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IN-COUNTRY FTZ IN POST-CONFLICT ACEH: ECONOMIC DEVELOPMENT AND ILLEGAL CIGARETTE TRADE IN SABANG-INDONESIA

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Abstract

The implementation of the Sabang Free-Trade Zone (FTZ) has implications for the increasing distribution of illegal cigarettes in the mainland areas of Aceh. It increases the burden on state financial losses, community health problems, and the workload on customs to conduct control and supervision. This present qualitative study explores the dynamics of the illegal cigarette trade in the Sabang Free-Trade Zone by conducting 12 in-depth interviews with key stakeholders. There are four important findings reflected in this study. First, the Sabang-Free Trade Zone management is highly influenced by political aspects and a lack of managerial competence. The second finding indicates a dilemmatic perspective of the conflicting parties seeing Sabang FTZ. The third finding then reveals that the quota mechanism related to the distribution of imported cigarettes has not been regulated and merely relies upon importers' requests. The latest findings also suggest that the control and supervision system at Sabang FTZ is weak. These findings are expected to serve as the foundation for policy recommendations and lessons on illegal cigarette trade in Indonesia and other post-conflict countries (direct) and free trade zones of neighboring countries. borders like Malaysia, Thailand, Singapore, and The Philippines.

Keywords: *dilemma of economic development, FTZ, illegal cigarette trade, post–
conflict Aceh, Sabang-Indonesia*

A. Introduction

Aceh, has an exceptional strategic position economically, especially for Indonesia. Aceh is positioned where the Malacca Strait and the Indian Ocean converge. This region went through a prolonged conflict that inflicted a financial loss and other harm to Indonesia and the Acehnese themselves (Baikoeni & Oishi, 2016; Schiller, 2011). Numerous factors, such as disagreements over structural politics and democracy, contribute to the dilemma (Jemadu, 2004). The factors are natural resources management (Hoefler et al., 2016), security issues (Barter, 2013), cultural claims and heritage (Daly & Rahmayati, 2012; Miller, 2004), and post-conflict and post-tsunami reconstruction and infrastructure availability (Barron, 2008).

The conflict between the Government of Indonesia (GoI) and the *Gerakan Aceh Merdeka* or Free Aceh Movement (GAM) was instigated on December 4, 1976, marked by the establishment of the movement (Schulze, 2006). The injustice of the central government drove the demand for independence from the Republic of Indonesia to Aceh (Waizenegger & Hyndman, 2010). Aceh subsequently underwent a physical and economic development deterioration during the conflict (McCarthy, 2007). On December 26, 2004, a massive earthquake and tsunami hit Aceh. After the disaster, GoI and GAM agreed to start another round of peace talks with Aceh (Ahtisaari, 2008; Husain, Shahab, & Siadari, 2007).

Acehnese people believe GAM is a legitimate rebel organisation that would assure a bright future for post-conflict Aceh because it was the sole negotiator at the Helsinki peace negotiation in 2005 (Budiatri, 2022). The peace in Aceh was officially achieved after signing the peace agreement of the Helsinki MoU on August 15, 2005 (Morfit, 2007). In the peace agreement, several powers are granted to the Aceh local government, although this is not the first time Aceh was granted such authority (Barron & Clark, 2006). Aceh had previously been given authority such as the power to control Sabang free-port in 2000 to stop the demands for separation from GoI.

Post-reform Indonesia was marked by the fall of the New Order regime (*Orde Baru*) led by President Soeharto and the burgeoning democracy across Indonesia (Bunte & Ufen, 2009), most notably the ever-growing importance of parliamentary elections and political parties (Ufen, 2010),

amidst the fierce competition for presidential leadership (Ziegenhain, 2009). To prevent Aceh and other conflict-prone regions in Indonesia from demanding independence, instrumental policies emphasizing decentralization, autonomy, and regional aspirations were implemented (Bunnell & Ann Miller, 2011; Miller, 2004), such as the establishment of local political parties (Stange & Patock, 2010). One of them was initiated during the administration of President Abdurrahman Wahid (Niksch, 2001), whereby Aceh was given greater autonomy and the authority to have a free trade zone in Sabang, among others (Reid, 2004). The regulation of Sabang as a Free trade area and free port is thus regulated in Law No. 37/2000.

In Law number 37 of 2000, it is regulated that Sabang is designated as the Free-trade and Free-port area (Webster, 2007). It means that goods imported to and exported from Sabang are free of tax and excise rates. Ever since 2000 onwards, this arrangement has given significant rises in the cigarettes trade. The tax-free imported cigarettes have a lower price. Thus, the illegal selling of cigarettes outside of Sabang to other customs zones intensified, particularly in the coastal regions of Banda Aceh's capital city and its neighbouring districts such as Aceh Besar.

