

# Cross-Border Trade In PLBN Aruk and the Fulfillment of Community Welfare Rights

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## Abstract

The development of border areas has been prioritized under President Joko Widodo. This research focuses on the effects of opening the Aruk cross-border post on cross-border trade activities concerning the fulfillment of community welfare rights, especially in the Sajingan Besar District. The methodology was non-doctrinal legal research with a socio-legal approach. The data used is primary, obtained through observations and open interviews and secondary data obtained through literature studies, then the data that has been obtained is analysed qualitatively. The research results illustrated that the people in Sajingan Besar District acknowledged opening the Aruk cross-border post and all its complementary facilities has improved their general welfare. With its potential, the border regions such as Sajingan Besar District can become a new economic growth area.

**Keywords:** *community welfare rights, cross-border posts, cross-border trade.*

## I. INTRODUCTION

Currently, trade activities between the local residents of Indonesia and those in Malaysia are based on the provisions of the trading system for border areas or the Agreement on Border Trade between the Government of the Republic of Indonesia and the Government of Malaysia, which the two countries' governments signed on 24 August 1970 (Border Trade Agreement). The agreement implemented the Basic Arrangement on Border Crossings signed in Jakarta on 26 May 1967 and revised in 2002.<sup>1</sup> In Article II subsection 3 of this agreement, it is set forth that, "the value of goods carried or conveyed for overland border trade by any person specified in section 3 of Article I shall not exceed six hundred Malaysian Dollars (M.600) per month".

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<sup>1</sup> Budi Hermawan Bangun. *Application of State Border Management Cooperation Agreements for the Fulfillment of Community Economic Rights (Study on the West Kalimantan-Sarawak Border)*, (Semarang: Universitas Diponegoro, 2013), 5.

Based on the regulations regarding the management of border area trade activities, residents of the border areas can buy necessities in Malaysia up to RM. 600 and can resell these items in the border area. Activities like this can continue until the issuance of Regulation of the Minister of Trade Number: 56 / M-DAG / PER / 12/2008 concerning the Import of Certain Products, issued with the consideration of supporting efforts to maintain Indonesia's economic growth, it is necessary to encourage the creation of competitive trade and a conducive business climate.

In addition, regulation of the Minister of Trade Number: 56 / M-DAG / PER / 12/2008 was updated by Regulation of the Minister of Trade Number: 57 / M-DAG / PER / 12/2010 concerning Import of Certain Products with the consideration that a competitive trade and a conducive business climate are not yet optimized. To do so, it was still necessary to improve orderly import administration. Therefore, Regulation of the Minister of Trade Number: 83 / M-DAG / PER / 12/2012 was passed to create a more competitive trade and a conducive business climate by improving orderly import administration.

Regulations for the management of trade activities in border areas were added under Law Number 7 of 2014 concerning Trade. In that regulation, Trade Law did not explain border trade in detail. Only a few articles mention border trade, including under Article 1 paragraph (4) and Articles 55 and 56, which grant the authority to regulate border trade activities to government regulations bilateral agreements.

To further support development in the border areas, the President issued Presidential Instruction of the Republic of Indonesia Number 6 of 2015 concerning the Acceleration of Development of seven (7) integrated State Border Posts (Pos Lintas Batas Negara/PLBN) and supporting facilities and infrastructure in border areas, namely: PLBN Aruk (Sambas Regency), PLBN Entikong (Sanggau Regency), and PLBN Nanga Badau (Kapuas Hulu Regency), all of which are in West Kalimantan Province; PLBN Motaain (Belu Regency), PLBN Motamasin (Malaka Regency), and PLBN Wini (North Central Timor Regency), all of which are in East Nusa Tenggara Province; and PLBN Skouw (Jayapura City, Papua Province).

PLBN development itself is considered very strategic and tackles several objectives at once. Apart from being the overland gateway to and from the territory of the Republic of Indonesia, the PLBN which was built with a specific purpose and equipped with supporting facilities and infrastructure, was intended to elevate the nation's standing in the border areas. Another essential objective of the construction of the PLBN was to boost the economy and improve the welfare of people in border areas.

Despite this progress, many improvements are needed to achieve these objectives. Businesses and the local communities continue to update the information, so no one is left behind from continuing developments in cross-border trade. Regulations

related to cross-border trade activities should also pay attention to the local wisdom of the community.

As the strategic “front porch” of a country, border areas face both opportunities and challenges in cross-border trade to fulfil the community’s welfare. Therefore, solid regulatory support is needed, especially in cross-border trade activities and mechanisms or management in PLBN. Further study is required regarding opening of the PLBN for cross-border trade activities concerning fulfilling community welfare rights and finding the ideal formulation or regulatory model to foster cross-border trade activities at the Indonesia-Malaysia border primarily through PLBN Aruk, Sajingan Besar District.

Although the right to welfare does not yet have a clear definition, it is regulated in Articles 36-42 of Law No. 39 of 1999 on Human Rights. The right to welfare includes the right to personal property, to obtain a job and a decent living as well as social security. Given this scope, the right to welfare can be broken into economic, social, and cultural rights.

Therefore, the fulfilment of the right to welfare can be measured using indicators in economic, social, and cultural rights, namely:

- a. Availability: adequate facilities, programs, and information
- b. Accessibility: accessible facilities, programs, and information that are available without discrimination.
- c. Acceptability: the fulfilment of rights still respects the prevailing ethics, principles, or culture.
- d. Adaptability: fulfilment of rights is flexible or able to be adapted to shifting situations of a community.

