Enlightenment and its Impact To Vina Convention on The Law of Treaties 1969." *International Journal of Latin Notary* 5, no. 1 (2024): 20-24.

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 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

²⁷ Hatmoko, R. Aryo. "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.

²⁸ Bachtiar, Moch Yusuf. "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* 5, no. 2 (2014): 201-212.

²⁹ Kurniawan, Iwan. "Sengketa Pengajuan Banding terhadap Penetapan Nilai Kepabean dalam Ekspor-Impor:(Analisis Putusan Mahkamah Agung Nomor: Put/52674/pp/m. xviii/19/2014)." *Krtha Bhayangkara* 13, no. 2 (2019): 208-222.

³⁰ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766.

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 (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 arise concerning customs valuation, tariff classification, rules of origin, and the application of preferential tariff

³¹ Sutedi, Adrian. *Hukum pajak*. Sinar Grafika, 2022.

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

³³ Latif, Rati Widyarningsi. "Dampak Pajak atas Barang Mewah Terhadap Penjualan Barang Elektronik: Analisis Peraturan Menteri Keuangan Nomor 121/PMK. 011/2013." *Lambung Mangkurat Law Journal* 1, no. 1 (2016): 52-59. See too, Sagita, Debi Amelia, 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* 3, no. 2 (2026): 844-852.

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

³⁴ Wibowo, Agus. "Hukum Dagang Internasional." *Penerbit Yayasan Prima Agus Teknik* (2025).

³⁵ Ariyanti, Evie Rachmawati Nur, 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* 14, no. 1 (2023): 1-27.

³⁶ Selway, Bradley. "The Principle behind Common Law Judicial Review of Administrative Action—The Search Continues." *Federal Law Review* 30, no. 2 (2002): 217-237. See too, Lenaerts, Koen, and Jan Vanhamme. "Procedural rights of private parties in the community administrative process." *Common Market Law Review* 34, no. 3 (1997).

sovereign fiscal authority with its responsibilities as a member of the international trading community.

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 transparently 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

³⁷ Maysarah, 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* 5, no. 2 (2020): 134-145.

³⁸ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766. See too, Rigod, Boris, and Patricia Tovar. "Indonesia—Chicken: Tensions between international trade and domestic food policies?." *World Trade Review* 18, no. 2 (2019): 219-243.

³⁹ Goode, Richard, 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

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 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. 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

países en desarrollo)." *Staff Papers-International Monetary Fund* (1966): 453-503.

⁴⁰ Adipura, Andre Isra, and Huala Adolf Dan Prita Amalia. "Trade Facilitation Agreement Wto: In Indonesia Perspective." *South East Asia Journal Of Contemporary Business, Economics And Law* 23, no. 1 (2020).

⁴¹ Linderfalk, Ulf. *On the interpretation of treaties: the modern international law as expressed in the 1969 Vienna Convention on the Law of Treaties*. Vol. 83. Springer Science & Business Media, 2007.

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 (PPnBM).⁴² The calculation of these taxes is based 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.⁴³ 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. 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.⁴⁴ 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.⁴⁵ International trade law therefore establishes a

⁴² Bimantoro, Ricky Agung. "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.

⁴³ Keen, Michael. "VAT, tariffs, and withholding: Border taxes and informality in developing countries." *Journal of Public Economics* 92, no. 10-11 (2008): 1892-1906.

⁴⁴ Andiani, Desy. "Impact analysis of rules of origin on Indonesia export performance: Case study on Indonesia-Japan." *Cendekia Niaga* 8, no. 2 (2024): 134-145. See also, Marks, Stephen V. "Non-tariff trade regulations in Indonesia: Nominal and effective rates of protection." *Bulletin of Indonesian Economic Studies* 53, no. 3 (2017): 333-357.

⁴⁵ Mitchell, Andrew D. "The right to regulate and the interpretation of the WTO Agreement." *Journal of*

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.⁴⁶ In the context of import tariff regulation, legal certainty requires that tariff provisions be formulated clearly, applied consistently, and interpreted uniformly so that business actors can accurately determine their legal obligations.⁴⁷ 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

International Economic Law 26, no. 3 (2023): 462-482.

⁴⁶ Chroust, Anton-Hermann. "The philosophy of law of Gustav Radbruch." *The Philosophical Review* 53, no. 1 (1944): 23-45.

⁴⁷ Erawan, Erwan Bagja. "Customs Valuation Disputes in Export-Import: Evaluating Objection and Appeal Procedures for Business Certainty." *Greenation International Journal of Law and Social Sciences* 3, no. 3 (2025): 1005-1014.

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

Abstrak

The regulation of 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 serve not only as a source of state revenue but also as an instrument for regulating international trade. However, the implementation of import tariff policies continues to raise questions regarding their consistency with WTO principles and legal certainty. This study aims to analyze the international legal framework governing import taxation under the WTO and the General Agreement on Tariffs and Trade (GATT), examine Indonesia's legal framework on import taxation, and evaluate 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 based on primary, secondary, and tertiary legal materials collected through library research. The findings indicate that the WTO legal framework is founded on the principles of non-discrimination, transparency, legal certainty, and trade facilitation. Indonesia has established a comprehensive legal framework through customs, taxation, and trade legislation that is generally consistent with WTO provisions. Nevertheless, greater regulatory harmonization, consistent implementation, and stronger legal certainty are required to ensure compliance with international trade obligations while protecting national economic interests.

Keywords: Import Taxation, World Trade Organization, Customs Law, Legal Certainty.

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 International trade law is a set of rules and regulations that govern trade interactions between countries around the world. 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

¹ Widiarty, Wiwik Sri. "Buku Ajar Hukum Perdagangan Internasional." (2023). See too, Azmeh, Shamel, Christopher Foster, and Jaime Echavarri. "The international trade regime and the quest for free digital trade." *International studies review* 22, no. 3 (2020): 671-692.

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 ¹ratification of the Protocol to Amend the Marrakesh Agreement through Law No. 17 of 2017 affirms Indonesia's commitment to strengthening harmony between international and national law.³ Furthermore, Law No. 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 ⁶⁵are 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 (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 trade regulations (World Trade Organization/WTO) are violated. Article 22 import income tax (PPh) rates have actually been set for 900 commodities.

² ⁴⁰Suryanto, Suryanto, and Poni Sukaesih Kurniati. "Analisis perdagangan internasional Indonesia dan faktor-faktor yang memengaruhinya." *Intermestic: Journal of International Studies* 7, no. 1 (2022): 104-122. See too, Sabaruddin, Sulthon Sjahril. "Dampak perdagangan internasional Indonesia terhadap kesejahteraan masyarakat: Aplikasi structural path analysis." *Bulletin of Monetary Economics and Banking* 17, no. 4 (2015): 433-456.

