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Beyond Tax Avoidance and Evasion: Conceptualizing Import Tax Circumvention in Indonesia

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Abstract

Tax irregularities in Indonesia's import sector recur in varied forms, from value manipulation and tariff misclassification to customs administrative engineering. The classical dichotomy between tax avoidance and tax evasion, however, is insufficient to explain the gray-zone practices that operate within self-assessment-based customs governance. This article proposes the concept of *import tax circumvention* as an analytical category for reading fiscal maneuvering that moves along a spectrum between formal tax planning and unlawful customs manipulation. The study adopts an abductive conceptual approach supported by illustrative empirical material from four semi-structured interviews with executive-level officers of the Indonesian Directorate General of Customs and Excise and senior managers of an Indonesian importing firm, conducted in Greater Jakarta between November 2025 and March 2026. The article shows that the configuration of self-assessment, risk management, multi-actor networks, and administrative discretion at four critical decision points generates spaces of deviation that are systemic and resistant to a binary legal–illegal reading. To capture this complexity, the article formulates four conceptual dimensions of import tax circumvention: *maneuver character*, *regulatory space*, *operational mode*, and *actor configuration*. Practices that share the same fiscal motive may occupy different positions within the spectrum. The conceptual contribution extends scholarship in tax governance and economic criminology by treating import tax deviation as a problem of governance, opportunity structure, and institutional relations rather than as individual transgression alone. The article also outlines practical implications for fiscal oversight in modern customs systems.

Keywords: Import Tax Circumvention, Tax Avoidance, Tax Evasion, Customs Fraud, Economic Criminology

1. Introduction

1.1. Empirical Context and the Persistence of Import Tax Irregularities

The import sector plays a central role in the Indonesian economy and is, at the same time, a major source of fiscal leakage. Statistics Indonesia recorded Indonesia's import value at approximately USD 237.4 billion in 2022, with raw materials and intermediate goods accounting for 76.34 percent and capital goods for 15.31 percent (BPS, 2022). This composition is more than a statistical aggregate. Most of the flow consists of goods with complex

technical specifications and wide price ranges, conditions that structurally open space for value manipulation and tariff misclassification.

Various estimates suggest that the fiscal losses involved are substantial. The Tax Justice Network (2020) estimated that Indonesia loses approximately USD 4.86 billion annually to tax avoidance, with multinational corporations operating through import channels accounting for the largest share. Nurferyanto and Takahashi (2024) document a rising trend in both the number of tax cases and the value of state losses between 2018 and 2023. Irregularities persist even as surveillance regimes and enforcement frameworks have been progressively strengthened. A pattern that recurs and continues to drain public revenue should be read as an institutional symptom rather than as a collection of isolated technical violations.

Several studies of Indonesia add important nuance. Patunru and Patunru (2018), analyzing trade data discrepancies between Indonesia and Singapore, find that import tax evasion in Indonesia occurs more substantially in import value-added tax (PPN impor) than in customs duty, and is exacerbated by non-tariff barriers that open further space for smuggling. At the operational level, Purwanto and Indrawan (2020), studying the DJBC Jakarta office, show that self-assessment, audit intensity, and information-technology utilization significantly reduce evasion, although weak law enforcement and the limited quality of public services remain persistent challenges. Together, these findings indicate that the vulnerability of the Indonesian import system cannot be captured solely by a focus on customs duty. The problem extends across the spectrum of import levies and rests on specific institutional pressure points. This is the empirical foundation from which the conceptual argument of the article departs.

1.2. *The Tax Avoidance–Tax Evasion Dichotomy*

In the tax policy literature, the dichotomy between *tax avoidance* and *tax evasion* serves as the dominant framework for reading deviations from tax obligations. Tax avoidance is generally understood as the legal reduction of tax liability, exploiting loopholes, ambiguities, or gray zones in regulation without formally breaching the law. Tax evasion, by contrast, refers to deliberate illegal acts of misrepresentation, concealment, or falsification of tax-related information. The two share the same underlying motive of minimizing the tax burden but are separated by what is taken to be a relatively firm legal–illegal boundary.

In the tradition of criminal law and economic criminology, Dahmardeh Ghaleno and Mahdavi (2016) position tax evasion as a *pure economic crime*, a violation that directly threatens economic security and inflicts losses on the state. They identify three layers of causation: legal, relating to the complexity and ambiguity of regulation and to inconsistent enforcement; institutional, relating to inefficiency in tax administration and corruption; and cultural, relating to weak tax culture and low state legitimacy. Their distinction sharpens the classical line between evasion and avoidance: the former is deception and false reporting; the latter is the exploitation of legal loopholes within formal corridors. What often falls outside this distinction is the practice in between, that which uses formal corridors as a vehicle of concealment. That is the focus of this article's conceptualization.

The core argument advanced here is that the avoidance–evasion dichotomy rests on the assumption of a clear separation between the regulated actor and the state, with the state positioned as the sovereign authority that determines legality and violation alike. That assumption becomes increasingly problematic in self-assessment-based customs regimes. In such systems, the state no longer fully determines the initial truth of data; it operates instead as an *ex post* verifier of data first produced by the regulated actor. As a consequence, the boundary between practices considered "legal" and "illegal" becomes considerably more fluid than the dichotomy presumes.

This fluidity is visible in concrete practices that resist clear placement into either category. Tariff engineering modifies product characteristics so that goods fall into lower tariff classifications. Undervaluation may be administratively defended through supporting documentation. Ambiguities in HS Code classification open space for differing interpretations between importer and customs authority. Such practices cannot straightforwardly be called evasion, but they do not fit conventional understandings of avoidance either.

The import context, more broadly, exhibits three distinctive features that set it apart from other tax regimes. First, the state operates principally as an *ex post* verifier of data originating with the regulated actor. Second, import practice involves a multi-actor network spanning jurisdictions, including exporters, importers, customs brokers, logistics firms, and authorities in multiple countries, which makes accountability complex and fragmented. Third, considerable administrative discretion exists at key decision points, particularly in determining goods classification, customs value, and the interpretation of trade documents. Given these features, the "gray area" of the avoidance–evasion dichotomy is not a marginal anomaly but the default condition of much import tax deviation.

