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Antinomy Verification / Training Technical Ceramic Importation In The World Of Trade by: Ramlani Lina Sinaulan Abstract Abuse of authority, in general, is due to the extension of power and authority without being based on the juridical foundation that is the source of such power and authority. A phenomenon of abuse of authority, in relation to a process of verification / technical tracing of ceramic importation activities, has moved from a juridical foundation which is the implementing arrangement of the mandate of Law Number 17 of 2006 on Amendment to Law No. 10/1995 on Customs.

Regulation of the Minister of Trade of the Republic of Indonesia Number 72 / M-DAG / PER / 11/2012 concerning Technical Investigation of Ceramic Import contains double norms which gives authority to the Directorate General of Customs and Excise to override legal norms governing the same subject without obligation to Building juridical arguments and alternative solutions.

The construction of legal reasoning constructed by the Directorate General of Customs and Excise against decisions taken under the authority of such delegates can not be declared invalid as a decision. However, concrete facts indicate the existence of material losses for ceramic impotation business actors as a result of the synchronization and disharmony of the formulation of legal norms. Thus, the absence of legal protection for importers is particularly vulnerable.

Key word: Technical Investigation of Ceramic Import, Customs and Excise to override legal norms governing INTRODUCTION The concept of the welfare state as the development of the principle of the rule of law as contained in Article 1 paragraph (3) of the 1945 Constitution of 1945, and reflected in the fourth paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia, which asserts as follows: "...

Later than that to form an Indonesian state government that protects the whole Indonesian nation and the entire Indonesian blood sphere and to promote the general welfare, ..." The authority and power of state organizers are regulated and limited by the 1945 Constitution and other laws and regulations, in the sense that government

administrative measures should be based on law.

In a legal state, it requires normative and empirical recognition of the principle of rule of law, namely that all problems are resolved by law as the supreme guidance and all life, the life of the state, the life of the nation, and the social life must be based on the law. That is, all actions should be based on legitimate and written legislation. The legislation should be in place and apply in advance or precede the deeds performed._

Broadly speaking the function of the state consists of 2 (two) types of state functions namely the function of determining the state policy and the function of implementing the policy that has been determined. The policy of the state which has been chosen / determined and formulated in the legal product, in its implementation it is confronted with the legislating bodies applying as the institution authorized to impose such restrictions._

In relation to the activities of the state it is clear that the need for the organization of the areas of government that carry out the duties and functions of the state administration in daily practice requires a large organizing system, due to direct contact with the needs of the wider community. In achieving the goals of statehood, it must involve the field of state administration in performing its highly complex public service tasks, its wide scope, and entering all sectors of life._

In connection with the purpose of the state, Sjachran Basah explained that the multicomplex national development brings the consequences of having to intervene deeply in the life of the people in all sectors. The intervention is contained in the provisions of legislation, both in the form of laws and other implementing regulations implemented by the state administration that performs the tasks of public services._

Basically, the involvement of government in the life of the citizen should be based on the principle of legality, that is, must be based on applicable laws and regulations. But along with the existence of natural defects and artificial defects - as described by Bagir Manan that there are natural defects and artificial defects of a legislation as a form of written law (Written law) resulted in the regulation having a limited reach - just the momentary opname of the most influential political, economic, social, cultural and defense elements at the time of formation, so it was easy to "out of date" when compared to the changing societies that Accelerated and accelerated, - contained in legislation, to the government given discretionary authority or ermessen._

Basing government action on the principle of legality and discretion is actually basing it on authority. Government action based on the principle of legality implies basing it on

gebonded bevoegheid, whereas action based on discretion means basing the government's actions on unbound authority.

Associated with the existence of authority is accountability, in accordance with the principle of "geen bevoegdheid zonder verantwoordelijkheid" (no authority without liability). _ Based on that, if it is associated with the principle of a legal state that ensures the certainty, order and protection of the law requires, among others, legal traffic in the life of the community requires the existence of evidences that clearly define the rights and obligations of a person as a legal subject in society_, Legal protection for society in general.

As is known, that any legal relationship will certainly bring up the rights and obligations, in addition each community members of course have a relationship of interests that are different and opposite or opposite, to reduce tension and conflict, then the law that regulate and protect those interests which Called legal protection. _ A more explicit notion of law as a protector of human rights and the freedom of its citizens, was put forward by Immanuel Kant.