Against this backdrop, this article presents the research problem: How does the opening of the PLBN Aruk affect cross-border trade concerning the fulfilment of community welfare rights, especially in Sajingan Besar District?

This article is based on non-doctrinal legal research. In non-doctrinal legal research, the law is sociologically conceptualized as an empirical symptom observed in life. This empirical phenomenon comes in the form of attitudes and opinions of the community, decision-makers, and policies (government), and stakeholders concerning cross-border trade arrangements in Sajingan Besar District and its relation to the fulfilment of community welfare rights. Social and empirical non-doctrinal research on the law will produce theories about the existence and function of law in society and changes that occur in processes of social change.<sup>2</sup> Based on the field of the study, this research focuses on socio-legal studies. Socio-legal is a field

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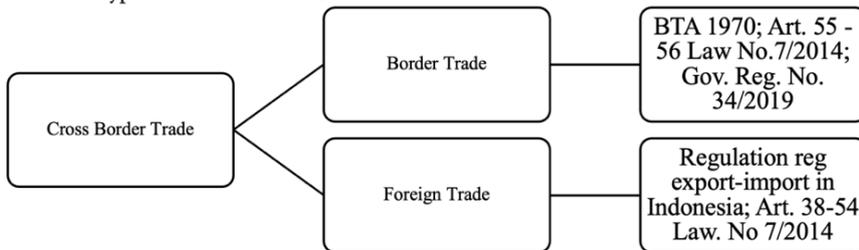
<sup>2</sup> Soetandyo Wigjosoebroto. *Law: Paradigms, Theories and Problems*, (Jakarta: ELSAM and HUMA, 2002), 71.

of study in legal science that does not base its approach on seeing facts as they are but begins to see specific characteristics of social behaviour using the help of other sciences.

This research is supported by primary data (obtained through open interviews) and secondary data (obtained from literature studies). The data (both primary and secondary) collected are then studied carefully to obtain the meaning and essence contained in it, both in the form of ideas, suggestions and arguments, and related provisions. Furthermore, a qualitative analysis process is used to draw further conclusions that answer the problems discussed while providing prescriptions based on the arguments that have been built in the findings.

## II. THE CONCEPT OF CROSS BORDER TRADE IN INDONESIA-MALAYSIA BORDER

The current pattern of cross-border trade in the West Kalimantan - Sarawak border area is divided into two types:



Source: Fatma Muthia K., 2015 (with updated information by authors)

The dual forms of cross-border trade in border areas is accommodated in different legal frameworks.<sup>3</sup> Export-import trade refers to ordinary international trade. In the Trade Law, No. 7 of 2014, this type of trade is referred to as foreign trade, namely trade which includes export and/or Import activities of goods and/or trade-in services that crosses national borders. Meanwhile, export-import is the activity of entering or releasing goods through Customs areas. Customs areas are the territory of the Republic of Indonesia, which includes land, waters, air space above it, and certain places in the Exclusive Economic Zone and continental shelf where customs law applies. Persons allowed to carry out these activities are also limited to only exporters or importers who are registered and have a license to carry out export-import activities.

Indonesia’s general foreign trade policy aims to develop a conducive business climate, increase exports, and regulate imports, as well ensure transparency, improve

<sup>3</sup> Fatma Muthia Kinanti, *Legal Review of Cross-border Trade in the Border Region of West Kalimantan – Sarawak and its Relation to the Asean Free Trade Area Cooperation*, theses, Faculty of Law Universitas Indonesia, 2015, 113.

export products' quality, and improve performance and good governance.<sup>4</sup> Meanwhile, Indonesia's export policy is crafted to increase competitiveness, guarantee business certainty, guarantee the supply of raw materials for domestic industries. Further to protecting natural resources and preserving the environment, upholding the principles of maintaining health, security, safety, environment, and national morals, be active in international relations.<sup>5</sup> Furthermore, based on the Minister of Trade Regulation No. 13 / M-DAG / PER / 3/2012 dated March 19, 2012, stipulated, among others:

1. Free-for-Export goods;
2. export-restricted goods; and
3. Export-prohibited goods.

Goods may be exported by individuals, institutions, and business entities, whether in the form of legal entities or non-legal entities.

Furthermore, the objectives of the import policy are to foster national interests from the aspect of Occupational Safety And Health, Environment And Quality (Keselamatan Dan Kesehatan Kerja, Lingkungan, Dan Mutu/K3LM). Also, the policy protects and increase farmers' income, encouraging the use of domestic products, increase non-oil and gas exports, creating a healthy domestic trade and market as well as a conducive business climate.<sup>6</sup> Goods and services can only be imported by registered importing businesses and possessing Importer Identity Number.<sup>7</sup> The classification of imported goods is divided into three parts: free of import, restricted imports, and prohibited imports.<sup>8</sup>

Provisions for cross border trade or border trade on a bilateral basis are based on the Bilateral Trade Agreement (BTA) and Border Cross Agreement (BCA) between the two countries. Initially, border trade was not regulated under Indonesian national regulations until the issuance of the Trade Law in 2014. The legitimacy of the practice of border trade through Law No. 7 of 2014 concerning Trade provides a more robust legal framework for its implementation. Under this regulation, border trade is defined as trade carried out by Indonesian citizens who live in the Indonesian border area with residents of neighbouring countries to fulfil their daily needs. Cross-border trade is trade specifically conducted between residents of two countries who are domiciled at the border of the two countries with cross-border passes issued by the authorities determined by each party.