1.3. Proposing the Concept of Import Tax Circumvention

This article positions *import tax circumvention* not as a replacement for the classical avoidance–evasion dichotomy but as a conceptual extension that seeks to explain the spectrum between them, a space that has remained under-addressed in both the tax policy and economic criminology literatures. The dichotomy continues to be analytically useful, but in modern customs practice, particularly under self-assessment regimes, there are forms of deviation that move within ambiguous space between formal compliance and substantive manipulation. A more pliable analytical category is therefore needed to capture them.

Import tax circumvention is defined here as a pattern of fiscal-liability reduction in import activity that is strategic, planned, and systemic, undertaken through the exploitation of regulatory gaps, the self-assessment mechanism, and the space for administrative interpretation. The practice sits on a spectrum between formal-legal tax avoidance and manipulative-illegal tax evasion. The concept thus emphasizes that fiscal deviation in customs does not always present itself as an explicit violation; it frequently operates through administrative negotiation, regulatory ambiguity, and manipulation that can be procedurally defended. Throughout the article, the term *import tax circumvention* is used in this broader spectrum sense and should be distinguished from the narrower technical usage in WTO anti-circumvention rules.

Terminologically, the original Indonesian formulation, *telikung pajak impor*, was first introduced by the first author in a master's thesis as a *terminus technicus* for naming a phenomenon in customs practice. At that stage, the term functioned as an empirical label analyzed through three theoretical lenses: criminogenic environment, corporate crime, and rational choice theory. The present article takes a further step by formalizing the term as a free-standing concept with its own analytical framework.

The article has two principal objectives. First, to map the positions of tax avoidance, tax evasion, and customs fraud within two scholarly traditions: tax studies and economic criminology. Second, to formulate *import tax circumvention* as a spectrum category structured around four conceptual dimensions that may be used to read fiscal deviation in the import context.

The contribution is both theoretical and practical. Theoretically, the article seeks to enrich economic criminology in Indonesia by offering a more adequate reading of contemporary fiscal deviation that is concealed, adaptive, and administrative in character. Practically, the concept may serve as an initial foundation for developing oversight and control approaches that are more responsive to the character of deviation in modern customs systems.

The scope of the article is deliberately bounded. The discussion focuses on the import sector and customs governance, with Indonesia as the empirical and conceptual anchor. Although Indonesia's institutional features (the largest economy in ASEAN, a major regional port in Tanjung Priok, and a self-assessment customs regime broadly representative of post-reform ASEAN systems) make the conceptual lens broadly portable, application of the framework to other ASEAN customs regimes or to non-import tax sectors requires further testing and contextualization.

2. Literature Review/Analytical Framework

2.1. Tax Avoidance, Tax Evasion, and Customs Fraud as Three Traditions

In the criminological tradition, tax evasion is generally placed as a form of white-collar crime as formulated by Edwin H. Sutherland (1949), namely crime committed by persons of high social status during their professional occupation. This perspective was later developed by John Braithwaite (1985), Donald R. Cressey (1953), and successive generations of researchers who highlighted the dimensions of organization, rationalization, and opportunity structure that enable deviation. Distinct from the tax policy tradition, which emphasizes the formal boundary between legal and illegal, criminology centers attention on the social processes that shape deviant behavior, including how rational calculation, competitive pressure, and neutralization techniques operate simultaneously in economic practice.

In the tax policy tradition, by contrast, tax avoidance is understood as an effort to reduce tax liability by exploiting legal loopholes that remain formally within the boundaries of legality. The literature on transfer pricing, treaty shopping, profit shifting, and the Organisation for Economic Co-operation and Development's Base Erosion and Profit Shifting (BEPS) agenda illustrates how tax avoidance has grown into a complex set of practices among global corporations. Doreen McBarnet's (1992, 2006) notion of creative compliance further shows that legal compliance can be executed creatively to reduce fiscal liability without explicitly breaching the rules. In this view, aggressive tax planning is often considered formally legal yet ethically and substantively contested. Much of the tax policy literature, however, continues to read tax avoidance as a problem of legal regime and regulatory design rather than as an institutional behavior shaped by incentive structures and organizational culture.

Contemporary literature on tax evasion has begun to expand its attention to psychological and organizational dimensions, including the fraud triangle approach, moral disengagement, and cross-national studies in developing countries that highlight weak oversight capacity and high opportunities for administrative manipulation (Oseifuah, 2025; Permana & Sanjaya, 2025).

Within international customs governance, a more sector-specific category emerges in the form of customs fraud. This category partially overlaps with tax evasion but has distinct operational characteristics. Whereas corporate tax evasion is generally analyzed in the relation between firms and domestic tax authorities, customs fraud operates within international trade chains involving cross-jurisdictional documentation, maritime and air carriers, and highly diverse tariff regimes. Its main modes include undervaluation, overvaluation, misclassification, false declaration, and phantom shipping, each of which exploits a different gap in customs procedure (World Customs Organization, 2023).

Empirical studies across multiple jurisdictions show a relatively consistent pattern of association between higher import tariffs and increased import tax evasion. Research in Ethiopia found that tariff increases correlate with greater undervaluation and misclassification (Tadesse, 2022). Similar findings appear in studies of China (Fisman & Wei, 2001, 2004), Tanzania (Epaphra, 2015), Iran (Yousefi et al., 2020), and Indonesia (Patunru & Patunru, 2018), showing that as fiscal incentives rise, the propensity to adapt behavior through administrative manipulation or document engineering also rises. The pattern indicates that import tax evasion is not unique to any single jurisdiction but a recurring phenomenon within the global trade system.

As shown in Table 1, empirical studies across countries document consistent associations between high tariffs, weak administrative oversight, and increased import tax evasion. The table summarizes seven quantitative studies that serve as the secondary basis for the argument of this article, arranged chronologically by year of publication.

