

THE PROBLEM OF CASH COURIER UNDER ANTI MONEY LAUNDERING REGIME AND ITS EFFORT TO CUT ECONOMIC CRIME

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ABSTRACT

The regulation of cash courier in Law on Money Laundering in Indonesia is explicitly mentioned in the Article 34, 35, and 36, without further explanation on how to implementing it in practice. As it is known, the problem of cash courier is not only dealing with the work of money laundering law, but also customs law. There is still unclear distinction between the implementation of cash courier and cash smuggling, in especially relate with the money laundering implementation. Under the law of customs and the law of money laundering, there is unclear process whether it is proceeds with law of customs or law of money laundering. This paper will assess how can the elaboration between law of anti-money laundering and law of customs work together to solve the handicap problem of the duties of customs and PPATK, and seek solution whether customs information networking will strengthen the way to combat money laundering as a part of an economic crime. This legal research is a qualitative research that based on inductive way of thinking through hermeneutic interpretation in order to get a theory and then conducting analysis process to solve the problem comes dealing with issue of Cash and Barrier Negotiable Instruments (BNI) carrier, the loopholes to proceeds with the characteristic of money laundering, and the idea to request the customs to be united to work on hadling problem of money laundering through cross border cash courier. In the end, this paper will assess how the laws can be optimized to handle cash courier problem regarding with money laundering, and regarding with ASEAN Economic Community issue to strengthen the Customs Union Security.

Keywords: cash courier, money laundering, customs union security, economic crime

INTRODUCTION

As world recognize nowadays, the efforts to tackling money laundering has face so many barriers. One of the effect of globalization era is the increasing of sales of goods and services which have been cause the

rotation of money as an instrument of payments. The sales of goods and services is not only localized, but also state border, and it is impacted that the payment flowing is not only commit through bank and non bank funds transfer, but also in cash payment. Goods and services payment through Cash Courier has increases of the case carrier in and out of customs. The responses of the cash courier is happen in Indonesia and Thailand and also in other country especially in Developing Country. Jeffrey Robinson in book *The Laundrymen, "Inside Money Laundering the World's Third-Largest Business* explains that cash money is the interesting tools for peoples, "Hard currency is King". The Government of Kenya has detected that someone could carry cash currency out form customes up to US\$ 500,000 without permission" (Robinson, 1996: 271). Hence, the problem of cash carrying or cash courier will come up with troublesome since people still thinking that hard currency still the favorite to be carried. Cash courier itself has been regulated. The New FATF has already mentioned also that cash courier can be one problem of money laundering. In the national level, Indonesia has regulated also in some Laws. Article 1 number 2 of Bank Indonesia Regulation Number 4/8/PBI/2002, mention: "Carrying Rupiah Currency out of or into the customs territory of the Republic of Indonesia is the carrying in or carrying out of Rupiah Currency by means of carrying on one's person or through another party, with or without means of transportation". Thus cash courier is the term which is refers to the action of anyone who carries money, both in Rupiah currency and/or other currencies. While the definition of Rupiah currency, as mention in the Article 1 number 1 of Bank Indonesia Regulation explains: "Rupiah Currency is banknotes and coins comprising legal tender in the territory of the Republic of Indonesia". The problem faces right now is not dealing with the cash, but also BNI (Bearer Negotiable Instruments) and New Payment Systems and Products (NPSPs). Lisanawati (2015) in her paper mention about the importance of cash courier that is:

The problem of money laundering which can arising negative impact for economic of a country as a part of illicit Capital Flight, is easily can be done through Cash Courier cross border transportation. In this matter, Asian Development Bank (2003) has mention: "Money Laundering can be seen as a key element in illicit capital flight from throughout the developing world..." The cash courier in and out of area of Customs can be a modus of money smuggling. (Lisanawati, 2016: 10). Cash courier here is the cash carrying and/or out of Indonesian Customs territory. According to the Article 1 number 3 of Bank Indonesia Regulation, it states that: "Customs Territory of the Republic of Indonesia is customs territory as referred to in

the Republic of Indonesia Law Number 10 of 1995 concerning Customs and Excise". Further this Law Number 10 of 1995 has been amendment with Law Number 17 of 2006 concerning Customs. Article 1 number 2 of Law Number 17 of 2006 explains:" Customs Area is Indonesian territory consisting of land, water, and air, and certain areas in Exclusive Economic Zone and the continental shelf where this Law is applicable". Thus, the definition of Customs territory is including the land, the water and the air, and also areas in Exclusive Economic Zone and the continental shelf. In the context of money laundering here, the aspect will be broadening as the nature of money laundering itself that is cross border crime.

But the problem is the Law on Money Laundering is not yet regulate further about how is its implementation, since money laundering has its characteristic, not only dealing with the performance of taking money out and in of Indonesia to other jurisdiction. Other problem may come up in the discussion that is the coordination between customs in each jurisdiction. In regards with this the issue of AEC will affect its strengthening. Indonesian Financial Analysis and Transaction Report (further will called as INTRACT) as known as a focal point in Money Laundering called as PPATK, has published in their Statistic Bulletin about Cash Courier Transaction Report. In their website that has been updated on April 9th 2016 mention there is 3 reports of LPUT (cash courier report) that has been increased since February 2016. (PPATK, 2016) Due to the importance of cash courier analyzing, the problem that will be discussed in this paper is "What are the difficulties of cash courier under money laundering regime that will be handled effectively thus it can cut the problem of economic crime?"

LITERATURE REVIEW

The New Financial Action Tasks Force (FATF) 2012 Number 32 has also regulating about the importance of countries to aware about cash courier, as below:

Countries should have measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments, including through a declaration system and/or disclosure system. Countries should ensure that their competent authorities have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing, money laundering or predicate offences, or that are falsely declared or disclosed. Countries

should ensure that effective, proportionate and dissuasive sanctions are available to deal with persons who make false declaration(s) or disclosure(s). In cases where the currency or bearer negotiable instruments are related to terrorist financing, money laundering or predicate offences, countries should also adopted measures, including legislative ones consistent with Recommendation 4, which would enable the confiscation of such currency or instrument.

In this New FATF tried to explain the problem that may arise with cross border transportation of physical currency and/or bearer negotiable instruments. It will related with any serious crimes, such as terrorist financing, money laundering, and/or other predicate offences through violation of provision. Thus New FATF reminds about the importance to impose with sanction whether that is criminal, civil, and/or administration sanction. The cash courier in and/or out of customs areas without permission is a part of money laundering which is bringing negative effect to economic condition of a country as a part of illicit capital flight. (Powis, 1994:ix). Asian Development Bank itself mentions that "Money laundering can be seen as a key element in illicit capital flight from throughout the developing world." (Asian Development Bank, 2003). The cash courier as mentioned by Siahaan (2008) is as one of the cash smuggling modus or parallel bank system to other country. The modus is to smuggle money physically outside country. (Siahaan, 2008). Thus, it can be understood that cash courier is a part of cash smuggling and money laundering.

The cash courier and other payments instrument of Cheques, Traveller's cheque, Promissory Note to pay, or Bank Draft both in and out of Indonesian customs area is obligatory to reports to the General Directorate of Customs and Excise, as mention in the Chapter V, Article 34 – 36 of the Republic of Indonesia Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering.

Article 34 regulate: Anyone who transports cash in the currency of Rupiah and/ or foreign currency, and or other payment instrument in the form of check, traveler check, promissory note to pay, bank draft at least Rp100.000.000, 00 (one hundred million rupiahs) or the equal, into the inside or to the outside of the Customs Area, shall be obliged to notify to the Directorate General of Customs.

