

## LEGAL PARADIGM OF COMPETITION LAW ON INDUSTRIAL PLANT COMMODITIES TRADING IN SOUTH SUMATERA\*\*

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*Abstract: The issue to be addressed in this study can be formulated as follows: (1) the factors that affect the practice of business competition in the industrial plant yield commodities, (2) the effectiveness of regulations and public policy interventions related to competition, particularly in industrial plants yield commodities. Juridical empirical research method is by using observation, library research, surveys, and interviews. Factors affecting competition include the following: First, farmers are using a subscription system, but the subscription system aimed at trader groups/traders, while farmers are still free to sell on any trader as long as there is in a group of trader/dealers. Second, there is a contradiction about whether there is any agreement among the producers. Third, no consensus when selling the harvest because the harvest period of the industrial plant is stable. Fourth, there is no agreement the location/area of selling the crop. Fifth, although there was no deal of time on sales and sales locations, but there is a deal considering the price of each respondent farmers to trade commodities. Sixth, there is no consensus site/trade area. Seventh, although there was no deal of time on sales and sales locations, but there is a deal considering the price of each respondent traders to trade commodities and by type of respondent traders, farmers are also doing the same deal. Once the low preference of the use of formal dispute settlement mechanisms, both involving the police or the courts, others use traditional media settlement, finalized by village officials, were completed in the deliberations of farmers, and traders settled in the discussion forum, but all these mechanisms are not significant. Significantly, both the respondent farmers and traders, said selecting mechanism outside the mechanism specified in the questionnaire, which was settled by a consensus of bilateral (two parties) without involving a third party, nor do they involve formal institutions (police and courts). This means that bilateral dispute settlement mechanism was considered more effective and efficient than other mechanisms. Other meanings namely, that the agreement of both parties is the most urgent factor as the benchmark local law practices.*

Keywords: competition law, industrial plant, agreement

### A. Introduction

#### I.A. Background

The agricultural sector in South Sumatra are generally oriented towards the production of industrial crops yield commodities, crop production, especially coffee, rubber, oil palm, and others. Industrial crop yield commodities is cultivated in various estates, both large plantations owned by the government, large private estates, and smallholders. Production of industrial crops yield commodities is largely export oriented, in addition to domestic supply. Each product has a value, competitive prices and

volumes, both at the producer/farmer, as well as wholesalers and exporter. Therefore be competitive, then price and volume fluctuations affecting the production of market aggressiveness, especially the business community. With many industrial plants producing competitive commodities, large trading volume, and broker layer, speculation and political causes of industrial crops yield commodities trading becomes more common. This is potentially on unfair business practices.

Regulations governing business competition, among others, the Law No. 5 of 1999 on the Monopoly and Unfair Business Competi-

\*\* Based-on research's report titled "Paradigma Hukum Persaingan Usaha pada Komoditas Unggulan Daerah di Sumatera Selatan", funded by Sriwijaya University's Research Grant in 2009.

tion. Also there are some legal product in the relevant field of business, among others, Limited Liability Company Act, Capital Market Law, Investment Law, Law in the field of IPR, the Consumer Protection Act, also various regulations issued by the Presidency and the department-the department. In Law No. 5 of 1999 are arranged on the various unfair business practices, among other things Prohibited Agreement (Article 4 - Article 16), Prohibited Activities (Article 17 - Article 24), and Dominant Position (Article 25 - Article 29 ).

However, unfair business practices are still so strong in the commercial sector crop yield commodities industries, among others, characterized by extreme price volatility and the risk of a large depreciation. Therefore, research is needed on business competition in the local competitive commodities.

Research on competition in this area is highly competitive commodities required to remember several things: **First**, the production of industrial crops yield commodities is one of the agricultural sector and the most dominant plantation in South Sumatra and has a very significant impact to the economy among the general public, both producers of upstream and downstream industries and export activities. in South Sumatra, there are many companies both large plantations owned gardens peasants in various scales and types of plants. Each manufacturer has a different capacity and capitalization so that the capabilities are also different. By given conditions, the potential for exploitation and speculation in the business competition is very open. Layered-broker

lapisnya create value, price and volume of commodities vulnerable to speculation.

**Second**, the agricultural crop yield commodities industry is the sector that supplies a relatively large gains for the original income (PAD). Industrial agriculture sector, particularly for commodities as rubber, palm oil and coffee is the superior commodity in South Sumatra province. However, legal protection against the negative impact of unfair business competition on the yield commodities is getting much less attention from the local government, especially against a weak business. So far, the focus of competition is still spinning on businesses with large capitalization, but not enough to reach small producers and small traders.

**Third**, the background assumption that industrial plants classified in the competitive commodities traded on commodity futures exchanges, the risk of depreciation of the large and extreme price fluctuations will continue to haunt commodity trading commodity crop seed industry. Upstream of the small producers and traders will suffer huge losses if the risks are actually happening.

**Fourth**, this research is expected to provide recommendations in the form of legal development strategies at the local, regional and national levels, particularly in the field of business competition. This research will provide outcomes in the form of research reports, scientific articles published in local seminars and national seminars, textbooks, and public policy portfolios, particularly relevant to the regional regulation of business competition lead-

<sup>4</sup> Zainal Hoesein, 2009, *Judicial Review di Mahkamah Agung Ri Tiga Dekade Pengujian Peraturan Perundang-undangan*, PT Raja Grafindo, Persada, Jakarta, 2009, hlm.16.

<sup>5</sup> Jimly Asshiddiqie, 2004, *Konstitusi dan Konstitusionalisme Indonesia*, MK RI & Pusat Studi HTN FH UI, Jakarta, hlm. 55.

