The Dark Side of Regulatory Economics: Evidence from the Salt Import Policy in Post-Soeharto Indonesia

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Abstract

Economics regulation by the state is indeed very necessary to ensure that the pursuit of profit does not conflict with social welfare. That is the reason why regulatory economics becomes really important. However, the context in this paper contradicts with the ideal substance of regulatory economics in which the government proactively provides incentives to remain entrenched monopolistic business practices while taking a dominant role in importing salt commodity through the issuance of a public policy that is more permissive and accommodating to those interests. This paper aims to describe the political dynamics in the formulation and implementation of salt import policy in Post-Soeharto Indonesia which was mainly characterized by the practice of unfair business competition. As descriptive qualitative research, this study utilized in-depth interviews, observation, document tracking, and document analysis techniques in which a number of bureaucrats, entrepreneurs, and salt farmers were used as informants to mine the data. The results of this study show that government intervention through Permendag No. 125/2015 does not reveal a pure orientation of "liberating salt commodity trade from monopolistic business practices", but to satisfy its vested interests and save the sakes of certain importers who were being the important part of its business collusion. Content imperfections, deliberate elimination of substantive obligations, facilitation of rent-seeking and monopolistic business practices, and the impartiality of the regulation’s purpose with the livelihoods of salt farmers in Indonesia become primary impetuses of the resistance of various parties to the dark side of regulatory economics imposed by the government.

Keywords: anticompetitive; import; monopoly; regulation; rent-seeking
Abstrak


Kata kunci: anti persaingan, impor, monopol, peraturan, rent-seeking

Introduction

Having capital of coercive power, the government should act proactively to close the space for monopolistic business practices in various industries which harm the interests of many parties, but the context discussed in this paper shows contradictory facts with the expectation that the government actually provides an incentive to keep monopolies at once take a dominant role in the import of certain variant food commodities in the early years of the Government of Joko Widodo-Jusuf Kalla (Jokowi-JK) in 2015-2016. Issuance of Regulation of the Minister of Trade of the Republic of Indonesia “Peraturan Menteri Perdagangan Republik Indonesia (Permendag)” No. 125/M-DAG/PER/12/2015 concerning Provision on Salt Import are blamed as a step for the government to take "more" benefits in importing salt, in addition to giving freedom to all "big class" importers to control the commodity trade, both in the domain household consumption needs and industrial needs.

Unfair business competition as a consequence of monopolistic business practices accompanied the implementation of Permendag No. 125/2015 which required the elimination of regulative import barriers, simplification of licensing, and increasing
foreign investment through deregulation schemes. Bureaucratic subtleties which limit the freedom of the consumption and/or industrial salt importers as found in the previous regulations, namely the Regulation of the Minister of Trade of the Republic of Indonesia “Peraturan Menteri Perdagangan Republik Indonesia (Permendag)” No. 58/M-DAG/PER/9/2012 concerning Provision on Salt Import, which its existence would be eliminated through the issuance of new regulations, the Permendag No. 125/2015, which is more permissive and accommodating to that interest.

Permendag No. 125/2015 is a form of adaptation to the Jokowi-JK Government Economic Policy Package which contains three main steps in the form of deregulation, law enforcement, and business certainty that are oriented towards encouraging national industrial competitiveness. In addition to being based on the economic policy package, the high demand for domestic salt which is not able to be fulfilled by domestic production also becomes an impetus for the issuance of that regulation.

Application of the salt import deregulation scheme as outlined by Permendag No. 125/2015 actually reflects the government's intention to maintain monopolistic business practices in the trade of this one food commodity. How could not, the regulation actually eliminated the qualification of obtaining the recommendation of "feasibility" of salt import for all corporates from the Indonesian Ministry of Industry, did not regulate the ideal quota and time of import, and did not also regulate the requirement for absorption of farmers’ salt at least 50% of the total production capacity of importing companies. There is a provision that "The party entitled to import consumption salt is only a State-Owned Enterprise engaged in such a business" increasingly adding to the compilation of government's negative orientation through the issuance of this exclusively discriminatory regulation. The realization of fair competition between importers escapes attention and is deliberately denied by the government.

Referring to the argument of Machlup (1952), Permendag No. 125/2015 can be positioned by us as a form of deviation from the model of pure and perfect competition. The pure competition shall mean perfectly elastic demand for a seller's product and perfect competition shall stand for perfectly free entry into his field. Pure competition exists if a seller thinks that at the market price he could sell as much as he wanted while at a higher price he could sell nothing at all. While perfect competition requires that everybody is free to move to productive resources into any field that looks promising to him and that there are no obstacles to the movement of factors of production into and out of particular employment. Free mobility of resources, free access to all occupations and free entry into all industries and every unit of any kind should be willing and able to move or be moved at the slightest provocation.