³ Hartono, Achdwiyanto Yudi, and Ahmad Zainul Hamdi. "An International Law and National Resilience Perspective for Internationalizing Religious Moderation as Indonesia's Soft Diplomacy Legal Instrument in ASEAN." *68* *hazanah Hukum* 8, no. 1 (2026): 93-117. See too,

⁴ Putri, Saidina, and Hendra Ibrahim. "Peranan perdagangan internasional terhadap perekonomian Indonesia." *60* *Jurnal Minfo Polgan* 12, no. 2 (2023): 2424-2428.

⁵ Deardorff, Alan V. "International provision of trade service ⁴trade, and fragmentation." *Review of International Economics* 9, no. 2 (2001): 233-248. See too, Susanto, Primadi Candra, 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* 2, no. 1 (2024): 44-52.

⁶ ¹³Prakasa, Satria Unggul Wicaksana. "Perdagangan Internasional Dan Ham: Relasinya Dengan Sustainable Development." *Jurnal Hukum Novelty* 9, no. 1 (2018): 36-53.

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 ¹⁰ Law No. 10 of 1995 concerning Customs, Law No. 17 of 2006, Law No. 7 of 2014 concerning Trade, and Law No. 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

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 Barus, Leo B., and Didit Santoso. "The Legal Certainty of Tax Amnesty: A Lesson Learned from Indonesia." *Journal of Tax Law and Policy* 2, no. 3 (2023): 109-116.

⁹ Williams, Lawrence Joseph. "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.

¹⁰ Maggi, Giovanni, and Andrés Rodríguez-Clare. "Import penetration and the politics of trade protection." *Journal of International Economics* 51, no. 2 (2000): 287-304. See too, Ruziokhunov, Doniyorbek, and Umida Yuldasheva. "The role of government tax regulations on attracting foreign investments." *Academic Journal of Science, Technology and Education* 1, no. 8 (2025): 6-10.

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

¹¹ Arrasya, Muhammad Bayu. "Navigating Global Trade: Indonesia's trajectory within 30 Years of the WTO." *Audi Et AP: Jurnal Penelitian Hukum* 5, no. 01 (2026): 1-11. See too, Pangestu, Mari, Sjamsu Rahardja, and Lili Yan Ing. "Fifty years of trade policy in Indonesia: New world trade, old treatments." *Bulletin of Indonesian Economic Studies* 51, no. 2 (2015): 239-261; Syariffudin, Muhammad Reza Zaki, Muhammad Qaulan Sadida, Muhammad Adjie Nugroho, and Christopher Michael Ca. "The Compatibility of Donald Trump's Reciprocal Tariff with WTO and Indonesia's National Interests." *Journal of Judicial Review* 27, no. 2 (2025): 355-392.

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, Widiarty, Wiwik Sri. "Buku ajar metode penelitian hukum." (2024).

The research applies three ³ 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-Favoured-Nation (MFN), National Treatment, and non-discrimination.¹⁴ Meanwhile, ³⁶ 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.

³⁵ This research relies exclusively on secondary legal data, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include ¹¹ 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, ¹⁷ 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 ³⁹ 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 ⁸ the World Trade Organization (WTO) and General Agreement on Tariffs and Trade (GATT)

¹³ Gaol, Selamat Lumban, Johannes Triestanto, Annisa Aminda, and Raudhotul Jan ⁶⁹. "Import Regulations and the Protection of Domestic Products: An Indonesian Economic Law Perspective." *International Journal of Health, Economics, and Social Sciences (IJHESS)* 8, no. 2 (2026): 1380-1386.

¹⁴ Crowe, Jonathan. "The role of contextual meaning in judicial interpretation." *Federal Law Review* 41, no. 3 (2015) ⁵³ 417-442.

¹⁵ Wulandari, Putri. "Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches." *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 12-25.

⁴¹ 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 ³⁸ the foundation of the General Agreement on Tariffs and Trade (GATT), the WTO promotes trade liberalization through ²¹ the principles of transparency, non-discrimination, and tariff commitments agreed upon by member states.¹⁶ ⁶⁶ International trade law is defined as the body of legal rules governing commercial relations between countries, with the GATT framework serving as the principal legal basis for trade relations among nations.

¹⁴ 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 Import Identification Number (API), register with the Indonesia National Single Window (INSW), submit a Goods Import Notification (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

¹⁶ Srinivasan, Thirukodikaval N. "Nondiscrimination in GATT/WTO: was there anything to begin with and is there anything left?." *World Trade Review* 4, no. 1 (2005): 69-95. See too, Darajati, Muhammad Rafi. "Ketaatan negara terhadap hukum perdagangan internasional." *Refleksi Hukum: Jurnal Ilmu Hukum* 5, no. 1 (2020): 254-2.

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

¹⁸ Rastuti, Tuti, and Andian Achya Dzikriyyah Khoirudin. "Politik Hukum Indonesia dalam Menghadapi Retaliiasi 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* 26, no. 1 (2025): 26-66.

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 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

¹⁹ Rivialdi, Ahmad, 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* 3, no. 3 (2025): 1188-1197. See too, Zaki, Muhammad Reza Syariffudin, 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* 20, no. 4 (2023): 6.

²⁰ Gal-Or, Noemi. "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* 50 (2013): 197-242.

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

²² Pebrianto, Dony Yusra. "Implikasi Prinsip Most Favoured Nation terhadap Pengaturan Tarif Impor Di Indonesia." *Wajah hukum* 2, no. 1 (2018): 29-41.

Another fundamental principle is ¹² 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 ⁸ of the WTO legal framework. ²² The Trade Facilitation Agreement (TFA), which is primarily based on ²² Articles V, VIII, and X of GATT 1994, seeks to simplify customs procedures, reduce administrative costs, improve transparency, and expedite ⁵⁵ the movement of goods across borders.²⁵ These provisions regulate ²² freedom of transit, fees and formalities related to importation and ⁴⁶ 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.

²³ Rabbani, ¹ Deden Rafi Syarif. "Telaah kritis TFA WTO (World Trade Organization): Analisis terhadap implementasi kebijakan perdagangan ⁵⁹ internasional di Indonesia." *Jurnal Hukum Lex Generalis* 2, no. 1 (2021).

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

²⁵ Shumba, Willie. "WTO Trade Facilitation Agreement: Has the Trade Facilitation Agreement improved aspects of GATT Article VIII?." *Global Trade and Customs Journal* 19, no. 5 (2024). See too, Shumba, Willie. "Trade ²⁰ Facilitation Measures in the Trade Facilitation Agreement: Have these improved the scope of GATT Article X?." *Acta Universitatis Danubius. Juridica* 21, no. 1 (2025): 137-149.