According to the law, the Sabang Management and Development Agency (Badan Pengelola Kawasan Sabang, henceforth BPKS) manages the free trade zones and free ports of Sabang, particularly in terms of licensing. However, Customs has a role when it becomes a matter of oversight. If oversight is inadequate, the flow of contraband cigarettes to other regions of Aceh will inevitably expand.

The existence of Sabang FTZ is the main object of understanding the post-conflict peacebuilding dilemma in Aceh. This dilemma has attracted the interest of prior researchers to explore topics focusing on politics and economic development of post-conflict regions. Some studies highlight the need to link peacebuilding with elections in post-conflict settings (Ansori, 2012; Candelaria, 2020), democracy and post-conflict corruption (Le Billon, 2008), public administration and governance (Hillman, 2013), education policy (Shah & Lopes Cardozo, 2014), political parties (Reilly, 2013), local tradition involvement in transitional justice (Horne, 2014), local election and campaign (Akmal, Darwin, & Zalikha, 2020), generic economic dimensions and autonomy (Phelps, Bunnell, & Miller, 2011). However, bar for few notable exceptions (i.e. Aspinall, 2009; Phelps et al.,

2011; Sustikarini, 2019; Wennmann & Krause, 2009), the abovementioned studies did not focus on the dynamics of economic development instruments in peacebuilding programs and post-war societies, especially in Aceh and Sabang, where FTZ arrangements were established after a conflict. To this end, the present study is expected to fill this gap by exploring the dynamics of illegal cigarette trading in post-conflict Sabang FTZ implementation.

B. Method

In-depth interviews were the primary mode of data gathering in this qualitative study. An in-depth interview aims to gain a profound grasp of a phenomenon and the causes of specific problems (Goodman, 2001). The data was collected from May to November 2018 from Sabang's BPKS officials, security officials (local police), supervisory boards of Sabang FTZ (*Dewan Kawasan Sabang*, henceforth DKS), local government representatives, community leaders, and tobacco importers. The stakeholders also include the head of the Aceh customs office, the Sabang customs officer, the income and revenue office officials, the youth and local leaders in Sabang, the province office of information and communication, and the Sabang members of parliament.

Notes from observations and field trips also supported the primary data (Phillippi & Lauderdale, 2018). The field trips were conducted twice, from the first week until the third week of November 2018. Additionally, in our reflection during the field trip, legal documents such as laws, regulations, *Qanun* (local regulation), meeting minutes, reports, and other supporting data (if any) will be rewritten and regrouped. This is particularly important for determining keywords and defining influential themes and main patterns from the study for triangulation purposes (Jonsen & Jehn, 2009). In the process, reading transcripts repeatedly helps gain a profound understanding to find provisional conclusions and interpretations or possible relationships.

C. Result and Discussion

1. Sabang: From Ideal Political Instrument to Miss-Managed Free-Trade Zone?

Sabang FTZ was then used as a conflict resolution instrument, initiated during BJ Habibie's time as the Minister of Research and Technology in 1997 through his staff Prof. Dr Indroyono during the BPPT Research for

Science and Technology Jamboree event in Gapang, Sabang Island. Finally, the Integrated Economic Development Zone (KAPET) of Sabang and Pulo Aceh was launched in 1998, strengthened by Law 37 of 2000 stipulating Sabang as an FTZ. It was expected that people would stop fighting, and thus, the disappointment and criminality could be minimized.

In the interview session, AS, the Management and Development Agency, stated:

Sabang is a model to encourage the economic growth in Aceh. The spirit is that industrialization will start from here. So if industrialization is there, people don't need to fight anymore, they won't carry weapons anymore, people will work (AS).

In 2002, economic activities in Sabang had improved along with the entry of imported goods from abroad. However, the imposition of martial law in 2003 brought the economic accomplishments back to a downturn in 2004. Having the geographical advantage position, Sabang FTZ should ideally be able to become a new gateway for investment in goods and services from abroad. Sabang is becoming increasingly important because it is the only in-country free-port and free-trade zone in Indonesia that has been legalized under Law No. 2 of 1990, which has been subsequently stipulated as Law No. 37 of 2000, and Law No. 11 of 2006, concerning The Local Government of Aceh (LoGA).

To implement Law No. 37 of 2000, the government has established the Sabang Regional Council (DKS) and the Sabang Management and Development Agency (BPKS). The Governor of Aceh Province, the Regent of Aceh Besar District, and the Major of Sabang are the members of DKS. BPKS is responsible for managing, developing, and building the area of Sabang FTZ. According to the law, BPKS is authorized to grant business permits in Sabang. In addition, BPKS is also authorized to conduct guidance or coaching and integration of policies with the Aceh Provincial Government and other regencies/cities across Aceh.