<sup>6</sup> Hans Kelsen, *General Theory of Law and State*, yang telah di alih bahasa oleh Somardi, Rimdi Press, Jakarta, 1995, hlm.269

<sup>7</sup> Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, *Op. cit.*, hlm133

<sup>8</sup> Munir Fuady, *Teori Negara Hukum Modern*, PT Refika Aditama, Bandung, 2009, hlm.124

ing industrial crop commodities, as well as academics to draft amendments to the development of Antimonopoly Act national law.

Fifth, as far as the writer, so far no studies related to competition law in the superior commodity in South Sumatra, when considering the potential and character of the people of South Sumatra, so it will need a comprehensive study about the focus of the study.

### I.B. Problem Formulation

Still occurs in unfair business competition in the pre-eminent commodity trading area in South Sumatra in the unstable economy affecting farmers/small producers. Meanwhile, large producers consisting of large plantation companies tend to have a stronger bargaining position because it is supported by a large capitalization, extensive trade networks, and connectivity to public officials, wholesalers, and processing industries. These imbalances cause the exploitation by the powerful against the weaker party. Based on the above background, then the problem will be discussed in this research can formulated as follows: (1) Factors that influence the practice of eminent business competition in commodities? (2) How can the effectiveness of regulations and public policy interventions related to competition, particularly in competitive commodities?

### I.C. Objective

Based on the formulation of the problem shall be discussed in the research, the specific objectives to be achieved in this study include:

- a. Study and analyze the factors that influence the practice of business competition in the local pre-eminent commodity trading
- b. Study and analyze the effectiveness of regulation and public policy interventions related to the pre-eminent commodity areas.

## B. Result

### II.A. Transformation of Plantation in South Sumatra: A Historical Review

Depression that hit the world market in 1929 -1933 is not a deadly disaster that the people of Palembang region producing commercial crops. Various advantages can they rake in, among others, the closer they are to market and modern economic institutions, the expansion of commercial crops, increase revenues, and the use of added value (surplus) for various purposes which ultimately resulted in institutional changes. The expansion means the expansion of commoditization in the series of market transactions. Plantation crops - such as rubber and coffee - have a high liquidity can be traded for any reason, either through barter or cash. Its use is not solely for the purchase of consumer goods but also for productive things, such as investment. Some farmers who have abundant benefits also begin to save money in the bank.

In the city of Palembang, standing a few banks, but the best known is Palembangische Volksbank. The Bank was established in 1913 has 906 people and customers increased to 1484 people on 1924 customers. Banks belonging to these people's credit banks also opened branches in Pagaram (since 1918) and several

<sup>9</sup> Jimly Asshidiqqie, *Perihal Undang-Undang*, Konstitusi Press, Jakarta, 2006, hlm. 1

<sup>10</sup> Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, PT Gramedia Pustaka Utama, Jakarta, 2001, hlm.226

<sup>11</sup> Abdul Rasyid Thalib, *Op cit*, hlm.167

<sup>12</sup> *Ibid*, hlm.168

regions in the interior. Volksbank Palembang-sche founded on the initiative of the Resident C. Van de Velde with an initial capital of approximately f.200.000 and paid-up capital in 1919 by striking f.1.330.000 value. This private bank to open around 14 branches in rural areas. Asnawi, who actively educating paramedics Pasemah regional banks, open bank branches in Pagaralam. Some pasirah, for example in the area of Cempaka, helped the establishment of these banks in their respective regions. Apart from government banks, there are also many banks clan (Clan Bank) begins bertumbuhan since 1917 and reaching a wider audience. In the year 1926 in various branches of the countryside spread out 66 semi-government banks and that number increased to 87 branches in the next year. Bank Marga is an extension of the People's Credit Bank (Volks-credietbanken) which have been entered into the interior of residency of Palembang (present: South Sumatra)<sup>1</sup>.

Commoditization of peasant agriculture rural communities to establish relations with the wider social world. Important lines of communication are interwoven through the Haj pilgrimage. Increased profits from people's gardens is a significant boost to the people of Palembang (present: South Sumatra), which departed hajj. An example is the area most widely Komerling dispatch pilgrims, especially in the year 1914 - 1923, thanks to the benefits they have handful of rubber. The pilgrims who go to Mecca is not only to practice alone. They also work with communities to build networks that are along the line of departure and return them, either in the archipelago itself, Malaya, even in Saudi Arabia itself. Pilgrimage route at that time still a point of land and sea route, which takes a short pilgrimage for months,

even some pilgrims who settled in some areas through which they pass, including in Saudi Arabia. In addition to building a sustainable network, these pilgrims also brought new knowledge in the cultivation of commercial crops, there are even those who deliberately importing various kinds of superior seeds. Thus, they tend to be more independent and apart from the colonial government intervention. They also do not have to buy seeds from the government and they can develop aquaculture technologies more competitive.

At first, the depression of world trade in 1930 have a negative impact on the economy for farmers in Palembang. Effort recovery then performed. One of them by ZUSUMA (Zuid-Sumatra Nijverheidvereeniging Landbouw-en), ie, organizations composed of the foreign planters. This organization was founded in 1925. ZUSUMA AVROS which is similar to an organization (planters) in East Sumatra. Planter 75-member ZUSUMA people who manage around 19 companies and industrial estates located in the Palembang Residency. The focus of this organization involves the procurement and recruitment of labor. Concentration in terms of labor is not without reason. Contract laborers who worked in a variety of foreign private companies many of who fled because he wanted to work as freelance workers who are considered more profitable.