For Kant, human beings are intelligent and free-willed creatures. The state is in charge of upholding the rights and freedoms of its citizens. The prosperity and happiness of the people are the objectives of the State and the law, therefore, the basic rights shall not be impeded by the State. _ In relation to this research, the concept of the welfare state which is a further development of the principle of state law-both rechtsstaat maupu rule of law, the Researcher directs to the obligation to harmonize and synchronize the formulation of legislation as a form of legal protection against Certain circles in society, namely business actors, especially those engaged in the field of importers in the world of commerce.

_ Although the attention of the government is so strong on the improvement of public service delivery, the performance is still not as expected by the public, among others, is reflected by the many complaints of the community, both regarding procedures, certainty, responsibility, moral officers, . On the other hand, the formulation of legislation still raises the legal issues of its own in the practice of trade.

The formulation of rules in a legislation, in addition to raising the problem in the meaning of legal texts, also raises the issue of harmonization and synchronization between laws that regulate in a field of the same law. Article 5 of Law Number 12 Year 2011 (Law No. 12/2011) explained that in formulating legislation it must be based on the principle of conformity between species, hierarchy and content material.

Where in forming a legislation should really pay attention to the material content appropriate to the type and hierarchy of the Laws and Regulations. The law also requires that harmony should take into consideration the principle of balance, harmony and harmony in any matter of content of legislation should reflect balance, harmony, and harmony between individual interests, society and the interests of the nation and state. Deviations from the mandate in Article 5 of Law no.

12/2011 occurs at the level of technical regulations of Law no. 17/2006 on Regulation of the Minister of Trade of the Republic of Indonesia Number 72 / M-DAG / PER / 11/2012 on Second Amendment to Regulation of the Minister of Trade No. 006 / M-DAG / PER / I / 2007 concerning Verification or Technical Inquiry of Ceramic Import (PERMENDAGRI No. 72/2012).

Where in Article 2 paragraph (1) PERMENDAGRI No. 72/2012 stipulates that "Every implementation of Ceramic import shall be verified or imported technical surveillance in port of loading of goods." This provision implies that every import activity, especially Ceramics, ordered by import business actors in Indonesia to the ceramic producing country, shall perform technical verification / surveillance activities on the imported ceramics.

Therefore, in order to guarantee the quality and quality of the imported Ceramics in order to protect the consumer law interests in Indonesia and the local ceramic market, the Government requires the use of the Surveyor as stipulated by the Minister of Trade of the Republic of Indonesia as stipulated in Article 3 paragraph (1) PERMENDAGRI no. 06/2007._ However, neither PERMENDAGRI no. 06/2007 and its amendment rule PERMENDAGRI No.

72/2012, in Article 6 contains legal norms that can be constructed as legal norms similar to Article 2 paragraph (1) in the same regulation. Article 6 PERMENDAGRI No. 06/2007 and its amendment rule PERMENDAGRI No. 72/2012 stipulates that "Verification as referred to in Article 2 shall not reduce the authority of the Directorate General of Customs and Excise of the Ministry of Finance to conduct customs inspection." Based on the phrase "customs inspection" by connecting with the phrase "Verification as referred to in Article 2 ...."

means that the Directorate General of Customs and Excise has the same authority as the Surveyor appointed under Article 3 paragraph (1) PERMENDAGRI No. 06/2007. Thus, it can re-verify the importation of ceramics. PROBLEM FORMULATION Based on the above description, the Researcher filed the problem formulation as follows: Is the legal action of the Directorate General of Customs and Excise implementing Article 6 PERMENDAGRI

no. 06/2007 and its amendment rule PERMENDAGRI No.

72/2012 as abuse of authority? What is the legal protection to the business actors of Ceramic importation against the decision of the Directorate General of Customs and Excise who suffers material loss? ANALYSIS AND DISCUSSION The meaning of the principle of the rule of law differs in every age and for every nation. This means that the understanding and the nature of a universal and valid state of the law for all nations can not be standardized.

The idea of ??a legal state is a dynamic idea that always evolves with the times. So it is impossible to discuss a conception of a legal state that can apply to all nations and in all countries._ Discourse on the principle of the rule of law had emerged long before the 1688 revolution in England-even since the Greek / Roman period pioneered by Plato and Aristotle, but only reappeared in the XVII century and became popular in the XIX century. The background of the emergence of legal state thinking is a reaction to past abuses._

The idea of ??a state of law is actually very old, much older than the age of state science itself, it is a modern, multi-perspective and always actual idea. When looking at the history of philosophical thought development of the state of law began in 1800 S.M. The development took place around the XIX century up to the XX century.