Furthermore, the exclusive right to manage the Sabang area is also one important point outlined in a memorandum of understanding (The "Helsinki MoU") between GoI and GAM in 2015. It is one strong rationale

for the formation of the Sabang FTZ. And then UUPA No. 11 of 2006, also derived from the Helsinki MoU Articles 4, 167, 168, 169, and 170, describes Sabang as a Free-Port and Free-Trade Area. Article 4 mentions the general rules mechanisms and autonomy for the Aceh government, both provincial and district/city, to form a special area after obtaining approval from the parliament at the provincial level (DPRA) and parliament at the district/cities level (DPRK). Then in Article 167 to Article 170, the Sabang Free Port and Free Trade Area are specifically discussed. According to BPKS, as outlined in the 2006 Master Plan, the management of the Sabang area is focused on four aspects: deep sea, tourism, fisheries, and trade. BPKS provides supporting infrastructure for these four aspects, especially in tourism sector.

Technically speaking, as the chairperson of the DKS, the governor has issued several governor regulations related to the position, duties, functions, authority, structure, and organization of BPKS. One of the regulations is the Decree of DKS Chairperson No. 17/2014 concerning the Organization and Working Procedure of BPKS. There are some important points outlined in this regulation, such as the authority to make rules, business licenses, investment permits, and control of export-import activities, etc., by cooperating with government officials to launch the inspection and other types of joint-supervision.

From the analysis that follows, it is argued that the once-famous ideal political instrument prepared to revive the economic development of the northernmost island of Indonesia following the long-protracted conflict in Aceh since 2000 has not paid off. Today, after heavy GoI investment, especially in infrastructure within the last two decades, the so-called “zero kilometer” Sabang FTZ strategic location cannot live up to the expectations due to its mostly mismanaged coordination and political dealings with the local government through BPKS. AS, a BPKS official admitted that:

Indeed, there is a problem with the top officials and management. You know, the changes of officials and management, which seems to be normal here now. Too many politics in the bureaucracy and management. Lack of stability. Sometimes one has barely started to work before then being replaced by the new managers. This also leads to the change of coordinative actions (AS).

Some argue that the lack of sufficient and capable human resources is the major obstacle for Sabang FTZ. The Nigerian FTZ's failure to achieve its objective, according to the data analysis shown by Ezike, Ukemenam, and Chijioke (2019), may come to terms with what we have seen here in Sabang FTZ. They said that the country is not diversified in exports, relying on oil and gas production alone. They are struggling to be more competitive without expanding their export strengths (Zaafraane & Mahjoub, 2000).

In the same light, MI reiterates:

In my observation, since 2000, no economic recovery has been made. Of course, we can see some minor improvements in tourism sector. I think, we need to encourage the investment office to actively engage in the process. We need good coordination, including from customs and its documents-wise arrangement; and we seriously need good human resources to manage this (MI).

Regardless of Sabang FTZ's duty-free status, BPKS management was not, for the most part, effective in attracting investment. On the one hand, in the tourism sector, foreign owners decided to channel their money via local business people or citizens to avoid taxes. On the other hand, non-tourism sectors like industries and export-import activities were not particularly promising due to their lack of support, planning and overlapping regulation. As stated by ZU, a youth leader and well-known figure in Sabang:

To inspect, for example, the sugar factory in Sabang or specific food production Sabang FTZ, we have BPPOM (National Agency of Drug and Food Control). It is a national standard. So does quarantine regulation. It belongs to the custom office. But we don't really have regulations that may attract investment. They all have to comply with the abovementioned national standard from BPPOM, the customs etc., whereas most local importers only have relatively small ship made of wood (ZU).

Further disappointment in managing Sabang FTZ is reflected by Participant AL's scepticism of the individual's ability to organize workable coordinative mechanisms between key stakeholders:

Honestly, for goods imported to Sabang via BPKS, they only gave us short notice. So, we, as security officials, cannot get more involved. We can only supervise from afar, we oversee the number of the imported items. BPKS thinks that this is their mandate, their exclusive right. I think they are going backward with their management style, by snubbing other regulations. No coordination. If any... very minimum. This is the problem (AL).

The overall environment did not benefit the economy of Sabang FTZ. Local-level managerial standoffs with critical stakeholders and concurring political stalemate between the local governments and the national government's inattentiveness have led to slower response and conflicting roles. As another view are expressed by AL below:

But if we carefully measure the direct benefit towards the improvement of Sabang economic events and activities, it is far - very far from our expectation in Sabang. If we talk about scaling 1 to 10, I would give score 2. So poor.

An almost similar tone to that read in Sabang FTZ's less-coordinated case between policymakers and stakeholders is voiced by SF, Aceh Provincial Communication and Information Office, below:

In this regard, we just received official letter from the General Director of Customs Office in Aceh, offering a joined campaign on liquid for electronic cigarette refill procedure. We immediately contacted them for the content to be published in our banners, no answer. We are ready, but they did nothing until now (SF).