Table 1: Cross-country empirical comparison of import tax evasion, 2001–2023

Author (Year)	Jurisdiction & Period	Approach	Key Findings	Dominant Modes
Fisman & Wei (2001, 2004)	China–Hong Kong, early 2000s	Bilateral trade data discrepancy (trade gap)	A 1% tariff increase correlates with up to 3% increase in evasion; correlation is stronger in sectors with higher corruption	Misclassification and undervaluation
Epaphra (2015)	Tanzania, 2002–2010	Trade data discrepancy with main trading partners	High tariffs correlate positively with missing imports; evasion is sharper for consumer goods	Under invoicing and understatement of quantity
Patunru & Patunru (2018)	Indonesia vis-à-vis Singapore	Trade gap analysis	Evasion is more dominant in import VAT than in customs duty; non-tariff barriers expand smuggling space	Underreporting of transaction value and smuggling
Yousefi, Vesal, & Pilvar (2020)	Iran, 2003–2008	Trade data discrepancy with main trading partners	High tariffs correspond with broader undervaluation and misclassification	Undervaluation and misclassification
Purwanto & Indrawan (2020)	Indonesia, DJBC Jakarta, 2018–2019	Survey of DJBC officers	Self-assessment, audit, and IT significantly reduce evasion; service quality and law enforcement remain weak	Mixed (qualitative findings)
Tadesse (2022)	Ethiopia, 2014–2019	Trade gap analysis	A 1% tariff increase raises undervaluation by 1.12% and misclassification by 2%	Undervaluation and misclassification
Ng'ang'a & Ouma (2023)	Kenya	National customs study	Import tax evasion significantly reduces state revenue; strengthening of detection technology is required	Mixed

Source: Compiled by the authors (2026)

2.2. Synthesis of the Literature and the Intersection of Corruption and Tax Avoidance

The mapping of the three traditions has worked largely at the level of econometric analysis. The focus has been on linking fiscal or institutional variables to statistically measurable levels of tax evasion. Such an approach successfully demonstrates that the problem of import tax evasion is real, measurable, and patterned across countries. It has not yet, however, fully mapped how specific practices occupy different positions on the spectrum of fiscal deviation. Econometric data show that evasion exists; they do not fully explain the quality, character, and social mechanisms of the practices that produce it.

For example, undervaluation conducted through related-party transactions with formal administrative justification has a different character from undervaluation carried out through double invoicing or outright document falsification. Although both appear in international trade statistics as "evasion," their levels of legality, justification strategies, and patterns of interaction with state authority differ substantively. Here lies the first analytical gap that the concept of *import tax circumvention* seeks to fill: providing a category capable of reading variation in practice along the spectrum between legal avoidance and illegal manipulation, rather than measuring it as a single quantitative variable.

Contemporary literature has also enriched the debate by highlighting the intersection between bureaucratic corruption and corporate tax evasion. Studies in China show that corruption among tax authority officials is correlated with declining corporate effective tax rates and increased use of tax havens (Chu et al., 2024). Cross-country studies have likewise found that when tax officials enjoy room to solicit or accept bribes, corporate reporting of income and sales tends to decline significantly (Alm et al., 2016). The complexity of tax administration is itself seen as fertile ground that allows corruption, avoidance, and evasion to develop simultaneously (Baum & Gupta, 2018). In the Indonesian context, several studies indicate that perceptions of corruption affect tax morale,

while audit intensity and corruption perception both influence the propensity to engage in tax evasion (Irawan & Utama, 2021; Permana & Sanjaya, 2025).

These studies, however, generally treat corruption and evasion as mutually influencing variables rather than as a single category of practice with its own operational logic. The relation between corruption and tax evasion is approached as a causal or contributing factor, not as a form of administrative-strategic practice operating through negotiation, discretion, and institutional gap exploitation. Here lies the second analytical gap that the conceptualization of *import tax circumvention* addresses. The concept is not intended simply to add a new variable to the literature on the determinants of tax evasion. It offers, instead, a category of practice capable of integrating the regulatory, administrative, economic, and criminological dimensions that have so far been analyzed separately. On this basis, the article advances three synthesizing observations. First, the tax policy tradition tends to position the avoidance–evasion dichotomy as a juridical boundary between legal and illegal, whereas criminology reads it as a gradation of behavior shaped by opportunity structures, rationalization, and organizational pressure. Second, customs fraud emerges as a sectoral category that partially overlaps with tax evasion but possesses distinct customs-specific characteristics, since it operates within international trade chains, cross-jurisdictional documentation, and self-assessment systems. Third, the intersection between corruption and tax evasion has been demonstrated empirically, but it remains analyzed in the form of relations between variables rather than as an independent category of practice.

The analytical framework adopted in this article integrates this literature with Robert Klitgaard's (1988) parsimonious formulation of corruption as a function of monopoly, discretion, and accountability, expressed as $C = M + D - A$. The formula provides a compact diagnostic for reading institutional configurations in which the concentration of decisional power and interpretive discretion combines with limited accountability mechanisms. In the analysis that follows, this lens is applied to four critical decision points in Indonesian customs procedure, where the configuration of monopoly, discretion, and accountability produces the structural conditions within which import tax circumvention can occur.

On these grounds, the article proposes a conceptual visualization in the form of a spectrum that places tax avoidance at one end, tax evasion and customs fraud at the other, and *import tax circumvention* as the intermediate category that bridges them. Within the spectrum, the intersection between corruption and tax avoidance is positioned as the structural context that broadens the space within which import tax circumvention occurs. The conceptual diagram is developed further once the four principal dimensions of import tax circumvention are formulated systematically in the Analysis section.

3. Research Method

This article develops a conceptual category, *import tax circumvention*, through an abductive research design that iterates between scholarly literature, regulatory documents, and qualitative interview material. The paper is positioned as a conceptual contribution. Empirical material serves as illustrative voice rather than as a basis for statistical generalization, and the framework's claims rest on conceptual synthesis and institutional analysis of the Indonesian customs regime rather than on a representative sample of cases.