In other words, Permendag No. 125/2015 is nothing but a monopolistic business policy from the government which attempts to reduce competition in salt (import) markets and to increase its influence over prices by constraining, blocking, or controlling competing firms. Competition is credited with securing lower prices for consumers, improvements in the qualities of the products, the introduction of new products and new services to the consumer, the use of the most efficient methods of production, and the best, allocation of the productive resources of the economy (Machlup, 1952. p. 4).
Theoretical Frameworks

Eradicating monopolistic business practices in various industries in the country should actually be the main obligation of the government, but the polemic of salt import in 2015-2016 then reflects the wrong orientation of public institutions that intend to perpetuate anticompetitive actions and gain large profits in the import of salt commodity. Government intervention in trade arrangements is indeed required for the protection of the public interest from the fraudulent actions of mischievous business people, in the form of monopoly restrictions on the one hand and the development of competition on the other.

Economics regulation by the state, known as regulatory economics, is indeed very necessary. Because intervention in the market is often required to ensure that the pursuit of profit does not conflict with social welfare. That is the reason why regulation becomes important. The purpose of regulation is to ensure socially desirable outcomes when competition cannot be relied upon to achieve them. The regulation replaces the invisible hand of competition with direct intervention. The regulator must work through the firm, inducing the firm to produce the desired outcome. If the regulator had complete information, it could simply mandate the optimal outcome, ordering the regulated firm to produce a certain amount of output with a particular set of inputs and sell the output at a specified price. Therefore, the central issue of regulatory economics is the design of mechanisms that regulators can apply to induce firms to achieve optimal outcomes (Kenneth, 1991, pp. 1-2).

Natural monopoly in the realm of public utilities (which has an essential role in the nation's economy) also requires government regulation. This kind of monopoly exists when "a single firm can supply a good or service to an entire market at a smaller cost than could two or more firms (Mankiw, 1998, p. 306). It manifested when the costs of production are such that it is less expensive for market demand to be met with one firm than with more than one (Kenneth, 1991, p. 1). The services are still provided by privately owned firms, but those firms are regulated by public agencies. The firms are called public utilities. The vast majority of electricity, natural gas, television, and local telephone service, plus large amounts of water, public transportation, and other services are provided by privately owned and governmentally regulated public utilities (Sherman, 1989, p. 3).

Not limited to public utilities, government coercive power can also be applied in agriculture, which incidentally is not included in the category of natural monopoly, for the sake of achieving social welfare. As believed by Machlup (1952, p. 42), agricultural programs by governments are, as a rule, monopolistic arrangements in one of the senses defined before: they are designed to keep prices received by producers above the competitive level and they attempt to achieve this through restricting operations by existing producers or distribution of the produced output or entry of available additional resources into production or entry of competing suppliers into the market or through a combination of these restrictions.

Government intervention on salt import in 2015-2016 through Permendag No. 125/2015 does not reveal a pure orientation of "liberating salt commodity trade from monopolistic business practices for the realization of social welfare", but to satisfy its vested interests and save the sakes of a number of salt importers who are being important part of its business collusion. The adverse effects of the salt import policy are a complement to the historical treasury of monopolies in the economic complexity of
Indonesia. Monopoly has emerged for a long time and has become a practice in various fields of business life in this country. It can occur because of the ability of the businessman to enlarge his business and/or emerge due to their collusive relationship with the state. In addition to the backdrop of corporate ambitions to expand the business, monopolistic practices manifest because of the involvement of the state, where the implementation of certain policies by the government contributes to strengthening the anti-competition action (Aziz SR, 2014, p. 1).

The narrative of this paper is derived from the findings of research conducted during September 2016-November 2018 where the researchers focus on the characteristics of monopolistic business practices that arise as a result of the formulation and implementation of Permendag No. 125/2015 concerning Provision on Salt Import. Such bad practices take the form of restrictions on the access of other corporations to be involved in salt import activities by the government, fulfillment of state institutions' vested interests, and collusive relations and rent-seeking actions involving bureaucrats and capitalists for profit. In line with that, the impact of this policy on the survival or livelihood of salt farmers in Indonesia was also targeted as a concentration of studies.

In order to obtain an adequate explanation, this paper will be guided by the formulation of the question: To what extent does Permendag No. 125/2015 concerning Provision on Salt Imports affects the emergence of monopolistic business practices? How does this policy affect the livelihood of salt farmers in Indonesia?

Research Methodology

This study used a descriptive-qualitative method in which observation, in-depth interviews, document tracking, and document analysis were functioned as main techniques of data collection. The authors aim to explore the characteristic of anticompetitive actions that arise as a result of the formulation and implementation of Permendag No. 125/2015 concerning Provision on Salt Import, along with its negative consequences for the livelihood of salt farmers in Indonesia.

The subjects were selected based on the purposive sampling technique, by first determining the key informants who were targeted as sources of research data, namely the number of bureaucrats, entrepreneurs, and salt farmers. They have chosen as informants on the basis of their comprehensive knowledge about the origin, impetus, mechanism, and the impact of the regulatory economics imposed by the government through Permendag No. 125/2015 concerning Provision on Salt Import.