Article 2 of Bank Indonesia Regulation regulate: "Any person carrying Rupiah Currency in the amount of Rp 100,000,000 (one hundred million

Rupiahs) or more out of the customs territory of the Republic of Indonesia shall obtain prior authorization from Bank Indonesia". Thus according to the Bank Indonesia Regulation, it states that any person who carries money out from Indonesia in minimum Rp. 100,000,000 and more should have the permit from Bank Indonesia first.

Article 3 Bank Indonesia Regulation then regulate: "Any person carrying Rupiah Currency in the amount of Rp 100,000,000 (one hundred million Rupiahs) or more into the customs territory of the Republic of Indonesia shall verify the authenticity of the money with Customs and Excise officers at the port of arrival". This article 3 is directed to any person (whether Indonesian Citizen and other foreigner).

These two Laws mention to some degree different, nonetheless it should be related one to another. Under the regime of monetary, Bank Indonesia sees the importance of permit procedure. In its Article 4 (1) the permit is needed for the purposes of: a. testing of cash machines; b. overseas exhibitions; c. other purposes for which in the opinion of Bank Indonesia authorization is needed in the public interest. In this matter, it can be understand that the permit is needed in order to protect the national in controlling the rupiah circulation outside country, and also to protect the value of IDR from the circulation of other currencies in Indonesia too. Inter alia with that problem, the Republic of Indonesia Law Number 24 of 1999 concerning the Foreign Exchange system, mention that the circulation of IDR and/or other currencies shall be controlled. It will impact the economic condition of Indonesia. Therefore, Government of Indonesia through Bank of Indonesia, in the consideration point B of Law Number 24 of 1999 mention that foreign exchange system should be fairly controlled in order to smoothing the process of investment and payments to outside country. Hence, from this aspect Government of Indonesia has their interest to do National Protection regarding with the monetary regime.

Further the Republic of Indonesia Law Number 17 of 2006 concerning Amendment of Law Number 10 of 1995 concerning Customs has regulated also activity sounds like cash courier, but it broaden to Cash smuggling. Cash is well known as a part of goods. Under the regime of Customs Law, the regime is criminal law. Though it is administrative, but it has criminal law aspects. Therefore, in treating cash courier, there will be more difficult since the law is only regulates about goods. The problem then is does money can be treated as goods? Further there is no explanation in the regulation how to treat cash courier and cash smuggling different. Bank

Indonesia Regulation is concerning with the Monetary Regime, while Customs law is Fiscal Regime. Customs see it is important to take the revenue first from any violation rather than put it as criminal charge and punish the offender.

In the era of ASEAN Economic Community (so called as AEC) nowadays has reminds also that the problem of security has play an important role, one of the aspects is about customs cooperation. From the research, it can be shown there is not yet regular cooperation between Indonesian customs office and foreign, inter agencies cooperation such as immigration and INTRAC.

The Blueprint of ASEAN Economic Community has mentions the key to AEC are:

- Political will;
- Coordination and resource mobilization;
- Implementation arrangements;
- Capacity building and institutional strengthening and;
- Public and private sector consultations

From those points, it is important to be notice that capacity building and institutional strengthening should be promoting by all country. Based on the Blueprint of AEC, it consist of 4 (four) pillars of AEC:

- Single Market & Production base, including of: Free Flow of Goods; Free flow of Services; Free Flow of Investment; Free flow of Capital; Free flow of Skilled Labour; Priority Integration Sectors; Food, Agriculture& Forestry
- Competition Economic Region, including of Competition Policy; Consumer Protection; Intellectual Property Rights; Infratructure Development; Taxation; E-commerce
- Equitable Economic Development, including of SML Development; Initiative for ASEAN Integration
- Integration into Global Economy, including of Coherent Approach towards external Economic Relations; Enhanced Participation In Global Supply Networks

As mentioned above, there must be inter and joint cooperation amongst customs, Financial Intelligence Units, cooperation and supervision between FIU and Customs to discuss, to fix, and also to solve the problem and threat that may appear in order of the integration condition of ASEAN Economic Community, and also have best practices guidance how to identify the risks of money laundering, terrorist financing, and also predicate crimes through physical cash and/or Bearer Negotiable Instruments cross borderly.