The conceptual track draws on three bodies of scholarship. First, tax policy literature on the avoidance–evasion distinction, including international policy documents from the OECD and the IMF, and the *creative compliance* tradition (McBarnet, 1992, 2006). Second, criminological scholarship on white-collar and corporate crime, beginning with Sutherland's (1949) foundational formulation and extending through Braithwaite (1985), Cressey (1953), and Vaughan (1999). Third, customs and trade studies, particularly empirical work on tariff evasion across multiple jurisdictions (Fisman & Wei, 2001, 2004; Epaphra, 2015; Patunru & Patunru, 2018; Yousefi et al., 2020; Tadesse, 2022). Robert Klitgaard's (1988) formulation of corruption as a function of monopoly, discretion, and accountability ($C = M + D - A$) is applied deductively as a diagnostic lens for the four critical decision points within the Indonesian self-assessment customs regime.

The empirical track draws on four semi-structured interviews conducted in person between November 2025 and March 2026 in the Greater Jakarta area. Two informants were executive-level officers within the Directorate General of Customs and Excise (Direktorat Jenderal Bea dan Cukai, DJBC); the remaining two were senior managers (a chief executive and an operations director) at an Indonesian importing firm operating through the Port of Tanjung Priok. Informants were selected purposively because of role and institutional access. Each interview lasted approximately 60 to 90 minutes. Fieldwork was conducted under an institutional research permit issued by the Faculty of Social and Political Sciences, Universitas Indonesia. Verbal informed consent was secured before each interview, and all quotations are attributed by role only; no individual or organizational identifiers are disclosed. The material was originally collected as part of the first author's master's thesis fieldwork and is reused here in reframed form to illustrate the conceptual framework developed in this article.

Analysis followed an abductive logic. Interview material was read against the regulatory architecture of Indonesian customs procedures (Undang-Undang Kepabeanan No. 17/2006 and its implementing regulations) and against the empirical patterns identified in the cross-country literature on import tax evasion. Through iterative comparison between data, regulation, and theory, four dimensions (*maneuver character, regulatory space, operational mode, and actor configuration*) were refined as the analytical lens for reading practices that fall outside the binary avoidance–evasion frame.

The scope of the paper is deliberately bounded. Indonesia is treated as the empirical and conceptual focus rather than as one case among several ASEAN jurisdictions. This bounding is defensible on three grounds. Indonesia is the largest economy in ASEAN by GDP and trade volume, and a major node in regional supply chains. Tanjung Priok is among the largest container ports in Southeast Asia. The Indonesian self-assessment customs regime is broadly representative of post-reform ASEAN customs systems, which makes the conceptual lens portable to neighboring jurisdictions with appropriate adaptation. The framework's wider applicability across ASEAN, however, remains a question for subsequent empirical work.

4. Analysis

The Analysis develops in two steps. The first part shows why the configuration of self-assessment, risk management, multi-actor networks, and administrative discretion in the Indonesian customs regime generates a space of deviation that falls outside the binary avoidance–evasion frame. The second part formulates *import tax circumvention* as a spectrum category structured by four conceptual dimensions and locates it analytically alongside the closest neighboring categories.

4.1. The Indonesian Import Context: Why an Additional Category Is Needed

4.1.1. Self-Assessment and Differentiated Oversight

The Indonesian customs regime positions the importer as the first party to declare information on goods entering the customs territory. Through the *Pemberitahuan Impor Barang* (PIB, Import Declaration), the importer independently computes and reports the classification of goods under the Harmonized System (HS Code), the customs value based on transaction value, the quantity of goods, and the amount of customs duty and import-related taxes payable. The Directorate General of Customs and Excise (DJBC) then verifies the information through document examination, physical inspection where necessary, and correction through a Tariff and/or Customs Value Determination Notice (*Surat Penetapan Tarif dan/atau Nilai Pabean*, SPTNP) when discrepancies are identified.

The mechanism is designed to support service efficiency and to align with international practices in modern customs governance. Structurally, however, it places the state in the position of verifying *ex post* the information whose source rests with the regulated actor. Trade documents such as the commercial invoice, the packing list, and the bill of lading, which form the basis of the PIB, originate with suppliers abroad. The authority therefore has no direct access to the actual conditions of the transaction at the initial stage of the process. The configuration

produces a systematic information asymmetry between the regulated actor and the state, a condition that opens space for interpretation and modification of data before verification takes place.

Modern customs oversight also relies on a risk management approach to allocate inspection intensity selectively. The system routes import shipments through green, yellow, and red lanes, with criteria based on the importer's profile (Mitra Utama Kepabeanan / MITA, low risk, medium risk, and high risk) and on the commodity profile. Goods routed through the green lane can generally be released without physical inspection at the initial stage. Red-lane shipments, by contrast, require document examination and physical inspection before release from the customs area.

The objective of this differentiation is to balance trade facilitation with oversight effectiveness. From an opportunity-structure perspective, however, differentiated oversight produces an uneven distribution of detection risk. Transactions mapped to lanes with lower oversight intensity have statistically lower probabilities of detection, particularly at the initial stage before post-clearance audit mechanisms begin to operate. Risk management is therefore not merely an administrative tool but also an element that shapes the regulated actor's calculation of the likelihood of detection.

4.1.2. Multi-Actor Networks and Four Critical Decision Points

Import activity is fundamentally not conducted by a single party. Each shipment of goods involves a network of actors that are interconnected and perform different functions within the customs administrative chain. The importer is responsible for fulfilling customs obligations and paying state levies. The shipper in the country of origin produces the trade documents that serve as the source data for the PIB. The Customs Brokerage Service Entrepreneur (*Pengusaha Pengurusan Jasa Kepabeanan*, PPJK), or customs broker, acts as a technical intermediary in the preparation and submission of customs documents. Logistics and shipping providers manage the physical movement of goods, while customs officers perform verification and administrative oversight.

Figure 1 maps eight stages in the import procedure flow, from the pre-import stage to post-clearance audit, and marks the position of the four critical decision points at the stages where space for interpretation and discretion is most concentrated.