2. A Dilemmatic Perspective: Between Aceh and Jakarta

To understand Aceh, including the management of BPKS, we must try to oversee this within the following three perspectives. First, from Jakarta's perspective, the case of Sabang FTZ and Aceh is very much related to how

the central government perceives Aceh as one of the most important parts of the republic amidst its long history of conflict. The second is the Acehese perspective. It is when both the Aceh government and Acehese view the role of the central government, its intervention, and its seriousness in managing the Aceh conflict as a strategically located asset in the region. The third is the development perspective. It is how the government and the people of Aceh and the central government in Jakarta agree on mutual benefits and forget the conflict behind them. This development perspective is the bridge to the progress of Aceh and Indonesia in general, and collaboration between Aceh and Jakarta is the key to achieving that.

The Aceh Perspective: Blaming Jakarta, Asking for more Freedom

Of course, while stakeholders in Sabang FTZ are in dire need of good coordination, one can point the finger and blame the national government for not being serious in helping Aceh and Sabang FTZ, as voiced by the following reproach from a parliament member in Sabang:

BPKS has a non-department status. But they are under the supervision of Financial Ministry in term of budgeting. But then, because they are located in Aceh, they are also reporting to the Governor of Aceh. The Governor of Aceh in this case is the prolongation of the ministry in Aceh. In certain contexts, we can say that the national government did not pay serious attention towards BPKS and Aceh, because this is merely for the locals, for the Acehese. If we look at Batam FTZ, the chair person is of the supervisory board is a minister. They have direct involvement, including staff placement, setting the national standard. Because Sabang FTZ in Aceh is under the governor, so does the standard, local standard. No matter what, we could say that Sabang FTZ is coming with national standard, but with local taste. Roughly speaking, this is only a political compensation (AL).

Similarly, Sabang's FTZ and BPKS capacity to provide goods or commodities needed by these cruise ships and vessels is still limited due to the following concerns:

Our problem is twofold. First we have regulation, but we do not have the power and authority yet. Second we need more time to build the infrastructure and facility as well as to be able to implement, according the Regulation No.37, the so-called public private partnership (AS).

This voice is again echoed in concern about BPKS's inability to pair with the national government's policymaking and lack of attention for Sabang FTZ. In reality, and also because Sabang FTZ was once designed as a political instrument for the separatist movement, some accused crooked officers are merely taking advantage of the peace agreement and exploiting its political economy aspect, and not focusing solely on the economic development side, something which is also familiar in several post-conflict societies across the globe (Haass & Ottmann, 2017).

Likewise, for instance, the BPKS, the coordinator of the area of Sabang, always assumes that their responsibility is only limited to licensing services, while supervision is not their focus.

Supervision is the domain of customs, but what we are able to control is the permits, the licensing services. We see it based on the actual need. So the control is there, the supervision responsibility is shared, though the customs has the main responsibility, and so is the cigarette quota (AS).

The policy is taken by BPKS in a more aggressive-exclusive approach (sometimes the coordination with other elements is very minimal) through stimuli and rationalization to boost the local community's economic growth, particularly in a post-conflict setting. For example, the BPKS argues that the quota of goods released cannot rely solely on the demand and supply of the goods but must also depend on the other aspects. Those aspects include the mobility of people from the mainland Aceh to Sabang and vice versa, the availability of infrastructure to increase "economic activity", and eventually provide the multiplier economic effect of trading activities.

The Jakarta Perspective: Focusing on Preventive Approach

On the other hand, the customs and excise office, part of the management team in Sabang, considers that the supervisory role must be prioritised.

They believe that supervision in Sabang FTZ is needed to avoid financial state losses from the distribution of goods without excise and taxes, including illegal cigarettes. Therefore, customs works in a preventive scheme:

The dilemma is that the Customs work in preventing scheme, whilst BPKS only cares about licensing and controlling documents in the view of getting more and more quota to boost the economic activities (DN).

In the same light, the focus on supervision can clearly be seen in the following comments from one of their officials in Sabang FTZ:

We have tried to coordinate with BPKS regarding the quota mechanism, as we realized that we have to strengthen the control and supervision instrument to watch over the financial revenue target. If the given quota is big, then we should tighten the supervisory system because it could cause severe financial loss (HS).

