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Accountability of Illegal Importers Using The "Change of Clothes" Method in The Customs Clearance Process

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ABSTRACT: Illegal import practices using the "change of clothes" method have increasingly become a significant challenge in Indonesia's international trade system, particularly within the customs clearance process. This method involves changing corporate identities or establishing new legal entities to evade administrative sanctions, license revocation, and blacklisting imposed on previous companies. This study aims to analyze the legal liability of illegal importers employing the "change of clothes" method and to evaluate the effectiveness of the customs supervision system in preventing and detecting such practices. This research adopts a normative legal research method using statutory and case approaches. Primary, secondary, and tertiary legal materials are analyzed qualitatively. The analytical framework is grounded in the theory of strict liability and the Economic Analysis of Law to assess the rational behavior of business actors in committing import violations. The findings indicate that the current legal liability framework for illegal importers remains ineffective, as sanctions are predominantly imposed on formal legal entities rather than on the controlling parties or beneficial owners. This condition enables repeat violations through newly established companies. Furthermore, the customs supervision system continues to face structural weaknesses, particularly in the lack of integrated licensing data for Importer Identification Numbers (API) and Business Identification Numbers (NIB), as well as insufficient inter-agency coordination. From the perspective of the Economic Analysis of Law, the low probability of detection and weak deterrent effect of sanctions make illegal import activities a rational economic choice for business actors. This study concludes that strengthening a strict liability-based legal accountability framework and enhancing integrated customs supervision focused on beneficial ownership identification are essential to effectively prevent illegal imports, reinforce legal certainty, and safeguard market integrity in Indonesia's domestic trade system.

KEYWORDS: illegal import, change of clothes method, legal liability, customs supervision, economic analysis of law.

I. INTRODUCTION

International trade is one of the important pillars in supporting national economic growth.[1] Ideally, the trading system is regulated based on the principles of openness, fairness, and legal certainty. Within the framework of das Sollen, Indonesian trade law places the principles of legal certainty, fairness, and benefit as its main foundations. This is reflected in Law Number 7 of 2014 concerning Trade, Law Number 17 of 2006 concerning Customs, and various implementing regulations that govern import management and business compliance obligations. Normatively, these regulations are aimed at ensuring the smooth flow of goods, preventing fraudulent practices, protecting compliant business actors, and ensuring the optimization of state revenue.

However, empirical conditions show that the import legal system in Indonesia still has various loopholes, especially in the aspect of importer licensing administration, such as the Business Identification Number (NIB) and Importer Identification Number (API) through the Online Single Submission (OSS) system. The licensing mechanism, which is based on self-assessment and minimal substantive verification, makes it easy for business actors to establish new entities in a short period of time. This loophole is exploited by illegal importers through a "change of clothes" modus operandi, which involves changing the name of the company or establishing a new limited liability company (PT) to avoid administrative sanctions, revocation of licenses, or inclusion of the company in the blacklist.

This phenomenon is not merely an administrative anomaly, but reflects structural weaknesses in the licensing and customs supervision system. Data from the Ministry of Trade in 2025 shows the disclosure of illegal import cases worth Rp 26.4 billion

[1] Ignatius Sinar Pandin, Anita Sabara Sutphin, Diana R. W. Napitupulu, "Peran dan Efektivitas Perjanjian Perdagangan Internasional dalam Mendukung Stabilitas Ekonomi Nasional menurut Hukum Internasional dan Hukum Nasional", *Jurnal Hukum Sasana*, Volume 11, Nomor 1, 2025, hal. 219-228. https://doi.org/10.31599/sasana.v11i1.3969

carried out through the modus operandi of changing company identities in the period from January to July 2025. This method successfully circumvented the system because the blacklist only applies to specific legal entities, not to beneficial owners. Member of the Indonesian House of Representatives Darmadi Durianto emphasized that the "change of identity" method has become a recurring phenomenon, which shows the weak integrity of the licensing system and the lack of integration of supervision between agencies.[2]

The economic losses resulting from illegal imports are also very significant. The Ministry of Industry estimates that the potential losses to the state amount to Rp 6.2 trillion per year from the textile sector, consisting of Rp 1.4 trillion in lost tax revenue and Rp 4.8 trillion in uncollected import duties.[3] The Indonesian Filament Fiber and Yarn Producers Association (APSyFI) recorded approximately 72,250 containers of illegal textile imports entering Indonesia between 2019 and 2023, with state losses estimated at Rp46 trillion.[4] This figure shows the massive impact of illegal imports on the national economy.