According to Jimly Ashiddiqie, the idea of ??thinking about the rule of law developed from the ancient Greek tradition._ The meaning of the state law itself is essentially rooted in the concept and theory of the rule of law which in principle states that the supreme authority within a state is the law, therefore all the equipment of any country name including citizens must be subservient and obedient and menjung high law without exception .

According to Krabe, the state as the creator and law enforcement in all its activities must be subject to the applicable law. In this sense the law oversees the state. Based on the notion that the law is derived from the legal consciousness of the people, then the law has the authority that is not related to a person._

Padmo Wahyono mentioned that a country should be based on the law in all respects, it has been coveted since Plato wrote "Nomoi". Immanuel Kant describes the principles of the State of Law (formil), JuliusStahl presents the State of Law (material). A.V. Dicey proposes "Rule of Law." Ideally a country in state activities should be based on law. Therefore, Mochtar Kusumaatmadja mentions the basic understanding of a state law is, "...

a state based on the law, in which power is subject to law and everyone equally before the law"._ Based on the concept of legal sovereignty (leer van de rechts souvereinteit), the state is in principle not based on mere power (machtsstaat), but must be based on law.

It is understood that the concept of a state of law always contradicts the concept of state power or by the concept of willkuurstaat (an arbitrary ruling state). In this world are known three most prominent concept of law state that is (1). The concept of the western legal state (Rechtsstaat and the Rule of Law), (2). The concept of a socialist-legal state (Socialist Legality), (3). The concept of Islamic legal state (Islamic Nomocracy)._ As for E.

Utrecht distinguishes between Formal Law State or Classical Law Country (XIX century) and the State of Materiil Law or the State of Modern Law (XX century). Formal State or Classical Law State concerns the notion of a formal or narrow law, namely in the sense of legislation in writing. While the State of the Law of Material or the State of Modern Law, the State of the Law of Materil which more recently includes also the understanding of justice in it.

By using different terms, Padmo Wahyono explains that historically, the notion of a legal state conception has continued to roll with the flow of historical development. Starting from the conception of a liberal legal state (nachwachter staat / state as night watchman) to a formal legal state (formele rechtsstaat) then becomes a material law state (materialele rechtsstaat) to the idea of ??a prosperity state (welvarstaat) or a state devoted to the public interest Stateatau sociale verzorgingsstaat)._

In the sense that material task of the state is not only limited to maintaining order, but also the presence of the state is to mecapai the welfare of the people to achieve justice (welfare State). The function of the state in the material sense makes the main thing for a country is to act as a servant for the public (public service), in order to improve the welfare of the community._ The concept of a welfare state constitutes the basis of the position and function of government (bestuurfunctie) in the modern states.

The welfare state is the antithesis of the concept of a formal (classical) legal state, which is based on the idea of ??strict supervision of the organizers of state power._ According to Anthony Giddens, the concept of the function of such a state makes the state has an interventionist nature, meaning that the state will always take part in every movement and step of the community on the grounds to improve the general welfare.

Therefore, the task of the state becomes very wide and reaches every aspect of public

life in all areas ranging from social culture, politics, religion, technology, security perthanan, even if necessary to enter into the private life of its citizens (eg arranging marriage, religion and so forth)._ Based on this understanding, Malik expressed the philosophical meaning of the rule of law is the state exercising its power, subject to the supervision of the law.

This means that when the law exists against the state, the state power becomes restrained and then becomes a state organized under the provisions of written or unwritten law (convention)._ At the practical level, the principle of democracy or the sovereignty of the people can ensure the participation of the community in the decision-making process, so that every legislation that is applied and enforced truly reflects the feeling of community justice.

While in a state based on law, in this case the law must be interpreted as a hierarchical unity of the legal norms that culminate in the constitution. This means that in a country the law requires the supremacy of the constitution. The supremacy of the constitution, in addition to the consequences of the concept of the rule of law, is also the implementation of democracy because the constitution is the ultimate form of social covenant.

Therefore, the state of the law must be supported by a democratic system because there is a clear correlation between the constitutional state of the constitution, with the sovereignty of the people run through the democratic system. In a democratic system, popular participation is the essence of this system. However, democracy without the rule of law will lack form and direction, while the law without democracy will lose meaning.