The legal force of Indonesia's international commitments is reinforced by ⁵ 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 ⁴⁸ 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 ¹⁰ goods entering the customs territory of a country from another 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 ⁴⁷ 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

¹⁴
²⁶ Davison-Vecchione, Daniel. "Beyond the ⁵⁸ ms of faith: Pacta Sunt Servanda and loyalty." *German Law Journal* 16, no. 5 (2015): 1163-1190. See too, Salsabila, Nadiya. "Enlightenment and its Impact To Vina Convention on The Law of Treaties 1969." *International Journal of Latin Notary* 5, no. 1 (2024): 20-24.

²⁷ Hatmoko, R. Aryo. "Implementasi Makna Filosofi Pasal 23a UUD 1945 dalam Pembentukan Peraturan Perpajakan di Bawah Undang-Undang Sebagai Peraturan Pelaksanaan (Tinjauan Kewenangan Atribusi dan

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 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

Diskresi Atas Pengaturan Pajak Pusat dan Kepabeanan)." PhD diss., Universitas Kristen Indonesia, 2025.

²⁸ Bachtiar, Moch Yusuf. "Bea Masuk Impor Tinjauan Hukum Islam Dan Uu Nomor 17 Tahun 2006 Tentang Perubahan Atas Uu Nomor 10 Tahun 1995 Tentang Kepabeanan." *Jurisdicție: Jurnal Hukum dan Syariah* 5, no. 2 (2014): 201-212.

²⁹ Kurniawan, Iwan. "Sengketa Pengajuan Banding terhadap Penetapan Nilai Kepabean dalam Ekspor-Impor: (Analisis Putusan Mahkamah Agung Nomor: Put/52674/pp/m. xviii/19/2014)." *Krtha Bhayangkara* 13, no. 2 (2016): 208-222.

³⁰ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766.

³¹ Sutedi, Adrian. *Hukum pajak*. Sinar Grafika, 2022.

is reaffirmed in ²⁷ 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 ⁵¹ Value Added Tax (VAT), Luxury Goods Sales Tax (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 arise concerning ⁴⁶ 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

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

³³ Latif, Rati Widyaningsi. "Dampak Pajak atas Barang Mewah Terhadap Penjualan Barang Elektronik: Analisis Peraturan Menteri Keuangan Nomor 121/PMK. 011/2013." *Lambung Mangkurat Law Journal* 1, no. 1 (2016): 52-59. See too, Sagita, Debi Amelia, 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* 3, no. 2 (2026): 844-852.

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.

³⁴ Wibowo, Agus. "Hukum Dagang Internasional." *Penerbit Yayasan Prima Agus Teknik* (2025).

³⁵ Ariyanti, Evie Rachmawati Nur, 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* 14, no. 1 (2023): 1-27.

³⁶ Selway, Bradley. "The Principle behind Common Law Judicial Review of Administrative Action—The Search Continues." *Federal Law Review* 30, no. 2 (2002): 217-237. See too, Lenaerts, Koen, and Jan Vanhamme. "Procedural rights of private parties in the community administrative process." *Common Market Law Review* 34, no. 3 (1997).

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 transparently 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

³⁷ Maysarah, 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* 5, no. 2 (2020): 134-145.

³⁸ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766. See too, Rigod, Boris, and Patricia Tovar. "Indonesia–Chicken: Tensions between international trade and domestic policies?." *World Trade Review* 18, no. 2 (2019): 219-243.

³⁹ Goode, Richard, 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): 453-503.

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 ²⁴ Law Number 17 of 2017 concerning the Ratification of the Protocol Amending the Marrakesh Agreement Establishing the World Trade 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 ¹⁸ 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 ⁵⁶ 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. 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.

⁴⁰ Adipura, Andre Isra, and Huala Adolf Dan Prita Amalia. "Trade Facilitation Agreement Wto: In Indonesia Perspective." *South East Asia Journal Of Compemporary Business, Economics And Law* 23, no. 1 (2020). ⁷

⁴¹ Linderfalk, Ulf. *On the interpretation of treaties: the modern international law as expressed in the 1969 Vienna Convention on the Law of Treaties*. Vol. 83. Springer Science & Business Media, 2007.

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 (PPnBM).⁴² The calculation of these taxes is based 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.⁴³ 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. 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.⁴⁴ 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.⁴⁵ International trade law therefore establishes a structured legal framework that enables countries to regulate international commerce while

⁴² Bimantoro, Ricky Agung. "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)." Pl 62 diss., Universitas Brawijaya, 2018.

⁴³ Keen, Michael. "VAT, tariffs, and withholding: Border taxes and informality in developing countries." *Journal of Public Economics* 92, no. 10-11 (2008): 1892-1906.

⁴⁴ Andiani, Desy. "Impact analysis of rules of origin on Indonesia's export performance: Case study on Indonesia-Japan." *Cendekia Niaga* 8, no. 2 (2024): 134-145. See also, Marks, Stephen V. "Non-tariff trade regulations in Indonesia: Nominal and effective rates of protection." *Bulletin of Indonesian Economic Studies* 53, no. 3 (2019): 333-357.

⁴⁵ Mitchell, Andrew D. "The right to regulate and the interpretation of the WTO Agreement." *Journal of International Economic Law* 26, no. 3 (2023): 462-482.

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.

³⁶ From the perspective of legal theory, Gustav Radbruch emphasizes that justice and legal certainty constitute fundamental values of every legal system.⁴⁶ In the context of import tariff regulation, legal certainty requires that tariff provisions be formulated clearly, applied consistently, and interpreted uniformly so that business actors can accurately determine their legal obligations.⁴⁷ 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

¹³
⁴⁶ Chroust, Anton-Hermann. "The philosophy of law of Gustav Radbruch." *The Philosophical Review* 53, no. 1 (1944): 23-45.

⁴⁷ Erawan, Erwan Bagja. "Customs Valuation Disputes in Export-Import: Evaluating Objection and Appeal Procedures for Business Certainty." *Greenation International Journal of Law and Social Sciences* 3, no. 3 (2025): 1005-1014.

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 ⁴⁴the 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 ¹⁹of 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 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. ⁶Future 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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#53595 Review

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

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Abstrak

The regulation of 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 serve not only as a source of state revenue but also as an instrument for regulating international trade. However, the implementation of import tariff policies continues to raise questions regarding their consistency with WTO principles and legal certainty. This study aims to analyze the international legal framework governing import taxation under the WTO and the General Agreement on Tariffs and Trade (GATT), examine Indonesia's legal framework on import taxation, and evaluate 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 based on primary, secondary, and tertiary legal materials collected through library research. The findings indicate that the WTO legal framework is founded on the principles of non-discrimination, transparency, legal certainty, and trade facilitation. Indonesia has established a comprehensive legal framework through customs, taxation, and trade legislation that is generally consistent with WTO provisions. Nevertheless, greater regulatory harmonization, consistent implementation, and stronger legal certainty are required to ensure compliance with international trade obligations while protecting national economic interests.

Keywords: Import Taxation, World Trade Organization, Customs Law, Legal Certainty.

