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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)

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Abstract: The Customs Law, in its substance, regulates matters of customs administration, which includes export and import arrangements, tariffs and customs value, exemption from import duties, procedures for payment of import duties, prohibitions and restrictions on export-import, and criminal provisions related to customs. Even though there have been precise arrangements regarding certain goods that are exempt from payable import duties, in reality, on the ground, there are still disputes regarding import duties between business actors as importers and the Directorate General of Customs and Excise as executors of customs affairs for imported goods. This study discusses how the implementation of import duty exemption procedures by the Directorate General of Customs and Excise (DJBC) applies to imported goods belonging to Representatives of Foreign Countries, in this case, the British Embassy in Indonesia, carried out by PT. Toyota Astra Motor as an agent for motorized vehicles today and how the exemption procedure for imported goods belonging to foreign representatives in Indonesia should be by the Decree of the Minister of Finance Number 90/KMK.04/2002 concerning Procedures for Granting Import Duty and Excise Exemption on Goods of Representatives of Foreign Countries and The official. This research is a normative legal research that uses secondary data as a source. The secondary data sources consist of laws and regulations, books, journals, records, and others, which can be obtained through library research and analyzed using qualitative data analysis methods. This study found the exemption procedures related to import duties and excise by the Directorate General of Customs and Excise according to the current Indonesian legal regulations for goods transactions between the British Embassy in Indonesia and PT. Toyota Astra Motor, a motor vehicle agent legal entity in Indonesia, has a rigid flow that can cause losses to one of the parties in its implementation. On this basis, it is necessary to amend the procedure for the exemption of import duty and excise in Indonesian legal regulations and clarify the meaning of exemption and return to provide benefits to both parties. These advantages include PT. Toyota Astra Motor, as the Seller, gets a refund of the import duties that have been paid previously. In this case, the British Embassy can get the goods from the sale and purchase quickly without waiting for the delivery process.

Keyword: Exemption, Import Duty, Representatives of Foreign Countries, Procedures, Returns.

INTRODUCTION

The trade sector, with the activities of buying and selling goods and services, is a common phenomenon that occurs in people's daily lives to meet the needs of people's lives. In its development, the trade sector has encouraged the creation of many business actors with various business strategies used to attract consumers¹ Furthermore, nowadays, globalization, which forms connectivity between one country and another, substantially contributes to the trade sector, evidenced by financial transactions between countries²

In its development, globalization and limited resources that affect the fulfillment of people's needs in one country encourage the creation of trading activities between countries. As for trade practices, trade activities between countries are known as export and import activities. Furthermore, export and import activities are simple transactions and nothing more than selling goods (visible goods) between entrepreneurs in one country and entrepreneurs in another.³

Historically, traders' practice of export-import trade in Indonesia has been known since the 17th century.⁴ A historical document reveals that the Bugis tribe has dealt between countries or imported and exported with many traders in the Malaya straits.⁵ However, along with the development of the times, new import-export-trading practices were regulated through legal rules since the Dutch occupation of Indonesia through the establishment of the Commercial Code (KUHD), formerly known as the *Wetboek van koophandle*.⁶

The practice of import-export trade is a trading practice that is different from the general trading practice that is carried out between sellers and buyers in a market. Differences in buying and selling locations, trading objects in the form of foreign commodities, and differences in the legal system adopted by exporters and importers make the practice of export-import trading a trading activity with a high risk.⁷ Therefore, to prevent the adverse effects of export-import trade practices, legal rules are needed to protect the rights and obligations of the parties involved in the export-import trade practices.

In export-import trade, where trade goods are created in and out of a country, the government oversees the traffic flow of the intended export-import commodity. One of the objectives to be achieved from implementing the customs function by the Government is to prevent the practice of smuggling illegal goods into the territory of a country or smuggling illicit goods to be traded outside the part of a country.⁸

The role of the government is ultimately applied in the customs function, which has been regulated in Law Number 10 of 1995 concerning Customs as amended in Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs (from now on referred to as Law No. customs).

¹ Ahmad Yani dan Gunawan Widjaja, *Seri Hukum Bisnis: Anti Monopoli*, (Jakarta: Rajagrafindo Persada, 2000), hlm. 1

² Rizal Alif, "Perspektif Transaksi E-Commerce di Era Globalisasi Perdagangan Bebas dalam Hukum Perjanjian di Indonesia", *Indonesian Journal of International Law*, 5, 2, (Januari 2008): 344.

