Parallel Imports In The Harmonization of Customs Policies

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Background Research (1)

- The Parallel Import is a controversial activity and often are labeled gray market;

- Skinner (1999) defines the gray market goods as the goods imported into a country, then compete with the local products. Both domestic and foreign goods have a valid trademark but they directly compete with domestic trademark which is legally registered.

- The parallel imports have financial consequences on the licensed distributors, because they do not earn enough income from the sale of their branded goods.
There are two different views in response to parallel imports:

- **The first view**
  - Restrictions on the parallel imports is considered to strengthen the control of the holder of intellectual property rights over the distribution channels that allow for market segmentation which leads to price discrimination.

- **The second views**
  - The parallel import restrictions are against to the spirit of free trade which has become the basic principle of multilateral and regional trade agreements.
  - The occurrence of trade barriers will lead to undesirable economic effects.
  - The principle of international exhaustion which provide benefits to consumers would affect parties that have license of intellectual property rights.
TRIPs Agreement

- Are intended to reduce unauthorized mimic the activity related to international trade that imitate the activity is very significant

- TRIPS Agreement, Article 6, allowing "the exhaustion doctrine."
  - The Countries are possible to make their own laws regarding whether to allow parallel imports or not - if they do, it is considered they have decided to support the doctrine of "exhaustion" or "First Sale".
Research Question

- As we know that the customs authority has some essential functions in protecting society and its role in achieving a fair and equitable international market, so that the research problem: "How harmonization of customs policies in response to the practice of parallel importation related to the doctrine exhaustion and the TRIPs Agreement World Trade Organization?".
The purpose of this study aimed to obtain input to harmonize customs policies in response to the practice of parallel importation related to the doctrine exhaustion and the TRIPS Agreement of the World Trade Organization.
Research Method

- This research uses descriptive analysis combined by comparative and literature study;
- Literature study addressed to literature of the doctrine of exhaustion and TRIPs agreement;
- Comparative study addressed to the customs policies of some countries in the world.
Harmonization Of Customs Policy in The Various Viewpoints

- The National Exhaustion
- The International Exhaustion
- The Selective International Exhaustion by Product Class
Harmonization of Customs Policies On The Economic Consequences of The Principle of Parallel Trade

• The point of view of The National Welfare and The Parallel Trade

• The Viewpoint of The World Welfare and The Parallel Trade
  ◦ The Effect of Uniform Pricing on World Welfare;
  ◦ The Effect of Non uniform Pricing on World Welfare;

• The Trading Blocks

• Overall Economic Outlook
TRIPs and Relation to the Protection of IPR by Customs Authority

- Implementation of IPR Protection by the Customs Authority
- Suspension Temporarily Imported or Export Goods by Customs Authority
- Examination of Goods By Holder/Owner Rights
- Suspension of Goods For Ex-Officio Action
The Parallel Imports of Pharmaceutical Products

- The main goal of this parallel import arrangement is to gain better access to drugs that are cheaper and affordable.
- Depend on the government policy to support the availability and affordability of medicines for wider society.
- Aimed at pharmaceutical products that have been marketed at a price that exceeds the price of the international
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