Competition with foreign companies increasingly massive public gardens. Remarkable improvement that occurred in people's gardens to make some foreign companies overwhelmed in the competition. In terms of quantities of the products, foreign plantations are almost always below the value of people's garden production. Workers who work in foreign estates escape and many are choosing to work in

<sup>1</sup> Zed, Mestika, 2003, Sejarah Sumatera Selatan, Jakarta: Gramedia

the gardens of the people as freelance workers with more lax labor and income tend to be larger. Some foreign companies and then there are no longer able to pay their workers had left because their production values are not sufficient.

In addition to fierce competition from people's gardens, foreign plantation companies also get competitors from non-Western. Competitors from China is a competitor that is too difficult to conquer because the network of Chinese merchants already entrenched in commercial lines in Palembang, even long before the Dutch colonialism in Indonesia. Chinese entrepreneurs and traders have opened their business, even before the ruling in the archipelago of West Sriwijaya. Chinese people are even already involved with a variety of acculturation with the local community. No wonder then the people of Palembang, physically, has similarities with the Chinese people.

Maddison generally show that the size of Indonesia's dependence on exports led to the Dutch colony was more sensitive to the effect the Great Depression than the other colonies, but he also indicated that the two aspects are related to the mother country from invaders separates Indonesia's position from the position of the other colonies<sup>2</sup>. Agricultural production on a large scale, market direction, and export orientation was held and managed to generate profits<sup>3</sup>. In theory, the more coffee is produced, the higher the sales proceeds. In practice, the results are as expected. Apparently only the government who buy coffee and the purchase price was very low<sup>4</sup>.

## II.B. Urgency Coffee Plantation in South Sumatra: Statistics Review

Based on data obtained from Prov Plantation Office. South Sumatra, can be detailed results from the production of plantation commodities in Prov. South Sumatra year 2007/2008, as follows:

Table 1  
Production of Commodity in Plantation in South Sumatera (2007/2008)

Region Kabupaten/Kota	Palm (ton)	Rubber (ton)	Coffee (ton)	Coconut (ton)	Tea (ton)	Others (ton)
Kab.Mu-Ba	321.444	94.412	?	1.896	-	?
Kab. Banyuasin	202.742	104.796	1.152	48.417	-	?
Kab. Mu-Ras	219.997	109.835	5.021	?	-	?
Kab.Muara Enim	171.622	127.380	12.136	?	?	?
Kab. OKI	293.364	63.370	?	8.638	-	?
Kab. OI	26.499	13.340	-	?	-	?
Kab. Lahat	?	20.138	57.328	?	?	103
Kab. OKU	106.697	53.236	15.733	?	?	108,3,
Kab.OKU Timur	2.755	28.654	-	?	?	235
Kab.OKU Selatan	?	?	30.341	?	?	1600
Kota Palembang	-	-	-	-	-	?
Kt.Lubuk Linggau	?	7.982	510	?	?	?
Kota Prabumulih	7.411	17.954	12.136	?	-	?
Kota Pagaram	?	?	321.444	?	94.412	1.896

Note: (-) Means data and facts relative correspondent  
(?) Means the data and facts are not mutually correspondent based observations

Data from the South Sumatera's Plantation Office in the need to be criticized because a lot of instability, in-correspondence found between the data and facts. There are two allegations in the lack of conformity. First, the data is only within the scope of government owned plantations and estates owned private companies, while people's gardens are not included. Secondly, technical and methodological problems that make insufficient data. Farmers

<sup>2</sup> O'Malley, William J., "Pendahuluan" dalam Anne Booth, dkk (Ed), 1988, Sejarah Ekonomi Indonesia, Jakarta: LP3ES, pg.33

<sup>3</sup> O'Malley, William J. "Perkebunan 1830-1940: Ikhtisar", dalam Anne Booth dkk (Ed), 1988, Sejarah Ekonomi Indonesia, Jakarta: LP3ES, pg.198

<sup>4</sup> Fernando, MR & William O'Malley, "Petani dan Pembudidayaan Kopi di Karesidenan Cirebon 1800-1900, dalam Anne Booth dkk (Ed), 1988, Sejarah Ekonomi Indonesia, Jakarta: LP3ES, pg.241

involved in the production of plantation, as contained in the data published by the Office of Plantation Prov. Sum-cell can be explained on the following list.

**Table 2**  
Farmers Estates in South Sumatra (year 2007/2008)

Region Kabupaten/Kota	Palm (KK)	Rubber (KK)	Coffee (KK)	Coconut (KK)	Tee (KK)	Others (KK)
Kab.Mu-Ba	2.819	78.812	?	1.896	-	?
Kab. Banyuasin	185	31.828	4.597	48.417	-	?
Kab. Mu-Ras	635	98.317	8.639	?	-	?
Kab.MuaraEnim	9.366	110.093	12.860	?	-	?
Kab. OKI	642	27.837	?	8.638	-	?
Kab. OI	26.499	13.340	?	?	-	?
Kab. Lahat	?	12.713	79.737	?	-	682
Kab. OKU	3.003	9.161	758	?	-	1.091
Kab.OKU Timur	19.029	1.066	?	2.626	-	2.458
Kab.OKU Selatan	?	?	38.385	?	-	19
Kota Palembang	-	-	-	-	-	?
Kt.Lubuk Linggau	?	3.113	1.629	?	-	?
Kota Prabumulih	9.161	?	610	?	-	?
Kota Pagaralam	?	?	24.528	?	?	?

Note: (-) means data and facts relative correspondent  
(?) Means the data and facts are not mutually correspondent based observations

The above data is not really adequate, but this at least can be interpreted into many things. Plantation farmers referred to in the above statistic was calculated based on the head of the family unit. It was not clear whether the nuclear family or extended family. Even the possibility of large families who participated "mengindung" (riding) are not listed. Whereas in the public culture of Sum-Cell, "ngindung" families with other families who are very common. The problem that also needs to be questioned is whether the farmers who work or in partnership or have a private plantation companies are also included in the data? This needs to be questioned.