Preventive control and supervision are needed. The Customs office believes that restrictions on the manipulation and embezzlement of the law by some corrupt officials and private sectors must also be handled. On that account, the Customs anticipates potential financial state losses, especially on goods distributed outside Sabang (to mainland Aceh) and goods that do not adhere to the regulations outlined within the development plan of Sabang and Aceh in general, as stated by an official from Aceh Provincial Customs Office:

.....maybe later you can check all the quota documents, for example, the quota policy, we almost do not find a correlation between the items that are imported, whether the items for the development of Aceh and Sabang or for consumption purposes. And most consumer goods imported to Sabang is not matched with the development blueprint of Sabang itself which has been appointed as the industrial zone. Even if it is a consumer goods, it must be used as production materials for industry. The problem is that we don't have the industry just yet and it needs to be built first (AL).

Development Perspective: A Work in Progress

The development perspective has not been noticed and focused on. It means only the first and second viewpoints are more visible to all parties involved, whereas this aspect went unnoticed and remains implicitly undetected. Our reading on this point is proven by the different understanding between the parties involved in the management of the Sabang area, both from the local government, in this case, the BPKS, and from the central government elements, represented by the Customs and Excise Office. Although BPKS and the Customs Office both comply with the Ministry of Finance regulations, the two parties have different interpretations of the legal-operational framework. This has caused regulatory loopholes that have made the management of Sabang's area considered unsuccessful.

Lessons learnt from several FTZ, for example, the Shanghai FTZ has made it clear that the old and outdated traditional approach of FTZ is no longer viable, as ports and harbours in the fourth-generation FTZ have transformed into value-added services and centres for commodity, capital, and information flow (Wan, Zhang, Wang, & Chen, 2014). The case of the Dominican Republic FTZ has also shown that the development perspective was put into place when fostering economic growth was the top priority of the FTZ administration (Wagner, 2017). Manaus FTZ in Brazil also showcased a similar case. Gradually, improvement in poverty declined in the first decade of the FTZ's inception, which has become the key to the sustainable economic development of similar FTZ cases (Castilho, Menéndez, & Sztulman, 2019).

3. Illegal Cigarettes: Mechanisms for Quotas Determination and Surveillance Systems

A free-trade zone like Sabang is subject to potential illegal cigarette smuggling due to lower prices and lower tax charges (Bate, Kallen, & Mathur, 2020; L. Joossens & Raw, 1998). In China, for example, they produce fake brand cigarettes to be distributed across Asian and European countries (Luk Joossens & Raw, 2012). But what happened in Sabang is a repercussion of the same case in Russia. Illegal cigarette trading takes place in a free zone or port area with minimum supervision from customs (Cortés-Ramos, Torrecilla García, Landa-Blanco, Poleo Gutiérrez, & Castilla Mesa, 2021). In this study, the terms "illegal

4 cigarettes" refer to the distribution of plain cigarettes without excise and the distribution of cigarettes in the free area (Free Trade Zone) to other areas outside Sabang through seaports (Syahputra & Edorita, 2016).

Several items related to tobacco consumption need to be controlled, and their distribution needs to be monitored as they will cause negative impacts on society or the environment. Taxation needs to be imposed for justice and balance on these items. In this case, cigarettes are one of the items subject to excise. To avoid excise, some of these cigarettes are traded illegally. 10 Here are some examples:

1. Cigarettes without excise tapes
2. Cigarettes with fabricated excise tapes
3. Cigarettes attached to used excise tapes
4. Cigarettes attached to non-right excise tapes
5. Cigarettes attached to excise tape which do not serve its purposes.
6. Cigarettes labelled as Free Zone distributions items but distributes to other areas

The threat from these illegal cigarettes comes from two principles (L. Joossens & Raw, 1998):

1. Smuggling causes the availability of cigarettes at lower prices, thereby increasing the consumption of cigarettes and the burden of financing public health insurance for the country.
2. The tobacco industry will use "smuggling" politically by lobbying the government to reduce taxes because price differences will open up more significant opportunities for smuggling.

The dilemma of implementing the free trade zone is the distribution of goods outside the designated FTZ, in this case, the illegal cigarette trade and distribution. It means that Sabang FTZ is detached from (normal) Indonesian customary law, i.e., the trading system, the burden of import duties, value-added tax, and sales tax on luxury goods. In several countries, the number of illegal cigarettes increased due to high regulation and excise on the legal cigarette, as happened in Europe, for example.

The general demand-supply features cause the increasing number of illegal cigarette distributions. The case in Poland can be taken as an

example whereby the government imposed a law to raise the price of cigarettes, which caused the consumption of cigarettes from the black market to continue to escalate. The black market is organized by big companies that try to avoid taxes illegally. These companies smuggle their products at a lower price into certain market sub-groups (Ciecierski, 2007). The Sabang FTZ experiences the same situation. The demand for cigarettes increases to cope with high cigarette taxes, increasing the illegal cigarette supply. Such a situation is worsened because the Sabang FTZ is experiencing some other obstacles. The setback lies in the development focus. Initially, the focus was on developing the port sector, but currently, the focus is more on the tourism sector.