METHODOLOGY

This legal research is a qualitative research that based on inductive way of thinking. It is start through observation, then doing hermeneutic interpretation in order to get a theory on it. This research use normative juridical legal research that completed with empirical juridical legal research. This research is using observation, interview and document analysis as tools of the research. Through normative juridical legal research, the researcher doing a literature study of any regulation, laws, and other doctrines related with the issues of money laundering and customs. It uses Statute approach and Conceptual approach to do analysis and problem solving. The data and source of law will collected using triangulation technique of data collection through various techniques but simultaneous. The data analysis process starts through observed the participant, and followed by conducted interview with relevant institutions which is related to problems of money laundering and cash courier. The data that has been collected then analyzed using inductive method of thinking based on the facts happen in the society and then constructed to be as hermeneutic enquires then constructed as a research questions to get depth, holistic, and meaningful data to be analyzed. The entire process in this qualitative research can be explained start from the description of the grand question of this research about cash courier and money laundering problems. After that the researcher focused on the data that has been collected in the first step.

The researcher reduced any kind of information and focus on the specific issue on reducing risks on cash courier with characteristic of money laundering through inter agencies cooperation and strengthening the security of customs especially the needed of custom union as mentioned in the Asean Economic Community. The result of this research should be operated to support the needed to cut economic crime.

CRITICAL ANALYSIS

As known from the Republic of Indonesia Law Number 24 of 1999 concerning the Foreign Exchange, Indonesia has choose to implementing Free Foreign Exchange System but still need supervision to all the foreign exchange movement which is conduct by Indonesian citizen and non-citizen. Therefore Bank Indonesia as a monetary authority holder as appointed by the Republic of Indonesia Law Number 23 of 1999 concerning Bank Indonesia, has been regulated the procedure of cash carrying in and/or out customs area of Indonesia. Regarding on this matter, Bank Indonesia Regulation Number 4/8/PBI/2002 has been further regulates about cash courier. As mentioned in the considerations point B of Bank Indonesia Regulation Number 4/8/PBI/2002, this provision should reformulate in order to achieve conformity with the law of money laundering, as below:

Whereas the requirements and procedure for carrying Rupiah Currency out of or into the territory of the Republic of Indonesia as stipulated in Bank Indonesia Regulation Number 3/18/PBI/2001 are no longer appropriate to the situation, condition, and need in society for legal provisions, and therefore it is necessary for the substance of the regulation to be reformulated to bring it into conformity with Act Number 15 of 2002 concerning Money Laundering

As far as it can be understood, cash courier will be much impacted to the problem of money laundering and/or terrorist financing. Thus in this matter, what called as money laundering should be understood first. Money laundering in generally has three stages called Placement, Layering, and Integration. In the recent days, this is not cumulative stages, and under the Republic of Indonesia Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering, these three stages can be an independent stage that can be counted as money laundering stage. Those stages are actually can conceal the sources of assets that derived from crime. The scope of *“the process of money laundering conduct”* includes:

- The conversion or transfer of property, knowing that such property is derived from a criminal offense, for the purpose of concealing or disguising the illicit origin of the property or assisting any person who is involved in the commission of such an offense of offenses to evade the legal consequences of his actions;

- The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from a criminal offense;
- The acquisition, possession, or use of property, knowing at the time of receipt that such property was derived from a criminal offense or from an act of participation in such offense. (Arief, 2007:199-200)

In regarding with the elements of money laundering, Stephen S. Kroll, as quoted by Barda Nawawi Arief, mention that:

1. Element "**act**" (conversion, transfer, or concealment of the true elements of ownership of property, or acquisition or use of property, or assisting or counselling);
2. Element "**knowledge**" (that the property is derived from one or more specified types of underlying criminal activity); and
3. Element "**objective**" (to conceal the illicit origin of the property or to assist a person involved in the underlying activity in evading the consequences of discovery of the activity). (B.N. Arief, 2007:220)

In regarding with the issues of Cash Courier, Article 34 Law Number 8 of 2010 put the obligation for any person, both Indonesian and/or other nationality to report their cash carrying in or outside country to the customs. The Article 34 explains:

Anyone who transports cash in the currency of Rupiah and/ or foreign currency, and or other payment instrument in the form of check, traveler check, promissory note to pay, bank draft at least Rp100.000.000, 00 (one hundred million rupiahs) or the equal, into the inside or to the outside of the Customs Area, shall be obliged to be notified to the Directorate General of Customs.

As mention earlier, Bank Indonesia Regulation Number 4/8/PBI/2002 is actually should adjust to Anti Money Laundering Law. Thus Article 34 should be read not only as an obligation to report to Customs Officer, but also shall comply with the Article 2 of Bank Indonesia Regulation. Otherwise, Article 4 is giving to anyone who will carry money out of country with some specific reasons, such as: a. Testing of cash machines; b. overseas exhibitions; c. other purposes for which in the opinion of Bank

Indonesia authorization is needed in the public interest. In regarding with these reasons, the cash courier for money laundering will not use any of those reasons. Thus, in regarding with money laundering and/or terrorist financing will need depth analyses by connecting with the characteristic of money laundering and/or terrorist financing. The Republic of Indonesia Law Number 8 of 2010 at least gives some guidance about the characteristic of money laundering from some articles, such as: Article 1 number 5 related with suspicious financial transaction, which is containing 4 (four) characteristics of suspicious financial transaction. Those characteristic are:

- a. Financial Transaction of which is diverging from its profile, characteristic, transaction pattern habits of the User in question;
- b. Financial Transaction of which is made by the User that is reasonably suspected to be made for the purpose of avoiding the report of the Transaction in question of which is mandatory performed by the Reporting Party in accordance with the provision herein;
- c. Financial Transaction of which is made or aborted to be made using Assets that are alleged comes from the criminal action; or
- d. Financial Transaction of which is required by the PPATK to be reported by the Reporting Party due to involve the Assets that are alleged comes from the criminal action.

Other characteristic can be understood using Know Your Customer and further known as know the users through Customer Due Diligence and/or Enhance Due Diligence. Thus in order to implement the Article 34 Law Number 8 of 2010 should be use the some red light of the criteria of money laundering.

Article 35 The Republic of Indonesia Law Number 8 of 2010 regulates:

- (1) Anyone who does not report the transportation of cash and/ or other payment instrument as set forth in Article 34 section (1) above, shall be subject to administrative penalty in the form of fine as much as 10% (ten percent) from the overall amount of the transported cash and/ or other payment instrument with the maximum amount Rp300.000.000, 00 (three hundred million rupiahs).

(2) Anyone who has notified the transportation of cash and/ or other payment instrument as set forth in Article 34 section (1), but amount of the transported cash and/ or other payment instrument is larger than the amount of which has been notified, shall be subject to the administrative penalty in the form of fine as much as 10% (ten percent) from the excess amount of the transported cash and/ or the other payment instrument with the maximum amount as much as Rp300.000.000.000, 00 (three hundred million rupiahs).

According to the Article 35, anyone who violate Article 34 will be imposed with Article 35 with Administrative fine as much as 10% from the overall amount of the transported cash and/or other payment instrument with the maximum amount Rp. 300.000.000,00 (three hundred rupiahs). Through Article 34, there are two main conditions that shall be analyzed. First is the person giving false report, and second, the person did not report. In this condition, there should be a depth analysis whether the person is intentionally or negligence to do reporting or making a false report. In conjunction with this issue, Customs officers should have written guidelines plus practice experience to recognize whether the person is negligence or intentionally.