Results and Discussion

The History of Salt Policy in Indonesia

Current salt import policy is inseparable from the history of national salt production. In particular, the history of salt production and distribution in the archipelago can be assessed based on the context of several salt centre locations in Indonesia, such as Madura and the northern coast of East Java. Although it is less-representative, it is able to provide a significant picture of the dynamics of salt commodities in the history of Indonesia.

Table 1
The History of Salt Policy in Indonesia
<table>
<thead>
<tr>
<th>Order</th>
<th>Year</th>
<th>System</th>
<th>Regulations</th>
<th>Policy Outputs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colonial Era</td>
<td>1600-1900</td>
<td>Pachtstelsel or system of revenue farming, organized by Rich Chinese businessmen on behalf of <em>Verenigde Oostindische Compagnie</em> (VOC).</td>
<td><em>Plakaatboek</em> in 1648, published in Dutch, Portuguese, Malay and Chinese.¹</td>
<td>Chinese entrepreneurs are given levies on business rights, land leases or some kind of retribution in several sectors. One of them is the production sector and the distribution sector of opium and salt.</td>
</tr>
<tr>
<td>1686</td>
<td></td>
<td>Monopoly System.</td>
<td>Sir Thomas Stamford Raffles’ Initiative.²</td>
<td>The Pacht system needed to be replaced with the Monopoly System because it was considered to only benefit some wealthy Chinese businessmen.</td>
</tr>
<tr>
<td>1882</td>
<td></td>
<td>Monopoly System.</td>
<td><em>Bepalingen tot Verzekering van het Zoutmonopolie</em> (Indisch Staatsblad 73, 1882).³</td>
<td>The government agency was authorized to control the salt monopoly, namely by the Head of the Salt Monopoly Service (<em>Hoofd van den Dienst der Zoutregie</em>) whose position was under the Director of the State Company (<em>Department van Gouvernementsbedrijven</em>), the structure was valid since 1915. The <em>Staatblad 1905 No. 307</em> explains that only certain ports may be used as entrances or exits of salt commodities, namely the ports of Batavia, Cirebon, Tegal, Pekalongan, Semarang, Surabaya and Cilacap.</td>
</tr>
</tbody>
</table>


The manufacture of salt is prohibited, except with the permission of the government or produced by the government itself.\(^4\)

In 1936, the Dutch Colonial Government took over all salt production.

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1939</td>
<td>Law of the Republic of Indonesia No. 14/1952 concerning the Appointment of the Salt Regie Bureau As an IBW (Indonesische Bedrijven Wet).(^5)</td>
<td>The National Salt Company (IBW Company) would produce salt exceeding all Indonesian needs so that some of it could be exported. In addition, the Salt Regie Bureau was also given the task of making soda from excessive salt. With the status of an IBW company, the nature of the Salt Regie Bureau company was stronger. Government salt companies from 1945 to the present, namely: Regie Tjandu Garam Bureau (1945-1949), Salt Regie Bureau (1949-1952), Domestic Salt and Soda Company/PGSN (1952-1961), PN. Garam, Perum Garam and finally PT. Garam (Persero) 1961-present.</td>
</tr>
<tr>
<td>1957</td>
<td>Managed by the People.</td>
<td>Emergency Law of the Republic of Indonesia No. 25/1957 Concerning Elimination of Salt Monopoly and People’s Salt-Making. It contained a provision that the communities may produce and trade salt by themselves.</td>
</tr>
<tr>
<td>1959</td>
<td>Managed by</td>
<td>Law of the Republic of Indonesia No. 25/1957 Concerning Elimination of Salt Monopoly and People’s Salt-Making. It contained a provision that the communities may produce and trade salt by themselves.</td>
</tr>
</tbody>
</table>


\(^5\) IBW (Indonesische Bedrijven Wet) is a series of companies organized by the government. Their management is the authority of the relevant departments. The IBW company budget is not separate from the State Expenditure Budget of Indonesia so that it is directly supervised by the Ministry of Finance. The existing IBW companies include the Pawnshop Bureau, the State Salt and Sodas Company, the State Plantation Center, the State Printing Office, the Telegram and Telephone Post Office, and the Railway Service.
the People, there is also the Role of the PGSN (One of SOEs) concerning the Establishment of "Emergency Law of the Republic of Indonesia No. 25/1957 concerning the Elimination of Salt Monopoly and People's Salt-Making” (State Gazette No. 82/1957) as Law.

1961 The Salt National Company (Perusahaan Nasional Garam) which was previously named the National Salt and Soda Company (Perusahaan Garam dan Soda Nasional/PGSN) as the main producer of salt has not been reduced. Forming the Salt National Company (Perusahaan Nasional Garam) which was previously named the National Salt and Soda Company (Perusahaan Garam dan Soda Nasional/PGSN).

1977 Intensification and Extensification of Salt. In the context of the BIPIK program, the Salting Installation pilot units were established in Central Java, East Java, West Java, South Sulawesi and West Nusa Tenggara.