³ R.T. Sutantya R. Hadhikusuma, "Tanggung Jawab Hukum Dalam Pelaksanaan Perdagangan Ekspor Impor", *Era Hukum*, 4, (1995): 73.

⁴ Serlika Aprita dan Rio Adhitya, *Hukum Perdagangan Internasional*, (Depok: Rajawali Pers, 2020), hlm. 6.

⁵ *Ibid.*

⁶ *Ibid.* hlm. 31.

⁷ Reza Abdi Esa. S. Baideng, "Fungsi Dirjen Bea Cukai Dalam Pencegahan Penyelundupan Senjata di Indonesia", *Lex et Societatis*, II, 7, (Agustus 2014): 116.

⁸ Leden Marpaung, *Tindak Pidana Penyelundupan*, (Jakarta: Gramedia Pustaka, 1991), hlm. 3.

The Customs Law, in its substance, regulates customs administration matters, including export and import arrangements, tariffs and customs value, exemption from import duties, procedures for payment of import duties, prohibitions and restrictions on export-import, and criminal provisions related to customs. The existence of levies or excise, which is the right of state levies imposed on goods with specific characteristics and characteristics, is aimed at fairness and balance in the use of certain goods in the territory of Indonesia.⁹

Charges realized in the form of tariffs on import and export duties are used as an instrument of the Government in controlling public consumption of the goods in question and overseeing the circulation of the goods in question, which can have negative impacts or influences on society or the environment.¹⁰

The basis for regulation regarding the Government's authority to collect import and export duties on imported and exported goods can be found in the provisions of Article 2 and Article 2A of the Customs Law. Although there are arrangements regarding the exemption of goods that enter the territory of the Unitary State of the Republic of Indonesia through import duty rates, the Customs Law also regulates the immunity of import duties on certain goods as stated in Article 25 paragraph (1) of the Customs Law. One of the items exempt from imposition of import duties are goods of foreign countries' representatives and their officials serving in Indonesia.

Even though there have been precise arrangements regarding certain goods exempt from payable import duties, there are still disputes regarding import duties between import actors as importers and the Directorate General of Customs and Excise as executors of customs affairs for imported goods. The tendency for conflicts related to import duty exemption is due to the lack of documents showing the existence of an item as exempt from import duty and differences in interpretation of the arrangement for import duty exemption between business actors and the Director General of Customs and Excise.¹¹ Furthermore, one of the disputes related to import duty exemption claims has occurred between PT. Toyota Astra Motor engaged in importing motorized vehicles with the Director General of Customs and Excise.

Import duty exemption dispute between PT. Toyota Astra Motor, with the Director General of Customs and Excise, started with a request for a refund of import duty filed by PT. Toyota Astra Motor for imported motor vehicle units that have been paid an import duty of Rp. 318,214,105 in 2013.

A refund of import duty is requested on the basis that the motorized vehicle unit, which is the object of import duty, has been sold to a representative of a Foreign Country Representative, in this case, the British Embassy, which, according to PT. Toyota Astra Motor makes these motorized vehicles goods exempt from import duties—however, the import duty refund application submitted by PT. The Toyota Astra Motor was rejected by the Director General of Customs and Excise on the basis that only representatives of the British Embassy had the right to request a refund of import duties, while PT. Toyota Astra Motor does not have the right to request a refund of said import duty. For the rejection of the import duty refund application filed by PT. Toyota Astra Motor to the Director General of Customs and Excise, then PT. Toyota Astra Motor submitted an appeal to the Tax Court until it ended in a Review Decision on the application for Review submitted by the Director General of Customs and Excise. The formulation of the problem that will be answered through this research is the implementation of import duty exemption procedures by the Directorate General of Customs and Excise (DJBC), which apply to imported goods belonging to the British Embassy in

⁹ Raelma Meisyelha, "Tinjauan Yuridis Terhadap Pelanggaran Kepabeanan di Kawasan Perbatasan", *Lex et Societatis*, III, 1, (Januari 2020): 139.