The losses are not only fiscal, but also affect the sustainability of domestic industries. Illegal products with low prices depress market prices and threaten the existence of local industries, especially micro, small, and medium enterprises (MSMEs) that find it difficult to compete with illegal imports. The seizure of 19,391 bales of illegal imported used clothing in August 2025, worth IDR 112.35 billion, shows how illegal imports are still rampant despite the government's ban through Minister of Trade Regulation No. 40 of 2022 concerning Prohibited Imported Goods.[5] This phenomenon reflects the inability of existing regulations to close loopholes for smuggling and weak supervision in the field.

From a business law perspective, illegal import practices using the "change of clothes" method raise serious issues related to the trade climate and legal certainty. For law-abiding businesses, the existence of illegal competitors erodes trust in the legal system and undermines healthy business competition. Furthermore, this situation also affects Indonesia's image in the eyes of international trading partners. If the legal system is perceived as weak and easily manipulated, investment attractiveness will decline and the potential for international collaboration may be hampered.[6]

The urgency of this research becomes even more apparent when linked to aspects of legal accountability and the monitoring system. Normatively, there are administrative and criminal sanctions, including revocation of business licenses, export obligations, and even destruction of goods. However, in practice, this accountability system is not effective due to loopholes in monitoring the identities of perpetrators. Perpetrators can easily avoid blacklist sanctions by changing the identity of their company, registering a new limited liability company through the OSS, obtaining a new NIB and API, and then resuming import activities without the burden of previous sanctions.

From the perspective of Economic Analysis of Law, as proposed by Richard A. Posner, this problem can be understood as a matter of incentive imbalance. Rational business actors choose the "change of clothes" mode because the cost of violation is lower than the profits obtained. The low probability of detection due to weak customs supervision and data fragmentation between agencies makes import violations an "economical" action for perpetrators. Thus, the legal system has not been able to create an adequate deterrent effect.

In addition, there is urgency from the legal policy side. The government has launched various regulations to tighten imports, but supervision is still fragmented between agencies. In 2024, President Joko Widodo highlighted the need for cross-sector import data integration because the lack of synchronization of data between ministries/agencies opens up opportunities for smuggling and permit manipulation.[7] The lack of integration between the API/NIB databases of the Ministry of Trade, Customs, and OSS-RBA has resulted in partial and non-adaptive supervision of new modes of violation.

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[2] Shafira Cendra Arini, "Kemendag Bongkar Impor Ilegal Rp 26,4 M, Modusnya Ganti Nama", detikFinance, terdapat dalam https://finance.detik.com/berita-ekonomi-bisnis/d-8047550/kemendag-bongkar-impor-ilegal-rp-26-4-m-modusnya-ganti-nama, diakses pada 18 Agustus 2025, Pukul 12.01 WIB.

[3] Shofi Ayudiana, "Kerugian Negara Akibat Impor Tekstil Ilegal ditaksir Rp. 6,2 Triliun", Antaranews, terdapat dalam https://www.antaranews.com/berita/4242907/kerugian-negara-akibat-impor-tekstil-ilegal-ditaksir-rp62-triliun, diakses pada 18 Agustus 2025, Pukul 13.00 WIB.

[4] Damiana, "Kacau! Diam-Diam Lebih 72.000 Kontainer Tekstil China Ilegal Hajar RI", CNBC Indonesia, terdapat dalam https://www.cnbcindonesia.com/news/20241128113034-4-591770/kacau-diam-diam-lebih-72000-kontainer-tekstil-china-ilegal-hajar-ri, diakses pada 18 Agustus 2025, Pukul 14.20 WIB.

[5] Yuga Hassani, "Kemendag Sita 19.391 Bal Baju Bekas Impor Ilegal Senilai Rp 112 Miliar", detikFinance, terdapat dalam https://finance.detik.com/berita-ekonomi-bisnis/d-8068759/kemendag-sita-19-391-bal-baju-bekas-impor-ilegal-senilai-rp-112-miliar, diakses pada 18 Agustus 2025, Pukul 14.25 WIB.