Knowing that the port sector is not optimal, the BPKS currently has a new priority that focuses more on the tourism sector. This change is influenced by the potential of the underwater beauty of Sabang. The shift in focus has a major effect on importers of consumer goods and indirectly impacts the number of goods imported to the Sabang FTZ.

In the scope of an FTZ framework, the existence of imported goods becomes one of the focal points. For FTZ, which prioritizes strategic planning in the tourism sector, the availability of goods will be more dominant. Moreover, the Sabang FTZ is currently less optimal in providing tourists' needs and goods and building its core tourism industries. Therefore, the imported goods are mainly sugar, rice, cigarettes, and others.

In the last two years, sugar and cigarettes are the most imported items to Sabang (ZF).

In this light, the mechanism of cigarettes entering Sabang FTZ is divided into three main sources.

This is regulated in PMK No. 47 of 2012 that are several instruments to control the traffic of goods. Legally speaking, cigarette quota import mechanism is regulated in Ministry of Finance Regulation No.47. 2012 coming from three sources. From abroad, from other customs areas, such as Banda Aceh, Sidoarjo, Malang and others, and from other FTZ, such as Batam, Karimun and Bintan (TA).

Currently, Sabang FTZ has regulated the procedures and provisions for importing goods, which are regulated in the Decree of the Head of the BPKS Number: 9/BPKS/2001. However, the regulations have not been detailed enough in outlining the quota. In an interview with the Supervision Customs and Excise officer, he says:

Regarding the quota, the BPKS is allowed to arrange the quota. Meanwhile Customs determines the number and the type of goods that are imported. And the Customs refers to PMK 7 where the basis is on PP No.10/2012 (AY).

The issue of the imported quota at Sabang FTZ will be technically regulated in the form of the BPKS Regulation. This regulation will provide the arrangement for each item differently. So far, the regulation on quota decision in 2015 only regulates the import of sugar as stated in Regulation Number 11 from the Head of BPKS. Whereas for other trading items, the importers' requests will be used to reference the quota decision, including on cigarettes. This is what the one-stop integrated service officer (PTSP) BPKS described in the following statement:

Basically, cigarettes (quota) have not been regulated yet, so it depends on the proposal from the importers. For example, there were cigarettes imported from Malang (East Java). There were around 250 cartons as requested by importers (TA).

Several sources from the BPKS stressed that licensing and quota regulation of goods entering the Sabang FTZ could not be determined only by considering the number of Sabang residents and the number of tourists but must also consider the number of visits.

The number of visits in this case referred as visits aimed at tourism, business purposes and social purposes (TH).

Moreover, the BPKS and its key stakeholders must regulate and define what is considered consumer goods, especially for Sabang FTZ, which is currently focusing on its revenue sources from the tourism sector. Therefore, the definition of the customers' hand luggage goods that can be transported from FTZ is more precise, including in the case of cigarette distribution outside FTZ.

It means that importers and the BPKS are the main actors in determining the import of cigarettes to the area of Sabang FTZ. The procedure is started with an offer made by the importer related to the quota of cigarettes. Then, after initial review, the BPKS issues permits with a certain quota in response to importers' requests, although the BPKS does not have any official written regulations on cigarettes. Therefore, the quantity of cigarettes entering the Sabang FTZ depends on the recommendations from importers. Before 2018, there was only one cigarette importer, but in 2018, there was another company importing cigarettes to Sabang. The increase is caused by the assumption that cigarettes are a potential commodity and that demand is increasing in Sabang. This is as explained by one of the cigarette importers in Sabang:

The demands of cigarettes in Sabang is usually high. You know, the price is cheaper here than in other places. The price is three times cheaper than the price of cigarettes in general. We, the importers are the traders, so we do not consider and pay attention on the distribution of these cigarettes outside Sabang, because that is a responsibility of Customs. Our focus is on how many cigarettes that we can get into Sabang and can be sold to the trader or consumer. We are also not responsible for cigarettes distribution outside the Sabang. Those who smuggle it out should be responsible for it. Not us (SF).

Table 1 The list of cigarette brands imported to Sabang FTZ

No.	Brand	Type	Quota
1.	Rexo	16 white cigarettes & 20 clove cigarette	250 Cartons
2.	Spesial	Machined made clove cigarette	270 Cartons

Source: Primary data processed in 2018

According to data from PTSP (One-Stop Integrated Service Office) of BPKS, the requests for the cigarettes by the two companies were 250 boxes of Rexo from Malang and 270 boxes of Spesial from Sidoarjo in November

2018. Both brands were transported by land from East Java and dropped off at Sabang by ferry through the Port.

In addition to those two brands, another brand from Singapore, called "Manchester," was imported to Sabang by ship. This brand was rejected because there was no "Free Trade Zone" label on the product. Regarding the packaging of goods in the FTZ area, two mechanisms can be packaged in the production area or the destination country. Firstly, if it is packaged in the production area, in this case the packaging must have been labelled as "Sabang Free Trade Zone". Secondly, if it is packaged in the destination country, this can be done in two ways. 1) The ships or trucks only supply the raw materials and packaging materials, but the packaging process takes place in Sabang. 2) If the packaging process takes place in other customs areas, then 60 days are given for the process. "Manchester" brand cigarettes were re-exported to Singapore because the importer could not do the repackaging process within the time frame due to financial limitations and equipment availability.