¹⁰ *Ibid.*

¹¹ Iwan Kurniawan, "Sengketa Pengajuan Banding Terhadap Penetapan Nilai Kepabeanan Dalam Ekspor-Impor", *Jurnal Krtha Bhayangkara*, 13, 2, (Desember 2019): 217.

Indonesia carried out by PT. Toyota Astra Motor as an agent for motorized vehicles today, as well as the suitability of Decision Number 1265/B/PK/PJK/2017 with import duty exemption procedures based on Decree of the Minister of Finance Number 90/KMK.04/2002 concerning Procedures for Granting Import Duty and Excise Exemption on Goods Representatives of Foreign Countries and Their Officials

RESEARCH METHODS

The type of research in this study is normative juridical. Normative legal research examines literature or secondary data as the source. The secondary data sources consist of laws and regulations, books, journals, records, etc., which can be obtained through library research and will be analyzed using qualitative data analysis methods. The research approach used in this study is a statutory approach and a case approach. The analytical method used is qualitative data analysis, namely data that cannot be measured or assessed directly with numbers. To clarify the analysis, the author uses grammatical interpretation.

RESULT AND DISCUSSION

Implementing Import Duty Exemption by the Directorate General of Customs and Excise (DJBC) applies to imported goods belonging to representatives of British foreign countries in Indonesia by PT. Toyota Astra Motor Unacceptable/Rejected Import Duty Refund

Import activities are an unavoidable part of international trade activities. International trade involving several countries with limited resources is carried out to meet national needs. Not all countries can meet their people's demands due to local industry limitations, which is done by importing. Import has the meaning of buying goods from sellers from abroad. Based on Article 1 point 13 of Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs, the definition of import is the activity of bringing goods from outside the customs area into the customs area.

Purchasing finished goods from producers outside the country can be categorized as an import activity. However, importing semi-finished goods can also be processed due to limitations in local industrial technology in the production process stage. As a result of the technological limitations experienced by local industries in a country, it can lead to higher production costs. Thus, this can cause the selling price of these goods to become more expensive so that import activities can become alternative activities so that the prices sold can be lower. Especially with the provision of facilities in the context of imports provided by the Government, production costs will be lower, affecting the selling price of these goods. Consumers tend to choose goods at cheaper or more competitive prices because price is one of the factors that can influence a person's interest or desire to purchase a product. The value of imports carried out by several companies in Indonesia has increased significantly every year. The value of Indonesia's imports has increased because it is assisted by developments in digital world technology, making it easier for buyers to buy imported goods from abroad.¹²

The practice of import-export trade is a trading practice that is different from the general trading practice that is carried out between sellers and buyers in a market. Differences in buying and selling locations, trading objects in the form of foreign commodities, and differences in the legal system adopted by exporters and importers make the practice of export-import trading a trading activity that has a high risk. Therefore, to prevent the adverse effects of export-import trade practices, legal rules are needed to safeguard the rights and obligations of the parties

¹² Alvin Asfareza "Implementasi Kebijakan Peraturan Menteri Keuangan Nomor 199/PMK.010/2019 tentang Ketentuan Kepabean, Cukai, dan Pajak Atas Impor Barang Kiriman Di Kota Batam

involved in the import-export trade practices. Import Duty and Excise Exemption is always imposed in carrying out imports involving Representatives of Foreign Countries. The exemption from import duty itself is a waiver of import duty payments that importers must pay/pay to the state; the granting of import duty exemption aims to make it easier for importers to obtain goods or products needed under certain circumstances. The government has created import duty exemptions to reduce the burden on importers and provide convenience in receiving these imported goods.¹³ The problem that often occurs when granting import duty exemption facilities is the applicant's lack of understanding of the customs process and knowledge of customs regulations. This impacts hampering or not achieving the principles of saving time, cost, safety, and simplicity as expected from the purpose of providing facilities.¹⁴

In the dispute over the import duty exemption on imported goods between PT. Toyota Astra Motor with the Director General of Customs and Excise originates from the application for the return of import duty filed by PT. Toyota Astra Motor for units of imported motorized vehicles for which import duties have been paid in Rp. 318,214,105 in 2013. The import duty refund application is requested on the basis that the motorized vehicle unit that is the object of import duty has been sold to a representative of the British Foreign Country Representative, according to PT. Toyota Astra Motor makes the motorized vehicle an item exempt from import duty— however, the import duty refund application was submitted by PT. Toyota Astra Motor was rejected by the Director General of Customs and Excise because the imported goods are local sales supplies and only representatives of British Foreign Country Representatives have the right to request a refund of import duties, while PT. Toyota Astra Motor does not have the right to request a refund of said import duty.

