



## TRADE BASED MONEY LAUNDERING EVIDENCE FROM INDONESIA: CIGARETTE IMPORT CUSTOMS SMUGGLING AND MONEY LAUNDERING

Aditya Subur Purwana<sup>1)</sup>; Muhammad Anshar Syamsuddin<sup>2)\*</sup>; Mardiansyah<sup>3)</sup>

<sup>1)</sup> *adityasp@pknstan.ac.id, Politeknik Keuangan Negara STAN*

<sup>2)</sup> *anshar@pknstan.ac.id, Politeknik Keuangan Negara STAN*

<sup>3)</sup> *mardiansyah@ppatk.go.id, Pusat Pelaporan dan Analisis Transaksi Keuangan*

\*Corresponding author

### Abstract

Public-Private Partnership (PPP) is an instrument to strengthen synergy in eradicating money laundering and other economic crimes launched by the government of the Republic of Indonesia, with 3 (three) main priorities to be handled, namely trade-based money laundering (TBML), narcotics, and business email compromise (BEC). The Financial Action Task Force (FATF) defines Trade Based Money Laundering as the process of disguising the proceeds of crime and transferring value through the use of trade transactions in an attempt to legitimize its illegitimate origin. Customs is everything related to the supervision of the traffic of goods entering or leaving the customs area as well as the collection of import and export duties, the supervision of which is carried out by the Directorate General of Customs and Excise (DGCE). In import customs activities, importers are obliged to fulfill customs obligations, one of which is the inward manifest. The research aims to provide an overview of money laundering and violations in the Customs Sector. Using secondary data from 2019 to 2023 and primary data through interviews, to answer the research objectives using qualitative methods based on court decisions. The research results show that the mode of money laundering violations in the customs sector is smuggling of unmanifest imports of cigarettes without excise stamps attached using the ship-to-ship mode. In laundering money from the crime, the perpetrator hides or disguises the proceeds from the crime of selling cigarettes that are not attached with excise stamps by placing the money from cigarette sales in several accounts in the perpetrator's name and in other names as well as in other forms of assets. Research suggestions, violations in the customs sector that have sufficient evidence of a crime, apart from being able to investigate predicate crimes, money laundering investigations can be carried out so that asset recovery can be carried out and optimizing the PPP scheme in cracking down on money laundering.

**Keywords:** Asset Recovery, Customs, Money Laundering, Smuggling, Unmanifest

### Abstrak

Public-Private Partnership (PPP) merupakan instrumen perkuat sinergi pemberantasan Tindak Pidana Pencucian Uang dan Tindak Pidana Ekonomi Lainnya yang diluncurkan pemerintah Republik Indonesia, dengan 3 (tiga) prioritas utama yang akan ditangani, yaitu trade-based money laundering (TBML), narkoba, dan business email compromise (BEC). Financial Action Task Force (FATF) mendefinisikan Trade Based Money Laundering sebagai proses menyamarkan hasil kejahatan dan memindahkan nilai melalui penggunaan transaksi perdagangan dalam upaya untuk melegitimasi asal usulnya yang tidak sah. Kepabeanan yaitu segala sesuatu yang berhubungan dengan pengawasan atas lalu lintas barang yang masuk atau keluar daerah pabean serta pemungutan bea masuk dan bea keluar, yang pengawasannya dilakukan oleh Direktorat Jenderal Bea dan Cukai (DJBC). Dalam kegiatan kepabeanan impor, importir wajib memenuhi kewajiban kepabeanan, salah satunya inward manifest. Penelitian bertujuan memberikan Gambaran pencucian uang dan pelanggaran di Bidang Kepabeanan. Menggunakan data sekunder dari tahun 2019 s.d. 2023 dan data primer melalui wawancara, untuk menjawab tujuan Penelitian menggunakan metode kualitatif berdasarkan keputusan pengadilan. Hasil Penelitian menunjukkan modus pencucian uang pelanggaran di bidang kepabeanan yaitu penyelundupan impor unmanifest rokok tanpa dilekati pita Cukai dengan modus ship-to-ship. Dalam melakukan pencucian uang hasil kejahatannya, pelaku menyembunyikan atau menyamarkan hasil tindak pidana penjualan rokok yang tidak dilekati pita Cukai dengan menempatkan uang hasil penjualan rokok di beberapa rekening atas nama pelaku dan atas nama lainnya serta dalam bentuk aset lainnya. Saran penelitian, pelanggaran di bidang kepabeanan yang cukup bukti adanya pidana, selain dapat dilakukan penyidikan tindak pidana asal maka dapat dilakukan penyidikan pencucian uang sehingga dapat dilakukan asset recovery serta mengoptimalkan skema PPP dalam menindak pencucian uang.

**Kata Kunci:** Kepabeanan, Penyelundupan, Pencucian Uang, Pemulihan Aset, Unmanifest



## INTRODUCTION

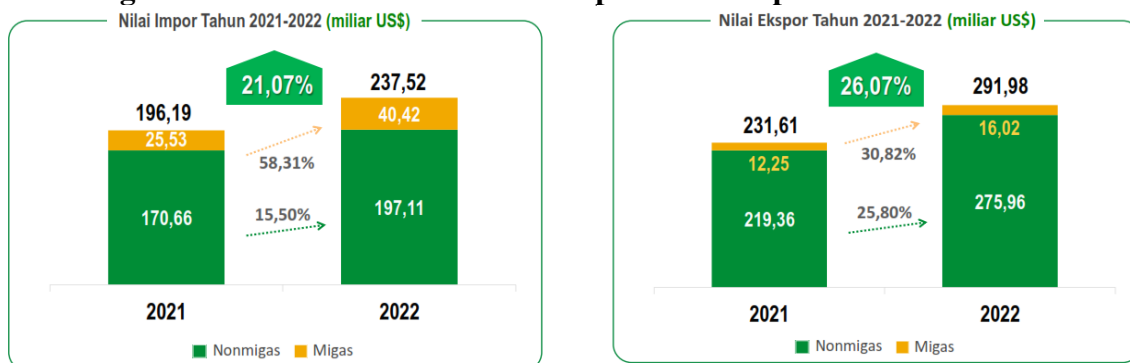
Public-Private Partnership (PPP) is an instrument to strengthen synergy in eradicating money laundering and other economic crimes that has been launched by the government of the Republic of Indonesia, with 3 (three) main priorities to be handled, namely trade-based money laundering (TBML), narcotics, and business email compromise (BEC). PPP implementation is a regional and global concern, in the Egmont Group, Asia/Pacific Group on Money Laundering (APG), Fintel Alliance, and various other international cooperation schemes (INTRAC, 2021).

