

Urgency Of Waste Import Regulations For Communities In East Java

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Abstract

Currently, waste management is a big problem, not only in Indonesia but also throughout the world. Especially after the People's Republic of China (PRC) changed its solid waste import policy on July 18, 2017. The issuance of the National Sword policy aims to limit and tighten imports of plastic waste. The impact of the PRC's policy change is an increase in the flow of waste imports to Indonesia, thus placing Indonesia as a "Plastic Waste Emergency" country. To overcome this problem, Indonesia already has several regulations and laws related to waste imports. The application of waste import rules that are not strict causes losses for local communities in East Java and Surabaya. This study then aims to find out that the import of waste has an impact not only on the environment but also on the political economy and the efforts made by the local government to overcome it. This study uses social research methods based on a qualitative descriptive approach. This study also uses field research methods to obtain data directly from the research object area. There are four data collection techniques, namely observation, questionnaires, Focus Group Discussion (FGD), and documentation. The research subjects chosen were the people of Bangun Village, Mojokerto, and several regional (local) policy-making bodies in Surabaya and East Java. This study will also use a non-random sampling technique, with the selection of samples using purposive sampling. Field data collection will be carried out using interviews conducted directly with the informants using interview guidelines.

Keywords: Environmental Law; Waste management; Regulation.

I. Introduction

Waste management is a big problem being faced by the world on a global scale. To be able to solve this global problem, certain regulations have been issued to maximize waste management, especially solid waste, so that it does not further threaten environmental sustainability. One of the interesting phenomena of this global waste management effort is the activity of importing waste, mainly waste that can be recycled such as plastic waste. This recycled waste has a high economic value, even though it has the opportunity to threaten environmental sustainability. Recycled waste and plastic waste are the main raw materials for the paper industry.¹

The massive import of solid waste and toxic waste has put Indonesia in a "Plastic Waste Emergency". As a result, the amendments to the 1989 Basel Convention included waste or plastic waste into a legally binding framework, so that the agreement could regulate the movement of waste and B3 waste from developed countries to developing countries.

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¹ Anggraini, A. P. 2019. Di Balik Impor Sampah Plastik Berkedok Bahan Baku Industri dalam Kompas.com, <https://www.kompas.com/tren/read/2019/09/20/125000465/di-balik-impor-sampah-plastik-berkedok-bahan-baku-industri> accessed at 22 March 2020.

This shows the hope that the global waste trade will become healthier, more transparent, and will not harm either party. That is, developing countries have the right to refuse the flow of waste.

Indonesia as a participant in the Basel Convention does not make Indonesia free from the problem of importing B3 waste. There is a fact that Indonesia's non-compliance in implementing the Basel Convention is proportional to the increasingly widespread import of B3 waste or waste into Indonesia. This convention is very important, Indonesia has ratified it with the issuance of Presidential Decree of the Republic of Indonesia Number 61 of 1993 concerning Ratification of the Basel Convention On The Control Of Transboundary Movements Of Hazardous Wastes and Their Disposal. Thus, the ratification of the convention makes Indonesia a country that is free from illegal actions carried out by other countries in an effort to import hazardous waste, and reduces cases of imported B3 waste in Indonesia.²

Garbage import activities in Indonesia are regulated in collaboration by three ministries, namely the Ministry of Industry and the Ministry of Environment and Forestry whose task is to provide recommendations to importers regarding waste management standards, and the Ministry of Commerce whose task is to regulate in detail and carry out audits of imported waste products before they enter Indonesia. Indonesian territory. The legal basis for importing waste in Indonesia has been regulated in Law Number 18 of 2008 concerning Waste Management, Law Number 32 of 2009 concerning Environmental Protection and Management, and Regulation of the Minister of Trade of the Republic of Indonesia (Permendagri) Number 84 of 2019 concerning Provisions for Importing Waste Non-Dangerous and Toxic replaces Permendagri Number 31 of 2016.

Even though there are clear rules, B3 waste can still enter Indonesia due to gaps in the form of a lack of strict regulations and lax supervision over the import of B3 waste. As a result, B3 waste can enter Indonesia at the same time as the import of raw materials for the paper and recycling industry in the form of plastic waste entering the paper import waste container. From the cases mentioned, it can be seen that the import of waste by Indonesia harms the environment, and loose regulations have the potential to damage the political economy of local communities.