Based on the meaning of the state law mentioned above, according to Sudargo Gautama that every state action must be based on law. The legislation that has been held in advance, is the limit of state acting power. The Constitution which contains legal principles and legal regulations must be adhered to, as well as by the government or its own agencies.

Thus, the concept of the State of Law has a close relationship with the realization of the existence of law as a system that becomes the back bone (back bone) as well as the chain or common thread that regulates all rights and obligations including the limitation of duties and authorities of each state institution and also concerning citizens Country or community._ According to Philipus M.

Hadjon that in a State of Law, requires a normative and empirical recognition of the principle of rule of law, namely that all problems are resolved by law as the supreme

guidance. Thus in a state the law of all life, both the life of the state, the life of the nation, and the life of a society must be based on the law. That is, all actions should be based on legitimate and written legislation. The legislation should be in place and apply in advance or precede the deeds performed._

The need for legislation in the context of the State of Law becomes very important. This is because, according to Soediman Kartohadiprodjo, that the state is run by humans and not by machines. Thus, in everyday practice, all actions of the state are done by human beings. And since no man is flawless, his whole work is not perfect.

So if the person who is given power in that country can not exercise power with the soul of humanity and justice, then it is impossible to achieve a state of law. Thus, any concept of the State of Law adopted by a State will be reflected in the Political Law, whether related to the formation of legislation in the world of commerce or law enforcement.

In the concept of the adopted State of the Law will radiate a view of life of the nation, which then color the constitution of a country and a refutation of the existing legal system._ Bagir Manan and Kuntana Magnar say that the first role of legislation in a country depends on the legal tradition (legal system, Pen.) Adopted by the country concerned.

In Indonesia it can no longer be said absolutely that Judges are not bound by court decisions, but Indonesia has historically been more influenced by the continental legal tradition (legal system, Pen.). Thus in Indonesia, legislation occupies an important position in the establishment and development of national law, and the Indonesian legal system provides the same position to unwritten legal norms._

As a result of the central position of the laws and regulations of a country that embraces a civil law system, the issue of juridical argument in the context of decision-making as a result of interpretation within the framework of legal discovery is of great importance to study. An activity of applying law means establishing what is the legal norm against concrete events.

Where basically is to formulate a hypothesis about the meaning of a text. To this, Aulis Aarnio explains that the science of law is the science of meanings. Therefore, the application of law to the judicial process is concerned with the problems of the legal paradigm, and a judgment itself is a set of processes of interpretation and application which are based on authoritative text / Juridik, or positive law.

While Meuwissen uses another term to describe the "legal discovery" of

"rechtsbeoefening" or law enforcement, it is explained that the discovery of law or rechtsbeoefening is a human activity concerning the existence and enactment of law in society, which includes the activities of forming, implementing, finding, interpreting systematically , Study, and teach the law. While the law itself is differentiated into practical law and the development of theoretical law.

The practical law enforcement involves activities relating to the realization of the law in everyday life, while the theoretical law embracing involves the formation of law, legal discovery, and legal aid. In general, one can define the invention of the law as a reaction to the problematic situations expressed in the legal terminology. The discovery of the law, in this case, concerns legal questions (rechtsvragen), legal conflicts or juridical disputes.

The discovery of the law is directed at providing answers to questions about the law brought about by concrete events. In relation to it, questions are asked about the explanation (interpretation) and the application of the rules of law, and questions about the meaning of the facts to which the law should be applied.

The discovery of the law, concerning the discovery of settlements and answers based on legal norms, which are more or less exact (meticulously detailed), suggests how a particular type of problematic situation should be sanctioned._ Authority owner of authority in making the discovery of the law, believed to be a judge, so is always taught to law students.

So outside the judicial power does not have the authority to interpret a legislation. As Yudha Bhakti Ardhiwisastra affirms that if the definition of law is defined in a limited sense as a decision of the ruler and in a more limited sense as a judicial decision, the issue is the duty and duty of the judge in discovering what can be law, so through his decision , The judge may be regarded as one of the legislating factors.

The common opinion is also recognized by Sudikno Mertokusumo, although in his view there is also a rebuttal, which explains the following: "The discovery of the law is usually defined as the process of legal formation by judges or other legal officers who are given the task of enforcing the law against concrete legal events."_ The same opinion is also recognized by Bambang Sutiyoso, who explains as follows: "The discovery of the law (rechtsvinding) is essentially a very wide range of legal areas of work.