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 International trade law is a set of rules and regulations that govern trade interactions between

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¹ Widiarty, Wiwik Sri. "Buku Ajar Hukum Perdagangan Internasional." (2023). See too, Azmeh, Shamel, Christopher Foster, and Jaime Echavarri. "The international trade regime and the quest for free digital trade." *International studies review* 22, no. 3 (2020): 671-692.

countries around the world. 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 No. 17 of 2017 affirms Indonesia's commitment to strengthening harmony between international and national law.³ Furthermore, Law No. 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 (PPh). This is being done to improve the current account deficit (CAD) and

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² Suryanto, Suryanto, and Poni Sukaesih Kurniati. "Analisis perdagangan internasional Indonesia dan faktor-faktor yang memengaruhinya." *Intermestic: Journal of International Studies* 7, no. 1 (2022): 104-122. See too, Sabaruddin, Sulthon Sjahril. "Dampak perdagangan internasional Indonesia terhadap kesejahteraan masyarakat: Aplikasi structural path analysis." *Bulletin of Monetary Economics and Banking* 17, no. 4 (2015): 433-456.

³ Hartono, Achdwiyanto Yudi, 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* 8, no. 1 (2026): 93-117. See too,

⁴ Putri, Saidina, and Hendra Ibrahim. "Peranan perdagangan internasional terhadap perekonomian Indonesia." *Jurnal Minfo Polgan* 12, no. 2 (2023): 2424-2428.

⁵ Deardorff, Alan V. "International provision of trade services, trade, and fragmentation." *Review of International Economics* 9, no. 2 (2001): 233-248. See too, Susanto, Primadi Candra, 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* 2, no. 1 (2024): 44-52.

⁶ Prakasa, Satria Unggul Wicaksana. "Perdagangan Internasional Dan Ham: Relasinya Dengan Sustainable Development." *Jurnal Hukum Novelty* 9, no. 1 (2018): 36-53.

thus stabilize the rupiah. This step could invite retaliation from the countries of origin of the imported products, if any international trade regulations (World Trade Organization/WTO) are violated. Article 22 import income tax (PPh) rates have actually 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 No. 10 of 1995 concerning Customs, Law No. 17 of 2006, Law No. 7 of 2014 concerning Trade, and Law No. 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

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 Barus, Leo B., and Didit Santoso. "The Legal Certainty of Tax Amnesty: A Lesson Learned from Indonesia." *Journal of Tax Law and Policy* 2, no. 3 (2023): 109-116.

⁹ Williams, Lawrence Joseph. "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.

¹⁰ Maggi, Giovanni, and Andrés Rodríguez-Clare. "Import penetration and the politics of trade protection." *Journal of International Economics* 51, no. 2 (2000): 287-304. See too, Ruziokhunov, Doniyorbek,

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

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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

and Umida Yuldasheva. "The role of government tax regulations on attracting foreign investments." *Academic Journal of Science, Technology and Education* 1, no. 8 (2025): 6-10.

¹¹ Arrasya, Muhammad Bayu. "Navigating Global Trade: Indonesia's Trajectory within 30 Years of the WTO." *Audi Et AP: Jurnal Penelitian Hukum* 5, no. 01 (2026): 1-11. See too, Pangestu, Mari, Sjamsu Rahardja, and Lili Yan Ing. "Fifty years of trade policy in Indonesia: New world trade, old treatments." *Bulletin of Indonesian Economic Studies* 51, no. 2 (2015): 239-261; Syariffudin, Muhammad Reza Zaki, 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* 27, no. 2 (2025): 355-392.

¹² Soemitro, Ronny Hanitijo. "Metode Penelitian Hukum, Metodologi Penelitian Ilmu Sosial, (Dengan

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-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

Orientasi Penelitian Bidang Hukum)." *Pelatihan Metodologi Ilmu Sosial, Bagian Hukum dan Masyarakat FH Undip* (1999). See too, Widiarty, Wiwik Sri. "Buku ajar metode penelitian hukum." (2024).

¹³ Gaol, Selamat Lumban, 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)* 8, no. 2 (2026): 1380-1386.

¹⁴ Crowe, Jonathan. "The role of contextual meaning in judicial interpretation." *Federal Law Review* 41, no. 3 (2013): 417-442.

¹⁵ Wulandari, Putri. "Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches." *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 12-25.

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

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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 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 Import Identification Number (API), register with the Indonesia National Single Window (INSW), submit a Goods Import Notification (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.

¹⁶ Srinivasan, Thirukodikaval N. "Nondiscrimination in GATT/WTO: was there anything to begin with and is there anything left?." *World Trade Review* 4, no. 1 (2005): 69-95. See too, Darajati, Muhammad Rafi. "Ketaatan negara terhadap hukum perdagangan internasional." *Refleksi Hukum: Jurnal Ilmu Hukum* 5, no. 1 (2020): 21-42.

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

¹⁸ Rastuti, Tuti, and Andian Achya Dzikriyyah Khoirudin. "Politik Hukum Indonesia dalam Menghadapi Retaliiasi 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* 26, no. 1 (2025): 26-66.

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 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,

¹⁹ Rivaldi, Ahmad, 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* 3, no. 3 (2025): 1188-1197. See too, Zaki, Muhammad Reza Syariffudin, 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* 20, no. 4 (2023): 6.

²⁰ Gal-Or, Noemi. "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* 50 (2013): 197-242.

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

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 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

²² Pebrianto, Dony Yusra. "Implikasi Prinsip Most Favoured Nation terhadap Pengaturan Tarif Impor Di Indonesia." *Wajah hukum* 2, no. 1 (2018): 29-41.

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

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

²⁵ Shumba, Willie. "WTO Trade Facilitation Agreement: Has the Trade Facilitation Agreement improved aspects of GATT Article VIII?." *Global Trade and Customs Journal* 19, no. 5 (2024). See too, Shumba, Willie. "Transparency Measures in the Trade Facilitation Agreement: Have these improved the scope of GATT Article X?." *Acta Universitatis Danubius. Juridica* 21, no. 1 (2025): 137-149.

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 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

²⁶ Davison-Vecchione, Daniel. "Beyond the forms of faith: Pacta Sunt Servanda and loyalty." *German Law Journal* 16, no. 5 (2015): 1163-1190. See too, Salsabila, Nadiya. "Enlightenment and its Impact To Vina Convention on The Law of Treaties 1969." *International Journal of Latin Notary* 5, no. 1 (2024): 20-24.

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 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

²⁷ Hatmoko, R. Aryo. "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.

²⁸ Bachtiar, Moch Yusuf. "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* 5, no. 2 (2014): 201-212.

²⁹ Kurniawan, Iwan. "Sengketa Pengajuan Banding terhadap Penetapan Nilai Kepabean dalam Ekspor-Impor: (Analisis Putusan Mahkamah Agung Nomor: Put/52674/pp/m. xviii/19/2014)." *Krtha Bhayangkara* 13, no. 2 (2019): 208-222.