² Hendrik, L., Tahamata, L.C., & Waas, R.M. (2021). Pengaturan Impor Sampah Plastik Di Indonesia. TATOHI: Jurnal Ilmu Hukum, 1(7), 638 – 642. DOI: <https://doi.org/10.47268/tatohi.v1i7.659>.

II. Method

This research is a field research method to obtain data directly from the research object area. There are four data collection techniques, namely observation, questionnaires, Focus Group Discussion (FGD), and documentation. The collection of research data will be carried out through observation carried out by systematically observing and recording the symptoms investigated. Observations in this study are participant observations. The questionnaire is an indirect data collection technique with an instrument in the form of a questionnaire containing several questions that must be responded to by respondents. Focus Group Discussion (FGD) is used to reveal the meaning of a theme according to the understanding of a group. Documentation techniques use documents in the form of written, spoken, or pictures as data sources. This research is expected to produce primary data sources related to research subjects and objects. The research subjects chosen were the people of Bangun Village, Mojokerto, and several regional (local) policy-making bodies in Surabaya and East Java.

III. Main Heading of the Analysis or Results

The Waste Import Dilemma & How Regulations about Waste Import Regulate It

Indonesia's commitment to the context of waste import management has been realized by the issuance of several regulations, including Law Number 18 of 2008 concerning Waste Management, Law Number 32 of 2009 concerning Environmental Protection and Management, and Regulation of the Minister of Trade of the Republic of Indonesia (Permendagri) Number 84 of 2019 concerning Provisions for the Import of Non-Hazardous and Toxic Waste replaces Permendagri Number 31 of 2016.

These existing rules can be divided into two types, namely rules that allow certain restrictions or prerequisites and those that prohibit without providing restrictions. In Permendagri Number 84 of 2019, for example, article 2 paragraph (1) states that with this Ministerial Regulation, Non-B3 waste can be imported. Meanwhile, the types of non-B3 waste that can be imported have been regulated in the annex to the regulation. These wastes can only be used for industrial raw materials.

Related the prohibition of importing hazardous and toxic materials (B3) waste has also been stipulated in Law Number 32 of 2009 concerning Environmental Protection and Management. In Article 69 paragraph (1), among other things, it is stated that everyone

is prohibited from doing things such as importing B3 which is prohibited according to laws and regulations into the territory of the Unitary State of the Republic of Indonesia, Importing waste originating from outside the territory of the Unitary State of the Republic of Indonesia into the media environment of the Unitary State of the Republic of Indonesia, importing B3 waste into the territory of the Unitary State of the Republic of Indonesia, disposing of B3 and B3 waste to environmental media.

Regulations regarding this waste have also been regulated in Law Number 18 of 2008 concerning Waste Management. Article 29 paragraph (1) states that everyone is prohibited from doing things such as bringing waste into the territory of the Unitary State of the Republic of Indonesia, importing waste, and mixing waste with hazardous and toxic waste.

In the field research that has been conducted, the researchers obtained data that the flow of imported waste to Tropodo Village and Bangun Village was initially through 43 countries that exported paper for raw material for paper factories in nearly 11 factories in East Java, most of which were in the Watershed (DAS) Brantas. But the composition of the paper waste is unsorted waste paper In fact, around 20-30% is smuggled in by plastic and B3 waste from domestic waste. In these paper factories, the plastic and B3 waste that has been smuggled has no use as raw material for paper. Finally, the plastic waste is sold to the surrounding community or plastic collectors. But it doesn't stop there, paper mills, which in their production process also produce waste paper and plastic scraps that can no longer be processed or have low economic value, are also sold to residents. Then the residents sold it to 29 tofu factories, one of which was the tofu factory in Tropodo village.

In Bangun Village itself, the majority of the community's livelihood is waste sorting which is run like a family business for generations without a waste processing plant that oversees the sorting activities. Sorted waste produces more than 34 types of waste items at various prices it has its economic value. Broadly speaking, the income of waste sorters in Bangun Village comes from selling the sorted waste plus the proceeds from selling scrap plastic and paper to tofu factories for fuel, the majority of which are purchased by tofu processing factories in Tropodo village. Meanwhile, on average, people who work as waste sorters in Bangun Village can get a net profit of around Rp. 1.5 – 6 million per month, and if you calculate the capital they spend – around Rp. 300 – 400 thousand per

truck for garbage - so the benefits they get from sorting waste are relatively large.³ In fact, according to one of the residents of Bangun Village, in early 1970 when the Indonesian Paper Factory was established, the residents of Bangun Village received dirty waste from the factory to be sorted free of charge.⁴ Even so, this does not necessarily imply that the waste in Tropodo Village is only from Bangun Village, but the waste in Tropodo Village is a combination of local and imported waste. Local waste mainly comes from paper mills located in East Java and from Bangun Village.