It can be done by individuals, legal scientists, law enforcers (judges, prosecutors, police and lawyers / advocates), directors of private companies and state-owned enterprises (BUMN / BUMD). But in the discourse of the discovery of the law, more is talked about

in finding law by judges, lawmakers and law researchers. "_ Opinions from Bambang Sutiyoso_ have a broader spectrum than Sudikno Mertokusumo, but both recognize that in general the judge is seen as a legal subject who is authorized to conduct legal discovery. That opinion is not entirely wrong, but it is not entirely true.

What distinguishes legal discovery by legal officers and legal researchers is the nature of its binding force and timeliness. Legal discovery by legal officers (police-judge-judges) has a binding force as law so there is a legal obligation to anyone who is subject to the law's decision and is limited by the time specified in the rules of law. _ Which by J.A.

Pontier is called the act of public authority (government action, overheidshandelen) and is a monopoly of public authority (overheidsmonopolie) so that it can get help using violence. While the result of legal discovery by legal scientists is better known as the opinion of the jurist or also referred to as the doctrine, therefore, a legal discovery by the Legal Scientist has the persuasive nature of force binding.

However both in the legal system in Indonesia are legal sources that can be used as a reference or as a source of law in the discovery of the law as well._ The problem of legal discovery is based on issues that are always concerned with how to read from the authoritative texts. Therefore, the way that reading gives a direct influence on the application of the law against concrete events, of course in addition to the use of paradigms.

To that end, the Researcher refers to the view of Bagir Manan, where he explains that every legislation has natural defects and artificial defects, which is a consequence of a written law form, Which resulted in the regulation having limited reach-just the moment of the most influential political, economic, social, cultural and defense elements of politics at the time of its formation, so it was easy to "out of date" when compared to the rapidly changing society and Accelerated.

However, far earlier, Sudikno Mertosukumo also explained "If we talk about the law in general we only look to the rule of law in the sense of kaedah or legislation, especially practitioners. The law is not perfect, it is impossible that the law regulates all activities of human life completely. Sometimes the law is incomplete and sometimes the law is unclear. Although incomplete and unclear, the Law should be enforced.

"So as to create a discrepancy between das sollen and das sein. Why the discrepancy? Why does Sudikno Metokusumo say that a law can be classified as unclear and incomplete? And why is Bagir Manan calling it a Law carrying congenital defects and artificial defects? Jimly Asshiddiqie_ explains that norms or rules (kaedah) constitute the

institutionalization of good and bad values ??in the form of rules that contain skill, suggestion, or command.

Both suggestions and commands can contain positive or negative rules that include norms of recommendation to do or suggestions for not doing things, and the norms of commands to commit or order not to do anything. Further explained by him, that the rule of law can also be distinguished between the general and abstract norms and the concrete and individual norms.

The general rule is always abstract because it is addressed to all related subjects without pointing or associating them with a specific concrete subject, party, or individual. This general and abstract rule of law is usually the material of the rule of law applicable to any person or anyone subject to the formulation of the rule of law contained in the relevant legislation. In such a case then an interpretation becomes very important.

Thus, the method of legal discovery, such as interpretation, is an attempt to converge between abstract and general norms of law to the concrete problem. Therefore, the development of society always goes beyond the laws and regulations. Why does the positive law require this further determination, why does it at its application raise questions? This question seems simple; But the answer is very complex and involves (bringing in) many philosophical analyzes into it. That law is often dubious, has to do with the structures of the most fundamental laws.

In our introduction to the legal problems of the legal field (rechtswetenschappelijke vraagstelling), we can look at the following corners of approaches which are more or less mutually relevant: law as rule-structure, law as historical phenomena, law as the order of values Which are mutually concurrent. The phenomenon of the discovery of the law, which in the end became precisely the phrase of Satjipto Rahardjo, that the sophistication of a legal development as a sophisticated institution. Such sophistication must be paid handsomely by the community, that is, the presence of an isolated system from the community.

To create and bring about justice in society, law is more often a problem than solving the problem of justice. Thus, it is not wrong when Soerjono Soekanto argued that the use of power and authority in the process of law enforcement, in essence can not be released by the use of discretion by law enforcement officers in interpreting and implementing the established rule of law.