The fact that cigarettes are the second most dominant item in the Sabang Free Zone is likely caused by several things. First, the quota of cigarettes is not explicitly regulated. Second, there is no rationality in categorising regulated and non-consumer goods. When the cigarette is considered the customer's good, there must be an ideal quota arrangement. Similarly, if it is good for non-customers, then the ideal arrangement and the quota should also be prepared. Third, the current BPKS intention behind the establishment of the Sabang FTZ is understood to be to develop the tourism sector, where consumption calculations estimation includes the number of tourist visits from non-Acehnese or non-Indonesian visitors and the number of social visits from Sabang local community from and to Sabang within the province of Aceh. Fourth, the "Special" brand cigarette from Sidoarjo has become the favourite in Sabang and Aceh because of its taste, attracting more buyers.

Given the earlier facts, the government officially revokes the excise-free facility for excisable goods in the free trade zone (FTZ), starting May 17, 2019. Responding to this policy, BPKS added that they did not want to participate in the revocation policy of cigarette excise exemptions by GoI, insisting that Sabang FTZ is special, unlike other FTZ areas. As a result, on that official date, the government will not be in charge of handling the

Free Trade Zone (CK) Excise Document-FTZ. In response to the policy, the following is an explanation from a BPKS officer:

We will try to discuss it with the Ministry of Finance, because the birth of FTZ in Sabang is different from FTZ in other regions. FTZ in Sabang has a long history and struggle, namely the Aceh conflict (SS).

All those things mentioned above will impact ⁴ the distribution of cigarettes from the Free Zone of Sabang to other customs areas like the capital city of Banda Aceh and Aceh Besar. Therefore, BPKS needs to regulate the detailed and specific quota arrangement for all types of goods entering the Sabang Free Zone, as mandated since 2000 through Law No. 37 of 2000 and Government Regulation No. 83 of 2010. The delay or the absence of specific arrangements regarding the quota of goods through the regulation of the head of the BPKS will be the main challenge. The challenge is to the commitment of BPKS management, though. Not to mention that Sabang FTZ status was officially enacted in 2000, but until 2018 only one regulation has been regulated on the quota of goods, and it is for sugar.

4. Supervision System in the Sabang FTZ

Two institutions are involved in a term controlling mechanism: BPKS through licensing (quota system) and Customs through supervision. Government authority in the licensing sector for the Sabang FTZ is delegated to the BPKS. It is regulated in Government Regulation Number 83 of 2010. It includes a) trade; b) industry; c) mining and energy; d) transportation; e) tourism; f) marine and fisheries, and g) investment. Whereas the supervision in Sabang FTZ is under the authority of Customs, both the import and export of goods from the Sabang FTZ or from Sabang FTZ to other customs areas within Indonesian jurisdictions. If the goods are distributed to another customs area, the normal customs regulations should immediately take effect. As explained in the previous section, the quota arrangement for cigarettes has not been determined, so it has the potential to be distributed into other customs areas. Therefore, those cigarettes can be referred to as illegal cigarettes in other customs areas.

Currently, the cigarettes labelled "Sabang FTZ Only" have been distributed to other customs areas. The illegal distribution was relatively high from 2015 to 2016. This is since the supervision system was not optimal for reducing the distribution of illicit cigarettes to areas outside the Sabang FTZ. Since 2016, profiling systems have been applied to minimize the diffusion of FTZ goods to other customs areas. The profiling system by using an X-ray machine has only been installed at the fast ferry port. The profiling system is conducted manually in regular ferry ports for people travelling from Sabang to Banda Aceh or vice versa.

The number of goods from FTZ that can be carried to the other customs areas is regulated in Aceh's Governor's Decree (the Governor is also the head of DKS) Number: 6/DKS/2001 regarding Customs Procedures in Import, Export, Passenger Goods, and Transfer Goods in the Sabang Free Port and Free Trade Area:

Article 11

b. As many as 200 cigarettes or 50 cigar or 100 grams of tobacco, and perfume in a reasonable amount. In the case of more than one type of tobaccos, it is equivalent to the ratio of the amount of tobacco products.