[6] Monica Intan Farilla, "Kebijakan ESG dan Greenwashing: Bagaimana Investor Memutuskan untuk Berinvestasi", *Bookchapter Manajemen Keuangan,* Volume 1, 2025, hal. 150-172.

[7] Siaran Pers Kementerian Koordinator bidang Perekonomian Republik Indonesia Nomor HM.4.6/173/SET.M.EKON.3/05/2024 dengan judul Atasi Kendala Perizinan Impor serta Penumpukan Kontainer di Pelabuhan, Pemerintah Berlakukan Permendag Nomor 8 Tahun 2024, dapat diakses dalam https://www.ekon.go.id/publikasi/detail/5779/atasi-kendala-perizinan-impor-serta-

Based on the above problems, this study needs to be conducted to analyze the legal responsibility for the "change of clothes" modus operandi and evaluate the customs supervision system in preventing legal import practices with the following problems: what is the form of responsibility of illegal importers using the "change of clothes" modus operandi in the customs clearance process in Indonesia? And how does the customs supervision system prevent and detect business actors who engage in illegal imports using the "clothing change" modus operandi in the customs clearance process? The objectives of this study are to analyze the form of liability of illegal importers who use the "clothing change" modus operandi in the customs clearance process in Indonesia and to examine and evaluate the customs supervision system in preventing and detecting illegal import practices using the "clothing change" modus operandi in the customs clearance process.

II. RESEARCH METHOD

This study uses a normative juridical research method, which focuses on examining legislation, doctrine, and legal principles relevant to the issues of importer liability and customs supervision.[8] Normative legal research was conducted to examine the applicable legal norms related to trade, imports, customs, and law enforcement mechanisms in order to assess the effectiveness of sanctions against illegal importers using the "change of clothes" modus operandi.

The approach used in this study is the statute approach, by examining the provisions contained in Law Number 7 of 2014 concerning Trade, Law Number 17 of 2006 concerning Customs, and related implementing regulations. In addition, a case approach is also used, by examining cases related to illegal import activities as supporting material for analysis in the study.

III. RESULTS AND DISCUSSION

A. *Accountability of Illegal Importers Using the "Change of Clothes" Method in Customs Clearance*

International trade plays an important role in supporting Indonesia's economic growth. Smooth import and export flows are the driving force behind industry, goods distribution, and global market connectivity. In the context of trade law, the customs system plays a central role in monitoring the movement of goods, ensuring compliance with licensing requirements, and securing state revenue. Customs and Excise acts as a strategic institution that bridges the need for smooth trade with law enforcement interests through service and supervision mechanisms. The customs clearance process is the main gateway that determines whether goods can leave the customs area and circulate domestically. Therefore, the integrity of this process is crucial to the overall effectiveness of customs supervision.

In recent years, the increase in illegal import activities has posed a serious challenge to the customs system. Official data shows that throughout 2024, the Directorate General of Customs and Excise took more than 31,000 actions against illegal trade. This number reflects the high intensity of attempts to bring goods into Indonesia without complying with customs regulations. The types of violations found vary widely, ranging from the smuggling of used clothing, electronic goods, illegal cigarettes, cosmetics, to medicines. These cases show that perpetrators exploit various administrative and supervisory loopholes to bring in goods without going through official procedures.

The Ministry of Trade also took action against the entry of large quantities of illegal imported used clothing. Throughout 2024, more than twenty thousand bales of used clothing were seized with a value of more than one hundred billion rupiah. Most of these illegal used clothes entered through small ports and unofficial distribution channels before being distributed to various regions. In addition to harming the country, the existence of these goods puts pressure on the national textile industry, which is facing various global challenges. In fact, a number of reports mention that the upstream textile industry is in a slump due to a flood of illegal imports that have caused market prices to fall unreasonably and disrupted the sustainability of domestic businesses.

Import violations are not limited to used clothing. The smuggling of garments, textile raw materials, and finished clothing has also increased. Investigations by several media outlets have revealed loopholes in the goods declaration process, where customs values, goods classifications, and quantities can be manipulated to reduce import duties. Police reports also show that in the last three months, several smuggling cases have been uncovered, including the smuggling of consumer goods at major ports and remote sea routes. These findings illustrate that import smuggling not only exploits administrative loopholes but also structured distribution networks.

