

PELINDUNGAN HAK KEKAYAAN INTELEKTUAL DI KAWASAN PABEAN OLEH OTORITAS KEPABEANAN DALAM PERSPEKTIF HUKUM KEPABEANAN INDONESIA DAN TRIPS AGREEMENT

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INTISARI

Penelitian ini bertujuan untuk menganalisis pelindungan hak kekayaan intelektual (HKI) di kawasan pabean Indonesia yang dilakukan oleh otoritas kepabeanan untuk mencegah peredaran barang-barang yang melanggar HKI masuk ke Indonesia, serta menganalisis sejauh mana Indonesia telah mengimplementasikan standar internasional TRIPS *Agreement* baik dalam hukum kepabeanan nasionalnya maupun pelaksanaan kerja sama internasional guna mewujudkan pelindungan HKI di kawasan pabean.

Penelitian dilakukan dengan menggunakan metode normatif yang menggunakan data sekunder berupa bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier, serta didukung dengan data primer berupa wawancara narasumber sebagai bahan pelengkap guna menyempurnakan data sekunder. Selanjutnya, data yang diperoleh dianalisis dengan metode kualitatif dan disajikan dalam bentuk deskriptif.

Hasil penelitian ini menunjukkan bahwa pelindungan HKI di kawasan pabean Indonesia oleh otoritas kepabeanan dilakukan melalui dua skema utama, yaitu skema *ex-officio* dan skema *judicial*. Skema *ex-officio* bersifat aktif, di mana Direktorat Jenderal Bea dan Cukai (DJBC) secara mandiri melakukan pengawasan, rekordasi, penegahan, penangguhan sementara, dan pemeriksaan fisik terhadap barang-barang yang diduga melanggar HKI. Langkah-langkah ini memungkinkan DJBC untuk bertindak cepat dalam menangani pelanggaran HKI tanpa menunggu aduan dari pemilik hak. Selanjutnya, skema *judicial* bersifat pasif dan dilakukan berdasarkan Perintah Tertulis dari Ketua Pengadilan Niaga. Hasil penelitian juga menunjukkan bahwa Indonesia telah mengimplementasikan amanat dari standar internasional TRIPS *agreement* ke dalam sejumlah kebijakan nasional baik dalam tingkatan undang-undang maupun peraturan pelaksana serta melalui peningkatan kerja sama internasional untuk memperkuat pelindungan HKI di kawasan pabean.

Kata kunci : Hak Kekayaan Intelektual, Pelindungan Hukum, DJBC, Kawasan Pabean, TRIPS Agreement

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**PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN CUSTOMS
AREAS BY CUSTOMS AND EXCISES AUTHORITIES FROM THE
PERSPECTIVE OF INDONESIAN CUSTOMS LAW AND TRIPS
AGREEMENT**

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ABSTRACT

This study aims to analyze the protection of intellectual property rights (IPR) in the Indonesian customs area carried out by customs authorities to prevent the circulation of goods that violate IPR from entering Indonesia. It also aims to analyze the extent to which Indonesia has implemented the international standards (TRIPS Agreement) in its national customs law and the implementation of international cooperation to realize IPR protection in the customs area.

The research was conducted using a normative method that uses secondary data in the form of primary legal materials, secondary legal materials, and tertiary legal materials, and supported by primary data collected from interviewing resource persons as complementary material to the secondary data. Furthermore, the data were analyzed qualitatively and presented in descriptive form.

This research concludes that the protection of IPR in the Indonesian customs area by the customs and excises authorities is carried out through two main scheme: ex-officio scheme and the judicial scheme. The ex-officio scheme is the active one, where the Directorate General of Customs and Excise (DGCE) independently carries out supervision, recording, prevention, temporary suspension, and physical inspection of goods suspected of violating IPR. These steps allow DGCE to act quickly in dealing with IPR violations without waiting for complaints from rights owners. Furthermore, the judicial scheme is the passive one and is carried out based on a written order from the chairman of the commercial court. The research results also show that Indonesia has implemented the mandate of the TRIPS Agreement into their national policies, as well as through increased international cooperation to strengthen IPR protection in the customs area.

Keywords: Intellectual Property Rights, Legal Protection, Directorate General of Customs and Excise, Cross-Border Area, TRIPS Agreement

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