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<sup>4</sup> Republic of Indonesia, Trade Ministry. 'Foreign Trade Policy in the Border Area between Indonesia and Malaysia.' PPT Presentation, 13 December 2012.

<sup>5</sup> *Ibid*

<sup>6</sup> *Ibid*.

<sup>7</sup> Regulation of the Minister of Trade of the Republic of Indonesia Number 48/M-DAG/PER/7/2015 regarding General Provisions in the Import Sector, Article 3 par. 1.

<sup>8</sup> *Ibid*.

Implementation of the regulation on border trade commenced in 2019 through Government Regulation No. 34 of 2019 on the Border Trade. The regulatory background regarding border trade shows the government's awareness that the management of border areas can no longer only focus on the defence and security, but mainly on the economic interests. The government, in this case, also has an interest in making border areas able to interact positively with neighbouring countries. It is also recognized that the availability of necessities and essential goods for residents who live in border areas must be fulfilled to create prosperity.<sup>9</sup> Therefore, the government's objectives in border trade are to create a reciprocal relationship where the demand for goods at the border can be met by part of the goods from within the country and partly from production in neighbouring countries and vice versa. This is expected to provide mutual benefits.<sup>10</sup>

The regulation of a more technical regulation regarding Border Trade will further clarify the mechanism. In the Government Regulation on Border Trade, the Minister of Trade is given the authority to conclude Bilateral Agreements with the neighbouring country, which should be based on coordination and synchronization with not only the central government (Ministers/heads of non-ministerial government agencies) but also local governments (governors and regents/mayors).

Goods that can be traded within the PLB framework are those produced or consumed daily by the communities on both sides of the border.<sup>11</sup> This spirit reflects the closeness of social, economic, and cultural relations in the border areas. Therefore, the emphasis of this type of trade is only to meet the consumption needs of border communities that are geographically closer to neighbouring countries. However, it is not uncommon for this facility to buy Malaysian products for resale in Indonesian territory as it develops.<sup>12</sup>

The cap of RM 600 per person per month is consistently met. The revision of BTA has become a very urgent matter to meet the economic needs of Indonesia's border areas which have proven to be still dependent on Malaysian products. On this basis, several meetings have been held centrally to discuss the revision of the cross-border trade agreement between Indonesia and Malaysia. The first meetings were held in 1992 in Kuala Lumpur and continued in 1994 in Jakarta.<sup>13</sup> In the 1994 meeting, the two countries agreed to increase the transaction limit for PLB to US \$

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<sup>9</sup> Indonesia, Government Regulation No. 34 of 2019 on Border Trade.

<sup>10</sup> *Ibid.*

<sup>11</sup> Article 6, *Ibid.*

<sup>12</sup> Istiana Rahatmawati, Purbudi Wahyuni, *At a Glance: the Behavior of the Entikong (Indonesia-Malaysia Border) Community in Facing Global Business*, in the Proceedings of the National Seminar and Call for Paper, Poverty Reduction Through MSMEs: A Comparison of Indonesian and Malaysian Models, Yogyakarta, 5 December 2012.

<sup>13</sup> Ministry of Trade of the Republic of Indonesia, *Cross-Border Traditional Trade between Indonesia and Malaysia*, Directorate of ASEAN Cooperation, Pontianak, PPT Presentation, 13 December 2012

1,500 / PLB / month with a maximum of US \$ 300 / transaction, but to date, the two countries' governments have not signed the agreement. At the 2009 meeting in Bandung, BTA drafts were exchanged, in which Malaysia proposed that the value of PLB be equalized to BTA in 1970, namely RM 600 / KPLB / month. The second BTA meeting took place on 8-9 December 2011 in Kuala Lumpur, Malaysia. At this meeting, both parties agreed that BTA is an agreement to facilitate traditional trading activities of the border communities of the two countries, not regular trade (commercial trade). During the meeting, several issues had been avoided, namely:<sup>14</sup>

1. Regarding the scope of BTA, where Indonesia proposed the scope of the BTA 1970 revision covering land and sea borders (in accordance with BTA 1970) because current border trade by sea and land is still ongoing;
2. Regarding commodities that can be traded, the two countries agree to use a negative list approach in determining goods that are prohibited from being traded across borders in accordance with the national regulations of each country. Until now, there has been no information regarding the agreement on the negative list of cross-border trade. The latest development of the negative list is still under discussion at the Directorate of Import, Ministry of Trade.<sup>15</sup>
3. Regarding the value of trade free from tax, the Indonesian government proposes that the amount no longer be based on the Malaysian Ringgit currency but the US dollar currency.
4. Regarding the duration of the agreement, the Indonesian government proposes not to include the validity period of BTA. Malaysia is still considering this proposal.

Until now, there has been no further information regarding the development of the revised BTA Indonesia Malaysia. The negotiations entered the seventh round, which was held in Penang, Malaysia, on 15-16 August 2019.<sup>16</sup> The latest update on several issues that entered the substance of the negotiations, including a list of products that will be included in BTA and a list of points in sub-district areas on the border designated as entry and exit points for border trade activities. The BTA revision will provide legal certainty for communities in both regions to utilize this facility.

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<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> "RI and Malaysia Revised Cross-border Trade Agreement", accessed 23 November 2020, <https://www.cnnindonesia.com/ekonomi/20190820095609-92-422933/ri-dan-malaysia-revisi-perjanjian-dagang-lintas-batas-negara>.