³⁰ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766.

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 (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 arise concerning customs valuation, tariff classification, rules of origin, and the application of preferential tariff

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³¹ Sutedi, Adrian. *Hukum pajak*. Sinar Grafika, 2022.

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

³³ Latif, Rati Widyaningsi. "Dampak Pajak atas Barang Mewah Terhadap Penjualan Barang Elektronik: Analisis Peraturan Menteri Keuangan Nomor 121/PMK. 011/2013." *Lambung Mangkurat Law Journal* 1, no. 1 (2016): 52-59. See too, Sagita, Debi Amelia, 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* 3, no. 2 (2026): 844-852.

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

³⁴ Wibowo, Agus. "Hukum Dagang Internasional." *Penerbit Yayasan Prima Agus Teknik* (2025).

³⁵ Ariyanti, Evie Rachmawati Nur, 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* 14, no. 1 (2023): 1-27.

³⁶ Selway, Bradley. "The Principle behind Common Law Judicial Review of Administrative Action—The Search Continues." *Federal Law Review* 30, no. 2 (2002): 217-237. See too, Lenaerts, Koen, and Jan Vanhamme. "Procedural rights of private parties in the community administrative process." *Common Market Law Review* 34, no. 3 (1997).

sovereign fiscal authority with its responsibilities as a member of the international trading community.

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

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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 transparently 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

³⁷ Maysarah, 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* 5, no. 2 (2020): 134-145.

³⁸ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766. See too, Rigod, Boris, and Patricia Tovar. "Indonesia–Chicken: Tensions between international trade and domestic food policies?." *World Trade Review* 18, no. 2 (2019): 219-243.

³⁹ Goode, Richard, 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

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 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. 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

países en desarrollo)." *Staff Papers-International Monetary Fund* (1966): 453-503.

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

⁴¹ Linderfalk, Ulf. *On the interpretation of treaties: the modern international law as expressed in the 1969 Vienna Convention on the Law of Treaties*. Vol. 83. Springer Science & Business Media, 2007.

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 (PPnBM).⁴² The calculation of these taxes is based 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.⁴³ 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. 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.⁴⁴ 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.⁴⁵ International trade law therefore establishes a

⁴² Bimantoro, Ricky Agung. "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.

⁴³ Keen, Michael. "VAT, tariffs, and withholding: Border taxes and informality in developing countries." *Journal of Public Economics* 92, no. 10-11 (2008): 1892-1906.

⁴⁴ Andiani, Desy. "Impact analysis of rules of origin on Indonesia export performance: Case study on Indonesia-Japan." *Cendekia Niaga* 8, no. 2 (2024): 134-145. See also, Marks, Stephen V. "Non-tariff trade regulations in Indonesia: Nominal and effective rates of protection." *Bulletin of Indonesian Economic Studies* 53, no. 3 (2017): 333-357.

⁴⁵ Mitchell, Andrew D. "The right to regulate and the interpretation of the WTO Agreement." *Journal of*

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.⁴⁶ In the context of import tariff regulation, legal certainty requires that tariff provisions be formulated clearly, applied consistently, and interpreted uniformly so that business actors can accurately determine their legal obligations.⁴⁷ 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

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International Economic Law 26, no. 3 (2023): 462-482.

⁴⁶ Chroust, Anton-Hermann. "The philosophy of law of Gustav Radbruch." *The Philosophical Review* 53, no. 1 (1944): 23-45.

⁴⁷ Erawan, Erwan Bagja. "Customs Valuation Disputes in Export-Import: Evaluating Objection and Appeal Procedures for Business Certainty." *Greenation International Journal of Law and Social Sciences* 3, no. 3 (2025): 1005-1014.

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 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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#53595 Review

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Authors	Wiwik Sri Widiarty, Mohammad Belayet Hossain 
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Section	Articles
Editor	Karim Abdullah 

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

Abstract

The regulation of 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 serve not only as a source of state revenue but also as an instrument for regulating international trade. However, the implementation of import tariff policies continues to raise questions regarding their consistency with WTO principles and legal certainty. This study aims to analyze the international legal framework governing import taxation under the WTO and the General Agreement on Tariffs and Trade (GATT), examine Indonesia's legal framework on import taxation, and evaluate 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 based on primary, secondary, and tertiary legal materials collected through library research. The findings indicate that the WTO legal framework is founded on the principles of non-discrimination, transparency, legal certainty, and trade facilitation. Indonesia has established a comprehensive legal framework through customs, taxation, and trade legislation that is generally consistent with WTO provisions. Nevertheless, greater regulatory harmonization, consistent implementation, and stronger legal certainty are required to ensure compliance with international trade obligations while protecting national economic interests.

Keywords: Import Taxation, World Trade Organization, Customs Law, Legal Certainty.

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

¹ Widiarty, Wiwik Sri. "Buku Ajar Hukum Perdagangan Internasional." (2023). See too, Azmeh, Shamel, Christopher Foster, and Jaime Echavarri. "The international trade regime and the quest for free digital trade." *International studies review* 22, no. 3 (2020): 671-692.

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 No. 17 of 2017 affirms Indonesia's commitment to strengthening harmony between international and national law.³ Furthermore, Law No. 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 trade regulations (World Trade Organization/WTO) are violated. Article 22 import income tax (PPh) rates have actually 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

² Suryanto, Suryanto, and Poni Sukaesih Kurniati. "Analisis perdagangan internasional Indonesia dan faktor-faktor yang memengaruhinya." *Intermestic: Journal of International Studies* 7, no. 1 (2022): 104-122. See too, Sabaruddin, Sulthon Sjahril. "Dampak perdagangan internasional Indonesia terhadap kesejahteraan masyarakat: Aplikasi structural path analysis." *Bulletin of Monetary Economics and Banking* 17, no. 4 (2015): 433-456.

³ Hartono, Achdwiyanto Yudi, 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* 8, no. 1 (2026): 93-117. See too,

⁴ Putri, Saidina, and Hendra Ibrahim. "Peranan perdagangan internasional terhadap perekonomian Indonesia." *Jurnal Minfo Polgan* 12, no. 2 (2023): 2424-2428.

⁵ Deardorff, Alan V. "International provision of trade services, trade, and fragmentation." *Review of International Economics* 9, no. 2 (2001): 233-248. See too, Susanto, Primadi Candra, 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* 2, no. 1 (2024): 44-52.

⁶ Prakasa, Satria Unggul Wicaksana. "Perdagangan Internasional Dan Ham: Relasinya Dengan Sustainable Development." *Jurnal Hukum Novelty* 9, no. 1 (2018): 36-53.

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 No. 10 of 1995 concerning Customs, Law No. 17 of 2006, Law No. 7 of 2014 concerning Trade, and Law No. 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 Indonesia's compliance with international trade law.¹¹ Nevertheless, these studies generally

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 Barus, Leo B., and Didit Santoso. "The Legal Certainty of Tax Amnesty: A Lesson Learned from Indonesia." *Journal of Tax Law and Policy* 2, no. 3 (2023): 109-116.