1981 Changing the form of Salt Companies to create developments in the salt industry.

Government Regulation of the Republic of Indonesia No. 46/1981 concerning the Transfer of Forms of Salt State Companies to Public Companies of Salt. This status has changed again with the issuance of Government Regulation of The Republic of Indonesia No. 12/1991 concerning the Transfer of Forms of the Salt Public Company (Perusahaan
Umum/Perum) to the Salt Limited Liability Company (Persero).

1994 - Decree of the President of the Republic of Indonesia No. 69/1994 concerning Procurement of Iodized Salt. Regulating the use of iodized salt for human or livestock consumption, salting fish, or food industry supporting materials.

1995 - Decree of the Minister of Industry of the Republic of Indonesia No. 29/M/SK/2/1995 concerning Ratification and Application of SNI and Obligatory Use of SNI for 10 Main Types of Industrial Products. Encouraging the improvement of the quality of people's salt.

1995 - Decree of the Minister of Industry of the Republic of Indonesia No. 77/M/SK/5/1995 concerning the Technical Requirements for Processing, Packaging and Labeling of Iodized Salt. Encouraging the quality of packaging.


2005 - Regulation of the Minister of Trade of the Republic of Indonesia No. 20/M-DAG/PER/9/2005 concerning Provision on Salt Import. Regulating Quality Standards for Imported Salt and its Highest Retail Prices.

2012 - Regulation of the Minister of Trade of the Republic of Indonesia No. 58/2012 concerning Provision Setting the Selling Price of Salt, Import Time, Length of Import, Import Recommendation, Absorbing of People's Salt.
on Salt Import.

2015 -

Regulation of the Minister of Trade of the Republic of Indonesia No. 125/2015 concerning Provision on Salt Import.

Amending certain provisions of Indonesia’s Trade Minister Regulation No. 58/2012 concerning Provision on Salt Import.

Source: Processed by the authors from various sources.

Based on data from the Ministry of Maritime Affairs and Fisheries (2015), the use of consumption salt is dominated by the Household sector. Nonetheless, the consumption of salt for the salt industry rose sharply by 13.7% per year during 2010-2015, so its contribution reached more than 50% of the national consumption salt needs in 2015. The use of industrial salt was dominated by the CAP industry (Chlor Alkali Plant) and Pharmacy, which reached 73.5% of total industrial salt needs in 2015. In addition, salt requirements for the CAP and Pharmaceutical industries experienced a 2.1% increase per year.

National salt demand is the total consumption of salt needs and industrial salt needs in Indonesia. The total National Salt needs in 2015 amounted to 3,750,284 tons which were met from the production of 2.8 million tons and the remaining needs were met by imports. There is an increase in national salt demand with a percentage of approximately 6% compared to the total national salt demand in 2014. The following is a table of the 2015 national salt requirements and several companies engaged in the salt trade sector.

Table 2
The 2015 National Salt Needs

<table>
<thead>
<tr>
<th>No</th>
<th>Description of Needs (Ton)</th>
<th>Company User</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Consumption Salt 1,303,095</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a. Households (minimum NaCl 94%) 647,595</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>b. Fish Salting/Preservation 655,500</td>
<td>-</td>
</tr>
<tr>
<td>2</td>
<td>Industrial Salt 2,447,189</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a. Pharmaceutical Industry (Minimum 99% NaCl, 8%) 2,418</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. PT. Otsuka Indonesia;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. PT. Intan Jaya Medika Solusi;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. PT. Jayamas Medika Industri;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. PT. Amerta Indah Otsuka;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. PT. Finosul-Prima Farma International;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. PT. Sanbe Farma;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7. PT. Widarta Bhakti;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8. PT. Emjebe Pharma.</td>
<td></td>
</tr>
</tbody>
</table>
b. Chemical Industry (minimum 96% NaCl) 1,795,200
1. PT. Indah Kiat Pulp & Paper;
2. PT. Tjiwi Kimia Paper Factory;
3. PT. Asahimas Chemical;
4. PT. Sulfindo Adiusaha;
5. PT. Riau Andalan Pulp & Paper;
6. PT. Lontar Papyrus;
7. PT. Toba Pulp & Paper;
8. PT. Tanjung Enim Pulp & Paper;
9. PT. Pindodeli Pulp & Paper;
10. PT. Sirerin.

c. Various Food Industries (minimum 97% NaCl) 509,571
1. PT. Garam (Persero)indo Perkasa;
2. PT. Unichemcandi;
3. PT. Sumatraco Langgeng Makmur;
4. PT. Susanti Megah;
5. PT. PT. Garind Sejahtera Abadi;
6. PT. Cheetam Garam Indonesia;
7. PT. Niaga Garam is brilliant.

d. Petroleum Industry, Leather Tanning, Animal Feed/Fish, Water treatment, Ice Cubes, etc. (minimum 85% NaCl) 140,000
1. PT. Garam (Persero);
2. PT. Garam (Persero)indo Perkasa;
3. PT. Sumatraco Langgeng Makmur;
4. PT. Kao Indonesia;
5. PT. Chetham Garam Indonesia;
6. PT. Niaga Garam is brilliant;
7. PT. Gunajaya Santosa.