The Financial Action Task Force (FATF) revealed that there are three main methods used to move money to disguise its origins and integrating it into the formal economy, namely through the use of the financial system, involving the physical movement of money (for example through the use of cash couriers), and through the physical movement of goods through the trading system (FATF, 2006).

Trade-based money laundering is defined as the process of disguising the proceeds of crime and transferring value through the use of trade transactions in an attempt to legitimize its illegitimate origin (FATF, 2006). In practice, this can be achieved through misrepresentation of the price, quantity or quality of imports or exports. The basic mode of Trade Based Money Laundering is over-and under-invoicing of goods and services, multiple invoicing of goods and services, over- and under-shipments of goods and services; and falsely described goods and services (FATF, 2006).

Indonesia's international trade in 2022 showed that the export value had increased compared to the condition in 2021. The value of Indonesia's exports in 2021 was 231.61 billion US\$ and in 2022 was 291.98 billion US\$ (an increase of 26.07%) (Central Bureau of Statistics, 2023). Meanwhile, Indonesia's import value in 2021 was 196.19 billion US\$ and in 2022 was 237.52 billion US\$ (an increase of 21.07%) (Central Bureau of Statistics, 2023). The value of Indonesian exports and imports was dominated by non-oil and gas, with the proportion of non-oil and gas exports in 2022 was 94.51% and the proportion of non-oil and gas imports was 82.98%.

**Figure 1 The Value of Indonesian Exports and Imports in 2021 and 2022**

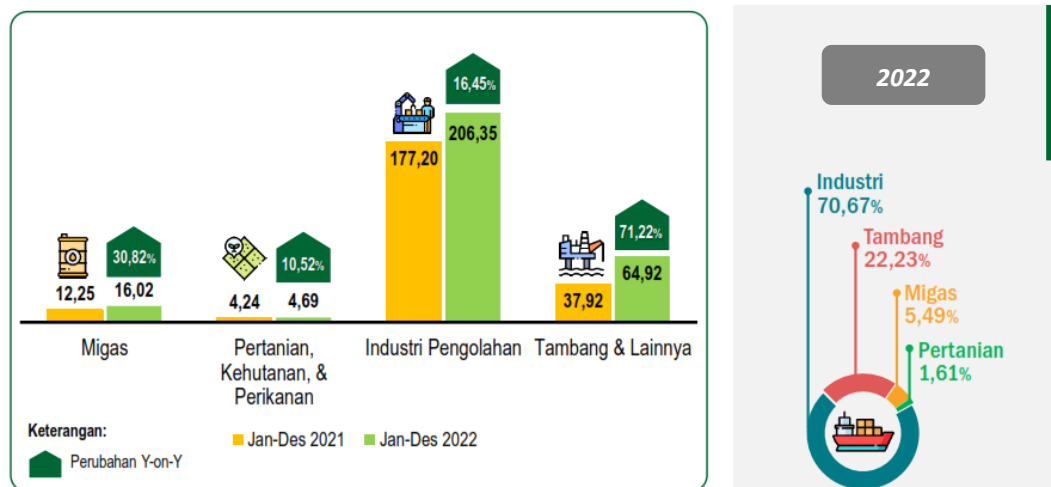


Source: (Central Bureau of Statistics, 2023)

Indonesia's exports by sector, in 2021 and 2022 were dominated by the Manufacturing Industry sector. The industrial sector contributed 70.67% of Indonesia's export value in 2022.



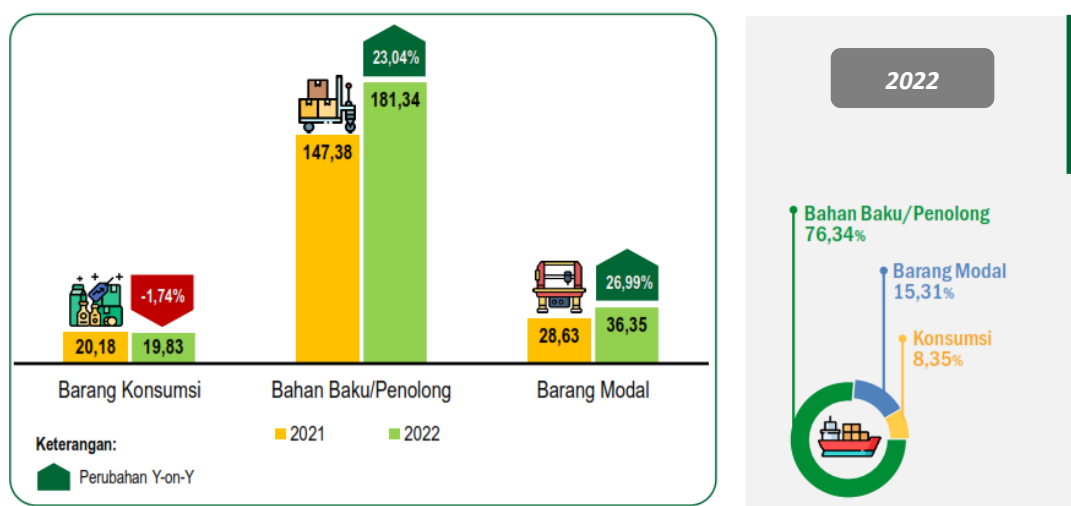
Figure 1 Indonesian Export Value in 2021 and 2022 by Sector



Source: (Central Bureau of Statistics, 2023)

Indonesia's imports by sector, in 2021 and 2022 were dominated by the Raw/Auxiliary Materials sector. The Raw/Auxiliary Materials sector contributed 76.34% of Indonesia's export value in 2022.