An example is the farmer in the town of Pagaralam data. This data is not correspondent with the facts when the data states that there are no farmers to plant rubber, rubber, when in fact become a very popular crop production by farmers, both the owner and the peasant farm-

ers. Farm laborers are also not counted, because there Pagaralam PTPN VII with the number of workers that a lot of tea but did not enter in the data. Subjects contained in the above data are likely only include the extended family unit that really engage directly with local governments, either as partners or simply tracked by the local government.

Statistical data on the number of farmers at the top, regardless of the validity problems, is an iceberg phenomenon. The plantation sector is the land that is very liked by the inhabitants of South Sumatera From the data successfully tracked with modest efforts by local government alone has shown that the plantation sector is highly competitive, then it can be predicted that the farmers involved in the gardens of the people most likely more.

In the case of factories to process agricultural commodities based on the ownership, Plantation Office South Sumatera Province factories only publish Rubber and Palm Oil processing. The following data was found.

**Table 3**  
Plantation Area by Ownership (2007/2008)

Region Kabupaten/Kota	State Owned Land (Ha)	Private Owned Land (Ha)
Kab.Mu-Ba	?	58.906
Kab. Banyuasin	16.216	23.623
Kab. Mu-Ras	4.848	51.296
Kab.MuaraEnim	16.416	19.652
Kab. OKI	?	48.677
Kab. OI	13.667	12.466
Kab. Lahat	1.764	25.896
Kab. OKU	7.256	8.143
Kab.OKU Timur	?	3.675
Kab.OKU Selatan	?	?
Kota Palembang	?	?
Kota Lubuk Linggau	?	?
Kota Prabumulih	?	?
Kota Pagaralam	1.571	?

Note: (-) means data and facts relative correspondent  
(?) Means the data and facts are not mutually correspondent based observations

The above data, in addition to providing a comparative overview, actually has several weaknesses, particularly lack of clarity about the plantation area is in terms of types of commodities to be planted. It is unfortunate that this data is also incomplete for some areas. The absence of such data, it should be underlined, does not mean the area does not exist. Privately owned plantations referred to in the table are company-owned plantation estates. This means that the people who owned private gardens not included in the list. Yet today the people of the garden have grown significantly (mainly rubber) and even the total production is always above the production company owned by private estates. Plantations owned by private companies (252 334 hectares) was larger than the state plantations (61 738 hectares). Unfortunately, these data did not elaborate on the plantation areas are managed in a partnership between government and private, but based on the local news often preach the dedication and harvested together between government and private.

### II.C. Factors Affecting the Practice of Business Competition

According to Dewey<sup>5</sup>, the factors that affect trade is the character of the community itself, such as: First, the overall population size (the size of population). Second, the extent of trade areas (the size of the trading area). Third, the population density (the density of the population). Fourth, the development of communication and transportation lines (the development of communication and transportation). Fifth, the number of pairs produced commodities and various products (the amount of goods

produced and on their variety). Sixth, the level of specialization (the degree of specialization).

However, still quoting from Dewey, there are also other factors not less important in influencing trade, among others, (a) in relation to the size of the family group as an economic unit (the size of the family group insofar as it is an economic unit) (b) expansion of the responsibilities and obligations in the sphere of economic activity or in families, or groups - groups in society (the extend of the duties and obligations of an economic or other nature Between Families or other groupings within the society), and (c ) behavior patterns of production, consumption behavior, and investment behavior (the Attitudes toward production, consumption, and investment). Other factors are also considered important is the degree of adoption of technology and industry conducted by the local society of the Western world (degree to Which the society has adopted the commercial and industrial technology of the western world).

To test various indicators as a factor that may affect trade competition, had carried out a simple survey of the 50 (fifty) of respondents who are involved with industrial crop plant and industry leading commodity are 30 (thirty) farmers competitive commodities of industrial crops and 20 (twenty) traders superior commodity industrial plants sampled from the population of all farmers and traders in Pagaram and Lahat.

#### II.C.1. Character Business Industrial Crops Farmers Commodities

Here is the character of the farmer. Of the entire population of farmers located in

<sup>5</sup> Dewey, Alice G, 1962. Peasant Marketing in Java. New York: The Free Press of Glencoe Inc.

Pagaralam and Lahat, have taken samples of 15 (fifteen) farmers from Pagaralam and 15 (fifteen) farmers from Lahat. The purposive sampling is random sampling, i.e. random selection in Pagaralam and Lahat but remain concerned at the involvement of the respondents as farmers in the production of industrial crops yield commodities. Based on the status of land ownership, can be seen in Table 4 as follows:

Table 4  
Land Ownership

No.	Land Ownership Status	Presentation
1.	Family	86%
2.	Rent	6,67%
3.	"Paroan"	6,67

In general it appears that most, i.e. 86% (eighty-six percent) ownership of land is owned or owned by the family, and only 13.7% (thirteen point seven percent) of respondents having status as a tenant or "paroan" work. However, it does not mean that farmers who already have their own cultivation of agricultural land which is not involved with the rental of land, "paroan" work, even as a day laborer because the character of industrial crops yield commodities is only one harvest per year allows the farmer owners are also working on the land owned by other farmers as an alternative source of income. On the same sample of respondents, based on the agricultural land area, Table 5 shows the following:

Table 5  
Wide of Land

No.	Wide	Percentage
1.	Less than 1 hectare	56,67%
2.	1-10 hectare	43,33%

From a survey done and these are shown in Table 5, found that farmers who owned land with total area of agricultural crop yield com-

modities industry is less than 1 (one) hectare is 56.7% (fifty-six point seven percent), while the farmers who own land between 1 and 10 hectares were 43.3% (forty-three point three percent). Amount of data can be explained from the observation that the calculation is based on ownership per head of the family. Also quantitatively, communal ownership by large families, or in territory by the clan can not be described explicitly by using a sampling survey based on the head of the family farmer, not based on specific family groups. This may explain why there are no data about the farmers who have farms of more than 10 (ten) acres.