### III. GENERAL DESCRIPTION OF SAJINGAN BESAR DISTRICT AND PLBN ARUK

The Sajingan Besar District is one of 19 sub-districts in Sambas Regency. Sajingan Besar District is also a sub-district with the largest area, namely 1,391.20 km<sup>2</sup> or 21.75% of the area of Sambas Regency. The economy of Sajingan Besar District is dominated by the agricultural and plantations, especially rubber, oil palm and pepper.

In Sajingan Besar District, there is a state border crossing post (PLBN), namely in Aruk Hamlet, Sebunga Village; hence it is known as PLBN Aruk. The Aruk PLBN is one of the three PLBNs built in West Kalimantan Province and out of seven PLBNs built throughout Indonesia.<sup>17</sup> The development of the PLBN is one of the manifestations of “Nawacita”, which is the priority agenda of President Joko Widodo’s administration, especially point three, namely: “Building Indonesia from the periphery by strengthening regions and villages within the framework of a unitary state”.

The plan for developing the country’s border areas is further elaborated in the 2015-2019 National Medium-Term Development Plan (RPJMN) and the 2015-2019 National Border Management Master Plan. In the region border, the development of political budgets also significantly increased from 9 trillion rupiahs in 2016 to 17.83 trillion rupiahs in 2017.<sup>18</sup>

The construction of the PLBN Aruk began in 2015 based on Presidential Instruction Number 6 of 2015 concerning the Acceleration of seven Integrated PLBNs and Supporting Facilities in Border Areas. President Joko Widodo inaugurated it on March 17, 2017. The construction of the PLBN building itself is part of the construction of phase I from a fund of 131 billion rupiahs on an area of 9.1 hectares and the construction of phase II in the form of supporting facilities such as employee mess, rest area, border market, as well as multipurpose building worth 201 billion rupiahs on 18 hectares of land.

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<sup>17</sup> In West Kalimantan, besides the Aruk PLBN, the Entikong PLBN and the Badau PLBN have also been built, meanwhile the government has also built the Wini PLBN, Motaain PLBN and Motamasin PLBN in East Nusa Tenggara and the Skow PLBN in Papua. The government is also building 10 more PLBNs in phase II starting in 2018.

<sup>18</sup> Kompas, 20 March 2017.

**Picture 1**

Site Plan and Front View of PLBN Aruk



In the PLBN Aruk area, several service facilities are already up and running. Several service posts encounter vehicles from the direction of Indonesia to enter Malaysia, consisting of health, fisheries, and agricultural quarantine posts. Inside the PLBN building, there are customs and excise services, Immigration, health institutions, and the National Border Management Agency (BNPP). PLBN Aruk is also equipped with technology such as X-ray and CCTV (Closed Circuit Television) for inspections.

In the PLBN Aruk area, around 24 stalls will also be built to sell dry and wet goods. The merchandise to be sold comes from Indonesia, aiming to introduce Indonesian specialities under the theme “Wonderful of Indonesia”. The existence of this market stall is to lure Malaysians to stop by the kiosk so that the economy is also encouraged.<sup>19</sup>

The splendour of the Aruk PLBN, when compared to other PLBNs, is not without reason because it does have unique characteristics. After all, it is designed as an entrance to tourist destinations. From PLBN Aruk to Singkawang City, it is about 180 km which can be reached in about 3-4 hours. This is possible because the road connecting the two places is in excellent condition. Singkawang is the main tourist destination in West Kalimantan Province and one of the national tourism icons, especially during the annual Cap Go Meh festival.

Access to PLBN Aruk itself has purposefully been equipped with transportation infrastructure in excellent condition. The construction and repair of road access from Sambas to Aruk, which is about 88 kilometres away, started in 2015 by the Ministry of Public Works and Public Housing (PUPR) through the National Road Implementing Unit Region III, National Road Implementation Center XI, Directorate General of Highways. This work includes building and widening roads. The access road to Aruk from Sambas Regency was built through the 46.42-kilometre Galing-Simpang Tanjung-Aruk road construction work package. The road was

<sup>19</sup> Interview with Customs and Excise Officer at PLBN Aruk, 31 July 2018.

constructed by contractors PT Waskita Karya (Persero) Tbk and PT Yasa Patria Perkasa with a contract value of 325 billion rupiah. In addition to the construction, this road segment has also been widened with a contract to expand the Simpang Tanjung-Aruk road along 26.20 km from two to four lanes, which has started this year and is targeted for completion in November 2018.<sup>20</sup> Later the road to PLBN Aruk will relate to a parallel road connecting Aruk and Bengkayang. At the end of 2020, the development of PLBN Aruk was entering phase III which includes the construction of the Soekarno Statue, employee housing, incinerator buildings, structuring the sub-core zone landscape, and other facilities.<sup>21</sup> The completion of infrastructure development of PLBN Aruk is targeted for 2021-2022.<sup>22</sup>

With good road conditions, the trip from PLBN Aruk to Sambas as the district capital can be completed in 1.5 to 2 hours. Thus, the road access improvement has cut the previous travel time by half, from between 4-5 hours. Before 2006, when the road connecting Sambas to Sajingan Besar District was still a dirt road that was difficult to pass, especially during the rainy season, some residents used the river route by boat to arrive at Sambas took about one day.

The construction and improvement of this access road have encouraged more people, vehicles and goods to cross the Aruk PLBN or enter Sajingan Besar District. Vehicles that aim to purchase and transport agricultural products of the population or carry necessities and vehicles for transportation, such as chartered cars of the type of “minibus” and medium-sized buses, routinely enter and leave Sajingan Besar District.