Amidst these various forms of violations, a phenomenon has emerged that is becoming increasingly prominent, namely the "change of clothes" modus operandi. This modus operandi involves changing the identity of a business entity, establishing a new company, or using the legality of another company to continue import activities after the previous company has been indicated to have violated regulations or is potentially blacklisted. In 2025, the Ministry of Trade uncovered illegal imports worth tens of billions of rupiah carried out through new companies established after the old companies were identified as problematic. This

penumpukan-kontainer-di-pelabuhan-pemerintah-berlakukan-permendag-nomor-8-tahun-2024, diakses pada 18 Agustus 2025, Pukul 19.00 WIB.

[8] Tina Amelia, *Metodologi Penelitian Hukum: Panduan Terstruktur untuk Penelitian dan Analisis Hukum,* Kaya Ilmu Bermanfaat, Jawa Barat, 2025, hal. 85.

practice shows that perpetrators deliberately exploit weaknesses in the licensing system, particularly in the issuance of API and NIB through the OSS system, which allows for the rapid creation of new business identities without in-depth verification of beneficial owners.

The phenomenon of "changing clothes" is not only found in the import of goods. In the context of digital commerce, sellers of illegally imported used clothing often change the names of their online stores, making it difficult for e-commerce platforms to track their trading activities. This shows that the practice of changing clothes does not only occur in the physical realm, but also in the growing electronic commerce ecosystem.

The change of company or business identity is done in an effort to avoid administrative sanctions, erase records of violations, and create opportunities to continue illegal activities with a new identity. This phenomenon is closely related to the issues of business competition and consumer protection. Illegal importers obtain unfair profits by avoiding import duties, taxes, and licensing obligations.

This practice creates market distortions that harm law-abiding businesses. From the perspective of fairness in business, this action constitutes unfair competition because illegal actors can sell goods at lower prices, disrupting the price structure and reducing the competitiveness of domestic industries. From the consumer's point of view, illegally imported goods are potentially dangerous because they do not undergo safety and quality testing, thereby weakening consumer protection.[9]

To analyze the responsibility of perpetrators in the context of customs, the theory of strict liability provides an appropriate theoretical basis. In a customs regime based on self-assessment, importers are fully responsible for the accuracy of documents and the validity of the permits used. Strict liability allows law enforcement without the need to prove subjective elements of fault. Importers remain liable for violations even if they claim ignorance of document errors or that the violation was committed by a third party. This principle makes it easier for customs authorities to enforce the law against administrative violations that are often technical but significant in nature.

The construction of illegal importer liability places the perpetrator as the party with a legal obligation to comply with all customs clearance procedures, from submitting the PIB, undergoing document and physical inspections, to paying state levies. When manipulation, discrepancies, or the use of new business entities to avoid sanctions are discovered, the responsibility remains with the actual perpetrator.

A change of business entity does not eliminate the substantial identity of the perpetrator, especially if there is a relationship of ownership, control, or continuity of business activities. The application of strict liability to perpetrators who engage in a change of identity directs the analysis towards the continuity of legal responsibility regardless of changes in formal entities. Even if a new company is formed, the beneficial owner remains the responsible party.

This is important because in modern business practice, legal entities are often used as a means of separating personal liability, but in the context of customs violations, legal entities should not be used as a shield to avoid the sanctions that should be imposed.[10]

Analysis of the illegal import case uncovered by the Ministry of Trade shows that the new company used by the perpetrators has indications of links to the previous company, both through its ownership structure and operational activities. From a strict liability perspective, the perpetrators can still be held accountable for all illegal import activities. The use of a new business entity is merely an administrative measure that does not eliminate the substance of the violation. From a business perspective, this action shows the exploitation of legal loopholes to obtain economic benefits by breaking the law, thereby damaging market integrity and undermining the trust of business actors who comply with the legal system.

Thus, the application of strict liability provides a strong conceptual and normative basis for asserting that the legal responsibility of importers lies with the actual business actors, regardless of the formal identity of the company used. This principle is relevant to prevent the recurrence of the practice of changing identities and to ensure that perpetrators cannot avoid legal consequences by changing the identity of their business entity. Through the application of this principle, the customs system is expected to strengthen its monitoring mechanisms and create legal certainty for business actors, as well as protect consumers and domestic industries from the negative impacts of illegal imports.