In addition, the land that the data is effectively land area used for crop yield commodities industries, so it does not describe the overall land area owned by each farmer. The existence of diversification of crops allows farmers to use part of the land for paddy fields or other crops. Therefore, the relevant area of land that is owned, then of course need to also show the effective area of land tilled by the respective farmers. Table 6 describes:

Table 6  
Who Worked on Own Land

No.	Effective Area tilled Own	Percentage
1.	Less than 1 hectare	80%
2.	1 - 10 hectare	20%

From Table 6 it can be concluded that most farmers who own land effectively working on industrial crop yield commodities is 80% (eighty percent) of land with an area of less than 1 (one) hectare, and only 20% (twenty percent) who effectively worked on a land area of 10-10 hectares. Based on the number of people working on agricultural land industrial crop yield commodities, Table 7 illustrates that effectively lands tilled by the number of workers as follows:

**Table 7**  
**Number of Workers**

No	Number of Workers	Percentage
1.	Less than 5 worker	83,3%
2.	5-10 workers	16,7%

From these data, it appears that the industrial plant sector is not competitive commodities involves a lot of labor that can not be categorized as labor-intensive business sectors. In the resultant, it is indirectly related to the migration of residents who work outside the agricultural sector, crop yield commodities industry.

**Conclusion:**

Of interpretation and analysis of statistical data above, we can conclude: First, most agricultural land industrial crop yield commodities owned by individuals or families. Second, the land that is used recycle industrial crop yield commodities is in the range of less than 10 hectares, and effectively managed by the land owner and his family. Third, the labor involved in crop processing industry is relatively less competitive commodities.

**II.C.2. Character Business Trade Commodities Industrial Plants**

Of the entire population of traders involved in trade in industrial crop yield commodities, from Lahat Pagaralam and each represented by 10 (ten) traders bringing the total sample is 20 (twenty) traders. The following data concerning the ownership status of the trading business.

**Table 8**  
**Trade Business Ownership**

No.	Trade Status of Business Ownership	Percentage
1.	Own/Family	85%
2.	Join Venture	5%
3.	Koperasi (Cooperation Institution)	10%

This commercial business ownership is correlated with venture capital sources. From these data it appears that most commercial businesses owned by individuals 85% (eighty five percent). Trading enterprises are using individual or family capital. This means that the majority of industrial plants commodities trading business has not used the accumulation of seed capital from the other party. Only 5% (five percent) from the trading business venture capital. From these data can also be interpreted to mean that this industry of trading plants, both owned by individuals or joint venture, has no legal entity. Trading business that uses legal entity, in this cooperative, is 10% (ten percent), while the company incorporated under the laws do not exist, at least from the samples taken. In terms of the amount of authorized capital stock trading business, Table 9 describes as follows:

**Table 9**  
**Business Capital**

No.	Basic Capital (in Rupiah)	Percentage
1.	Less than 10 million	45%
2.	10 – 50 million	20%
3.	More than 50 million	35%

From the above data, only 45% (forty-five percent) of the authorized capital established under 10 million. Meanwhile, 55% (fifty-

five percent) of the authorized capital was established more than 10 (ten) million, ie 20% (twenty percent) of the basic capital of 10-50 million and 35% (thirty five percent) have capital of more than 50 basis million. This may imply that the commodity trading business excellence of industrial crops require relatively large capital. In fact, based on Table 8, a majority owned trading enterprises such as individuals or families (85%) and also the majority of non-incorporated (90%). In addition to measuring the basic capital, turnover would have described the trading business is managed. Used as an indicator of harvest time period calculations. Table 10 below describes this.

Table 10  
Turnover

No.	Turnover per Harvest Season	Percentage
1.	Less than 10 million	15%
2.	10 – 50 million	45%
3.	More than 50 million	40%

Compared with the basic capital, earnings per harvest is managed trading enterprises is significantly greater than the authorized capital stock trading business. As many as 85% (eighty five per cent) are trading company managing the turnover of more than 10 million per season of harvest, with details of 45% (forty-five percent) multi-10-50 million; and 40% (forty percent) over multi- 50 million per harvest. The amount of trading business profitability as well, in addition can be seen from the capital base and earnings are managed, can also be seen working in the trading business.

Table 11  
Number of Worker

No.	Number of Worker	Percentage
1.	Less than 5 worker	20%
2.	5 - 10 workers	65%
3.	More than 10 workers	15%

In contrast to the linearity of the basic capital and business turnover, the business was pre-eminent commodity trading industry plants do not involve much labor. Only 15% (fifteen percent) who use labor more than 10 people. Meanwhile, the majority, namely 65% (sixty five percent) employ five to 10 workers. Then 20% (twenty percent) who only employ fewer than five workers.

#### Conclusion:

Based on the description of the survey data, we can conclude several things related to the character of industrial crop yield commodities trading as follows: First, most commercial businesses and legal entities not owned by individuals or by families (85%). Second, the authorized trading business to be distributed 65% have capital below 50 million, meanwhile, with limited capital, the turnover which is managed thus far greater than the turnover of capital held above the level of 10 million by 85%.