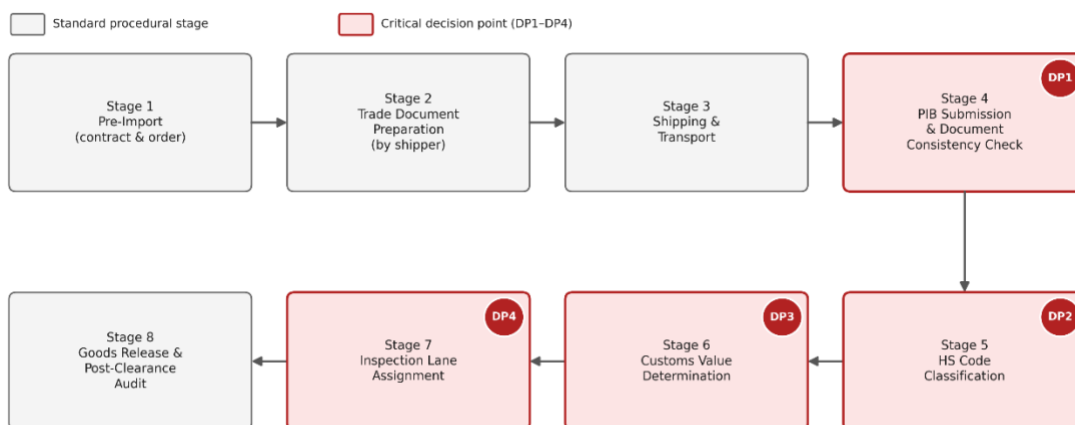


Figure 1. Import procedure flow and the four critical decision points.

Note: Red boxes mark the stages that contain critical decision points, where space for interpretation and discretion is concentrated.

Source: Compiled by the authors (2026).

The division of roles described above causes the sequence of administrative actions to be distributed across multiple actors, with a correspondingly fragmented pattern of accountability. The importer may defer to the PPJK when document issues arise; the PPJK may defer to data supplied by the importer or the shipper; while the shipper

itself sits outside Indonesian domestic jurisdiction. The institutional landscape differs from the case of domestic corporate tax avoidance commonly discussed in the *tax avoidance* literature, in which the principal actor is relatively easier to identify and to treat as a single legal subject.

As shown in Table 2, the import chain exhibits a multi-actor configuration with domains of accountability that span jurisdictions. The table maps seven categories of actor that appear within one sequence of import transactions in the case firm, from the shipper in the country of origin to the central authority of the DJBC. The mapping shows how the fragmentation of administrative responsibility is not only procedural but also structural, since it involves actors with different authorities, jurisdictions, and levels of control.

Table 2: Multi-actor configuration and domains of accountability in the import chain

Actor	Primary Role / Function	Jurisdiction & Domain of Accountability	Notes on Fragmentation
Shipper / foreign agent	Supplier of goods and source documents (commercial invoice, packing list, bill of lading) that form the basis of the PIB	Jurisdiction of country of origin; subject to the commercial and customs law of the country of origin	Outside the direct reach of Indonesian authority; document or seal errors can immediately hold containers and reduce the importer's free time
Shipping line	Sea carriage, issuance of Delivery Order and Bill of Lading, determination of free time and demurrage	Cross-jurisdictional; supervised by port authorities in Indonesia	Free time policies are not uniform; demurrage charges may in practice arise before the formal free time expires
Terminal operator (Pelindo / JICT / MPCT / TPK Koja / MAL / Alter 3)	Physical handling of containers, yard storage, and release of goods from the customs area	Domestic; under the authority of the port and Pelindo	Unloading queues and vessel delays narrow free time and raise logistics costs
Freight forwarder / PPJK	Technical intermediary in the preparation and submission of customs documents through CEISA 4.0	Domestic; official partner of DJBC	Accountability is divided between importer, PPJK, and shipper concerning the validity of document data
Importer	Declarant of the PIB and domestic legal subject of customs in the self-assessment system	Domestic; legal subject of customs and taxation	Responsible for the truthfulness of PIB data yet heavily reliant on data from foreign parties
Customs and Excise officer (field)	Verification of documents, physical inspection, lane assignment, and issuance of SPTNP	Domestic; under DJBC	Holds discretionary room in the interpretation of HS Code, customs value, and inspection lane
DJBC Directorate of Facilities	Issuance of customs facilities (Bonded Warehouse, MITA, Authorized Economic Operator / AEO)	Domestic; central authority of DJBC	Restrictions on permitted goods through ministerial decree (<i>Surat Keputusan</i> , SKEP) create administrative dependence on central approval

Source: Compiled by the authors (2026).

Across the full import procedure, four decision points most strongly determine both the magnitude of fiscal liability and the smoothness of goods release. First, the completeness and consistency of core documents (commercial invoice, packing list, bill of lading, and other supporting documents) that form the basis of the PIB. Second, the classification of goods through the HS Code, which determines the customs duty rate, the obligations for import VAT and import income tax (*PPN* and *PPH impor*), and the possible application of prohibitions and restrictions. Third, the determination of customs value, which serves as the basis for computing customs duty and import-related taxes. Fourth, the assignment of the inspection lane, which determines the intensity of document examination and physical inspection.

These four decision points do not stand alone. They are interconnected, and each opens space for interpretation and administrative discretion. The technical complexity of commodity specifications, the limited availability of price comparison data, the discretionary authority of the inspector, and the constrained verification capacity of the state at the initial stage of the import process together create a substantial space of negotiation. Within this space, the economic interests of the regulated actor frequently meet the structural limitations of the state, opening room

for administrative maneuvering practices that operate in the gray area between formal compliance and substantive manipulation.

4.1.3. A Configuration Beyond the Dichotomy

The configuration of self-assessment, risk management, multi-actor networks, and administrative discretion at the four critical decision points generates a space of deviation with distinctive character. Practices that emerge in this space cannot be fully classified as tax avoidance, because they are conducted deliberately, systematically, and through strategic exploitation of procedural gaps. Yet they cannot be fully equated with classical tax evasion either, since the modes employed often remain within formal-procedural corridors and resist the evidentiary threshold for direct falsification. An additional analytical category is therefore required, one that can place such practices on a spectrum of deviation rather than within a binary legal-illegal dichotomy.