⁹ Williams, Lawrence Joseph. "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.

¹⁰ Maggi, Giovanni, and Andrés Rodríguez-Clare. "Import penetration and the politics of trade protection." *Journal of International Economics* 51, no. 2 (2000): 287-304. See too, Ruziokhunov, Doniyorbek, and Umida Yuldasheva. "The role of government tax regulations on attracting foreign investments." *Academic Journal of Science, Technology and Education* 1, no. 8 (2025): 6-10.

¹¹ Arrasya, Muhammad Bayu. "Navigating Global Trade: Indonesia's Trajectory within 30 Years of the WTO." *Audi Et AP: Jurnal Penelitian Hukum* 5, no. 01 (2026): 1-11. See too, Pangestu, Mari, Sjamsu Rahardja, and Lili Yan Ing. "Fifty years of trade policy in Indonesia: New world trade, old treatments." *Bulletin of Indonesian Economic Studies* 51, no. 2 (2015): 239-261; Syariffudin, Muhammad Reza Zaki, Muhammad Qaulan

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

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* 27, no. 2 (2025): 355-392.

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, Widiarty, Wiwik Sri. "Buku ajar metode penelitian hukum." (2024).

¹³ Gaol, Selamat Lumban, Johannes Triestanto, Annisa Aminda, and Raudhotul Jannah. "Import

legal certainty, justice, legality, and WTO principles, including Most-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

Regulations and the Protection of Domestic Products: An Indonesian Economic Law Perspective." *International Journal of Health, Economics, and Social Sciences (IJHESS)* 8, no. 2 (2026): 1380-1386.

¹⁴ Crowe, Jonathan. "The role of contextual meaning in judicial interpretation." *Federal Law Review* 41, no. 3 (2013): 417-442.

¹⁵ Wulandari, Putri. "Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches." *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 12-25.

commitments agreed upon by member states.¹⁶ International trade law is defined as the body of legal rules governing commercial 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 Import Identification Number (API), register with the Indonesia National Single Window (INSW), submit a Goods Import Notification (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

¹⁶ Srinivasan, Thirukodikaval N. "Nondiscrimination in GATT/WTO: was there anything to begin with and is there anything left?." *World Trade Review* 4, no. 1 (2005): 69-95. See too, Darajati, Muhammad Rafi. "Ketaatan negara terhadap hukum perdagangan internasional." *Refleksi Hukum: Jurnal Ilmu Hukum* 5, no. 1 (2020): 21-42.

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

¹⁸ Rastuti, Tuti, 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* 26, no. 1 (2025): 26-66.

¹⁹ Rivialdi, Ahmad, 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* 3, no. 3 (2025): 1188-1197. See too, Zaki, Muhammad Reza Syariffudin, Muhammad Haykal Armanto, Rafsi Azzam Hibatullah Albar, and Stefan Koos. "Safeguarding

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 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

Sovereignty: Indonesia's Solution to the Raw Materials Case in WTO." *Indonesian Journal of International Law* 20, no. 4 (2023): 6.

²⁰ Gal-Or, Noemi. "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* 50 (2013): 197-242.

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

²² Pebrianto, Dony Yusra. "Implikasi Prinsip Most Favoured Nation terhadap Pengaturan Tarif Impor Di Indonesia." *Wajah hukum* 2, no. 1 (2018): 29-41.

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 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

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

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

²⁵ Shumba, Willie. "WTO Trade Facilitation Agreement: Has the Trade Facilitation Agreement improved aspects of GATT Article VIII?." *Global Trade and Customs Journal* 19, no. 5 (2024). See too, Shumba, Willie. "Transparency Measures in the Trade Facilitation Agreement: Have these improved the scope of GATT Article X?." *Acta Universitatis Danubius. Juridica* 21, no. 1 (2025): 137-149.

²⁶ Davison-Vecchione, Daniel. "Beyond the forms of faith: Pacta Sunt Servanda and loyalty." *German Law Journal* 16, no. 5 (2015): 1163-1190. See too, Salsabila, Nadiya. "Enlightenment and its Impact To Vina

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 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

Convention on The Law of Treaties 1969." *International Journal of Latin Notary* 5, no. 1 (2024): 20-24.

²⁷ Hatmoko, R. Aryo. "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.

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 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.

²⁸ Bachtiar, Moch Yusuf. "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* 5, no. 2 (2014): 201-212.

²⁹ Kurniawan, Iwan. "Sengketa Pengajuan Banding terhadap Penetapan Nilai Kepabean dalam Ekspor-Impor:(Analisis Putusan Mahkamah Agung Nomor: Put/52674/pp/m. xviii/19/2014)." *Krtha Bhayangkara* 13, no. 2 (2019): 208-222.

³⁰ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766.

³¹ Sutedi, Adrian. *Hukum pajak*. Sinar Grafika, 2022.

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 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

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

³³ Latif, Rati Widyaningsi. "Dampak Pajak atas Barang Mewah Terhadap Penjualan Barang Elektronik: Analisis Peraturan Menteri Keuangan Nomor 121/PMK. 011/2013." *Lambung Mangkurat Law Journal* 1, no. 1 (2016): 52-59. See too, Sagita, Debi Amelia, 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* 3, no. 2 (2026): 844-852.

³⁴ Wibowo, Agus. "Hukum Dagang Internasional." *Penerbit Yayasan Prima Agus Teknik* (2025).

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.

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

³⁵ Ariyanti, Evie Rachmawati Nur, 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* 14, no. 1 (2023): 1-27.

³⁶ Selway, Bradley. "The Principle behind Common Law Judicial Review of Administrative Action—The Search Continues." *Federal Law Review* 30, no. 2 (2002): 217-237. See too, Lenaerts, Koen, and Jan Vanhamme. "Procedural rights of private parties in the community administrative process." *Common Market Law Review* 34, no. 3 (1997).

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 transparently 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

³⁷ Maysarah, 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* 5, no. 2 (2020): 134-145.

³⁸ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766. See too, Rigod, Boris, and Patricia Tovar. "Indonesia–Chicken: Tensions between international trade and domestic food policies?." *World Trade Review* 18, no. 2 (2019): 219-243.

³⁹ Goode, Richard, 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): 453-503.

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),

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

⁴¹ Linderfalk, Ulf. *On the interpretation of treaties: the modern international law as expressed in the 1969 Vienna Convention on the Law of Treaties*. Vol. 83. Springer Science & Business Media, 2007.

⁴² Nugroho, Lucky, 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, pp. 73-80. 2024. See too, Sudirgo, Tony, 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* 6, no. 1 (2023): 2697-2708.

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 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

⁴³ Bimantoro, Ricky Agung. "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.