In 2017, the Aruk PLBN recorded crossings by 149,383 people or an average of 410 people per day, consisting of 139,126 Indonesians and 10,257 foreigners. However, this number is still small compared to the number of passers in the Entikong PLBN in Sanggau Regency, which averaged 700-1,000 people per day and could reach 1,000-2,000 people during the holiday season. Meanwhile, the Badau PLBN in Kapuas Hulu Regency sees an average of 120 people crossing each day.

Before passing through the immigration post inside PLBN Aruk, people must head to the Customs and Excise section. Whether entering Indonesia from Malaysia or vice versa, those wishing to cross the border must fill out a Customs Declaration (CD) form. The CD contains a selection of items brought by passers from the border route. The document also contains the rules for limiting the number of items that can be carried and its restrictions. Furthermore, there is a quarantine process that is

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<sup>20</sup> “The Struggle to Build the RI-Malaysia Border Road in Kalimantan”, accessed August 26, 2018, <https://finance.detik.com/berita-ekonomi-bisnis/d-3551048/perjuangan-membangun-jalan-perbatasan-ri-malaysia-di-kalimantan>.

<sup>21</sup> Insi Nantika Jelita, “Continuing to be polished, the Aruk PLBN is Prepared to be a New Economic Center”, accessed August 12, 2021, <https://mediaindonesia.com/ekonomi/360366/terus-dipersolek-plbn-aruk-disiapkan-jadi-pusat-ekonomi-baru>.

<sup>22</sup> Kementerian PUPR, “Supporting Border Area Economic Development, Ministry of PUPR Builds Infrastructure to Support Aruk, Motaain, and Skouw PLBNs”, accessed March 16, 2021, <https://pu.go.id/berita/dukung-pengembangan-per-ekonomian-wilayah-perbatasan-kementerian-pupr-bangun-infrastruktur-penunjang-plbn-aruk-motaain-dan-skouw>.

part of the Health Service agency. The role of quarantine is equally essential when dealing with plants or meat that carry disease viruses, and the passers themselves do not escape the examination. For those crossing the border, especially those entering from Malaysia, health workers screen them using an infrared thermometer.

#### IV. PLBN ARUK AND CROSS-BORDER TRADING ACTIVITIES IN SAJINGAN BESAR DISTRICT

Cross-border trade is a form of trade by businesses to enhance their welfare. This activity is generally carried out by residents who live in border areas, for example, on the border between Indonesia and Malaysia or with several other neighbouring countries.

The border area is a front yard for a country, and as such must be developed and managed by the government. Various Indonesian products can be traded through this cross-border trade. Therefore, it is necessary to develop infrastructure in border areas and develop the character of the people living in these border areas, manage conflicts and improve people's welfare. This means not only security but also building a strong national character. Empowerment is the key to improving the welfare of people living in border areas by empowering them to be involved in policymaking so that what the government does is what they need.<sup>23</sup>

Humphrey Wangke explained that, based on Coordinated Border Management theory,<sup>24</sup> there is a demand for coordination between government agencies both vertically and horizontally and coordination with neighbouring countries, so cross-border trade between countries can run effectively.<sup>25</sup> To strengthen coordination between institutions that have authority over the management of border areas, the authors offer the concept of Coordinated and Integrated Border Management (CIBM). To strengthen coordination between institutions that have the authority to manage border areas, the author offers the concept of Coordinated and Integrated Border Management (CIBM), in which this management system has two dimensions, namely the national dimension, where the management system involves coordination between policyholders (various agencies at each level of government) and stakeholders on a national scope, and international dimensions where the management system is a collaboration with neighbouring countries and stakeholders in that country. The two management systems must be integrated into a special

<sup>23</sup> See: Taufik Irfadat, et al, *Implementation of Community Empowerment-Based Development Policy in Rato Village, Lambu District, Bima Regency*, Jurnal Komunikasi dan Kebudayaan, Vol 7 No. 1 Januari- Juni 2020

<sup>24</sup> Coordinated Border Management (CBM), is a concept initiated by Stefan Aniszweski. See: Stefan Aniszweski, *Coordinated Border Management – A Concept Paper*, WCO Research Paper No. 2, (World Customs Organization, 2009), 8-9.

<sup>25</sup> See Humphrey Wangke, "Cross-Border Trade Between Countries: Stimulating Economic Development in Bengkayang and Belu Districts", *Politica*, 4 No. 1, (2013): 1.

agency located centrally and regionally.<sup>26</sup>

In connection with the regulation of cross-border trade transactions in the country's border areas, there are many violations committed by cross-border traffickers, the public, and law enforcement. These violations are related to legal arrangements for cross-border trade transactions in state border areas that face many obstacles in developing and applying existing regulations. In contrast, they contain a lot of economic potentials that can be developed through trade activities. As a result, the cross-border trading activities have not significantly increased the level of community welfare.<sup>27</sup> In addition, the condition of the border area, which has not been optimally developed, has resulted in economic dependence on the territory of neighbouring countries such as Malaysia. With this unbalanced trade pattern and tends to be monopolistic, in the long run, it is clearly detrimental to Indonesian as consumers.<sup>28</sup> This is in contrast with the four indicators of the fulfilment of economic, social and social rights mentioned above, which are: availability, accessibility, acceptability, adaptability.