Figure 2 Indonesian Import Value in 2021 and 2022 by Sector

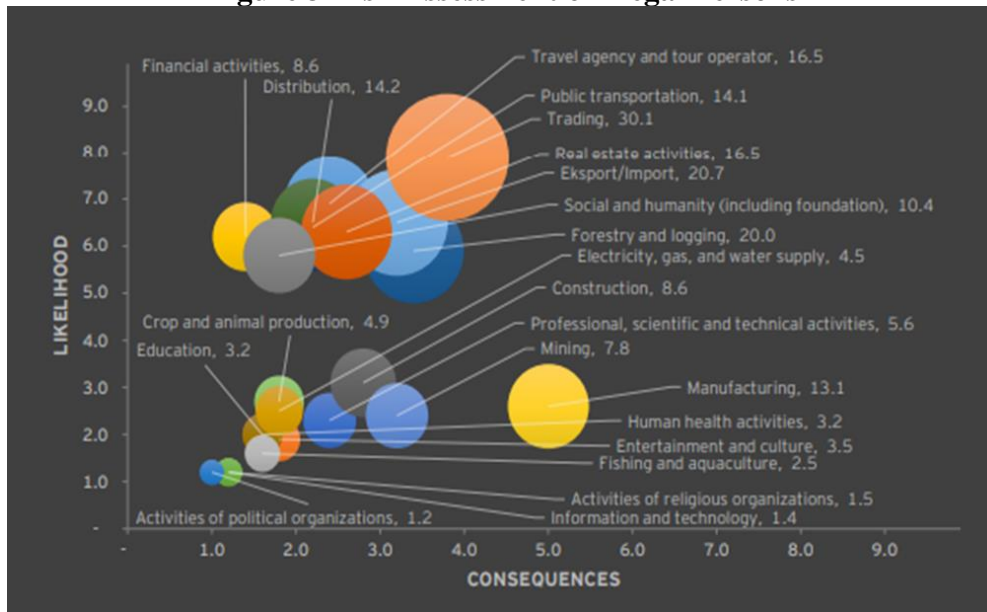


Source: (Central Bureau of Statistics, 2023)

According to the results of the risk assessment on legal persons in 2017, it showed that the type of business entity in trading is a high risk as a means of money laundering in Indonesia (INTRAC, 2017). This can be seen in detail in the mapping results in Figure 4 below.



Figure 3 Risk Assessment on Legal Persons



Source: (INTRAC, 2017)

Supervision of international trade traffic as stated in the Law Number 17 of 2006 concerning Amendments to the Law Number 10 of 1995 concerning Customs (Customs Law), the authority exist in the Directorate General of Customs and Excise (DGCE). Based on this authority, DGCE has taken action in the Customs and Excise sector for the period 2018 to 2021, as presented in table 1 below

**Table 1 Number of Enforcement and Value of Goods from Enforcement**

Year	Sum of Enforcement	Value of Goods from Enforcement (Milyar IDR)
2018	18,204	11,760
2019	21,062	5,691
2020	21,964	6,367
2021	29,119	24,450

Source: (DGCE dan INTRAC, 2022)

Then, violations in the customs sector especially in the investigation stage by Civil Servant Investigators of the Directorate General of Customs and Excise (Investigator DGCE) are presented in table 2 below.

**Table 2 Number of Criminal Investigations in the Customs Sector by Investigator DGCE**

Year	Sum of Investigation
2020	93
2021	37
Jan to Maret 2022	9

Source: (DGCE, 2022)

Alleged criminal violations in the the Predicate Crime (predicate crime) investigation stage in the Customs Sector (DGCE, 2022) as investigated by Investigator DGCE for the period January 2020 to. March 2022, based on the criminal offenses, 75.54% (105 predicate crime) were Import Customs criminal offenses while 24.46% (34 predicate crime) were Export criminal offenses. For these violations in the Customs sector, DGCE has succeeded in uncovering criminal acts in the Customs sector which were followed by Money Laundering Crimes (Money Laundering), namely violations of unmanifest imports in the form of cigarettes



without excise stamps. Referring to the definition by Financial Action Task Force (FATF), this type of criminal act can be categorized as Trade Based Money Laundering (TBML).

The offices that carry out the most predicate crime investigations in the Customs sector are the Customs Riau Islands Specific Regional Office, the Prime Customs and Excise Office type C Soekarno Hatta and the Prime Customs and Excise Office type B Batam. This is possibly caused by the typology of these offices, namely the Customs Riau Islands Specific Regional Office and the Prime Customs and Excise Office type B Batam are directly situated in the outermost area of the Indonesian Customs area (Sea and Air), while the Prime Customs and Excise Office type C Soekarno Hatta is used as the main entrance to Indonesia by Aircraft.

The Customs Riau Islands Specific Regional Office succeeded in taking action against smuggling of unmanifest imports of cigarettes without excise stamps. The Customs Riau Islands Specific Regional Office together with the DGCE Head Office conducted a joint Money Laundering investigation into the smuggling of illegally imported cigarettes (without excise stamps and unmanifest) with High Speed Crafts. This case is the largest Money Laundering investigation case in the Customs Sector carried out by the Investigator DGCE with state losses reached IDR 1trillion (Prime Customs and Excise Office type B Batam, 2022).

This research focuses on the trade-based money laundering in Indonesia based on the permanent legal force decisions (*inkracht van gewijsde*) whose enforcement and investigation by the authority of Investigator DGCE. This research aimed to provide figures on unmanifest cigarette import smuggling and money laundering, mitigation so that Customs is not used for money laundering, and as the evidence that the PPP program can be used to eradicate money laundering.