⁴⁴ Keen, Michael. "VAT, tariffs, and withholding: Border taxes and informality in developing countries." *Journal of Public Economics* 92, no. 10-11 (2008): 1892-1906.

⁴⁵ Balassa, Bela. "Tariff protection in industrial countries: an evaluation." *Journal of Political Economy* 73, no. 6 (1965): 573-594.

⁴⁶ Andiani, Desy. "Impact analysis of rules of origin on Indonesia export performance: Case study on Indonesia-Japan." *Cendekia Niaga* 8, no. 2 (2024): 134-145. See also, Marks, Stephen V. "Non-tariff trade regulations in Indonesia: Nominal and effective rates of protection." *Bulletin of Indonesian Economic Studies* 53, no. 3 (2017): 333-357.

⁴⁷ Mitchell, Andrew D. "The right to regulate and the interpretation of the WTO Agreement." *Journal of International Economic Law* 26, no. 3 (2023): 462-482.

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 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.

⁴⁸ Chroust, Anton-Hermann. "The philosophy of law of Gustav Radbruch." *The Philosophical Review* 53, no. 1 (1944): 23-45.

⁴⁹ Erawan, Erwan Bagja. "Customs Valuation Disputes in Export-Import: Evaluating Objection and Appeal Procedures for Business Certainty." *Greenation International Journal of Law and Social Sciences* 3, no. 3 (2025): 1005-1014.

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

Abstract

The regulation of 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 serve not only as a source of state revenue but also as an instrument for regulating international trade. However, the implementation of import tariff policies continues to raise questions regarding their consistency with WTO principles and legal certainty. This study aims to analyze the international legal framework governing import taxation under the WTO and the General Agreement on Tariffs and Trade (GATT), examine Indonesia's legal framework on import taxation, and evaluate 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 based on primary, secondary, and tertiary legal materials collected through library research. The findings indicate that the WTO legal framework is founded on the principles of non-discrimination, transparency, legal certainty, and trade facilitation. Indonesia has established a comprehensive legal framework through customs, taxation, and trade legislation that is generally consistent with WTO provisions. Nevertheless, greater regulatory harmonization, consistent implementation, and stronger legal certainty are required to ensure compliance with international trade obligations while protecting national economic interests.

Keywords: Import Taxation, World Trade Organization, Customs Law, Legal Certainty.

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-

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¹ Widiarty, Wiwik Sri. "Buku Ajar Hukum Perdagangan Internasional." (2023). See too, Azmeh, Shamel, Christopher Foster, and Jaime Echavarri. "The international trade regime and the quest for free digital trade." *International studies review* 22, no. 3 (2020): 671-692.

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 No. 17 of 2017 affirms Indonesia's commitment to strengthening harmony between international and national law.³ Furthermore, Law No. 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 trade regulations (World Trade Organization/WTO) are violated. Article 22 import income tax (PPh) rates have actually been set for 900 commodities. This list of consumer goods is contained in Minister of Finance

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² Suryanto, Suryanto, and Poni Sukaesih Kurniati. "Analisis perdagangan internasional Indonesia dan faktor-faktor yang memengaruhinya." *Intermestic: Journal of International Studies* 7, no. 1 (2022): 104-122. See too, Sabaruddin, Sulthon Sjahril. "Dampak perdagangan internasional Indonesia terhadap kesejahteraan masyarakat: Aplikasi structural path analysis." *Bulletin of Monetary Economics and Banking* 17, no. 4 (2015): 433-456.

³ Hartono, Achdwiyanto Yudi, 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* 8, no. 1 (2026): 93-117. See too,

⁴ Putri, Saidina, and Hendra Ibrahim. "Peranan perdagangan internasional terhadap perekonomian Indonesia." *Jurnal Minfo Polgan* 12, no. 2 (2023): 2424-2428.

⁵ Deardorff, Alan V. "International provision of trade services, trade, and fragmentation." *Review of International Economics* 9, no. 2 (2001): 233-248. See too, Susanto, Primadi Candra, 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* 2, no. 1 (2024): 44-52.

⁶ Prakasa, Satria Unggul Wicaksana. "Perdagangan Internasional Dan Ham: Relasinya Dengan Sustainable Development." *Jurnal Hukum Novelty* 9, no. 1 (2018): 36-53.

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 No. 10 of 1995 concerning Customs, Law No. 17 of 2006, Law No. 7 of 2014 concerning Trade, and Law No. 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 Indonesia's compliance with international trade law.¹¹ Nevertheless, these studies generally

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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 Barus, Leo B., and Didit Santoso. "The Legal Certainty of Tax Amnesty: A Lesson Learned from Indonesia." *Journal of Tax Law and Policy* 2, no. 3 (2023): 109-116.

⁹ Williams, Lawrence Joseph. "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.

¹⁰ Maggi, Giovanni, and Andrés Rodríguez-Clare. "Import penetration and the politics of trade protection." *Journal of International Economics* 51, no. 2 (2000): 287-304. See too, Ruziokhunov, Doniyorbek, and Umida Yuldasheva. "The role of government tax regulations on attracting foreign investments." *Academic Journal of Science, Technology and Education* 1, no. 8 (2025): 6-10.

¹¹ Arrasya, Muhammad Bayu. "Navigating Global Trade: Indonesia's Trajectory within 30 Years of the WTO." *Audi Et AP: Jurnal Penelitian Hukum* 5, no. 01 (2026): 1-11. See too, Pangestu, Mari, Sjamsu Rahardja,

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

and Lili Yan Ing. "Fifty years of trade policy in Indonesia: New world trade, old treatments." *Bulletin of Indonesian Economic Studies* 51, no. 2 (2015): 239-261; Syariffudin, Muhammad Reza Zaki, 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* 27, no. 2 (2025): 355-392.

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, Widiarty, Wiwik Sri. "Buku ajar metode penelitian hukum." (2024).

import taxation.¹³ The conceptual approach analyzes legal doctrines and theories concerning legal certainty, justice, legality, and WTO principles, including Most-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.

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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

¹³ Gaol, Selamat Lumban, 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)* 8, no. 2 (2026): 1380-1386.

¹⁴ Crowe, Jonathan. "The role of contextual meaning in judicial interpretation." *Federal Law Review* 41, no. 3 (2013): 417-442.

¹⁵ Wulandari, Putri. "Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches." *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 12-25.

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 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 **Import Identification Number (API)**, register with the Indonesia National Single Window (INSW), submit a **Goods Import Notification (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

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¹⁶ Srinivasan, Thirukodikaval N. "Nondiscrimination in GATT/WTO: was there anything to begin with and is there anything left?." *World Trade Review* 4, no. 1 (2005): 69-95. See too, Darajati, Muhammad Rafi. "Ketaatan negara terhadap hukum perdagangan internasional." *Refleksi Hukum: Jurnal Ilmu Hukum* 5, no. 1 (2020): 21-42.