Source: Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia, 2015.

In order to meet the 2015 national salt needs and increase investment in the salt trade sector, the government has taken a number of prominent actions, especially in the form of reforming import regulations, such as changes in the policy of Permendag No. 58/2012 concerning Salt Import Provision as Permendag No. 125/2015 concerning Provision on Salt Import. The amendment to the regulation was regulated and formulated by actors who deemed competent by the proponents of regulatory changes. These actors were chosen from the internal elements or even "close persons" of the government who were considered to be very understanding of the subject matter and also from the external element on the basis of their capacity or expertise.

Mr Muhammad Khomaini, Head of Regulations Sub Division of Imports at the Ministry of Trade's Legal Bureau, stated "The change in the policy of salt import is based on the view that the previous regulation (Permendag No. 58 of 2012 concerning Provision on Salt Import) greatly hampered the freedom of the import process. Therefore, the new regulation (Permendag No. 125/2015 concerning Provision on Salt Import) is the answer to that need." (Personal communication, November 13, 2018)
The drafting of *Permendag* No. 125/2015 was initiated by the Import Directorate which was proposed later to the Secretary of the Directorate General of Foreign Trade to be submitted again to the Ministry of Trade's Legal Bureau. The Legal Bureau accepts the submission through the disposition of the basic review request letter from the Unit of Echelon II of the Directorate of Import. The basic review contains the deregulation argument, namely the cutting of the flow of the import permit management which is considered to hamper investment. One of the obstacles to be eliminated is the provision of permits (recommendations) from the Ministry of Industry and the Ministry of Maritime Affairs and Fisheries as the principal requirements that must be fulfilled first by the entrepreneurs when arranging the salt import proposal. The management and formulation flow of *Permendag* No. 125/2015 can be seen in the following figure:

*Figure 1*

**Procedure and Flow of Formulation of *Permendag* No. 125/2015**

Mr M. Jakfar Sodikin, Chair of the Indonesian Salt Farmers Association, explained that “In more detail, a review of the concepts that emerge from the Import Sector Subdivision contains the substantive scope and content of *Permendag* No. 125/2015. Judging from the substance of consideration, between *Permendag* No. 58/2012 with the replacement *Permendag*, contains conflicting interests. The first Minister of Trade Regulation was more concentrated on how important it was to see salt production, supply, procurement and distribution activities can bring benefits to increase farmers' income and fulfil industrial needs. In addition, this *Permendag* regulates the Provision of the Ministry of Industry's recommendations for packaging import licenses, import quotas, import times, and importers' obligations to absorb people's salt. The amount of people's salt absorption will determine the amount of
quota for import submission by the Producer Importer who has certain Identification Number." (Personal communication, November 17, 2018)

Procedure for making Permendag No. 125/2015 was considered to be in a hurry because without coordination with other ministries/development agencies, there was a lot of criticism for the imperfections and impartiality in protecting the interests of salt farmers in Indonesia. The Ministry of Trade wants to fully regulate the import of salt, as seen from the establishment of the Integrated Trade Service Unit I which functions to issue industrial salt import agreements. Submitting an application to obtain import approval is done through the electronic system http://inatrade.kemendag.go.id.

Mr Muhammad Khomaini, Head of the Sub Division of Import Regulations at the Ministry of Trade Legal Bureau, stated "It was considered hurried because Permendag No. 125/2015 this should come into force on 1 April 2016 but was postponed until 1 June 2016 through the Minister of Trade Regulation No. 23/2016. The delay, if examined from its consideration, is due to the importance of optimizing the readiness of policy implementation." (Personal communication, November 13, 2018)

The issuance of the latest import policy reflects the greater interests of the state, as mentioned earlier, by making provision that "The party entitled to import consumption salt is only a State-Owned Enterprise engaged in conservation efforts." Interventions with a business monopoly are the core characteristics of Permendag No. 125/2015. It differs greatly from Permendag No. 58/2012 which further encourages the creation of healthy competition from salt importing companies.

The following table contains the content comparison between Permendag No. 58/2012 concerning Provision on Salt Import with Permendag No. 125/2015 concerning Provision on the import of Salt. A number of basic provisions listed in the first Permendag have been changed in such a way that they have even been eliminated through the second Permendag.