If it is related to the meaning of law enforcement, conceptually the meaning of law enforcement lies in the activities of harmonizing the relationships of values ??that are

outlined in steadfast rules and manifestations and attitudes of acts as a series of end-stage value descriptions, to create, maintain and maintain peace of life ._

Based on the description, it can be concluded that the Directorate General of Customs and Excise, as a governmental organization has authority as a public authority that can use and is a monopoly of public authority (overheidsmonopolie) so as to obtain assistance using coercion. Therefore, based on the condition of legal practice, the source of such authority is the attribution, delegation and mandate, which was originally in the theoretical sphere, has now undergone the process of normatifisasi or pempositivisan into the form of legislation, as a material law in the realm of Law of State Administration Broadly, with the enactment and enactment of Law Number 30 Year 2014 on Government Administration (Law No. 30/2014).

The submission of the Directorate General of Customs and Excise in exercising its power and authority in making a public decision is limited-as a consequence of the principle of the rule of law, by Article 4 paragraph (1) letter a of Law Number 30 Year 2014 on Government Administration (hereinafter referred to as the Law AP) affirms "The scope of Government Administration arrangements in this Law encompasses all activities: Agency and / or Government Officials who administer Government Functions within the scope of the executive." Through Law no.

30/2014, the Agency and / or Government Official - in this case the Directorate General of Customs and Excise, is authorized to issue decisions and administrative actions both on the basis of legality and discretionary principles. Thus, Law NO. 30/2014 also requires that in issuing Decisions based on discretion, it also contains juridical, sociological and philosophical considerations.

While decisions taken based on discretion if violate the procedures and substances can be classified as a Decision and / or Action that can be canceled. A beleids can not be tested through wetmatigheid, because there will be no basis of legislation for the decision to make beleidstersebut. Therefore, testing of beleids is more directed to doelmatigheid and therefore the test stone is AAUPB.

In practice, beleids may be decisions, instructions, circulars, announcements, and others, some even in the form of rules. Therefore, in making a decision and / or administrative action should contain philosophical, juridical and sociological reasons [vide Article 55 paragraph (1) of Law no. 30/2014]._

One of the concrete facts that can be described related to the technical verification / tracking arrangement of this research study object is the Compliance and ketertundukan

of PT. Palma Conte Mas, as a legal entity burdened with rights and obligations, actually raises legal issues in carrying out its business activities namely the importation of ceramic Polished Tiles and Aluminum Door from China and entered into Indonesia through the Port of Tanjung Priok in 2008. PT.

Palma Conte Mas, in January 2008 imported 2 shipment items with No. PIB: 641044 counted 15 containers and No. PIB. 333470 sebayak 10 container with description of goods Ceramic Tiles 60 x 60cm, Polished Unglazed, postal / HS No. 6907.90.0000, BM 20%, VAT 10%, PPh 22 Import 2.5%. As regulated in Article 2 of Regulation of the Minister of Trade no. 006 / M-DAG / PER / I / 2007 (hereinafter referred to as PERMENDAG No.

006/2007) which is derived from Article 3 paragraph (4) of Law Number 10 Year 1995 concerning Customs as amended the latest by Nomro Law 17 Year 2006 on Amendment to Law Number 10 Year 1995 regarding Customs (hereinafter referred to as Law No. 10/1995), PT. Palma Conte Mas is also required to verify before loading the goods. The verification or technical tracing is then performed by KSO Scofondo Surveyor-Indonesia before loading the goods by postal decree / HS. 6907.90.0000.

Where according to KSO Sucofindo has submitted the Surveyor Report, as contained in Letter Number 190 / KSO-V / OPS / 2008, the result is a glazed floor tiles with no additional coating or glazing (Ceramic / Porcelain Tiles, Polished, Unglazed), with HS classification 6907.90.0000.However, through Article 6 PERMENDAG no. 006/2007, the Minister of Trade shall grant delegation authority to the Directorate of Customs and Excise of the Ministry of Finance of the Republic of Indonesia to conduct customs inspection as well, among which are verification or technical tracing on 31 January 2008 with the result of a positive surface glazing.

As a result of the different results of the verification, the Directorate of Customs Technical Excise through Excise No. S-813 / BC.2 / 2008 dated July 21, 2008 stated that the import of ceramics is determined as the state-controlled goods. Based on the concrete facts, the decision of the Directorate General of Customs and Excise is not a decision based on the principle of discretion but based on the principle of legality. Thus, in a normative juridical way, the decision can not be classified as a form of abuse of authority.

Therefore, the authority to re-verify is legally justified. However, as a result of the decision, the import business actor declared by the Directorate General of Customs and Excise that the imported ceramics as goods controlled by the state.