Further to get the characteristic of money laundering, there should be good information from INTRAC about the suspicious person. Thus in profiling the suspicious person needs more concern from many institutions.

Article 102 Law Number 17 of 2006 on Customs knows the activity as smuggling. The condition is bit different with cash courier. Under the regime of Customs Law, cash is still in discussion whether it can be categorized as goods or not. Article 102 point (g) and (h), then mention that A person:

g. transports import goods from temporary store place or bonded store place and the goods do not arrive at customs office of port of destination and he is not able to evidence that this happens beyond his control;

h. intentionally notifies wrong type and/or volume of import goods in the customs manifest, is penalized due to smuggling charges by imprisonment of at least one (1) year and maximum ten (10) years and monetary charge of at least fifty million Rupiah (Rp. 50,000,000.00) and maximum five billion Rupiah (Rp. 5,000,000,000.00).

According to the Article 102 point g and h, it can be treat as Goods Smuggling, and the sanction will use criminal sanction construction. The condition of cash courier in money laundering context will automatically disturb economic conditions of country. Money laundering in its nature can be categorized as economic crime. In this condition, money laundering can disturb the balances of economic condition of one nation. Economic crime itself has characteristic as Non Transferable Law. But it still has characteristic that can be dangerous. Neil Boister explains:

Most transnational criminal activity is driven by desire for personal economic gain. Transnational criminals take advantage of cheap goods or services in one state and move them across borders to another state where there is strong demand and the goods or services can be sold or hired out a profit. The main difference with licit economic activity is that the goods or services are prohibited in one or other or both states. (Boister, 2012:5)

In its characteristic, economic crime can be categorized also as Transnational Crime. Regarding with this, Friedrich Schneider in his paper mentions:

This paper tries to meet two goals: A (literature) review of the empirical findings of the proceeds of transnational crime organizations (TOC) worldwide and for some OECD countries as well as a breakdown of the different types of crime proceeds, like the ones from financial and tax fraud and drug-, human-, and arms trafficking. Also the illegal cross-border flows of global dirty money (including tax fraud figures) are shown, which are by far the biggest share (66%) of all illegal transactions. Moreover, some remarks are made about the infiltration of the TOC into the "official" economic system and the functioning of the Hawala banking is explained. One conclusion is that a detailed analysis of the financial proceeds and their sources is crucial in order to reduce the basis of operations of the TOC. (Schneider, 2012:1)

From that explanation, it should be more careful and do any precaution to treat cash courier in regarding with money laundering. Officers should be aware and not only treat as ordinary crime. Cash carrying and cash smuggling does not mean should be separate strictly since the important issue is not about smuggling or carrying, but related with the way to handle the offender who transport cash and/or Bearer Negotiable Instruments that potentially against money laundering, terrorist financing, an/or other predicate offences. The condition of cash courier and money

laundering will not only dealing with the implementation of law and regulation in practice, but also how to make cooperation between inter agencies. International Monetary Funds (IMF) in its paper written by Elod Takads mentions about the theory called as "Crying Wolf" Theory, a theory which reviews the economic aspects of money laundering enforcement. In this regards, Elod Takads gives strengthening in the problem as below:

The reporting problem is investigated through the first formal analysis of money laundering enforcement. Choosing money laundering enforcement as the leading example is motivated by the fact that the identification role of reports is particularly strong. Furthermore, money laundering is an economically significant crime. Several hundred billion dollars are washed through the financial sector in the United States, and money laundering facilitates crimes as harmful as drug trafficking and terrorism, as detailed in the next section. (Takads, 2007)

From the explanation above, it can be seen that report plays an important role. Thus the report on false report and did not give report should have depth concern from all officers. Indeed, the characteristic of money laundering will need support from all officers. Learning from the condition in Indonesia regarding with the law on customs on other hand and also law on money laundering shows different treatment about what called as predicate crime and proceeds of crime. Comparing to the New Financial Action Task Force (FATF) Recommendation Number 32, physical cross border currencies and bearer negotiable instruments shoould be concerned by country. In further, the new FATF mention also countries should ensure that their competent authorities have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing, money laundering, or predicate offenss, or that are falsely declared or disclosed. It means FATF reminds that problem of cross border physical transportation of cash and/or Bearer Negotiable Instruments. Declaration and/or disclosure are just a mechanism, not a main tool to prevent problem of cross border cash and/or Bearer Negotiable Instruments courier. Identification and ensuring the competent authority is the important to do.