Article 12

- (1) For excess amount of goods, as meant in Article 11 sub a, import duties and other import levies are applied to the goods.
- (2) For excess amount of goods subject to excise, the excess goods as meant in Article 11 sub-b are destroyed.

The distribution of FTZ cigarettes outside the Sabang area is proven by the sighting of cigarettes that were supposed to be sold in the Sabang FTZ but were traded in other customs areas. Another way to detect the illegal trade in free zone cigarettes is by inspecting the cigarette storage in Sabang. If the warehouse is empty but low on consumption, it has likely been traded illegally to other customs areas outside the Sabang FTZ.

According to our officers, during the check, there is a serious gap between cigarettes demand and supply in Sabang. Very likely the number of cigarette circulating or being sold in Sabang is more than what is needed by the islanders. Then, we do the warehouse check, mostly empty. So we trace it to the

neighbouring islands within the vicinity of Sabang FTZ. If we still cannot find it there, it is already been smuggled to the mainland (DN).

Illegal cigarettes are widely sold on the mainland of Aceh. It is also distributed to the plantation areas in the West-South Coast of Aceh, such as in Aceh Barat, Aceh Barat Selatan, Aceh Selatan, Subussalam, and Singkil. It is also distributed to Aceh Tengah and Bener Meriah. Illicit cigarettes target the plantation workers because most of the people in Aceh generally tend to maintain "prestige", including cigarette consumption. In the capital city of Banda Aceh, these illegal cigarettes were mainly distributed on the outskirts of Banda Aceh. It targeted workers, both plantation workers and building labourers. These cigarettes are from Batam and Sabang FTZ. The number of illegal cigarettes from Sabang FTZ is still relatively smaller when compared to cigarettes from Batam FTZ.

The main *modus operandi* in distributing illegal cigarettes is by putting and bringing the cigarettes from abroad or from other customs areas (at a lower price) inside passengers' luggage (Joossens and Raw, 1998). This smuggling activity is exacerbated by a weak pattern of supervision, limited supervisory resources, organization, system, and motivation. The control system for illegal trade is limited to less modern technology, such as scanning machines. As of now, the smuggling technique of illegal cigarettes in Aceh has also changed, as described in an interview by Aceh Customs Officer:

In the past, they tended to use large warehouse to store the cigarettes. Now, it is stored in the smaller shops. And usually it is kept in a room. And it is a bit troublesome for as to get in to a house to search without a warrant from the court. Well, if we go to the court to get the warrant or to report, the information will be leaked to the smugglers (AY).

E. Conclusion

The Sabang FTZ, which initially acted as compensation for the conflict in Aceh, has more complicated challenges in its implementation. However, Sabang FTZ, as a particular area, has become fundamental in the overall development of post-conflict Aceh. We found that Sabang FTZ still has its

potential amidst serious mismanagement and lack of coordination attempts by the key stakeholders. The political elite's failure of Sabang FTZ's management has made way for some side effects, such as the practice of illegal cigarette distribution outside the FTZ area.

Considering its strategic position, the Sabang FTZ has to appropriately managed. This can be achieved by increasing the management's competence in controlling illegal trading by means of technology (L. Joossens & Raw, 1998). Moreover, there must be clear regulations on cigarettes to determine their legal position through the packaging of cigarettes by identifying: their tax stamps, health warnings, tar labels, nicotine and CO, brand names and prices (Ciecierski, 2007).

In the supervision system, the coordination between the BPKS and Customs must be function as expected. One of the steps that can be taken is to integrate the functions of each institution to develop the Sabang FTZ without causing a severe loss to the country's finances. In addition, an anti-smoking campaign must be intensified through education using media for consumers, educating sellers directly, and even contacting companies, in this case, importers in the Free Trade Zone.

This Sabang FTZ has seen an intensified illegal tobacco trade outside Sabang in the built-up. In general, the distribution of illegal cigarette trade has worsened public health and economic conditions. By all means, illegal cigarettes are harming two components at once. First, the state loses on the revenue, and second, the society loses on general public health.

In order to avoid losses in public revenue and health, the regulation of cigarettes must be controlled. Several things need to be done. First, the Ministry of Finance, Customs, and its supervisory board (DKS) should come together to discuss the best possible cooperative forum for Sabang FTZ, especially to anticipate the potential harm of state revenue loss from tax and excise through more technical and detailed derivative regulations. Practically speaking, this legal product can be produced and ratified at the regional level, such as a governor's decree or regulated in local regulation (Qanun), or made in the form of a Ministerial Decree or Law or Government regulation. Second, one of them is reducing the political problems in Aceh and BPKS by promoting better management professionalism and regulating and issuing a quota mechanism on imported cigarettes. Last, FTZ abandons excise-related arrangements. The

FTZ only regulates this for taxes instead of tobacco excise (in this case, cigarettes), and then the state losses mentioned above can be minimized.

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