## **LITERATURE REVIEW**

### **Customs and Inward Manifest**

Customs is everything related to the supervision of the traffic of goods entering or leaving the customs area as well as the collection of import and export duties. Based on this definition, the focus of customs is to control goods and the collection of duties on goods (Jafar, 2015). Based on the Customs Law (Ministry of Finance, 2006), customs supervision and collection activities in Indonesia are carried out by the Directorate General of Customs and Excise (DGCE).

In imports customs supervision, DGCE requires importers to fulfill customs obligations. Customs obligations are all activities in the customs sector that must be carried out to fulfill the provisions of laws and regulations in the Customs sector. Customs declaration include the arrival manifest (inward manifest/BC.1.1), import declaration (PIB), and complementary customs documents, namely all documents used as a complement to the Customs declaration, for example invoices, packing lists, bills of lading/airway bills, identification of documents goods, import requirements documents, and other required documents (DGCE, 2023).

The Arrival Manifest of Transport Means (inward manifest/BC.1.1) is a list of commercial goods transported by sea, air and land when entering the customs area or other place after obtaining permission from the head of the Customs and Excise office who supervising that place (DGCE, 2023).

### **Criminal act in the Customs Sector**

Criminal acts in the Customs Sector are acts that are prohibited by the Law of the Republic of Indonesia Number 10 of 1995 concerning Customs and Law of the Republic of Indonesia Number 17 of 2006 concerning Amendments to Law of the Republic of Indonesia Number 10 of 1995 concerning Customs. In the legal provisions, it is stated that certain actions as regulated in the legal provisions is criminal acts in the customs sector (DGCE dan INTRAC, 2022).

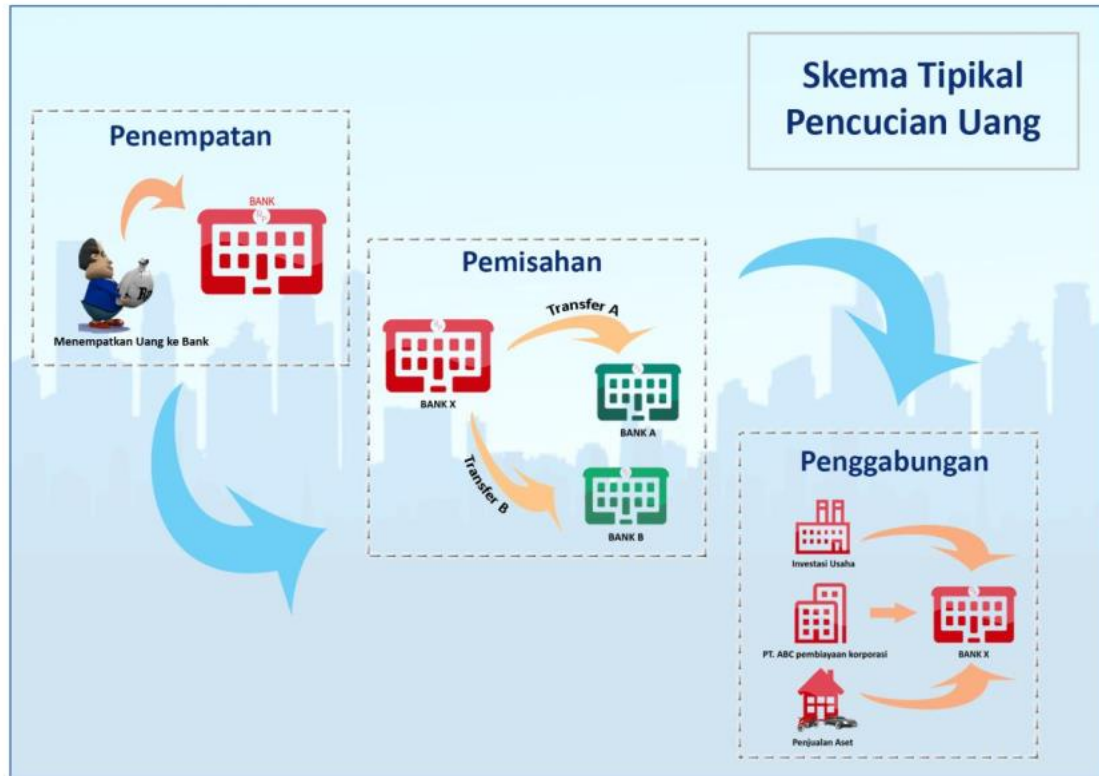




## Money Laundering

Money Laundering is any act of concealing or disguising the origin of assets obtained from the proceeds of crime so that they appear to be legitimate assets (INTRAC, 2019). An illustration of money laundering is presented in Figure 5 as follow:

**Figure 5 Money laundering illustration**



Source: (INTRAC, 2019)

## Excise, Cigarettes and Excise Stamps

Excise is a selective tax on goods and services with general characteristics, namely selectivity in its scope, discrimination in its objectives, and often a form of quantitative measurement in determining tax obligations, then excise can also be imposed on goods for certain reasons, for example special purposes and excise can also be associated with physical control (Cnossen, 2005).

In Indonesia, based on the Excise Law, supervision over Excise is carried out by the Directorate General of Customs and Excise (Ministry of Finance, 2007). One of the excisable goods (Barang Kena Cukai) in Indonesia is tobacco products which include cigarettes, cigars, leaf cigarettes, sliced tobacco and other tobacco processing products. Excise duty on cigarettes or excisable goods in the form of imported tobacco products must be paid when the excisable goods are imported for use. Payment of excise duty on excisable goods tobacco products is conducted by affixing excise stamps (Ministry of Finance, 2018).

## Trade Based Money Laundering

Trade-based money laundering is defined as the process of disguising the proceeds of crime through the use of trade transactions in an effort to legitimize the illegitimate origin of wealth (FATF, 2006).

## Previous Research

Former research related to the Trade Based Money Laundering that relevant to this research is presented as follows

Globalization and shadow economy: a panel analysis for Africa (Ajide & Dada, 2023), research results showed that globalization reduces the size of the shadow economy. The results



of the nonlinear analysis showed that there was a U-shaped relationship. Overall globalization had an impact threshold of 48.837%, economic globalization was 45.615%, and political globalization was 66.661%, while social globalization had a threshold value of 35.744%. The panel causality results showed that there was a two-way causal relationship between the two variables.