Cross-border trade, in essence, follows the same pattern and purpose as the fundamental values of the ASEAN Economic Community (AEC). AEC aims to eliminate trade barriers at the borders, such as tariffs, which have been imposed for a long time in the form of cross-border trade. However, the existence of the ASEAN Economic Community (AEC) regime cannot be said to have immediately eliminated the cross-border trade mechanism running so far. MEA is a World Trade Organization (WTO) regime, while the BTA covers a district, no more than that. BTA, as a manifestation of socio-economic activities of traditional communities in border areas in accordance with Article 36 paragraph (1) of the United Nations Declaration on the Rights of Indigenous Peoples, has the right to maintain and develop contacts, relationships and cooperation, including activities for spiritual, cultural, political, economic, and social purposes, with their members as well as others outside of them indicating that the Border Trade Agreement is still needed even though the MEA is in place.<sup>29</sup>

To meet the needs of daily necessities, the people in Sajingan Besar District still depend on entering Malaysia. Moreover, the ease of reaching the region of Malaysia coupled with the relatively lower prices of goods cause the shop owners or "warungs" in the Sajingan Besar area, especially in Sebunga and Kaliau Villages

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<sup>26</sup> Budi Hermawan Bangun, "Building a Cooperation Model for State Border Management in West Kalimantan-Sarawak (A Comparative Study)", *Masalah-Masalah Hukum*, 43 No. 1, (2014): 38.

<sup>27</sup> Susanti Mamiloto, "Law Enforcement Against Transboundary Trade Transaction Violations in Border Areas", *Lex Privatum*, 5 No. 8, (2017): 1.

<sup>28</sup> Mahendra Putra Kurnia, "Strategy for Optimizing Cross-Border Trade between Indonesia and Malaysia to Improve the Welfare of the People of Sebatik Island, Nunukan Regency", *Jurnal Supremasi*, 7 No. 1, (2017): 6

<sup>29</sup> Sandy N.I. Raharjo, "Social Resilience of Indonesian Border Residents Facing the ASEAN Economic Community: A Study in Entikong District, West Kalimantan", *Jurnal Penelitian Politik*, 13 No. 1, (2013): 66.

prefer to shop in Biawak, or Lundu, which is the capital of Lundu District.<sup>30</sup>

Like other areas on the border with Malaysia, the Malaysian currency (Ringgit) acts as a medium of exchange. This is based on convenience because traders buy goods in Malaysia using the Ringgit. In some cases, traders in Malaysia are also willing to accept payments in Indonesian Rupiah.<sup>31</sup> Therefore, the tender of the Rupiah and Ringgit is not something that disturbs the community.

The dependence of the people in Sajingan Besar on Malaysian products has decreased slightly with the smooth supply of goods produced by Indonesia due to improved infrastructure. In Aruk, which is the central area in Sajingan Besar District and PLBN Aruk, national products such as dry food, packaged drinks, cigarettes, and other products have begun to fill the shop shelves and stalls and are bought by the community. However, the prices of Malaysian products are still lower. There are also assumptions that the quality of Malaysian goods is better than similar products produced by Indonesia. Hence, Malaysian products still dominate the internal market, even though they are no longer as dependent as in the previous period.

For people in the Sajingan Besar District who want to enter Malaysian territory, it is not necessary to have a passport. Still, they must use a cross-border travel document or Cross-Border Pass (PLB). PLB, commonly referred to by the local community as a “Red Passport”, is a document which, according to Article 24 paragraph (1) of Law no. 6 of 2011 concerning Immigration, is categorized in Travel Laksana Passport. According to Article 29 of the Immigration Law, this letter can be issued by the Minister of Law and Human Rights, or a designated Immigration Officer for every Indonesian citizen domiciled in the border area of the Republic of Indonesia with other countries under cross-border agreements.

Applications for PLB are submitted to the Minister or a designated immigration officer by attaching:

1. An application for PLB that has been filled in and approved by the local Village Head or by another authorized party;
2. Identity Cards (KTP) issued by authorized officials and agencies;
3. 2 (two) 3x4 (three by four) photographs of red background; and
4. 4. Not listed in the preventive list.

The PLB is valid for a maximum of three (3) years from the date of issuance, and after that, it cannot be extended. However, holders of cross-border travel documents or cross-border passes that have expired can apply for new cross-border travel documents or cross-border passes.

<sup>30</sup> Lundu District is one of three districts within the Kuching Division, the Kuching Division itself is one of the 12 administrative divisions within the State of Sarawak.

<sup>31</sup> Ilyas Istianur Praditya, “Residents of the RI-Malaysia Border Transactions Using Two Currencies”, 11 February 2015, <https://www.liputan6.com/bisnis/read/2174290/warga-perbatasan-ri-malaysia-transaksi-pakai-dua-mata-uang>, accessed August 13, 2021.

Furthermore, based on the Government Regulation regarding Border Trade article 4 paragraph 1, Indonesian citizens who can purchase goods outside of the customs area in the context of Border Trade are required to have documents in the form of:

- a. Border Crosser's immigration document issued by the immigration office in charge of the border area; and
- b. Border Crossers customs documents issued by the customs office that supervises the Cross Border Post.

Unfortunately, not all citizens at Sajingan Besar are able to hold a PLB. Those who do not have it choose not to go to Malaysian territory. Even if they must do so, they will choose one of the many illegal routes along the national border between Indonesia and Malaysia. PLB is also often abused in the sense that PLB issued by the authorized party is not only used by the residents of the community who live in the border area, in this case only residents of Sajingan Besar, but also by residents outside of Sajingan Besar.<sup>32</sup>

With the operation of the PLBN Aruk, the activities and mobility of the people of Sajingan Besar to travel to Malaysian territory are said to be slightly reduced.<sup>33</sup> Citizens who were previously free to enter and leave Malaysia now have to pass legally through the PLBN, an official doorway into and out of the Republic of Indonesia. The crossing activities at PLBN Aruk are now equipped with a good CIQS (Custom, Immigration, Quarantine and Security) functions. Citizens who go through PLBN Aruk must complete the immigration documents such as a passport or PLB. Likewise, carrying out cross-border trading activities must comply with the provisions stipulated by the Border Trade Agreement of 1970, namely a maximum RM. 600 per person per month and only intended to meet the people's daily needs at the border.