For the rejection of the import duty refund application requested by PT. Toyota Astra Motor to the Director General of Customs and Excise, then PT. Toyota Astra Motor submitted an appeal to the Tax Court until it ended in a Review Decision on the application for Review submitted by the Director General of Customs and Excise—the main problem in implementing import transactions between Representatives of British Foreign Countries and PT. Toyota Astra Motor is a misinterpretation of the elements of the legislation regarding the Exemption of Customs and Excise Goods Representatives of Foreign Countries by the Directorate General of Customs and Excise (DJBC) for the implementation of transactions on imported goods belonging to PT. Toyota Astra Motor, which, according to DJBC, thinks that those entitled to apply for import duty refunds are Representatives of British Foreign Countries and imported goods belonging to PT. Toyota Astra Motor is stock that will be used as local sales goods, so according to DJBC, the implementation of the import of these goods is not entitled to get Import Duty Exemption even though the Representative of British Foreign Country is the buying party.

It has been clearly explained in Article 2 of the Decree of the Ministry of Finance Number 90/KMK.04/2002 concerning Procedures for the Granting of Import Duty and Excise on Goods of Representatives of Foreign Countries and their Officials which states that: *"Exemption of import duty and excise is granted on the import of goods belonging to representatives of foreign*

¹³ Siska Adelia dan Idar Rachmatulloh, "Analisis Implementasi Kebijakan Pembebasan Bea Masuk Atas Impor Barang Untuk Keperluan Pelayanan Kesehatan Pada Masa Pandemi Covid-19 di KPU Bea dan Cukai Tipe A Tanjung Priok Tahun 2021", *Jurnal Ilmu Administrasi Publik* 2, 5, (2022), hlm. 511.

¹⁴ Ester Harvina Sihombing "Prosedur Pembebasan Bea Masuk Atas Impor Barang Pindahan Yang Diberikan Kepada WNA Yang Bekerja Di Indonesia Kantor Pengawasan Dan Pelayanan Bea dan Cukai Tipe Madya Pabean Belawan", *Jurnal Bismar Info* 9, 1, (2022), hlm. 24.

countries and their officials to support the diplomatic duties/functions of representatives of foreign countries in Indonesia based on the principle of reciprocity.”

The same thing is also explained by Article 2 paragraph (1) in the Ministry of Finance Regulation Number 149/PMK.04/2015 concerning Exemption from Import Duty and Excise on the Import of Goods Representatives of Foreign Countries and Their Officials Assigned in Indonesia which explains that: " On the import of goods from Representatives of Foreign Countries and their Officials who work in Indonesia based on the Principle of Reciprocity, exemption from import duty and excise can be granted.

As for what is meant by the goods of representatives of foreign countries and their officials in the Article, are ¹⁵

1. Items used for official purposes
2. Goods used for the construction and repair of buildings occupied by representatives of foreign countries
3. Moving goods belonging to officials representing foreign countries
4. Goods used for personal use, including used by family members of officials representing foreign countries

The Draft Review Memory belonging to the Review Applicant stated that¹⁶ *"... it is known that the importation carried out by the Respondent for Review was not intended for the import of goods representing embassies/international organizations, but were stock/supplies of the Respondent for Review"*. This indicates a misinterpretation of the laws and regulations regarding the Exemption of Import Duty on imported goods belonging to Representatives of Foreign Countries by the DJBC. The misconception referred to can be seen in the Decree of the Minister of Finance Number 90 of 2002 and Regulation of the Minister of Finance Number 149 of 2015, which does not mention at all the conditions for granting import duty and excise exemption to imported goods belonging to Representatives of Foreign Countries which in this case are motorized vehicles NOT MAY be goods in the form of inventory (stock) or also known as Motorized Vehicles in Finished Condition (CBU).