**Table 3**

**Amendment to Permendag No. 58/2012 Becomes Permendag No. 125/2015**

<table>
<thead>
<tr>
<th>No</th>
<th>Principal Amendment</th>
<th>Permendag No. 58/2012</th>
<th>Permendag No. 125/2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Recommendation</td>
<td>Ministry of Industry</td>
<td>No recommendation</td>
</tr>
<tr>
<td>2</td>
<td>Import salt</td>
<td>IP Consumption</td>
<td>Conducted by SOEs</td>
</tr>
<tr>
<td></td>
<td>consumption of</td>
<td></td>
<td>engaged in the salt</td>
</tr>
<tr>
<td></td>
<td>salt</td>
<td></td>
<td>trade</td>
</tr>
<tr>
<td>3</td>
<td>Import quota</td>
<td>Regulated for import</td>
<td>Unregulated</td>
</tr>
<tr>
<td></td>
<td>of consumption salt</td>
<td>of consumption salt</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Time for import</td>
<td>IP Consumption salt</td>
<td>Unregulated</td>
</tr>
<tr>
<td></td>
<td>cannot import in</td>
<td>cannot import in the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>the period before</td>
<td>period before harvest,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>harvest, harvest and</td>
<td>harvest and after the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>harvest is</td>
<td>harvest is</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Absorption of</td>
<td>Absorption of salt</td>
<td>Unregulated</td>
</tr>
<tr>
<td></td>
<td>farmers’ salt</td>
<td>from farmers by</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>importers is at least</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>50% of the total</td>
<td></td>
</tr>
</tbody>
</table>
Collusive Relationship between Government-Businessmen in the Formulation and Implementation of Permendag No. 125/2015

There are two basic things which background the formulation of Permendag No. 125/2015. First, the government's desire to impose the desire for PT Garam (Persero), as one of the State-Owned Enterprises, can take a dominant role in the importation of consumption salt. Second, the government wanted to provide ease of investing through disconnection groove arrangement bureaucracy that impresses rambling. Two things open space collusion and rent-seeking in the bureaucracy.

Mr M. Jakfar Sodikin, Chair of the Indonesian Salt Farmers Association, also argued that “The opening of monopoly room through Permendag No. 125/2015 was suspected of being a "revenge" measure for the closed monopoly space in the previous regulation, namely Permendag No. 58/2012 which did not open the space and flexibility for PT. Garam (Persero) to carry out a monopoly on imports of consumption salt. Permendag No. 58/2012 was considered fairer by salt farmers association and its member because it contained provisions (restrictions) on import quotas, where no businessman who imported salt was too large and unnatural. Although this Permendag reaps disputes in the salt category for various foods, the type of salt for pharmaceuticals can be imported anytime and at any time indefinitely because the assumption is unlikely to spread to consumption salt. While the latest Permendag has become a manifestation of the government's unresponsive mind and at the same time deteriorated its performance. It has the potential to form a business cartel because the existence of the cartel was only in the realm of purchasing salt products from farmers if it is now in the import domain.” (Personal communication, November 17, 2018)

This new regulation also stimulates rent-seeking activities by state actors through a tug-of-war scheme for determining which corporations are most "entitled" to obtain salt import quotas approvals from government institutions. The rent-seeking has increasingly found its own space when the entrepreneur lobbied specifically so that the import quota proposal could be approved as soon as possible by the government. That lobbying is used by state actors as a medium for obtaining rent for their personal gain. The case of the arrest of two government officials, the Head of the Sub-directorate of Non-Imported Capital Goods and the Director General of Foreign Trade of the Ministry of Trade, on 11 August 2015 who were accused of receiving bribes or gratuities in facilitating the import permit for salt import could be used as evidence of rent-seeking in the domain of salt import domain (Cahya, 2015).

The business lobby against government officials to facilitate the acquisition of salt import licenses can be categorized as a monopolistic business practice, because lobbying reflects a practice by which men in certain occupations, businessmen in certain industries, attempt to influence government to intervene in their behalf and protect them from newcomers' competition may, from some points of view, be regarded as monopolistic business practices. This Monopolistic business practices in a
more direct sense than in the case of business getting the government to restrict competition are those practices by which business uses existing governmental institutions beyond the scope for which they were intended by the government (Machlup, 1952, pp. 118-119).

There are essentially four ways in which businessmen can restrict entry into the field of their operations. The insiders can keep out potential newcomers by (i) using the government to exclude them, (ii) discouraging them by threats of ruinous campaigns, (iii) restricting their access to needed resources, and (iv) increasing the minimum size of the efficient unit of operation (Machlup, 1952, pp. 117-118). The context of the lobbying of salt import quotas by businessmen against the government officials above highlights the application of a third method that intends to limit other corporate access to desired resources (salt).

Not limited to the level of state actors, the capitalists are trying to establish a collusive relationship with the government for the benefit of the business can also be positioned as rent-seekers. Rent-seeking is a rational act carried out by capitalist actors (capital owners in business) to carry out system manipulation in government (Kunio, 1990, p. 93). This kind of action is translated as the rational behavior of economic actors because it refers to the ability and capacity of individuals or groups of people who have the power of economic resources to influence policies that are being drafted or will be implemented by the government for the purpose of achieving the "value" contained in the policy. There are two cost categories that have a direct effect on rent-seeking activities when businessmen attempt to influence policy. First, the cost of conducting lobbying processes against the government actors in order to gain a special status in a particular product. Second, the costs of externalities are obtained as a consequence when lobbying and monopoly occur (Tullock, 2002).