Activities at PLBN Aruk tend to be more crowded in the mornings and evenings. Some Indonesian citizens working in the Malaysian territory cross the PLBN and return to Indonesian territory in the afternoon. As a result, dozens of vehicles, both two-wheeled and four-wheeled, lined up outside the PLBN complex to transport or wait for passengers leaving or returning from Malaysia. In addition, these vehicles also transport products originating from Malaysia.

Almost all national border areas are guarded by the Indonesian National Army (Tentara Nasional Indonesia/TNI), who staff the Border Security Guard Task Force (Satgas Pamtas) are. The members of the Pamtas Task Force consist of various units and work in rotation for a minimum of 6 months under the Tanjungpura XII Military Regional Command (Kodam). The Pamtas Task Force is assigned to maintain the sovereignty of the state and territorial security, including other forms

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<sup>32</sup> Interview with the residents of Dusun Aruk, Sebunga Village, Sajingan Besar District, July 30, 2018.

<sup>33</sup> Interview with residents of Dusun Aruk, Sebunga Village, Sajingan Besar District, July 30, 2018.

of security disturbances such as smuggling of goods, smuggling drugs, and even social tasks such as education and health.<sup>34</sup>

Apart from the PLB, another document related to cross-border activities is the Cross-Border Identity Card (Kartu Identitas Lintas Batas /KILB). KILB is a document issued by Customs that supervises PLBN against border crossers carrying imported goods. To be able to hold KILB, border crossers must apply to the local Customs office by attaching a photocopy of KTP and a photocopy of PLB that the authorized official has approved.

## **V. CROSS-BORDER TRADING ACTIVITIES IN SAJINGAN BESAR DISTRICT AND THE FULFILMENT OF COMMUNITY WELFARE RIGHTS**

With the functioning of the Aruk PLBN, the intensity of the flow of goods to and from Malaysia is relatively reduced compared to before.<sup>35</sup> However, the strict and layered supervision carried out within the CIQS framework has made crossing national borders less accessible. As a result, people who do not have immigration documents such as a passport or PLB or KILB or even people who are unfamiliar with these rules don't travel into Malaysia. Although alternative routes are available other than through the PLBN, it is the same as the PLBN. Some of these routes are also supervised, especially by members of the Pamtas Task Force. In addition, crossing these routes is ineffective because of its difficult location and conditions that are not as accommodating as the PLBN. This condition has caused the community to be more reluctant to use these alternative routes. Fortunately, the intensity decreased of the flow of goods to and from Malaysia has provided benefits of increasing the marketing and sourcing of domestic products and reducing Malaysian economic influence of the people on the border.

Before the functioning of PLBN Aruk, when the transportation route to Sajingan Besar was still challenging to pass through, the community could only sell their natural products such as pepper, rubber and other agricultural products to Malaysia. As such, the Malaysian buyers determine the selling price but buys the commodities at deflated prices.<sup>36</sup>

There is no other choice for community members but to accept this condition because of their weak bargaining positions. As a result, the community only takes and sells agricultural products to the extent that they can transport and sell them to meet their daily needs while leaving behind the rest that is trickier to be transported.

<sup>34</sup> Yudhi Prasetyo Purnomo, "Implementation of the PAMTAS Task Force in Preventing Drug Smuggling at the West Kalimantan – Sarawak Border", *Jurnal Sekolah Staf dan Komando TNI AD*, Edisi Khusus, November 2016.

<sup>35</sup> Interview with Customs and Excise Officers at PLBN Aruk, July 31 2018.

<sup>36</sup> Interview with residents of Dusun Aruk, Sebunga Village, Sajingan Besar District, July 30, 2018.

For example, if a resident owns 1,000 rubber trees, only 100 trees will be tapped. However, this condition has changed because of smooth transportation where buyers come to the residents to buy rubber and tap all the rubber trees they have.<sup>37</sup>

Regarding the operation of PLBN Aruk, generally, the people in Sajingan Besar Subdistrict are satisfied and think that PLBN Aruk has the potential to improve the welfare of the local community. However, there are also concerns that PLBN Aruk will make it difficult for people to trade in goods (buying and selling) by completing various kinds of requirements.<sup>38</sup>

The expansion of employment opportunities is also one of the community's goals with the PLBN Aruk. The community hopes that the opening of the PLBN will not cause them to become only "spectators" who do not see direct benefits. For this reason, all development activities at the border must involve the community. Otherwise, the community's welfare is not achieved, and the development goals at the border fails.

Regarding the substance of the Border Trade Agreement of 1970, the public has complained that the trade limits were no longer correlated to the community's needs. The majority desired that the maximum limit be increased from RM. 600 to RM. 5,000 / person / month.<sup>39</sup>

As one of the border areas and the location of the Aruk PLBN, Sajingan Besar District, especially the Aruk area (together with Paloh), has been designated as one of the 26 National Strategic Areas (Pusat Kawasan Strategis Nasional/PKSN) in Indonesia through Government Regulation No. 26 of 2008 concerning the National Spatial Plan. PP No. 26 of 2008 concerning the National Spatial Plan stipulates 26 PKSN based on the following criteria:

- a. urban centres that have potential as cross-border checkpoints with neighbouring countries;
- b. urban centres that serve as international gateways connecting with neighbouring countries;
- c. an urban centre, the main transportation node that connects the surrounding area; and/or
- d. urban centres are centres of economic growth that can encourage the development of the surrounding areas.