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

¹⁸ Rastuti, Tuti, 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* 26, no. 1 (2025): 26-66.

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 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

¹⁹ Rivaldi, Ahmad, 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* 3, no. 3 (2025): 1188-1197. See too, Zaki, Muhammad Reza Syarifuddin, 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* 20, no. 4 (2023): 6.

²⁰ Gal-Or, Noemi. "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* 50 (2013): 197-242.

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

²² Pebrianto, Dony Yusra. "Implikasi Prinsip Most Favoured Nation terhadap Pengaturan Tarif Impor Di Indonesia." *Wajah hukum* 2, no. 1 (2018): 29-41.

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 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

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

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

²⁵ Shumba, Willie. "WTO Trade Facilitation Agreement: Has the Trade Facilitation Agreement improved aspects of GATT Article VIII?." *Global Trade and Customs Journal* 19, no. 5 (2024). See too, Shumba, Willie. "Transparency Measures in the Trade Facilitation Agreement: Have these improved the scope of GATT Article X?." *Acta Universitatis Danubius. Juridica* 21, no. 1 (2025): 137-149.

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 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.*"²⁷ 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

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²⁶ Davison-Vecchione, Daniel. "Beyond the forms of faith: Pacta Sunt Servanda and loyalty." *German Law Journal* 16, no. 5 (2015): 1163-1190. See too, Salsabila, Nadiya. "Enlightenment and its Impact To Vina Convention on The Law of Treaties 1969." *International Journal of Latin Notary* 5, no. 1 (2024): 20-24.

²⁷ Hatmoko, R. Aryo. "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.

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 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

²⁸ Bachtiar, Moch Yusuf. "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* 5, no. 2 (2014): 201-212.

²⁹ Kurniawan, Iwan. "Sengketa Pengajuan Banding terhadap Penetapan Nilai Kepabean dalam Ekspor-Impor: (Analisis Putusan Mahkamah Agung Nomor: Put/52674/pp/m. xviii/19/2014)." *Krtha Bhayangkara* 13, no. 2 (2019): 208-222.

³⁰ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766.

³¹ Sutedi, Adrian. *Hukum pajak*. Sinar Grafika, 2022.

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 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

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

³³ Latif, Rati Widyaningsi. "Dampak Pajak atas Barang Mewah Terhadap Penjualan Barang Elektronik: Analisis Peraturan Menteri Keuangan Nomor 121/PMK. 011/2013." *Lambung Mangkurat Law Journal* 1, no. 1 (2016): 52-59. See too, Sagita, Debi Amelia, 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* 3, no. 2 (2026): 844-852.

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.

³⁴ Wibowo, Agus. "Hukum Dagang Internasional." *Penerbit Yayasan Prima Agus Teknik* (2025).

³⁵ Ariyanti, Evie Rachmawati Nur, 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* 14, no. 1 (2023): 1-27.

³⁶ Selway, Bradley. "The Principle behind Common Law Judicial Review of Administrative Action—The Search Continues." *Federal Law Review* 30, no. 2 (2002): 217-237. See too, Lenaerts, Koen, and Jan Vanhamme. "Procedural rights of private parties in the community administrative process." *Common Market Law Review* 34, no. 3 (1997).

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 transparently 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

³⁷ Maysarah, 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* 5, no. 2 (2020): 134-145.

³⁸ Widiarty, Wiwik Sri, Jihyun Park, and Tria Sasangka Putra. "A Legal Analysis of the Influence of International Trade on Import Restriction Policies in Indonesia." *Jurnal Hukum UNISSULA* 41, no. 3 (2025): 741-766. See too, Rigod, Boris, and Patricia Tovar. "Indonesia–Chicken: Tensions between international trade and domestic food policies?." *World Trade Review* 18, no. 2 (2019): 219-243.

³⁹ Goode, Richard, 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): 453-503.

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 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

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

⁴¹ Linderfalk, Ulf. *On the interpretation of treaties: the modern international law as expressed in the 1969 Vienna Convention on the Law of Treaties*. Vol. 83. Springer Science & Business Media, 2007.

⁴² Nugroho, Lucky, 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, pp. 73-80. 2024. See too, Sudirgo, Tony, 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* 6, no. 1 (2023): 2697-2708.

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 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.

⁴³ Bimantoro, Ricky Agung. "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.

⁴⁴ Keen, Michael. "VAT, tariffs, and withholding: Border taxes and informality in developing countries." *Journal of Public Economics* 92, no. 10-11 (2008): 1892-1906.

⁴⁵ Balassa, Bela. "Tariff protection in industrial countries: an evaluation." *Journal of Political Economy* 73, no. 6 (1965): 573-594.

⁴⁶ Andiani, Desy. "Impact analysis of rules of origin on Indonesia export performance: Case study on Indonesia-Japan." *Cendekia Niaga* 8, no. 2 (2024): 134-145. See also, Marks, Stephen V. "Non-tariff trade regulations in Indonesia: Nominal and effective rates of protection." *Bulletin of Indonesian Economic Studies* 53, no. 3 (2017): 333-357.

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 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.

⁴⁷ Mitchell, Andrew D. "The right to regulate and the interpretation of the WTO Agreement." *Journal of International Economic Law* 26, no. 3 (2023): 462-482.

⁴⁸ Chroust, Anton-Hermann. "The philosophy of law of Gustav Radbruch." *The Philosophical Review* 53, no. 1 (1944): 23-45.

⁴⁹ Erawan, Erwan Bagja. "Customs Valuation Disputes in Export-Import: Evaluating Objection and Appeal Procedures for Business Certainty." *Greenation International Journal of Law and Social Sciences* 3, no. 3 (2025): 1005-1014.

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

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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

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.

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 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

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.

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 Indonesia's compliance with international trade law.¹¹ Nevertheless, these studies

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 Rodriguez-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.

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.

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-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

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.

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

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 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,

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.

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 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

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 Rivaldi, 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.

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 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

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

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

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

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:

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 jurisdiction. Unlike ordinary domestic taxes, import tariffs perform both fiscal and regulatory functions because they contribute to state revenue while influencing

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.

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 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

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. xviii/19/2014), *Krtha Bhayangkara*, Vol.13, no.2, 2019, page.218.

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.

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 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

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.

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.

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

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.

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 transparently 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 Organization.⁴⁰ This legislation incorporates the Trade Facilitation Agreement

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.

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.

(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 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,

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.

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.

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 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

⁴⁵ Bela Balassav., Tariff protection in industrial countries: an evaluation, *Journal of Political Economy*, Vol.73, no.6, (1965): 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.

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.

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

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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.

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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

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 Rodríguez-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

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 Rivaldi, 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

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. xviii/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.

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 transparently 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

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.

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

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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

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 Rodríguez-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

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 Rivaldi, 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

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.xviii/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.

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 transparently 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

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.

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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