A critical analysis of the cross-border financial crime risks inherent in the African continental free trade area (Esoimeme, 2023), identified bribery and corruption; modern slavery; and trade-based money laundering as a financial crime risk of priority concern in the African Continental Free Trade Area and showed how countries can assess and mitigate these risks through adequate policies, procedures and controls including appropriate compliance management arrangements and adequate screening procedures to ensure high standards when recruiting employees; company transparency; training on handling incidents of modern slavery, forced labor and exploitation of third parties; and an appropriate monitoring framework for trade-based money laundering activities.

Illegal wildlife trade: the critical role of the banking sector in combating money laundering (Lupton, 2023), the research identified that the banking sector was well positioned to combat money laundering related to the Illegal Wildlife Trade (IWT) and, based on its international nature and strong focus on compliance, was able to effectively prevent the use of IWT proceeds as well as identify human trafficking networks wider. In addition, the banking sector has good capabilities to develop appropriate platforms to facilitate the exchange of financial intelligence information quickly, easily and effectively between banks at the local, regional and especially international levels.

Abnormal pricing in international commodity trade: Empirical evidence from Switzerland (Mehrotra & Carbonnier, 2021) concluded that pricing errors in the international trade in natural resources can cause a significant risk of tax base erosion in resource-rich developing countries, and also contribute to regulatory and financial risks for commodity trading centers. This analysis compared import prices at the transaction level with a fair price range that represents fair market value and determined by using current benchmark prices of commodity exchanges, adjusted for product-specific factors. It was found that imports of raw gold were undervalued and imports of cocoa and coffee were relatively undervalued.

Money Laundering and Wildlife Trafficking Crimes (FATF, 2020) which stated that eradicating money laundering from the illegal wildlife trade was needed high-level political commitment and better operational coordination between law enforcement officials responsible for wildlife crime and those working in anti-money laundering (AML). The public sector should work closely with relevant financial and non-financial institutions that play an important role in detecting IWT activities. This study provides practical actions examples that can be taken by the countries and the private sector can also take to improve their effectiveness. This study also highlights the important role of the FATF Standards as a framework in combating the laundering of such criminal proceeds. This report has greatly improved the FATF Global Network's understanding of the risk of Money Laundering proceeds from wildlife crime, and also highlights opportunities for future follow-up. This includes a better understanding of the threat that IWT poses to related non-financial businesses, differences in geographic flows and country risk profiles for different species, and good asset management practices regarding the illegal wildlife trade.

The difference between this research and former research showed that the research focus on money laundering from violations in the Customs sector in Indonesia, the data used was secondary data based on court decisions that have permanent legal force (*inkracht van gewijsde*) in 2022 which is supported by secondary data from 2019 to 2023, the analysis method used was a qualitative method.



## METHOD

The research method used to answer the research objectives was a qualitative method with design evidence derived from decisions that have permanent legal force (*inkracht van gewijsde*), namely the decision of the Batam State Court 580/Pid.B/2022/PN Btm dated 14 December 2022.

The data used was primary and secondary. Secondary data was gathered from the court decisions, INTRAC, and DGCE while primary data was based on the interviews, and sources from the Directorate General of Customs and Excise.

## RESULTS AND DISCUSSION

The Customs Law and the Excise Law give DGCE the authority to enforce the law in the Customs and Excise Sector (Ministry of Finance, 2006).

Criminal acts in the Customs Sector are prohibited by the Customs Law. Criminal acts in the Customs Sector (DGCE dan INTRAC, 2022), namely: Smuggling of Unmanifest Imports (Article 102 letter (a)), Smuggling of Unloaded Imports without Permit (Article 102 letters (b), (c), (d)), Unlawful Concealment of Imports (Article 102 letter (e)), Releasing Without an Import Permit (Article 102 letters (f), (g)), Export Smuggling (Article 102A), Customs Fraud (false customs declarations, manipulation of bookkeeping/record data, incorrect verbal statements) (Article 102 letter (h) Article 103 letters (a), (b), (c) Article 104 letters (b), (c), (d)), Detention of export/import goods (Article 103 (d) Article 104 (a)), Illegal access customs duties (Article 103A), and Breaking the seals (Article 105).

During the period of 2020 to March 2022, the most criminal acts in the Customs Sector as investigated by Investigator DGCE were Article 102 letter (a) in the group of unmanifest import smuggling offenses, Article 103 letter (a), Article 102 letter (f) and Article 102A letter (Purwana & Negara, 2023).

In addition of a law enforcer for violations in the Customs and Excise Sector, in accordance with the Customs Law and the Excise Law, DGCE is also a law enforcer for criminal acts of money laundering originating from Predicate Crimes in the Customs and Excise Field as per Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering (UU TPPU) (INTRAC, 2010).

The authority to investigate Money Laundering in the Customs and Excise sector by Investigator DGCE until 2021 able to identify some results in Money Laundering investigations as shown in table 3 below.

**Table 3 Number of Money Laundering Investigations in the Customs and Excise Sector by Investigator DGCE**

No	Customs Office	Year of start investigation (PDP)	Predicate Crime
1	Kudus	2018	Excise
2	Kudus	2019	Excise
3	Prime Customs and Excise Office type B Batam	2020	Excise
4	Regional Office Jateng dan DIY	2021	Excise
5	Head Office	2021	Customs
6	Regional Office Jakarta	2021	Excise

Source: (DGCE dan INTRAC, 2022)

The Money Laundering investigation from predicate crime in the Customs Sector was occurred in 2021. Violation of predicate crime in the Customs Sector, namely Article 102 letter of the Customs Law in the form of smuggling of unmanifest imports of cigarettes without excise stamps attached from Vietnam. Based on the definition of trade-based money laundering by the FATF, it is a process of disguising the proceeds of crime and transferring value through the use





of trade transactions in an effort to legitimize its illegitimate origin (FATF, 2006), this Money Laundering case can be categorized as TBML in Indonesia where the investigation is carried out by Investigator DGCE.