We need to know that from the start, these imported goods had previously been paid import duties and PDRI at the beginning of the entry of these goods and later became the object of a sale and purchase transaction between PT. Toyota Astra Motor and Foreign Country Representative. Therefore, PT. Toyota Astra Motor has the right to get reimbursement for paying import duties at the beginning of the purchase because the goods have become the object of a sale and purchase transaction between PT. Toyota Astra Motor and Foreign Country Representatives based on Article 2 in the Decree of the Minister of Finance Number 90 of 2002 and Article 2 paragraph (1) in the Regulation of the Minister of Finance Number 149 of 2015, then it is duly given a refund of the import duty fee on these imported goods due to rules regarding the exemption from import duty and excise on the import of goods from representatives of foreign countries and their officials. Exemption from Import Duty and Excise on imported goods is a right of Foreign Country Representatives that should be fulfilled and regulated in statutory regulations. Therefore, Indonesia, as a constitutional state that guarantees the rights of its citizens and the parties stated in the laws and regulations, should provide legal certainty so that these parties can obtain their dues in full and are not hindered by rules that should make it easier for these rights to be obtained but instead creates difficulties for the parties.

¹⁵ Keputusan Menteri Keuangan Nomor 90/KMK.04/2002, Pasal 2

¹⁶ Putusan Nomor 1265/B/PK/PJK/2017, hlm. 18

Conformity of Decision Number 1265/B/PK/PJK/2017 is by the import duty exemption procedure based on the Decree of the Minister of Finance Number 90/KMK.04/2002 concerning Procedures for Granting Import Duty and Excise Exemption on Goods Representatives of Foreign Countries and Their Officials

As the rule of law aspired to by the founding fathers of the Indonesian state, all actions of state administrators and their citizens must be by the laws in force in this country. All parties must follow a hierarchy of norms that ultimately culminate in the constitution. The explanation that Indonesia is a constitutional state is contained in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Jimly Asshiddiqie stated, "Indonesia was idealized and aspired by the founding fathers as a legal state. As the rule of law, Indonesia is obliged to facilitate society with a rule of law that is by the values and norms that live in social life because the rule of law will determine how people's lives will work. To realize order in the life of a prosperous society, it is necessary to have regulations. Order is born from regularity, while order can be discovered in community, nation, and state life using rules, namely laws and laws.¹⁷

The legal rules that apply in the community must be based on the values that live in social life (living law) itself. On the other hand, the law that is currently in effect (*ius constitutum*) does not fully cover the values in people's lives, so it is necessary to reform the law so that the applicable law can create order by the values that exist in society as the law in force. Aspire to (*ius constituendum*).¹⁸

Import Duty Exemption Procedures for Imported Goods Owned by Foreign Representatives in Indonesia by the Decree of the Minister of Finance Number 90/KMK.04/2002 concerning Procedures for Granting Import Duty and Excise Exemption for Representatives of Foreign Countries and their Officers still raises misunderstandings about the implementation of the procedure. This causes the failure to achieve legal certainty obtained by the seller, in this case, the importer and the buyer in buying and selling imports.

Decree of the Minister of Finance No. 90/KMK.04/2002 concerning Procedures for Granting Import Duty and Excise Exemption for Representatives of Foreign Countries and their Officials as an *ius constitutum* has not provided procedures for the exemption of import duties for imported goods owned by Representatives of Foreign Countries and their officials, which is mainly in cases Judicial Review Decision Number 1265/B/PK/PJK/2017 which in the decision still shows a loophole which makes PT Toyota Astra Motor a party that is not entitled to receive import duty refund according to DJBC's understanding of its interpretation of the procedures for import duty exemption for imported goods owned by Representatives of Foreign Countries and their officers.

In Article 2 of the Decree of the Minister of Finance Number 90/KMK.04/2002, it has been explained that the exemption from import duty and excise is granted on the import of goods belonging to representatives of foreign countries and their officials to support the diplomatic responsibilities/functions of representatives of foreign countries in Indonesia based on the principle of reciprocity. The focus of exchange referred to has also been explained previously, namely Article 1 point 2, namely the principle of equal treatment regarding privileges and immunities for representatives of foreign countries (diplomatic and consular)

¹⁷ Hotma P. Sibuea, *Ilmu Negara*, (Jakarta: Penerbit Erlangga, 2014), hlm. 312.