B. ***Customs Surveillance System for "Clothing Replacement" Modus Operandi in the Customs Clearance Process***

Customs supervision is a fundamental instrument in maintaining order in the flow of goods and ensuring compliance with legal provisions governing import and export activities. In the international trading system, supervision not only functions as a law enforcement mechanism, but also as a means of protecting national interests, maintaining the stability of domestic industries, and ensuring public safety. The Directorate General of Customs and Excise has a strategic role in carrying out this function through a

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[9] Suherman, dan Sonyendah Retnaningsih, "Protection of Brand Rights According to Law in Indonesia and Regulations of International Brands", *Law and Humanities Quarterly Reviews*, Vol.1 No.1 (2022), hlm. 1-8. DOI: 10.31014/aior.1996.01.01.3

[10] Muthia Sakti, Dwi Aryanti Ramadhani, dan Yuliana Yuli Wahyuningsih, "Perlindungan Konsumen Terhadap Beredarnya Makanan Yang Tidak Bersertifikat Halal", *Jurnal Yuridis*, Vol. 2, No. 1 (2015), hlm. 62–77. https://doi.org/10.35586/.v2i1.161

series of supervisory activities, including document examination, physical inspection of goods, customs audits, intelligence activities, and enforcement of violations. The effectiveness of supervision greatly determines the quality of trade governance and the credibility of a country's customs system.

Customs clearance, as the most important operational stage in the import process, is a crucial point in customs supervision. At this stage, Customs and Excise verifies the documents submitted by importers, assesses the conformity between the documents and the goods, and ensures that the goods entering the country meet the legal and licensing requirements. Customs clearance is the space where service and supervision meet, because on the one hand, the state is obliged to facilitate trade, but on the other hand, it must ensure that no violations are committed through document manipulation or misuse of importer identities.

Several cases that have come to public attention demonstrate the complexity of this supervision. One example is the case of paragliding equipment belonging to a national athlete that was detained by Customs, which sparked public debate about inspection procedures. This case shows that customs supervision requires good communication to avoid misperceptions, even though such actions are part of standard operating procedures to ensure the safety and compliance of imported goods. On the other hand, the modernization of surveillance technology continues through the installation of high-resolution container scanners at a number of major ports. The use of sophisticated scanners helps increase the probability of detecting violations without slowing down the flow of goods, thus providing a balance between compliance and service efficiency.

However, the challenges in surveillance are not only related to physical inspection of goods, but also to the validity of the importer's identity and the accuracy of the information in the documents. In a number of cases of smuggling of used clothing, garments, and other commodities, it was found that many violations were committed through document manipulation, such as reduction of customs value, misclassification of goods, or use of invalid permits. Loopholes in the document verification system allow perpetrators to exploit administrative weaknesses to pass goods that should not meet customs requirements. This condition shows that document-based supervision must be strengthened so that it is not easily abused by perpetrators who have sufficient knowledge of regulatory loopholes.

In this context, the emergence of the modus operandi of changing identities further complicates the task of customs supervision. This modus operandi involves changing the identity of a company, establishing a new business entity, or borrowing the identity of another company to avoid sanctions or a record of violations. A case uncovered by the Ministry of Trade shows how a new company was used as a vehicle to continue illegal imports worth tens of billions of rupiah after the previous company was indicated to have committed violations. A similar phenomenon is also seen in e-commerce, where sellers of illegally imported used clothing often change their store names periodically to avoid being blocked by e-commerce platforms. This modus operandi is a strategy that exploits the weakness of the importer identification system, which is not yet able to accurately link business entities with their beneficial owners.

The Economic Analysis of Law approach provides a logical explanation for why businesses choose to change their identities. According to this theory, legal violations are chosen when the economic benefits gained from the violation are greater than the costs that must be borne if caught. In the practice of illegal imports, perpetrators reap huge profits from avoiding import duties, import taxes, and selling goods at prices lower than market prices. On the other hand, the costs of violation are relatively low due to the low probability of detection and administrative sanctions that do not create a deterrent effect. If an old company is frozen or sanctioned, the cost of establishing a new company is very low, so that the expected cost of violation remains smaller than the benefits.