Regarding with the nature of cross border cash courier that is transborder, and relate it with the position of integral market in one single in ASEAN region which is some of countries are have a direct land border, such as Indonesia – Singapore, Indonesia-Malaysia, Malaysia-Singapore, Thailand – Lao, Malaysia-Thailand, Cambodia-Vietnam, Thailand-Myanmar, Indonesia-Brunei Darussalam, Malaysia-Brunei Darussalam, Malaysia-The Philippines, Indonesia – Timor Leste, then Customs Union can be very important in the issue of cash courier to be analysed by countries in ASEAN. Since the cross border flow will need support from customs scrutiny inspection, coordination and communication amongst customs. However to ISEAS working paper give analysis concerning the possibility to realizing AEC Customs Union through give the three unique characteristic of ASEAN first, as below:

First, the 'ASEAN Way' in dealing with the regional matters. This relates to ASEAN's preference for loose arrangements rather than formal agreements, its dependence on personal relations among ministers and leaders rather than strong institutions and its reliance on consensus and common interests rather on high-level binding commitments (Severino, 2006).

The second characteristics is ASEAN states preference for sovereignty, as they uniformly reject the idea of 'pooled' sovereignty under any regional initiative. Instead, they believe that regional institutions should enhance the sovereignty of their member states (Higgot, 1997).

Finally, this connects to ASEAN's third characteristic i.e. principle of 'non-interference' that is mentioned in several of ASEAN documents. The 2007 ASEAN Charter reaffirmed the adherence to fundamental principles, including 'non-interference in the internal affairs of ASEAN Member States' (ASEAN Secretariat, 2007b). Hence, while ASEAN cannot be made responsible for regional commitments, much will depend on its members' interests and their domestic dynamics... (Das, 2015: 20-22).

As it can be understood, cash courier cross border money laundering will not only arise from domestic regulation, but also how other country has the same level of precautionary to the problem of cash courier itself. It can be said, the characteristic of money laundering need more information from INTRAC and other foreign FIU, as a focal point, that collect information from all reporting parties. The information should be spread to customs officers to recognize the offender, and also integration method

of works between Customs and Immigration will avoid difficulties to enforce the cash courier problem.

RECOMMENDATION

Since the issue of physical cash and/or Bearer Negotiable Instruments courier is vulnerable to money laundering offence effort, terrorist financing scheme, and also predicate crimes, customs union security can be one solution about it, especially when it is dealing with all the information of characteristic of the offender of Money laundering, terrorist financing, and also record of predicate crime which have been done by the offender. It cannot be just took it as the declaration and/or disclosure mechanism only, since that is the only a tool to track cash and/or Bearer Negotiable Instruments carrying cross border.

CONCLUSION

The problem of cash courier especially related with money laundering problem will need more serious effort. It is not only difficult to put the characteristic of money laundering in its performance, but also the problem of cooperation between agencies. Thus government should increase the capacity building of officers who in charge in problem of cash courier, and promoting the collaboration between customs in Indonesia and other country, especially in the border area. Separable cash courier from cash smuggling definition is actually not too relevant since according to the New FATF recommendation has just mention countries to ensure about the mechanism. Under the regime of declaration and disclosure system, it is actually can be understood that custom declaration and disclosure are just a tool, not the key element for the successfulness of cash courier on money laundering eradication mechanism in general.

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