As outlined in the analytical framework, the structural configuration can be read through Klitgaard's (1988) parsimonious formula, which expresses corruption (C) as a function of monopoly (M), discretion (D), and accountability (A): $C = M + D - A$. In the context of the four critical decision points in Indonesian customs, the three elements appear systematically. Verification monopoly sits with the customs authority, while the data being verified originate with the regulated actor. Discretion emerges in the interpretation of HS Code, the valuation of customs value, and the assignment of inspection lane. Oversight accountability, by contrast, is constrained by the limited capacity of post-clearance audit and the complexity of cross-jurisdictional data. The combination of high monopoly and high discretion with relatively weak accountability turns the four decision points into more than administrative steps. They become structural habitats for *import tax circumvention*.

To clarify this configuration, the following table presents a triangulation of the normative account given by regulators and the field experience of the importer across each of the four critical decision points. The triangulation is not intended to set one source against another but to show how each decision point is inhabited by two different framings. Regulators view it as a technical procedure backed by an audit trail; importers experience it as a zone of uncertainty laden with economic consequences. The difference in framing is a concrete manifestation of the configuration of monopoly (M), discretion (D), and weak accountability (A) as formulated by Klitgaard. The final column of the table maps the $M + D - A$ configuration at each point to show how the space of *import tax circumvention* is structurally produced.

Table 3: Triangulation of practice across the four critical decision points in customs

No.	Critical Decision Point	Customs Authority Perspective	Importer Perspective	M + D - A Configuration
1	Completeness and consistency of core documents (invoice, packing list, BL/AWB, certificate of origin)	Examination is conducted by checking consistency across documents. Discrepancies trigger requests for clarification through the system; the importer or PPJK is asked to supply supporting documents such as contracts, technical brochures, or payment evidence.	Seal errors or differences in container numbers on the BL frequently delay goods and reduce free time. Although errors often originate with the shipper, the administrative burden is borne by the importer through document resubmission.	M moderate; D moderate (interpretation of document consistency); A relatively controlled through formal correction procedures.
2	Classification of goods through the HS Code	Officers cite misclassification as the most frequently arising issue. Overly general descriptions of goods complicate classification, leading officers to refer to prior rulings and the Indonesian Customs Tariff Book to maintain consistency.	Importers experience differences in interpretation between officers, exacerbated by relatively rapid officer rotation. As one informant noted: " <i>the same BL, one officer doesn't issue a correction, another does.</i> " The situation makes inspection outcomes difficult to anticipate.	M high (the customs authority as official interpreter); D high (multi-interpretation of HS Code); A weak on cross-officer consistency.
3	Determination of	Valuation is based on CIF	Importers report that	M high (the customs

	customs value	transaction value. When not deemed credible, the value is set through an SPTNP using a comparator database of identical or similar transactions. Related-party transactions are seen as the most complex.	correction notices (<i>notul</i>) are often issued with reference to "Indonesian market price" without transparent component detail. The correction figure is perceived as lacking a fixed reference: " <i>there's no anchor; the pendulum will swing differently each time.</i> "	authority controls the comparator database); D very high; A weak, since the basis of valuation is not fully open.
4	Assignment of inspection lane and settlement of payment	Inspection lane is determined through the risk management system based on importer and commodity profile, classified as green, yellow, or red. A formal objection mechanism is provided within customs procedure.	The system automatically holds goods release until the correction notice is settled: " <i>if the notul is not settled, the goods can't get out; that's automatic in the system.</i> " Pressure from dwelling time drives importers toward rapid settlement, including through informal channels.	M high (system control over goods release); D moderate (technical risk assessment); A weak, since the formal objection mechanism is costly in time and money.

Source: Compiled by the authors based on interview material (2026).

With this foundation in place, *import tax circumvention* can now be formulated as a conceptual category structured by four principal dimensions, capable of reading deviation that moves between formal legality and procedural manipulation.

4.2. Conceptualizing Import Tax Circumvention

4.2.1. Working Definition as an Umbrella Category

Building on the structural configuration and empirical material described above, this article defines *import tax circumvention* as a pattern of fiscal-liability reduction in import activity that is strategic, planned, and systemic. The practice is conducted through the exploitation of regulatory gaps, the self-assessment mechanism, the space of administrative interpretation, and the discretion of officials, such that its position falls along the spectrum that runs from tax avoidance at one pole to tax evasion and customs fraud at the other. *Import tax circumvention* is therefore not understood merely as an explicit legal violation or as legal tax optimization, but as a practice that operates in the territory between the two.

The concept has the character of an "umbrella" category. The term is not intended to replace existing categories in tax and customs scholarship such as tax avoidance, tax evasion, or customs fraud. It provides, instead, an analytical space for reading practices that have until now been difficult to explain adequately through the conventional legal–illegal dichotomy. In many cases, customs practices cannot be fully categorized as lawful tax avoidance, but they do not necessarily meet the criteria for outright customs fraud either. The concept therefore serves as an analytical bridge for understanding the gray area that frequently arises in import practice.

Import tax circumvention also has the character of a "spectrum." The concept does not refer to a single fixed conceptual point but to a range of practices with varying degrees of concealment, legality, operational mode, and actor configuration. The position of a given practice on the spectrum is determined by the four conceptual dimensions formulated in the next sub-subsection. This spectrum approach permits a more flexible reading of variation in field practice without forcing it into binary categories that are too simple.

At the same time, the concept is contextual. It is formulated specifically for reading practice within customs and import governance, which carries characteristics distinct from other tax sectors. The complexity of cross-border documentation, customs inspection mechanisms, risk management systems, and multi-actor interaction give the import context a dynamic of its own. Application of the concept to other tax sectors therefore requires additional

study and cannot proceed automatically without consideration of differences in regulatory structure and oversight mechanism.