FATF mentioned that there are two modus basic of Trade Based Money Laundering namely over- and under-invoicing of goods and services, multiple invoicing of goods and services; over-and under-shipments of goods and services; and falsely described goods and services (FATF, 2006).

The description of money laundering is a smuggling of unmanifest imports of cigarettes without excise stamps as attached below is based on the decision of the Batam District Court which has permanent legal force (inkracht van gewijsde) number 580/Pid.B/2022/PN Btm dated 14 December 2022.

#### **Predicate Crime in the Customs Sector related to Money Laundering**

Predicate crime in the Customs Sector, based on the Money Laundering decision, it was an act of smuggling of unmanifest imports of cigarettes (tobacco products) without excise stamps attached from Vietnam to Indonesia (violating article 102 letter a of the Customs Law) totaling ±5,200 (five thousand two hundred) cartons, in Berakit Waters, Bintan District, Riau Islands Province, Indonesia.

The smuggling of unmanifest imports was potentially to cause a financial loss for the country because customs and taxation obligations was IDR41,188,534,000.00 (forty-one billion one hundred eighty-eight million five hundred thirty-four thousand rupiah) and it had not yet been paid yet. It potentially caused a financial loss for the country because cigarettes are tobacco products with Excisable Goods and are imported into Indonesia, they have the potential to cause a financial loss for the country immaterially, namely increasing the consumption of imported goods, affecting economic stability and having a negative impact on society.

#### **Predicate Crime Mode in the Customs Sector**

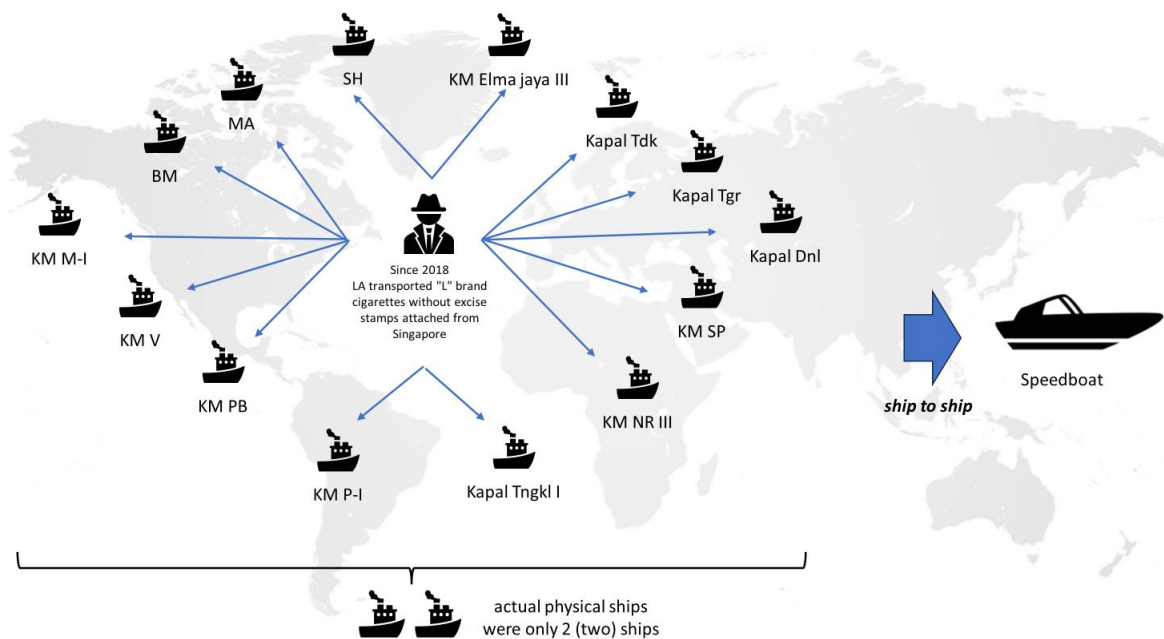
The perpetrator (LA) is the President Director of PT PPB which operates in the trading sector and is also the owner of the KLM P ship, sending "L" brand cigarettes without excise stamps attached from Vietnam and unmanifest. This is in line with the results of risk assessments on business entities which place types of business entities at high risk as a means of money laundering (Figure 1.4).

Since 2018, the perpetrator (LA) has transported "L" brand cigarettes several times without excise stamps attached from Singapore. He used ships with different names, but the actual physical ships were only 2 (two) ships.

One of the Public-Private Partnership (PPP) scheme collaborations is conducted through HT Agency (private), based on ESN documents, Shipping Orders and Import & Export Invoices, information was obtained that LA at least in the period August 2019 to June 2020 made 59 (fifty-nine) deliveries with a total of 104,161 boxes of "L" brand cigarettes without excise stamps from Singapore. Then LA sold these ships, and used them to buy KLM P ships.



**Figure 6 Transportation of "L" brand cigarettes without excise stamps attached from Singapore**



Source: (Batam District Court, 2022), processed by the author

The KLM P ship had 3 (three) times transported "L" brand cigarettes that were not attached with excise stamps from Vietnam to Berakit Waters, the details as seen in table 4.

**Table 4 Delivery of "L" brand cigarettes without excise stamps attached from Vietnam**

Period	Total
August 2020	±4.200 cardboards
September 2020	±5.000 cardboards
October 2020	±5.200 cardboards

Source: (Batam District Court, 2022), processed by the author

Delivery was conducted in October 2020 as many as ±5,200 cardboards and then taken by the Customs Riau Islands Specific Regional Office.

In delivering cigarettes without excise stamps attached and unmanifest, the perpetrator employs LS, J, and DS with different job description, as follow:

- LS is responsible for the speedboat to transport cigarettes when unloading from the KLM P Ship.
- J communicates with LA regarding the ship's departure schedule
- DS serves as KLM Ship Master.