Elimination of the "obligation to absorb people's salt (farmers' production) by corporations wishing to import, at least 50% of the total production capacity of the corporation" in Permendag No. 125/2015 was also used as a backing for the accusation of the government's side to certain corporate interests which did not require the existence of this provision as one of the conditions for submitting a salt import quota. The abolition of this obligation is a sign of the government's intention to facilitate special corporations as well as proof of the effectiveness of capitalist intervention through covert lobbying to change the content of the public policy.

Mr Muhammad Khomaini, Head of Import Division Subdivision of the Ministry of Trade’s Law Bureau, stated "The quality of salt produced by farmers is at the core of the polemic and heated debate between various parties. A small number of entrepreneurs want the quality of people's salt to contain NaCl levels above 97% calculated from dry bases, while most salt farmers in Indonesia are only able to produce the quality of salt below that.” (Personal communication, November 13, 2018)

As a measure of resistance to the abolition of the Provision on the absorption of salt from the farmers, a number of elements who were upset over the "chaotic mind" of the government try to approach influential officials who had control over the salt import policy. They did not stop at that step, but they also struggled to convey their aspirations in the government conference discussion forum.
Mr Muhammad Khomaini, Head of Regulations Sub Division of Imports at the Ministry of Trade’s Law Bureau, argued “The businessman became the luckiest party because of his agility to benefit more from the issuing of Permendag No. 125/2015. For a small number of businessmen, they often accuse the Provision of the absorption of people’s salt (which has been omitted in Permendag No. 125/2015) as the culprit of the industry’s pace. The accusation was based on the factor "If the company wants to import salt, then there must be a proof of the farmer's statement regarding the sale of the salt to the company with the knowledge of the Regency/City Service official in charge of the affairs of salt import. In addition, the company is also required to have proof of the agreement with the relevant Office in the Regency/City.” (Personal communication, November 13, 2018)

When the government is willing to re-enforce the Provision of the farmers' salt absorption, although it is not published "officially" in Permendag No. 125/2015, another sad reality arose where all corporations wishing to apply for salt import licenses were actually "led" by the government to buy salt produced by PT. Garam (Persero) as justification for the absorption of people's salt. Impressed the government forced the will through labelling that the salt produced by PT. Garam (Persero), as its SOE, is also categorized as farmers' salt. In fact, people's salt is the original salt produced by farmers so that the Provision on the absorption of people's salt means that "companies that want to import must buy farmer's salt, not salt processed by PT. Garam (Persero)."

Mr M. Jakfar Sodikin, Chair of the Indonesian Salt Farmers Association, insisted “Collusive relations between businessmen and the government have manifested themselves in the conditions as stated above. Rent-seeking takes the form of an import quota lobby in which renters from government and corporate elements are free to play a "non-ethical" role in order to reap large financial benefits. The intervention of rent-seeking actors (entrepreneurs) in the salt import quota domain is very varied. Besides lobbying quietly with the government, they did not hesitate to hold lobby-oriented open talks, as seen in the inter-ministerial coordination meeting to determine import quota.” (Personal communication, November 17, 2018)

Mr Production Manager of PT. Garam (Persero) in Pamekasan Madura, confirmed “The resistance of various parties to the mastery of consumption salt import quota by PT. Garam (Persero) has the consequence of encouraging this SOE to share with other companies that agree with the government-absorbed mechanism of people's salt, such as PT. Susanti Megah in East Java. PT. Garam (Persero) can sell its salt production to such companies who wish to fulfil the people's salt absorption requirements for the submission of industrial salt import quotas.” (Personal communication, November 30, 2016)

In fact, farmers really suffer the worst losses from this monopolistic business practices by businessmen and the government. The state has neglected to regulate salt trade which benefits all parties. In this salt market structure that tends to be hegemonic and monopolistic, this kind of government, as the authority holder, lacks the ability to oversee the implementation of the policies it makes. As a result, salt farmers concluded that the government acted "half-heartedly" in protecting and fighting for their interests. Business lobbying towards bureaucrats for the ease of operation has destroyed the
principle of healthy competition in business. This unethical practice is often considered an ordinary dynamic even though it has the consequence of forming a bad culture of bureaucracy.

Double Negative Impacts of *Permendag* No. 125/2015

The issuing of *Permendag* No. 125/2015 has triggered multiple negative impacts, both bureaucracy and salt farmers. Although the presence of this regulation has been able to be used skillfully by certain state actors for the sake of personal gain, the existence of this regulation has even created organizational complexity for government institutions that are directly responsible for the regulation of salt trade in Indonesia.