4.2.2. The Four Conceptual Dimensions

The category of *import tax circumvention* is formulated through four interrelated conceptual dimensions that emerged from iterative comparison between interview material, regulatory architecture, and the theoretical literature. The dimensions are not intended to construct a rigid classification but to read variation in practices of deviation in a more pliable and graduated way. They are best read together: a practice may be located along all four dimensions at once, and movement on one often pulls another with it. Through this approach, *import tax circumvention* is understood as a spectrum of practices ranging from formal legality to procedural manipulation to administrative concealment.

The first dimension is *maneuver character*, namely the range between overt and covert practice. At one end are maneuvers conducted in a relatively open manner, in which the actor does not actively conceal the action and relies on legal argumentation or interpretive gaps as a form of defense. At the other end are practices deliberately designed to obscure traces, through document engineering, the use of non-transparent data, or the disguise of transactions. *Import tax circumvention* is generally covert in character, though the level of concealment varies. The dimension permits differentiation between practices such as tariff engineering, which is relatively open, and document-engineered undervaluation, which is far more concealed and difficult to trace. The character of the maneuver also bears on detection: overt practices can be challenged through document review, whereas covert practices often surface only through cross-border data comparison or post-clearance audit, by which time the corrective window has frequently closed.

The second dimension is *regulatory space*. The practice operates within a range that begins with the exploitation of legal gaps, proceeds through gray-area interpretation of regulation, and may reach explicit and direct violation. The gray zone is particularly pronounced in HS Code classification and customs valuation, where the formal text of regulation leaves substantial interpretive room and where prior administrative practice does not always converge into a stable line. Most everyday cases inhabit this middle ground; in certain conditions, the practice can shift toward outright breach of customs rules. The dimension matters because it helps locate the position of a given practice without becoming trapped in the simple legal–illegal dichotomy, and it places the analytical lens close to McBarnet's (1992) notion of creative compliance.

The third dimension is *operational mode*, namely how the practice is conducted in the everyday flow of import procedure. At one end lies the formal-procedural mode, such as the interpretation of data, the choice of particular classifications, or the use of administrative options formally available within the system. At the other end lies the manipulative-collusive mode, involving document engineering, informal coordination, or collusion with specific actors in the customs chain. *Import tax circumvention* often moves gradually from formal-procedural forms toward more manipulative practice, particularly when initial reliance on interpretive defense fails or when the cost of compliance under the existing risk profile rises. Intermediaries such as the PPJK or freight forwarder frequently play a pivotal role in shaping this gradient. The dimension therefore highlights not only what is done but, more importantly, how the practice is operationalized within a procedural network that appears legitimate.

The fourth dimension is *actor configuration*. Practices of deviation can be conducted individually by a single importer, but in many cases *import tax circumvention* involves a wider organizational network. The network can include the importer, the PPJK, the shipper, the freight forwarder, and, in some cases, particular officials. This networked character is one of the principal features that distinguishes *import tax circumvention* from many cases of individual tax avoidance discussed in the domestic corporate tax literature. The multi-actor configuration also explains why criminal accountability is often difficult to direct at a single individual, since actions are distributed across an interdependent and administratively fragmented chain of work. The configuration brings the concept close to Vaughan's (1999) reading of the "dark side of organizations," in which deviance emerges from the routine functioning of distributed systems rather than from individual misconduct alone.

4.2.3. Position on the Spectrum and Differentiation from Adjacent Categories

The conceptual position of *import tax circumvention* together with its four constitutive dimensions can be visualized as shown in Figure 2. The diagram places *import tax circumvention* as an intermediate zone connecting tax avoidance at one pole and tax evasion or customs fraud at the other. Within this frame, *import tax circumvention* is understood not as a fully separate category but as a space that displays gradual movement from practices that appear legal toward practices that are increasingly manipulative and concealed. The diagram also displays the four conceptual dimensions (maneuver character, regulatory space, operational mode, and actor configuration) that determine the position of a given practice along the spectrum.

At the pole adjacent to tax avoidance, *import tax circumvention* operates in the "legal gray" zone, that is, practices that still exploit regulatory gaps or ambiguity. Yet the concept goes beyond conventional avoidance because the practices frequently exhibit stronger *mens rea*, more strategic planning, and a systemic and recurring operational pattern. The issue at stake is therefore not only the exploitation of rules but also the intent and configuration of practice that is consciously designed to suppress fiscal liability through procedural manipulation.

On the other side, *import tax circumvention* also intersects with tax evasion, particularly at the manipulative and illegal end of the spectrum. The concept nonetheless remains distinct from general tax evasion because of its embedding within the customs context. The cross-jurisdictional character, the reliance on international trade documents, the risk management system, and the presence of intermediating actors such as the PPJK, shipper, and freight forwarder give customs practice a dynamic that differs from tax evasion in ordinary domestic sectors.

The relation to customs fraud is likewise intersecting but not identical. Customs fraud literature generally places the problem within a juridical-customs frame: whether a given act meets the elements of violation or fraud under customs law. *Import tax circumvention*, by contrast, is formulated more broadly, attending not only to the legal-formal dimension but also to the dimensions of organization, actor network, operational strategy, and actor rationality. The concept therefore does not only ask whether a given act breaches the law but also how the practice is produced, negotiated, and sustained within the import ecosystem.

The term *import tax circumvention* becomes relevant when a practice exhibits a combination of at least three of the four principal dimensions formulated above: covert character, exploitation of gray-area space or outright violation, a mode that moves from formal-procedural toward manipulative, and the involvement of a multi-actor network. The combination signals that the practice is no longer simple administrative optimization but a pattern of deviation that is systemic and organized.

By contrast, the term does not need to be applied to cases of pure tax avoidance in non-import tax sectors that operate entirely within a formal legal frame and lack manipulative character or organizational network. Likewise, the concept is not intended to displace simple customs fraud categories that are already adequately explained by the literature and technical instruments of international customs bodies such as the World Customs Organization. In those contexts, existing categories remain sufficient and require no additional conceptual extension.