From the perspective of Economic Analysis of Law, several weaknesses in customs supervision can be identified. First, verification of the legality of importers relies too much on the formal identity of business entities, rather than on beneficial ownership. As a result, perpetrators can easily transfer their business activities to new companies. Second, there are limitations in data integration between licensing agencies, so that records of violations are not automatically visible in subsequent licensing or customs clearance processes. Third, the implementation of risk management that prioritizes the green channel can be exploited by actors with certain profiles to pass goods without in-depth inspection. Fourth, the sanctions imposed are not commensurate with the benefits of the violation, so they do not create an effective disincentive for perpetrators.[11]

A comparative evaluation of the costs and benefits of violations shows that the current surveillance system has not created an appropriate incentive structure. The economic benefits of illegal imports are enormous because perpetrators can sell goods at low prices and enjoy high profit margins. Meanwhile, potential losses due to enforcement only occur if perpetrators are caught, and even if caught, perpetrators only bear losses to companies that formally import. Because perpetrators can easily create new companies, sanctions do not touch the root of the problem, namely the beneficial owner. This condition makes compliance not a rational choice for business actors who are only oriented towards short-term profits.

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[11] Suherman, dan Shinta Dwi Enggraini, "Efektivitas Penyelesaian Sengketa Oleh Badan Penyelesaian Sengketa Konsumen (BPSK) Jakarta Melalui Proses Konsiliasi: Dispute Settlement Effectiveness By The Jakarta Consumer Dispute Settlement Agency (BPSK) Through the Conciliation Process", *Reformasi Hukum*, Vol. 26, No. 1, Jun. 2022, 98–115. DOI: 10.46257/jrh.v26i1.393.

To strengthen the effectiveness of supervision, an incentive-based supervision design is needed to make compliance the most rational choice and violations an expensive option for perpetrators. First, supervision must be integrated with the identification of beneficial ownership so that perpetrators cannot avoid responsibility simply by changing the identity of the company. Second, the integration of API, NIB, OSS, and importer profiling system data needs to be strengthened so that a track record of violations can be detected from the early stages of licensing. Third, the probability of detection needs to be increased through a combination of scanning technology, more massive customs audits, and risk analysis based on historical data of violations. Fourth, administrative sanctions must be redesigned to be commensurate with the economic value of the violation, including the freezing of all business entities related to one beneficial owner, not just the company used to carry out illegal imports.

By adopting an incentive-based surveillance design, the customs system will be able to respond to increasingly sophisticated modes of violation, including disguised modes, and ultimately create legal certainty, protect domestic industries, and ensure that the integrity of international trade is maintained.

CONCLUSIONS

The form of liability for illegal importers who change their identity during customs clearance in Indonesia is a liability that remains attached to the business operator or beneficial owner, covering administrative, civil, and criminal areas, even if the perpetrator changes or establishes a new business entity. In the administrative sphere, importers may be subject to sanctions in the form of customs fines, reassessment of import duties and taxes, re-export or destruction of goods, freezing or revocation of API and NIB, and inclusion in a blacklist. In the civil sphere, the perpetrator may be required to pay compensation if the illegal import causes losses to the state, other business actors, or consumers, especially in relation to unfair business competition. In the criminal sphere, the perpetrator may be subject to imprisonment and fines if they are proven to have committed smuggling, provided false information, or concealed their identity to avoid customs obligations as stipulated in the Customs Law. The application of the principle of strict liability ensures that such responsibility cannot be avoided through a change of identity. Changing the name of a company, establishing a new business entity, or using a nominee does not remove the substantive responsibility of the perpetrator who controls and benefits from illegal import activities.

The customs surveillance system against the practice of changing identities in the customs clearance process in Indonesia is supported by document inspection mechanisms, risk-based physical inspections, customs audits, intelligence activities, and the use of container scanning technology that strengthens the probability of detecting violations. Various regulations regarding API, NIB, OSS, prohibitions and restrictions, and other customs obligations have provided a normative foundation for Customs and Excise in carrying out its supervisory functions. However, the effectiveness of supervision still faces a number of obstacles, mainly because the verification of importer identities still focuses on formal business entities and does not fully take into account beneficial ownership, thus providing room for actors to continue import activities through new companies. In addition, inter-agency data integration is not yet optimal, the probability of detecting administrative modus operandi is relatively low, and the sanction structure has not created adequate economic disincentives. As a result, the cost of violations remains lower than the profits obtained, so that economically, the modus operandi of changing identities is still a rational choice for business actors.

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