#### II. D. Construction Law Related Local Business Competition

In a survey conducted on 50 (fifty) of respondents in the sample Pagaram or Lahat, both working as an industrial crop farmers as

well as traders of industrial crops, it was revealed about their knowledge of relevant legal rules of business competition in industrial plants as follows. To find the comparison of knowledge of farmers and traders against the existence of laws (rules) on the distribution of the harvest, it can be seen in Table 12 (on the knowledge of farmers) and Table 13 (on knowledge traders) the following:

**Table 12**  
Farmers Knowledge about Crop Distribution Rule

No.	Regulation's existence	Percentage
1.	Exist	0%
2.	No Rule	86,7%
3.	Unknow	13,3%

**Table 13**  
Traders knowledge about Crop Distribution Rules

No.	Regulation Existence	Percentage
1.	Exist	0%
2.	No Rule	85%
3.	Unknown	15%

As one of the indicators that are relevant in measuring the respondents' knowledge, the rules regarding the distribution of the harvest can be made an example of whether respondents know the existence of such rules. It should be noted that the survey was to determine whether respondents knew of the existence/existence of the rule, rather than on the effectiveness of these rules.

From both these tables, it seems clear that both farmers and traders involved in the production and distribution of superior commodity industrial plants not knowing that there are rules regarding the distribution of the harvest. As many as 85.8% of total respondents stated that no rules regarding the distribution of crops, while 14.2% of the total respondents claimed not to know about the presence or

absence of rules on the distribution of the harvest.

With the existence of relevant data about the respondents' knowledge about the existence of regulatory competition, so that for further testing the effectiveness of regulations governing business competition becomes irrelevant, because the majority of respondents even claimed that these rules do not exist, a small portion that states do not know, and nothing stated that these regulations exist/exist/apply.

Nevertheless, there are still other ways to find out if there are living-traditional mechanisms of law or regularly and simultaneously exist in the community who become research subjects. Given the law of the embryo and the source of law such as customs law, so relevant to make (1) preferences/rational choice, (2) motivation for preference/choice, and (3) regular mechanism in the production and distribution as a balance in exploring the law in context locality research subject.

To provide an objective distance to the two types of survey respondents, namely farmers and merchants, then the discussion is conducted separately. Survey questionnaire is enclosed with a choice of answers that have been available. But considering that each respondent may have some consideration, then the respondents will be able to fill more than one answer that represent these considerations.

## II. D.1. Preference, Motivation dan Sale Mechanism on Production System

Research subjects which is significantly involved in the production system is a farmer. Of the respondents are farmers, obtained data on rational choice-related farmers market/intermediary traders (traders) their goal to sell the harvest, as described in Table 14 below:

**Table 14**  
Market Preferences/'intermediary trader purpose' in Crop Sell

No.	Preferences	Persentase
1.	Market near with village	40%
2.	Market near farmland	6,67%
3.	Market near municipal	23,33%
4.	Kalangan/weekly market	6,67%
5.	Tauke subscription	56,67%
6.	Based on price (no matter with who)	10%

From Table 14, it appears that the majority of farmers sell subscriptions to the intermediary traders 56% (fifty-six percent). Factor of location, which is nearest to the domicile market becomes the second choice of 40% (forty percent) and then the next option is the market district of the city nearest 23.3% (twenty-three point three percent). Thus, in general it can be concluded that the system is very dominant in subscription sales activity compared to the crop selection based on location.

To find out more subscription information in this system, should also be reviewed if the farmer sells the intermediary traders/merchant of the same. The following Table 15 provides the following data:

**Table 15**  
Subscription System

No.	Preference	Percentage
1.	Always sell to same trader	53,3%
2.	Not always sell to same trader	56,7%

Somewhat confusing in interpreting the data in the table above because, although the majority use a subscription system, but it was not always sold on the intermediary traders/merchant of the same. In this case, can be drawn a general conclusion (which may be premature) that farmers are using a subscription system, but the subscription system aimed

at intermediary traders groups/traders, while farmers are still free to sell on any intermediary traders as long as there is in the intermediary traders group/dealers.

To investigate whether the subscription system was based on reasons beyond economic reasons, then the motivation to sell the intermediary traders/traders from the same village of origin can be an indicator that is still relevant considering the close kinship in villages on the subject of research.

**Table 16**  
Preference of the Origin of Trader

No.	Origin of Trader	Percentage
1.	Always sell to trader from same village	13,3%
2.	Not always sell to trader from same village	86,7%

From the data shown in Table 16 above, it seems clear that non-commercial reasons, such as a sense of kinship, which departed from the same origin, irrelevant excuse subscription system occurs because the majority of farmers do not always sell at trader/traders from the same village of origin as much as 86.7% (eighty-six point seven percent). Thus, it traced the reason farmers choose the intermediary traders/traders in the subscription system.

**Table 17**  
Reason Choosing Intermediary Trader

No.	Reason	Percentage
1.	Subscription trader	60%
2.	Highest price trader	40%
3.	Any trader, provided the price is suitable	23,3%

Price is a significant indicator of economic choices the background preferences of farmers in selling crops. By considering that the respondents are allowed to select some

alternative answers, it seems balanced between intermediary traders subscribed 60% (sixty percent) with the reason the price of 63.3% (sixty-three point three percent) consisted of a choice at the intermediary traders with the highest prices as much as 40% (four Fifty percent) and home prices any trader match 23.3% (twenty-three point three percent). Collectively, it is very relevant to elaborate on whether there is agreement among fellow farmers selling to see whether this affects paired subscription system in among fellow producers. Table 18 displays the data as follows:

**Table 18**  
**Sale Agreement among Farmers**

No.	Agreement	Percentage
1.	There was agreement	43,3%
2.	There is no agreement	56,7%

In Table 18 shows that the majority of respondents stated that there was no agreement among manufacturers selling 56.7% (fifty-six point seven percent). This is most likely related to the industrial plants which have a stable system of periodic harvest. In the meantime, if associated with the deal price, then the data obtained to be significantly different.