¹⁸ Khalimi dan Muhammad Randhy, "Perlindungan Hukum Izin Edar Usaha Mikro Obat Tradisional Dihubungkan dengan Demokrasi Ekonomi", *Jurnal Hukum Staatsrechts* 6, 1 (2023), hlm. 12

and their officials with diplomatic status in Indonesia as treatment for representatives of the Republic of Indonesia (diplomatic and consular) and their officials with diplomatic status abroad. The same thing has also been explained in Article 2 paragraph (1) of the Minister of Finance Regulation No. 149/PMK.04/2015, which states that on the import of goods, Representatives of Foreign Countries and their officials who serve in Indonesia based on the principle of reciprocity, exemption from import duty can be granted. And excise.

From these articles, we can conclude that the granting of import duty exemption for imported goods belonging to Foreign Country Representatives and their officials has been explained in the existing legal regulations and, of course, will be binding on the parties involved in buying and selling imported vehicles. The limitations of an exemption from import duty itself have also been explained in Article 5 of the Decree of the Minister of Finance Number 90 of 2002, which applies explicitly to the import of motorized vehicles in finished condition (CBU), which states that *"For consular representative offices and representative offices of international organizations as referred to in Article 1 point 1 grants exemption from import duty on the import or purchase of motorized vehicles in finished condition (CBU) for a maximum of 6 (six) units for offices with more than 5 (five) senior officials and 5 (five) units for offices with senior officials 5 (five) people or less."*

Exemption from import duty for goods belonging to Foreign Country Representatives and their officials can be granted by the Directorate General of Customs and Excise, which, as explained in Article 8 paragraph (1) of the Decree of the Minister of Finance Number 90 of 2002, which states that the decision to exempt import duties and excise is granted by the Directorate General of Customs and Excise at the request of the head of a foreign country representative or an official appointed after obtaining approval from the Ministry of Foreign Affairs. This is the basis for the Directorate General of Customs and Excise to reject PT Toyota Astra Motor's request for an import duty refund.

However, in this case, the British Embassy has purchased motorized vehicle goods included in the PT Toyota Astra Motor stock, which means that PT Toyota Astra Motor has paid the import duty fee at the beginning of the purchase made by PT Toyota Astra Motor from the Japanese manufacturing country. If we look at these facts, we can conclude that, in this case, PT. Toyota Astra Motor, so what the Directorate General of Customs and Excise interpreted in Article 8 paragraph (1) was a mistake because it was not by the case that occurred.

It should be remembered that the Decree of the Minister of Finance No. 90 of 2002 also does not prohibit Foreign Representatives from trading motorized vehicles with stock status. Likewise, the prohibition on making motorized vehicle goods in stock status as objects of sale and purchase of imports with Representatives of Foreign Countries and officials is also not mentioned in existing regulations, so the argument of the Directorate General of Customs and Excise on the grounds of not giving import duty returns to PT. Toyota Astra Motor because using motorized vehicle goods in the form of stock (inventory) is unacceptable. In the Regulation of the Minister of Finance Number 149/KMK.04/2015, no prohibition is clearly stated regarding the ban on using goods with stock status to be used as objects of buying and selling imports to Representatives of Foreign Countries and their officials.

Article 8 paragraph (1) in the Decree of the Minister of Finance Number 90/KMK.04/2002 has explained that the decision on the exemption of import duty and excise is given by the Directorate General of Customs and Excise at the request of the head of a foreign country representative or appointed official after obtaining approval from the Ministry of Foreign Affairs Country. In addition, in Article 4 paragraph (1) in the Minister of Finance Regulation Number 149/KMK.04/2015, it is stated that to obtain exemption from import duty

and excise on the import of goods, Representatives of Foreign Countries and their Officers as referred to in Article 2 paragraph (1) and paragraph (2), the Head of Foreign Country Representative must submit a written application to the Minister of Finance through the Director General or the appointed Customs and Excise Officer after obtaining prior approval from the Minister of Foreign Affairs.