Most of the waste sorters do not know that the waste they are sorting, goes through a process from drying wet waste, sorting, burning (waste that cannot be sold), to being sold to a tofu processing factory in Tropodo as a substitute for wood, creates compounds that are harmful to human health. This is proven through research conducted by ECOTON, Nexus3 Foundation, Arnika, and IPEN (International Pollutants Elimination Network) in 2019. In this study, it was found that there were high concentrations of dioxin compounds in chicken eggs whose samples were taken from Tropodo Village and Bangun Village in East Java.⁵ The concentration of dioxins in eggs in these villages is around 200 pg TEQ g⁻¹ fat, a figure that places the concentrations of dioxins in eggs in villages second only to the highest concentrations of dioxins found in chicken eggs in Bien Hoa in Vietnam.⁶ Bien Hoa which is a former US military air base, the land has been contaminated by historical poisons Agent Orange and has a dioxin level of 248 pg TEQ g⁻¹ fat.⁷ These dioxin compounds are very dangerous if they enter human organs and another biota. This is because dioxin compounds can cause cancer if they enter human organs, according to Dr. Emil Budianto, a Director of the School of Environmental Sciences at the t, University of Indonesia.⁸

In Indonesia itself, the law regarding the import of waste is regulated in Permendagri No. 84 of 2019. This Permendagri is the result of changes to the previous Permendagri, namely

³ Hadi, N. 2019. Bisnis Limbah Plastik di Desa Bangun. <https://koran.tempo.co/read/laporan-utama/447658/bisnis-limbah-plastik-di-desa-bangun?> accessed at 1 September 2020.

⁴ Ibid

⁵ ECOTON, Nexus3 Foundation, Arnika, IPEN. 2019. Sampah Plastik Meracuni Rantai Makanan Indonesia. https://ipen.org/sites/default/files/documents/indonesia-egg-report-vl_8-id-web.pdf accessed at 1 September 2020.

⁶ Ibid

⁷ Ibid

⁸ Kusumaningtyas, S. 2018. Hentikan Kebiasaan Bakar Sampah Plastik, Bahayanya Mengintai Anda. <https://sains.kompas.com/read/2018/03/27/190600023/hentikan-kebiasaan-bakar-sampah-plastik-bahayanya-mengintai-anda> accessed at 1 September 2020.

Permendagri No. 31 of 2016. Changes to this Permendagri have almost the same basic considerations as the previous Permendagri, such as meeting the needs for industrial raw materials, maintaining Indonesia's commitment to the Basel Convention, keeping Non-B3 waste as industrial raw material not contaminated with B3 waste and not mixed with garbage, and regulates that Non-B3 waste which is needed as an industrial raw material does not cause damage or environmental pollution.⁹ However, it seems that the reason behind this change is as a form of anticipation for Indonesia in facing the large influx of waste in the global waste trade when China decided to close its waste import faucet in 2018.

Table 1. Comparison of Permendagri No. 31/2016 and Permendagri No. 84/2019

	Permendagri No. 31 of 2016	Permendagri No. 84 of 2019
Advantage	<ul style="list-style-type: none"> a) Provisions for wet signatures as a condition in the Issuance of Import Approvals are difficult to manipulate b) Not using mechanisms of direct shipment which could potentially lead to the absence of safety stock 	<ul style="list-style-type: none"> a) All commodities use the Recommendation of the Ministry of Environment and the Ministry of Industry (including paper and metal which are Group A) (Article 3 paragraph 3) b) Exporters who can export Non-B3 Waste as Industrial Raw Materials are Registered Exporters. (Article 3 paragraph 4) c) There is a determination of the port of destination, namely: Tanjung Priok, Tanjung Emas, Tanjung Perak, Soekarno Hatta (Makassar), Belawan, Batu Ampar, Teluk Lamong, and Merak d) The government can easily control and control the perpetrators. (Article 17 paragraph 4) e) Obligation to manage non-hazardous waste that cannot be utilized in the production process, individually, in groups, or in cooperation with