The bureaucracy as the regulator felt a bad influence over the issuance of *Permendag* No. 125/2015, in the form of a lack of coordinative synergy between ministries. After the authority of the Industrial Development Ministry was abolished, both the Ministry of Industry and the Ministry of Maritime Affairs and Fisheries, inter-ministerial communication links were immediately hampered, resulting in the absence of optimal supervision of the formulation and implementation of *Permendag* No. 125/2015. The sectoral ego of state institutions has surfaced due to the presence of this regulation.

Another impact manifested itself in the form of actions by bureaucratic actors who also played a role in "helping to pass the salt import quota for industries that want to get more quotas". This is reflected in the case that befell the Director General of Foreign Trade of the Ministry of Trade who was named a suspect in a bribery case. In addition, there is an abuse of import licenses from *PT. Garam (Persero)*, where the permit obtained for the import of consumption salt, is actually used to import industrial salt. This conversion of import permit designation was allegedly for reasons of avoiding the application of a 10% import duty that applies to consumption salt.

Mr Achmad Solechan, Secretary General of the Nusantara Salt Farmers Association, stated “Another weakness of *Permendag* No. 125/2015 lies in the absence of provision on the timing of salt imports, the elimination of the obligation to absorb people's salt by corporations, and the absence of regulation of salt prices, as previously found in *Permendag* No. 58/2012. This stimulates objections or criticism from salt farmers because it has the potential to harm them, especially when the harvest arrives. *Permendag* No. 58/2012 did not allow imports a month before the harvest period for the salt of the people, during the harvest of the salt of the people, and two months after the harvest of the salt of the people, due to the consideration of saving the salt stocks of the farmers. But *Permendag* No. 125/2015 actually abolished the provision under the pretext of "facilitating the ease of domestic and foreign investment" in the salt industry sector.” (Personal communication, October 18, 2017)

Elimination of import times and price standards also has a negative impact on farmers’ livelihood. In this context, salt farmers have been made "game objects" by businessmen. To minimize these negative effects, farmers moved to build agreement based on family systems with dozens of collectors. The agreement, for example, is in the form of: (1) when a farmer wants to increase the selling price of salt, it must be discussed in advance with other farmers, and (2) a collector may not buy salt from other collectors (LPM FEB UB, 2018, p. 27).

Salt farmers are the most disadvantaged parties and suffer the adverse effects of issuing salt import policies (*Permendag* No. 125/2015). The contents of this *Permendag*

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are considered not pro-farmers. Farmers are required to compete fiercely with consumable salt imported and sold by PT. Garam (Persero) in the domestic market. If the selling price of farmer's salt is IDR. 2,700, while the selling price of consumption salt from PT. Garam (Persero) and its conglomerates are in the range of IDR. 1,500, immediately this condition affects the number of salt sales of farmers' production consumption. Consumers certainly pay more attention to the "low price offer" of the importing corporation when they want to buy salt for their kitchen needs.

Conclusion

The salt import policy formulated by state institutions in the early days of the Jokowi-JK Government in 2015 was inseparable from the effect of the Economic Policy Package launched, the Second Economic Policy Package which concentrated on efforts to increase investment, in the form of deregulation and de-bureaucratization regulations to facilitate investment, both Domestic Investment and Foreign Investment. In other words, it is this Second Economic Policy Package that underlies the issuance of Permentag No. 125/2015 concerning Provision on Salt Import.

Judging from the content of this regulation can be concluded that there are substantive weaknesses which reflect the impartiality of the idea of protecting food products produced domestically as well as sustaining the livelihood of salt farmers. These weaknesses include eliminating the obligation to obtain recommendations from the Ministry of Industry as well as the obligation to absorb people's salt at least 50% of total production capacity for companies that want to apply for import licenses, as well as the absence of quota standard arrangements and import times for all Producer Importers.

More than that, Permentag No. 125/2015 which opens the widest possible range of imported faucets without barriers is deemed not to heed at all the "significance" formulation of indicators of achievement of salt commodity development which requires a decrease in the volume of imported salt while increasing the welfare of salt farmers as raw material providers.

The process of formulating Permentag No. 125/2015 did not take the mechanism and stages as it should because it did not involve all elements of the Industry Development Ministry and the Salt Farmers Development Ministry so that there was no view and establishment outside the Ministry of Trade, as a basis for consideration and synchronization of collective orientation in the context of public policy formulated.

The collusive relationship that exists between bureaucratic actors and businessmen before the ratification of that salt import policy has created a situation of fear of salt scarcity which provides rent-seeking space for certain actors from both elements by offering import quota lobbying services and other facilities. Even after its issuance, Permentag No. 125/2015 actually gave a special place and freedom of consumption salt import monopoly to PT. Garam (Persero) which incidentally is one of the State-Owned Enterprises.

Content imperfections, deliberate elimination of substantive obligations, the opening of access to consumption salt import monopoly for PT. Garam (Persero), the facilitation of monopolistic business practices and rent-seeking, and the impartiality of the livelihoods of salt farmers in Indonesia have become the primary impetus of
resistance from various parties (especially businessmen, salt farmers’ associations and salt farmers themselves) in the presence of Permendag No. 125/2015.

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