The procedures and procedures for issuing the Decree on the Exemption of Import Duty for Imported Goods belonging to representatives of foreign countries are not explicitly explained in the Decree of the Minister of Finance Number 90/KMK.04/2002. Still, on the website of the Customs and Excise Supervision and Service Office, we can see the procedure with details as follows:¹⁹

1. The applicant submits the Application Letter and Supporting Documents directly at the Treasury Section counter or through the Online Document Receiving application;
2. Executors in the Treasury Section receive and examine the completeness and suitability of the documents submitted by the Applicant;
3. If the application is complete and correct, the application is recorded on the Application for Acceptance of Incoming Letters, and a receipt is issued for the incoming letter with the agenda number of the application. If the application is not appropriate, a recommendation/request for complete documents is issued;
4. The application that has been recorded will then proceed to the disposition process to the Head of Office and proceed to the Treasury Section, and after that, it will be disposed of to the Customs and Excise Examiner Functional Executor (PFPBC);
5. The Functional Executor of the Customs and Excise Inspector receives the report and forwards it to the Executor who handles import duty exemption;
6. The Executor receives and drafts the Research Sheet and the Release Decree;
7. Customs and Excise Functional Executor examines the concept and affixes initials;
8. The Head of the Treasury Section receives and examines the concept of the Research Sheet and the Release Decree and initials it;
9. The Head of Office decides to accept or reject the import duty exemption application;
10. The Head of Office signs the Import Duty Exemption Decree;
11. The applicant receives the Import Duty and Excise Exemption Decree directly at the Treasury Section counter or through the Online Document Receiving Application.

On this basis, it can be concluded that Import Duty Return is a right of PT. Toyota Astra Motor is a facilitator of legislation, and the government needs to provide clear statutory regulations so that misinterpretations by the Directorate General of Customs and Excise do not recur and guarantee legal certainty in imports to representatives of foreign countries and their officials.

CONCLUSION

¹⁹ Kantor Pengawasan dan Pelayanan Bea dan cukai Tipe Madya Pabean Juanda, *Pembebasan Bea Masuk dan/atau Cukai atas Impor Barang Perwakilan Negara Asing Beserta Para Pejabatnya Yang Bertugas Di Indonesia*, <https://sippn.menpan.go.id/pelayanan-publik/8124447/kantor-wilayah-direktorat-jenderal-bea-dan-cukai-jawa-timur-i/pembebasan-bea-masuk-danatau-cukai-atas-impor-barang-perwakilan-negara-asing-beserta-para-pejabatnya-yang-bertugas-di-indonesia>

Based on the results of the research and discussion as described above, the following conclusions can be drawn:

1. Import duty and excise exemption procedures carried out by the Directorate General of Customs and Excise according to current Indonesian law for goods transactions between Representatives of Foreign Countries, in this case, the British Embassy in Indonesia and as a motorized vehicle agent legally incorporated in Indonesia, Toyota Astra Motor has a rigid flow so that in its implementation, it can cause losses to one of the parties. The procedure in question is. *First*, the Buyer, in this case, the British Embassy, buys a motorized vehicle from the Seller, namely PT. Toyota Astra Motor. *Second*, the seller imports goods. *Third*, the Seller fills out the Import Duty Refund form so that the Buyer has the Import Duty Refund formula as a foreign representative in Indonesia. Fourth, the Seller requests a return of Import Duty from DJBC. However, the imported goods from the beginning were not intended for importing to the British Embassy but as PT-owned inventory. Toyota Astra Motor, DJBC, thinks the transaction between Seller and Buyer above is a local sale and cannot be given Import Duty and Excise Exemption. According to DJBC, the imports for the sale of these motorized vehicles were explicitly intended for the British Embassy and not imported first to be used as supplies for PT. Toyota Astra Motor was then sold to the British Embassy. On this basis, it is necessary to amend the procedure for exempting import duty and excise in Indonesian law to benefit both parties. These advantages include PT. Toyota Astra Motor, as the Seller, gets a refund of the import duty that has been paid previously. In this case, the British Embassy can get the goods from the sale and purchase quickly without waiting for the delivery process.
2. The government, as a statutory facilitator, needs to provide clear statutory regulations so as not to cause multiple interpretations in their implementation, especially in the realm of exemption from import duty on imported goods belonging to Representatives of Foreign Countries and their officials and clarify the meaning between exemption and return, in the case of PT. Toyota Astra Motor and the British Embassy need to make changes to the law so that the current law (*ius constitutum*) regarding the exemption of import duties on imported goods belonging to representatives of foreign countries and their officials are by the existing implementation mechanisms in the field to facilitate the selling process buying imports between providers of goods and buyers.

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