⁹ Ministry of Home Affairs of Indonesia (2018). Riset: 24 Persen Sampah di Indonesia Masih Tak Terkelola. <http://litbang.kemendagri.go.id/website/riset-24-persen-sampah-di-indonesia-masih-tak-terkelola/> accessed at 12 October 2020

	Permendagri No. 31 of 2016	Permendagri No. 84 of 2019
		licensed waste processing companies. (Article 29)
		f) Import provisions apply at Bonded Warehouses, Free Trade and Free Port Zones, and Special Economic Zones.
		g) Added item description settings for rags
		h) Issuance of Import Approval using an electronic signature
Deficiencies	<ul style="list-style-type: none"> a) Group A (paper & metal) did not use the recommendation and B (glass, plastic, textile & rubber) used the recommendation of the supervisory technical agency. b) Provisions regarding exporters who can export Non-B3 Waste are not regulated. c) The mechanism for transporting Non-B3 Waste Imports to the port of destination is not regulated. d) Does not regulate provisions regarding the determination of the port of destination e) Provisions regarding the management of Non-B3 Waste which cannot be utilized in the production process are not regulated f) (Article 27) Import conditions only apply in Free Zones and Free Ports g) Does not regulate provisions regarding the description of goods for rags h) Issuance of Import Approval using a wet signature 	<ul style="list-style-type: none"> a) The mechanism for transporting Non-B3 Waste directly (direct shipment) to the port of destination whose implementation makes it difficult for exporters so that it can threaten the availability of raw materials. b) (Article 5 paragraph 3) Issuance of import approvals using electronic signatures is vulnerable to manipulation.

Source: Ali (2020)

From the comparison table above, it can be said that the Minister of Trade Regulation No. 84 of 2019 has advantages, namely that the entry gap for the smuggling of plastic and B3 waste in paper and metal imports can be reduced because it is no longer a Group A so it must get recommendations from KLH and the Ministry of Industry. Besides, there are also revisions to the import procedure. In addition to being registered importers,

exporters must also be registered in the country of origin and certified to prevent illegal imports. As well as strengthening in the field of supervision and checking carried out by surveyors and Customs to ensure that the import of Non-B3 Wastes received is truly clean from B3 waste. The government can directly supervise and control import activities with a direct shipping mechanism to the port of destination.

Regarding waste import activities, Law Number 7 of 2014 concerning Trade states that all goods can be exported or imported, except for those which are prohibited, restricted, or otherwise stipulated by law. One of these exceptions is contained in the provisions contained in Article 29 paragraph (1) of Law Number 18 of 2008 concerning Waste Management and Article 69 paragraph (1) of Law Number 32 of 2009 concerning

Environmental Protection and Management. Based on these provisions, several things are prohibited from being imported, including garbage and waste. Waste, there is no clear regulation regarding the specifications of waste that are prohibited from being imported. The definition described in the regulation does not distinguish between waste intended for recycling and waste intended for final disposal.

Regarding the import ban as stipulated in Article 29 paragraph (2) of Law Number 18 of 2008 concerning Waste Management, it has been emphasized that the ban on the import of this waste should be further regulated by a Government Regulation (PP). In the explanation section, it is stated that the matters regulated in the PP include the type, volume, and/or characteristics of waste. However, until now there has been no provision in the PP that further regulates the contents of this material.

IV. Conclusion

Referrals to the management of Covid-19 medical mask waste have been stated in the waste management law, where the Covid-19 medical mask which is classified as infectious waste requires special handling. the hospital itself already has an incinerator as a waste treatment tool, for the community itself still needs a lot of socialization and the participation of the government, community, and family in its management.

Good management certainly has an impact on environmental sustainability, where the garbage that is currently piling up can damage the environment and can even affect the transmission of the covid-19 virus that comes from the Covid-19 medical mask waste. In the law on environmental protection and management itself for the management of

COVID-19 medical waste, which is classified as B3 waste, the government issued a circular letter No. SE 2/MENLHK/PSLB3/PLB.3/3/2020 in which the circular hopes to control the management of the environment. Covid-19 medical waste so that it is not disposed of directly into the environment describe the results of the research. Give a clear explanation regarding the possible application and/or suggestions related to the research findings.

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