LA ordered J to transport cigarettes without excise stamps from Vietnam, then J contacted DS. DS, on J's orders, left for Vietnam using the KLM P ship along with the crew list published by the PT BN shipping company. The cigarettes loaded were "L" brand cigarettes as many as ±5,200 (five thousand two hundred) cardboards.

The cigarette shipment arrived in Indonesian waters on October 22, 2020 at around 19.00 WIB, KLM P was awaited by a small speedboat carrying 4 (four) workers, namely CS, AKJ, MHS, and M. The 4 (four) workers then boarded KLM P and the small speedboat leave KLM P. After that, the large speedboat came and take the cargo of cigarettes without excise



stamps (ship to ship) which will carry the cargo of cigarettes without excise stamps to the islands in Indonesia.

During the demolition process, Customs and Excise Patrol BC 20007 Customs Riau Islands Specific Regional Office came, inspected and obtained "L" American blend cigarettes without Excise tape attached as many as 3,390 cardboards @ 50slop @ 10packs @ 20 cigarettes and "L" Lights cigarettes without Excise tapes attached as many as 1,750 cardboards @ 50slop @ 10packs @ 20 cigarettes.

The cigarettes shipped by DS from Vietnam were not protected by documents in the form of manifests, but only invoices, the departure and arrival of the KLM P ship were not notified to Customs and Excise, and the unloading activities was carried out in Berakit Waters, no permit from the Customs and Excise Office, and there are no Customs and Excise officers to supervise the demolition (unloading outside the customs area).

Smuggling of unmanifest imports of cigarettes without excise stamps attached was carried out by unloading the cargo in the middle of the sea and then moving the cargo to several high-speed crafts (HSC) (ship to ship).

#### **Profile of Money Laundering Perpetrators**

The perpetrator of money laundering for unmanifest imports of cigarettes without excise stamps was a 38 years old man, an Indonesian citizen (WNI), with a self-employed job as Main Director and ship owner. The perpetrator was in charge of administration and finance, paying the wages of all ship crews and speedboat crews, communicating with agents/cigarette owners in Vietnam and paying all bills related to cigarette transportation activities.

#### **Mode of Money Laundering**

Money laundering can be conducted by using very diverse modes, for example storing money in banking for purchasing certain assets. The stages of money laundering can be classified into 3 (three) types, namely Placement, Separation/Layering, and Integration (Asia Pacific on Money Laundering, 2012). Placement, layering and integration do not have to occur completely and sequentially, but can occur separately or singly to be categorized as a money laundering crime.

Placement is an effort to place funds from a criminal activity into the financial system, separation/layering is separating the proceeds of a criminal act through several stages of financial transactions to hide or disguise the origin of the funds. In this activity, there is a process of transferring funds from several accounts or certain locations of placement to other places through a series of complex transactions designed to disguise and eliminate traces of the source of the funds. Merger (integration) is an effort to combine or use assets that already appear legitimate, either for direct enjoyment, invested in various types of financial products and other material forms, used for finance legitimate business activities, or to refinance criminal activities (INTRAC, 2019).

The Government of the Republic of Indonesia defines money laundering into 2 (two) approaches, namely active actions and passive actions.

Active Actions anyone who places, transfers, diverts, spends, pays, gives away, entrusts, takes abroad, changes form, exchanges for currency or securities or other actions regarding assets which he knows or reasonably suspects criminal act. The aim of concealing or disguising the origin of assets, being convicted of the crime of money laundering; and every person who conceals or disguises the origin, source, location, designation, transfer of rights, or actual ownership of assets which he knows or reasonably suspects are the proceeds of a crime shall be punished for the crime of money laundering.

Meanwhile, Passive Action covers every person who receives or controls the placement, transfer, payment, grant, donation, safekeeping, exchange or use of assets which he knows or reasonably suspects for the proceeds of a criminal act, shall be punished with a maximum



imprisonment of 5 (five) years and a maximum fine of IDR1,000,000,000.00 (one billion rupiah).

The perpetrator was proven to have committed of TPA in the Customs Sector (Article 102 letter a) and the crime of money laundering as stipulated in the Money Laundering Law with active money laundering, namely placing, transferring, diverting, spending, paying, donating, entrusting, taking abroad, changing form, exchange for currency or securities or other actions for assets which he knows or reasonably suspects for the proceeds of a criminal act with the aim of hiding or disguising the origin of the assets.

In laundering the proceeds of his crime, the perpetrator (LA) hid or disguised the proceeds of the crime of selling "L" cigarettes which were not attached with excise stamps by placing the money from the sale of cigarettes in several accounts in the name of LA, as seen in table 5 below.

**Table 5 Placement of Proceeds of Crime in the Bank Account on Behalf of LA**

Bank	Bank Account	Total/Note
Bank AAA	3541xxxxxxxxxx 29 August 2017	Credit Rp2.236.914.789,00 (208 trx) Debit Rp2.236.912.514,00 (1.598 trx)
Bank AAA	0331xxxxxxxxxx 29 December 2017	Credit Rp1.235.032.932.852,00 (3.909 trx) Debit Rp1.235.032.932.852,00 (2.044 trx)
Bank AAA	0331xxxxxxxxxx 26 August 2020	Credit 13.535.083.927,00 (116 trx) Debit Rp13.531.272.970,00 (54 trx)
Bank BBB	8198xxxxxx	Credit 9.755.560.000,00 (cash deposits and book transfers). Overbooking Details: from H (Tembilahan) bank account 700xxxxxx Rp7.090.080.000,00 (16 trx) from AH Rek 585xxxxxx Rp1.891.750.000,00 (4 trx) Cash deposit details: from J total Rp584.000.000,00 (3 trx) from M total Rp189.000.000,00 (1 trx)
Bank CCC	034xxxxxxxxx	-

Source: (Batam District Court, 2022), processed by the author

In addition of bank account in LA's own name, the perpetrator (LA) pointed J and LS to open an account where the account was controlled by LA. The account controlled by LA to place money from cigarette sales as shown in the table 6.