**Table 19**  
**Price Agreement among Farmers**

No.	Price Agreement	Percentage
1.	There was agreement	70%
2.	There is agreement	20%
3.	Sometime there was agreement, sometime not	10%

Most respondents stated that there are price agreements among producers/farmers as much as 70% (seventy percent) and only 20% (twenty percent) stating that there was no agreement that price. It is inversely proportional to the data in Table 19 in which respon-

dents stated that there is no sale agreement among fellow producers/farmers.

In an effort to comprehensively understand the price-related agreements, it should be explored whether there is any agreement on the price of among fellow traders/intermediary traders based on the assumption of the respondent farmers. The majority of respondents stated that farmers are price agreements among fellow traders/intermediary traders as much as 56.7% (fifty-six point seven percent). Consider Table 20 below.

**Table 20**  
**Price Agreement among Traders (based on Farmers' views)**

No.	Price Agreement	Percentage
1.	There was agreement	56,7%
2.	There is no agreement	26,7%
3.	Sometime there was, sometime there is no agreement	16,7%

### Conclusion:

There are several interpretations of these contradictions. First, there is no agreement when selling the harvest because the harvest period of industrial plants is stable. Second, there is no agreement the location/area of selling the crop, as summarized in Table 15 and Table 16. Third, although there was no agreement on sales of time and location of sales, but there is a deal considering the price of each respondent farmers who trade in similar commodities refer to Table 19 and Table 20.

### II.D.2. Preferences, motivation and Trade Mechanisms in Distribution System

Research subjects which is significantly involved in the production system is a trader. Of the respondents to the dealers, obtained data about intermediary traders choice (mer-

chant) associated the origin of their merchandise, as described in Table 21 below:

**Table 21**  
**The Origin of Commodity**

No.	Origin of Commodity	Percentage
1.	Farmer from same village	45%
2.	Farmer from surrounding market	15%
3.	Subscription farmers	25%
4.	Based on suitable price	55%
5.	Other traders	5%

Price remains the main preferences in choosing the origin of commodities traders trading 55% (fifty-five percent). Then factor of domicile of origin to be significant enough reason to be considered traders 45% (forty-five percent). Only farmers who have subscribed to the next preference 25% (twenty five percent). When compared with data collected from the respondent farmers on subscription system (Table 14, Table 15, Table 17), it seems traders/intermediary traders does not depend on the subscription system. Regarding targets traders sell returned merchandise described in Table 22 below.

**Table 22**  
**Market Preferences/Trader aim of Merchandise Sold**

No.	Preference	Percentage
1.	Local market/local trader	40%
2.	Trader from outside region	10%
3.	Exporter	40%
4.	Consumers	25%

The intermediary traders/traders chose to sell again at a local market or a larger local intermediary traders as much as 40% (forty percent), and the same amount, the respondents chose to sell his wares directly to the

exporter as much as 40% (forty percent). Only 25% (twenty five percent) of intermediary traders who sell directly to consumers. Regarding the reason for traders to sell up to a larger, Table 23 the following can describe as follows.

**Table 23**  
**Reason Selling to Wholesalers**

No.	Reason	Percentage
1.	Subscription	35%
2.	Highest price	50%
3.	Suitable price, even low price	25%
4.	Trader association	5%

Respondents chose to sell to other traders who provide the highest price as much as 50% (fifty percent). Furthermore, respondents who chose subscription system sells for as much as 35% (thirty five percent). Meanwhile, as many as 25% (twenty five percent) of respondents who chose to sell to pragmatic trader provided that any low-price match though. Parallel with efforts to explore whether there is any data regarding sales agreements among farmers, it is necessary to explore whether there is any data regarding sales agreements among traders/intermediary traders on a particular area.

**Table 24**  
**Sale Agreement to/in Specific Market**

No.	Sale Agreement	Percentage
1.	There was agreement	20%
2.	There is no agreement	80%

From Table 24 it becomes obvious that no system in terms of an agreement to sell to/ specific markets 80% (eighty percent). However, in relation to prices, data showed the opposite.

Table 25  
Price Agreement among Traders

No.	Agreement	Percentage
1.	There was agreement	75%
2.	There is no agreement	15%
3.	Sometime it was, sometime is no	10%

According to respondents traders, the majority of them claiming that there was a deal priced at 75% (seventy five percent). Still according to the respondents traders, there is also agreement on the price significantly among farmers as much as 55% (fifty-five percent) as in Table 26 below.

Table 26  
Price Agreement among Farmers (based on Trader's Views)

No.	Agreement	Persentase
1.	There was agreement	55%
2.	There is no agreement	35%
3.	Sometime it was, sometime is no	10%

### Conclusion:

There are several interpretations of these contradictions. First, there is no consensus site/trade area, as summarized in Table 21, Table 22 and Table 24. Third, although there was no agreement on sales of time and location of sales, but there is a deal considering the price of each traded commodity traders respondents similar see Table 25 and according to respondents traders, farmers are also doing the same agreement, see Table 26.