While it is known that the impotation business actor has fulfilled the formal requirements by using a surveyor appointed and determined by the Minister of Trade of the Republic of Indonesia. It is a fact that the harmonization of legislation by some people is considered to have no significant implications (impact) on the implementation of legislation in general.

Thus, as long as no problems arise from the implementation of these laws, the state (executive) administrator does not feel the need for a harmonization of the law (legislation). New problems are felt by the state organizers when in the implementation of legislation finds difficulties. For example there has been duplication between legislation that is equal to each other or the contradiction of the hierarchy of legislation.

On the explanation it is not surprising that the injured party is actually the community itself as the party most concerned with the formulation of the legislation. In general, the settlement of synchronization and harmonization problems, according to Mahmud Marzuki, related to the synchronization of legislation lex superiori derogat legi inferiori principle which explains that if there is a conflict between laws that are hierarchically lower with higher, then the legislation -the lower hierarchy of the legislation should be set aside.

While the word Harmonization also relate to the approach of legislation with the necessary also understood lex specialis derogat legi generali principle. This principle refers to two laws that are hierarchically in the same position, but the scope of material content between the laws and regulations is not the same, that one is a special arrangement of the other.

However, because of the conflict between Article 2 paragraph (1) and Article 6 in the same ministerial regulation, then constructing its legal construction can not use the above view._ Thus, in the context of the fulfillment of legal protection for ceramic impotation business practitioners, a legal discovery as the basis for the issuance of a decision, which is part of law enforcement that activities harmonize the values ??of relationships laid out in steady and elegant rules and attitudes Acts as a series of final value stages, to create, maintain and maintain peace of life. Therefore, in turn, the implementation of legal rules by authoritative decision makers requires flexibility.

Thus, on the one hand, decision-makers must adapt the rule of law to situations in which concrete form is precisely impossible to anticipate or imagine by lawmakers, but on the other hand must remain predictable (predictable)._ In the stress between stability and flexibility, then the implementation of the law is not necessarily the realization of a compromise between predictability and fairness, using the correct method of

interpretation and juridical construction by always referring to the ideals of law.

Then the decision makers will be encouraged to consider the "policy" and the teleological aspects that underlie the relevant legal rules. Therefore, decision-making in the law enforcement process is not only based on the Law Science an sich, but at the level of external systematization of Legal Sciences also adopts the Social Science Strategy, so that the Law Science becomes more relevant and dynamic.

It is a fairness, in essence the task of Legal Science is to provide alternative solutions to dispute resolution of legal issues that can not be denied, that the community became the end of the work of Law Science. Thus, the risk of losses suffered by the ceramic import business actor should be considered and recognized as a result of the decision.

As a result of these positivistic behaviors which resulted in the decision to hold or not to issue the imported goods, the businessmen of ceramic importation which have suffered losses that can not refer to Article 71 paragraph (5) of Law no. 30/2014, through administrative measures against the decision, affirms "Losses arising from Decision and / or canceled Action shall be the responsibility of the Agency and / or Government Officials."

CONCLUSION Based on the above descriptions, the Directorate General of Customs and Excise as an extension of the state in realizing the objective of the state is general welfare, theoretically, given the right to go beyond authoritative texts. However, such delimitation should be through legal reasoning that moves within the social framework.

So when there is a clash of norms, then a decision should not be up to the stage of the emergence of harm to the community. Normative juridical, the decision can not be classified as an act of abuse of authority. However, a disregard for the interests of ceramic impotation business actors who also fulfill formal requirements is another form of abuse of authority itself.

The jurisis's argument (legal reasoning) is based solely on partial authoritative texts and is unable to provide a solution. Whereas as a consequence of the principle of welfare state (welfare state), every public official is given the right to make a decision based on the principle of discretion.

Thus, when the concrete facts occur between technical verification results conducted by an authorized Surveyor with the result of technical verification / tracing conducted by the Directorate General of Customs and Excise, in order to avoid losses from importing business actors, it can be used by different third parties with Appointment of the

Directorate General of Customs and Excise.

The reluctance to find the solution, which according to the Researcher is one of other forms of abuse of authority, as regulated in Law no. 30/2014. The legal protection that can be given is through Law no. 30/2014 by filing objections, appeals objections and state administrative lawsuits. With the object of the lawsuit is the unwillingness of the Directorate General of Customs and Excise to use another Surveyor as a comparison and a neutral party.