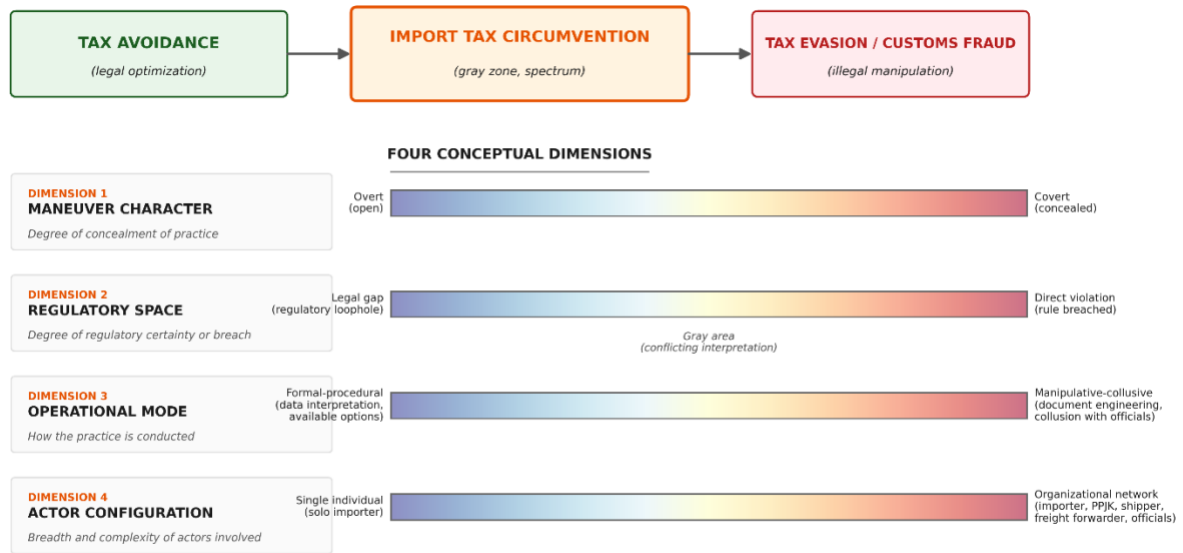


Figure 2: *Import tax circumvention*: conceptual position and four dimensions.

Note: Movement to the left approaches more legal practice; movement to the right approaches more manipulative and illegal practice. The position of a given practice on the spectrum is determined by the combination of the four dimensions above.

Source: Compiled by the authors (2026).

5. Conclusions

This article has departed from a critique of the classical avoidance–evasion dichotomy, which is no longer sufficient to read practices of fiscal deviation in the Indonesian import context. In customs practice, many actions inhabit a space between the fully legal and the explicitly criminal. The article therefore proposes the concept of *import tax circumvention* as an analytical category for understanding practices that move within the spectrum between fiscal optimization and customs manipulation.

The article has shown that the configuration of self-assessment, the risk management system, multi-actor networks, and discretion at the four critical decision points generates a space of deviation with distinctive character. Within this configuration, the monopoly of authority and the scope of discretion are not always matched by adequate accountability. The result is a problematic M + D – A configuration: the authority possesses substantial interpretive power, the regulated actor controls transaction information, and oversight mechanisms face structural limitations. Fiscal deviation can therefore no longer be understood merely as individual misconduct; it is an institutional symptom that arises from the design of governance itself.

On this basis, the article offers *import tax circumvention* as an umbrella category that extends the avoidance–evasion dichotomy that has long dominated tax scholarship. The concept is formulated through four conceptual dimensions: maneuver character, regulatory space, operational mode, and actor configuration. Through this multidimensional approach, practices of deviation can be read in a more graduated and contextual manner. The focus of analysis therefore shifts from the normative question of legality alone toward a more structural reading of the patterns, processes, and actor configurations that allow such practices to recur.

The conceptualization of *import tax circumvention* opens new analytical space for economic criminology in Indonesia, particularly for reading fiscal deviation as a problem of governance and opportunity structure rather than as a problem of morality or individual compliance alone. The approach shifts the focus from a single actor toward the relations among actors, procedures, and discretionary spaces that shape deviation systemically.

In the context of tax governance, the concept shows that fiscal deviation arises from the interaction of regulation, institutional capacity, and economic incentive structure. Within the white-collar crime tradition of criminology, *import tax circumvention* extends attention to organization, professional networks, and administrative rationality that allow illegal practice to be concealed within formal procedures that appear legitimate. The concept is therefore relevant not only as a tax category but also as an analytical tool for reading organizational deviance within contemporary economic governance.

The approach also carries methodological implications. Studies of import taxation have largely operated within a compliance paradigm, measuring the extent to which actors obey rules. This article proposes a shift toward an opportunity-structure approach, which reads how institutional design, interpretive space, and multi-actor configuration create systemic opportunities for deviation. Research attention is therefore directed not only at actor behavior but also at the governance architecture that allows the practice to be reproduced.

On the practical side, framing *import tax circumvention* as a spectrum category opens the possibility of more analytically discriminating approaches to control than those derived from the simple avoidance–evasion dichotomy. The situational crime prevention framework developed by Clarke (2005) offers a relevant foundation for designing interventions that respond to the specific character of each deviation practice.

At the level of *maneuver character*, an increase of effort can be achieved through procedural simplification and the narrowing of the interpretive space currently exploited covertly. The *operational mode* dimension calls for an increase in detection risk through the diversification of audit points and the use of data analytics to read anomaly patterns across the four critical decision points. The dimension of *actor configuration* suggests that economic reward can be reduced through tariff adjustment on commodities historically targeted for undervaluation or misclassification, thereby lowering the fiscal incentive to manipulate. The *regulatory space* dimension, in turn, requires structural reform that narrows ambiguity in HS Code classification and customs valuation, reducing the provocations built into the rule architecture.

The removal of excuses can be pursued through the strengthening of integrity, the improvement of process transparency, and the dismantling of a permissive culture that normalizes "data adjustment" as an everyday administrative practice. Control is therefore directed not only at enforcement after a violation has occurred but also at the structural conditions that allow the practice to emerge and reproduce.

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