### III. D.3. Dispute Settlement Mechanism as a Reflection of Choice of Law

The survey aimed to reveal data about the level of competition in the local community especially those involved with industrial crop yield commodities also obtained data about the

related dispute settlement mechanism in the production and distribution. Good fellow farmers, fellow traders, as well as between farmers and traders. However, before entering on the related dispute settlement mechanism leading industrial crop commodities, the overall data obtained, either from the respondent farmers and traders of respondents, with similar problems related to fluctuations in prices of industrial plants.

Table 27  
Due to Price Fluctuation

No.	Due	Farmers	Traders
1.	Loss	96,7%	100%
2.	Not Loss	3,3%	0%

Tensions arising from price fluctuations that have the potential to cause losses, both on the part of farmers and traders, potentially in the conflict, both socially and economically. Here is data on preferences of respondents in the dispute settlement mechanism.

Table 28  
Settlement Dispute Mechanism

No.	Mechanism	Farmers	Traders
1.	Settled traditionally	6,7 %	0 %
2.	Settled by village officer	6,7%	10%
3.	Settled by farmer association forum	16,7%	5%
5.	Settled by trader association forum	0%	5%
6.	Settled by police (law apparatus)	0%	5%
7.	Settled by court (law)	0%	5%
8.	Other	46,7%	45%

From Table 28 it appears that once the low preference of the use of formal dispute resolution mechanisms, both involving the police as much as 5% (five percent) or the court as much as 5% (five percent). Some others use traditional media settlement of 6.7% (six point seven percent); settled by village officials as many as 6.7% (six point seven percent), according to farmers and 10% (ten percent),

according to traders; completed in consultation farmers as much as 16.7% (sixteen point seven percent), according to farmers and 5% (five percent), according to traders, and traders settled in the discussion forum as much as 5% (five percent).

Significantly, both the respondent farmers and traders, said selecting mechanism outside the mechanism specified in the questionnaire, which was settled by a consensus of bilateral (two parties) without involving a third party, nor do they involve formal institutions (police and courts). Choice of using the dispute settlement mechanism is significant that 46.7% (forty-six-seven) at the farmer respondents and 45% (forty-five percent) in respondents merchants. This means that bilateral dispute settlement mechanism was considered more effective and efficient than other mechanisms. In the other meanings namely, that the agreement of both parties is the most urgent factor as the benchmark local law practice.

### A. Conclusions

From the discussion in the previous chapter, the results of this study can be summarized as follows:

1. Character of industrial plants producing competitive commodities in general can be summarized as follows: First, most agricultural land industrial crop yield commodities owned by individuals or families. Second, the land that is used recycle industrial crop yield commodities is in the range of less than 10 hectares, and effectively managed by the land owner and his family. Third, the labor involved in crop processing industry is relatively less competitive commodities.
2. Based on the description of the survey data, we can conclude several things related to the character of industrial crop yield commodities trading as follows: First, most commercial businesses and legal entities not owned by individuals or by families (85%). Second, the authorized capital to be distributed trading business majority (65%) have capital below 50 million, meanwhile, with limited capital, the turnover which is managed thus far greater than the turnover of capital held above the level of 10 million by 85% .
3. That both farmers and traders involved in the production and distribution of superior commodity industrial plants not knowing that there are rules regarding the distribution of the harvest. As many as 85.8% of total respondents stated that no rules regarding the distribution of crops, while 14.2% of the total respondents claimed not to know about the presence or absence of rules on the distribution of the harvest.
4. That farmers are using a subscription system, but the subscription system aimed at intermediary traders groups/traders, while farmers are still free to sell on any intermediary traders as long as there is in the intermediary traders group/dealers
5. That there were contradictions about whether there is any agreement among the producers. First, there is no agreement when selling the harvest because the harvest period of industrial plants is stable. Second, there is no agreement the location/area of selling the crop. Third, although there was no agreement on sales of time and location of sales, but there is a deal considering the price of each respondent farmers to trade commodities.
6. There are some contradictions regarding the interpretation of agreements made by traders. First, there is no consensus site/trade area. Third, although there was no agreement on sales of time and location of

sales, but there is a deal considering the price of each respondent traders to trade commodities and by type of respondent traders, farmers are also doing the same deal.

7. That the tensions arising from price fluctuations that have the potential to cause losses, both on the part of farmers and traders, potentially in the conflict, both socially and economically.
8. That is so low preference utilization of formal dispute resolution mechanisms, both involving the police or the courts. Some others use traditional media settlement, finalized by village officials, were completed in the deliberations of farmers, and traders settled in the discussion forum, but all these mechanisms are not significant. Significantly, both the respondent farmers and traders, said selecting mechanism outside the mechanism specified in the questionnaire, which was settled by a consensus of bilateral (two parties) without involving a third party, nor do they involve formal institutions (police and courts). This means that bilateral dispute settlement mechanism was considered more effective and efficient than other mechanisms. Other meanings namely that the agreement of both parties are the most urgent factor as a local law practice benchmarks.

### Suggestions

From these results, then there are a few suggestions that could be recommended as follows:

1. It needs a comprehensive understanding of legal paradigms in the study of business competition not only about the positive law as stipulated in Law No. 5 of 1999 on the Monopoly and Unfair Business Competition, but also should explore the legal habit (living-law) who live in local community.
2. It is necessary to the adoption and harmonization between positive law and legal practice so that competition becomes more healthy and will not cause social tensions.
3. Need the assistance of society involved in the production of industrial crops, so communities are not involved in the cycle of exploitation.
4. Need government's intervention through public policy that effectively able to protect the interests of business actors involved in the production and distribution of commodities leading industrial plants.
5. It needs a critical assessment of a massive study the implementation of regulations in the field of business competition because in general the things that became a ban on Antimonopoly Act is precisely the economic pillar which underpins the local economy community.

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