**Tabel 6 Placement of Proceeds of Crime in the Bank Account on behalf of Other Name and Controlled by LA**

Bank	Bank Account	Total/Note
Bank AAA	0331xxxxxxxxxx on behalf of R	Credit Rp534.962.055.107,00 (2.314 trx) Debit Rp534.859.924.848,00 (1.244 trx)
Bank AAA	3541xxxxxxxxxx on behalf of R	Credit Rp484.349.125,00 (34 trx) Debit Rp483.928.058,00 (262 trx)
Bank AAA	0331xxxxxxxxxx on behalf of J	Large nominal withdrawal and transfer activities Transactions on behalf of LA Each withdrawal is accompanied by LA and immediately handed over to LA
Bank AAA	0331xxxxxxxx561 on behalf of LS (20 Nov- 2019	-



Bank	Bank Account	Total/Note
Bank AAA	0331xxxxxxxx567 on behalf of LS (21 Aug-2019)	-

Source: (Batam District Court, 2022), processed by the author

The money from criminal acts in the Customs Sector smuggled unmanifest imports of cigarettes without excise stamps attached, was then spent by LA. The purchasing and spending of money from criminal acts can be seen in table 7.

**Table 7 The Purchasing and Spending of Money from Criminal Acts (Proceeds of Crime) by LA**

Name of Product	Total (Pieces)	Price	Brand
High Speed Crafts (HSC)	6 (six)	@IDR300.000.000,00	Mercury at PT AMR
HSC Machine	5 (five)	@ IDR 300.000.000,00	Evinrude at ARH
HSC Machine	21 (twenty-one)	7 machines IDR 2.375.000.000,00 7 machines IDR 2.676.000.000,00 7 machines IDR 2.676.000.000,00	Yamaha 300PK at PT VSA Receipt on behalf of AL
Speedboat body manufacturing and repair	KLM P SB H	Size 21 meter Use 7 machines of Yamaha 300PK	PT AFG
Machines HSC	7 (seven) 7 (seven)	IDR 1.000.000.000,00 IDR 895.000.000,00	Toko AC PT VSA
House	2 (two)	IDR 724.525.000,00 (paid) Periodic/installment method	on behalf of MR (wife of LA) PT PKP
Ruko (shophouse)	6 (six)	IDR 2.568.500.000,00 (paid) Periodic/installment method	PT MMI
Manufacture of aluminum Cargo Vessel Hull type ships	1 (satu)	IDR 22.000.000.000,00	PT MG, Manufacture of ship is conducted by: PT RZM PT MDB PT RI PT FTU PT BCP PT MG
Exchange of foreign currency / Sending foreign money abroad	SGD9.000,00		Singapore Dollar Money Changer PT HE The purpose of paying for cigarette purchases in Singapore
Exchange of foreign currency	SGD417.545,00 SGD95.000,00		Money Changer PT HE

Source: (Batam District Court, 2022), processed by the author





The figure of mode and stages of money laundering in unmanifest cigarette imports smuggling is presented in Figure 7 below

**Figure 7 The Figure of Mode and Stages of Money Laundering in Unmanifest Cigarette Imports Smuggling**



Source: (Batam District Court, 2022), processed by the author

The mode of money laundering and smuggling of unmanifest imports of cigarettes without excise stamps attached, namely:

- International trade mode: unmanifest import smuggling, ship-to-ship
- Cash transactions;
- Use of multiple accounts and involving family/relatives;
- Money suspected to be the proceeds of crime is transferred to several bank accounts before being placed into the final form of asset;
- The nominees used are colleagues or relatives.

The mode that occurs in Indonesia, unmanifest ship to ship import smuggling, complements the basic Trade Based Money Laundering mode from the FATF, namely over- and under-invoicing of goods and services, multiple invoicing of goods and services, over- and under-shipments of goods and services; dan falsely described goods and services (FATF, 2006).

### **Punishment Sanctions**

Based on the decision of the Batam District Court number 580/Pid.B/2022/PN Btm dated 14 December 2022, the penalty is imprisonment for 2 (two) years and 8 (eight) months and a fine of IDR1,000,000,000.00 (one billion rupiah).

### **Asset Recovery**

In the customs crime, evidence in the form of cigarettes without excise stamps on the KLM P ship was destroyed. One of the characteristics of Money Laundering is that assets are confiscated for the state (asset recovery) because of the proceeds of crime (Proceeds of Crime). Money laundering and smuggling of unmanifest imports of cigarettes without excise stamps attached result in asset recovery as follow:

- Money (rupiah and foreign currency); and
- Transport facilities (ship) and machines.



- Total asset recovery in this case reached 44.6 billion rupiah (DGCE, 2022).

## **CONCLUDING REMARKS**

### **Conclusion**

Based on the results of the analysis and discussion, it can be concluded that violations in the customs sector for money laundering are customs violations of unmanifest imports (without customs declaration documents) of excisable goods in the form of cigarette tobacco products without excise stamps attached (excise has not been paid). The mode used is ship to ship by unloading and moving cargo in sea.

The stages of the money laundering process were conducted by placing the proceeds of crime in several bank accounts in the name of the perpetrator and in other person names, layering the proceeds of crime by transferring, exchanging them in foreign currency, taking them abroad and purchasing assets, then integrated into shophouse assets and transportation facilities. Proceeds of Crime from predicate crime in the Customs Sector had carried out asset recovery (using the Money Laundering act article) namely money (rupiah and foreign currency) and transportation facilities.

This case is the result of collaboration between law enforcers in the Customs Sector (DGCE) with other law enforcers as the members of the Money Laundering task force with the private sector, namely financial service providers (financial service provider) and goods and services providers (providers of goods and services). Cooperation in the PPP context can be carried out to eradicate money laundering crimes.

### **Suggestion**

Based on the research results, it is clear that violations in the customs sector have sufficient evidence of a crime, investigation of predicate criminal acts can be conducted, and money laundering investigations and asset recovery can be also carried out. PPP cooperation can be optimized to prevent and eradicate violations in the Customs Sector used as a means of money laundering.

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