Through PKSN, the spatial welfare approach will be reflected by developing the main cities in the border areas and then using growth engines for regions around the country's borders.<sup>40</sup> In Indonesia, spatially (related to space/region), there are

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<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> Humphrey Wangke, "Integrated Management of the Indonesia-Malaysia Border Area in Kalimantan", in Humphrey

differences in the level of welfare between regions, such as Java-Outer Java, City-Village, etc. In general, the border area is one location where the fulfilment of welfare is lagging compared to non-border areas. (Therefore, there is a term 3 T: Underdeveloped (*Tertinggal*), Remote (*Terpencil*) and At the Front (*Terdepan*)). “*At the Front*” refers to the border area. One of the policies of Nawacita is to build Indonesia from the periphery (borders) by growing economic centres in border areas. The decision to revitalize the PLBN and its infrastructure is part of a spatial policy to grow economic centres in the previously underdeveloped border areas, which are expected to improve the welfare of the people at the border. Therefore, the border areas used as a PKSN whose goal is to optimize the potential in the border area to become a new economic centre on the front porch of the Republic of Indonesia.

Satisfactory developments have commenced in Indonesia’s border areas. The construction and renovation of various PLBNs fulfils the aesthetic and artistic aspects and complements the modern functions of CIQS. In addition, various supporting facilities, facilities, and infrastructure have also begun. They have built economic support facilities, offices that carry out service and government functions and including means of transportation such as roads.

With abundant natural resources, the border areas can become the centres of new economic growth. However, so far, the potential of existing natural resources has not been utilized optimally. In addition, the lack of infrastructure causes the local people to be economically dependent on neighbouring countries. Therefore, if a variety of adequate infrastructure supports the border area, the potential of its natural resources can be optimally utilized. Furthermore, it will encourage economic growth in the border area and change the border areas from poor and underdeveloped into centres of economic activity.

With such potential, a border area such as Sajingan Besar District can become a gateway for cross-border trade on a larger scale than the informal cross-border trade that has occurred so far. According to FAO (Food and Agricultural Organization), informal cross-border trade is the whole or part of the movement of goods and services as part of trade activities that are not registered or recognized by the government without complying with the procedural requirements of existing formal institutions.<sup>41</sup> In practice, the pattern of cross-border trade that occurs in the border area of Indonesia-Malaysia is no longer relevant to the understanding in BTA 1970, which is limited to traditional trade to ensure the fulfilment of the basic needs of the border communities. Therefore, in BTA 1970, the meaning of “goods” is limited to luggage carried by crossers of national borders (in this case, people in border areas), with a trade value of not more than RM. 600 / person / month.

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Wangke, ed., *Kerja Sama Indonesia-Malaysia dalam Pengelolaan Perbatasan di Kalimantan*, (Jakarta: Yayasan Pustaka Obor Indonesia, 2017), 124.

<sup>41</sup> *Ibid.*, 105.

This practice that has occurred over a long time has caused many losses to the state because of the rampant unregistered trade and without tax payments. On the other hand, it has not brought significant benefits for improving the welfare of communities in border areas. The lack of clarity in the cross-border trade regulatory regime has also created confusion between which cross-border trade carried out by the community to meet their basic needs and which businesses carry out cross-border trade to seek economic gain.

In the future, it is necessary to foster cross-border trade by separating traditional trade. Border communities carried them out to fulfil their basic needs based on the BTA of 1970 from formal cross-border trade (export-import) carried out by businesses who must comply with the provisions required by the regulations, which regulates trade between countries.

## **VI. CONCLUSION**

The community in Sajingan Besar District recognized the PLBN Aruk opening and all its complementary facilities as an excellent effort to improve their welfare. The economic dependence that occurred in the territory of Malaysia is starting to decrease. Because the people now have a wider choice and stronger bargaining position. On the other hand, there is also a concern for the community that the presence of the PLBN will hamper their activities because of the stifling regulations relating to cross-border activities that will limit the space for people who were previously free to carry out cross-border activities.

With its potential, border areas such as Sajingan Besar District can become areas for new economic growth. Infrastructure development and the making of regulations and policies are needed to make this happen. It is necessary to distinguish between traditional cross-border trade carried out by local communities and formal cross-border trade carried out by businesses for profit. The border area must also be projected as a gateway for economic activity between countries and regionally by optimizing trade and investment cooperation.

Infrastructure development in border areas such as Sajingan Besar District needs to be continued unabated. However, it is also followed by a change in the community's mindset to realize the growth area as a new economic growth area. For this reason, the making of regulations and policies must be continuously disseminated to the public.

Infrastructure development should also be supported by a more prominent role in carrying out export-import activities. The state gets a greater income from the tax sector and benefits the people in border areas. This activity can be appropriately monitored and managed with a cross-border trade model that separates traditional cross-border trade and formal cross-border trade. This more prominent role in

carrying out export-import will also increase regional competitiveness and increase investment growth in the regions, on a micro, small and medium scale. If done correctly, the border communities will also get jobs.

### **Acknowledgement**

The author would like to thank Tanjungpura University, especially the Faculty of Law, who has provided funding for this research through the 2018 Tanjungpura University DIPA funds.

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