

Enforcement of Law Against Understanding Product Businesses and Fertilizer Districts in the Framework of Realizing Food Security

Dini Ramdania¹, Edi Setiadi², Dini Dewi Herniarti³

¹ Postdoctoral Universitas Islam Bandung, Indonesia. E-mail: danidurahman111@gmail.com

² Faculty of Law, Universitas Islam Bandung, Indonesia. E-mail: rektorunisba17@gmail.com

³ Faculty of Law, Universitas Islam Bandung, Indonesia. E-mail: fhunisba@ac.id

Submitted : 15/01/2024 Reviewed:25/02/2024 Accepted:24/03/2024

Abstract: : Fertilizer is an important element in agriculture besides seeds and water, so the state then stipulates SNI obligations for fertilizer products to make agricultural products a success and also to protect the nutrients contained in the soil so that they are not damaged. But in reality, it is often found in the field that certain parties produce and distribute non-SNI fertilizers for personal gain. Fertilizers that do not have SNI with unclear content will cause damage to the soil and recovery will take a long time. Unfortunately, criminal acts of product and distribution of non-SNI fertilizer continue to occur in different locations, as if there is no deterrent effect on the perpetrators because in several cases the production and distribution of non-SNI fertilizer only reach the level of investigation due to a lack of experts from the Ministry of Agriculture. Law no. 20 of 2014 concerning standardization and conformity assessment and other laws regulate them but are difficult to implement in the field because there must be coordination between institutions.

Keywords: Fertilizer; SNI; and Law Enforcement.

1. Introduction

Food security, which is currently being pursued by the government, is one of the state's efforts to boost the country's economy by increasing agricultural production to increase exports and meet domestic needs with the aim of avoiding the economic and food crisis currently occurring in the world, and to suppress import.

Agriculture is the only sector that has not been affected by the pre-COVID- 19 that has hit the world, in contrast to other sectors such as industry, transportation, tourism, and other sectors that have been affected the most, giving rise to many companies operating in this sector. bankruptcy, and layoffs occur in many companies which will automatically have an impact on the country's economy, especially Indonesia.

Indonesia as an agricultural country is very appropriate to prioritize progress in the agricultural sector to realize a food security program, as a state priority program. By learning from experience when the world was hit by the Covid-19 pandemic. However, increasing yields in the agricultural sector is not as easy as it seems, especially as most of our agriculture is still conventional agriculture, which still relies on rainfall so that when

the world is hit by the El Niño season, the dry season is longer than usual, causing many crop failures in various parts of Indonesia due to flood and drought. As happened in 2023, Indonesia was hit by a dry season, and our agricultural output dropped drastically, especially rice as a staple food whose price rose sharply, even the Minister of Agriculture is currently raising the highest retail price or (Het) premium rice by IDR 2,000.00. Even though the government imported 3.6 million tons of rice from Thailand and Vietnam in 2024, the original target was to import 2 tons in 2024, because Bulog's rice supplies were running low, so additional imports were made by 1.6 tons.

Indonesia, Thailand, and Vietnam are some of the Southeast Asian countries, which are both agricultural countries, but in reality, when hit by a prolonged drought, Indonesia experienced a rice crisis, so it imported from neighboring countries. One of President Jokowi's priorities is building food security. So how can neighboring countries in Southeast Asia and agricultural countries still be able to import rice while Indonesia cannot?

The food security proclaimed by the Government currently seems to be still in place because to realize food security requires support from various fields, one of which is the aspect of providing fertilizer as an important aspect in the agricultural sector. Fertilizer procurement in Indonesia is well regulated as in Law No. 12 of 1992 concerning Plant Cultivation, and Law No. 7 Years concerning Trade, even fertilizer produced in Indonesia must meet the Indonesian National Standards (SNI), the regulations of which are contained in Law Number 20 of 2014 concerning Standardization and Conformity Assessment. Even in the law.

The law that regulates fertilizer itself contains criminal sanctions that can be imposed on perpetrators, especially business actors, whether producers or distributors of fertilizer, who do not meet the established standards. It turns out that imposing criminal sanctions on the perpetrators does not deter business actors who produce and distribute fertilizers that do not meet standards. This can be seen from several cases of production and distribution of fertilizers that do not have SNI, which occur repeatedly.

As reported in Antaranews in 2016, 196 tons of fake fertilizer were arrested in Jakarta which was to be distributed in Aceh, which was fertilizer produced in Sukabumi Regency, and two suspects were arrested as factory managers and distributors. Where the non-SNI fertilizer has been distributed in Aceh for 2 (two) years, transported from Sukabumi by land to the port of Tanjung Priok, which is then transported by ship to the port of Belawan, North Sumatra, which is then continued to Aceh for oil palm plantations and other plants. (Taufik Ridwan, 2016).

In 2019, in the jurisdiction of the West Java Regional Police, it was discovered that there was production and distribution of non-subsidized fertilizer that did not have SNI, which was produced by PT Yudha Perdana Angesti, which had been in production since 2015. This non-SNI fertilizer was distributed in the jurisdiction of West Java, while the company This production has a SIUP, TDP, and HO complete with permission from the Ministry of Agriculture, but unfortunately, it does not have SNI.

Then in 2020, the East Java Sidoarjo Police succeeded in dismantling the production and trade of 440 sacks or 22 tons of illegal fertilizer that did not have SNI and arrested the owner of CV Bangun Tani by applying Article 113 in conjunction with Article 57 of Law no. 7 Tahun 2014 concerning Trade. (Antara Jantor Berita Indonesia, 2020).

Still in 2020, the Nias Police confiscated 83 quintals of non-subsidized fertilizer that did not have SNI from Toko UD Ezra, after tracing it to CV Surya Artha Sentosa whose address was in Mojokerto, East Java, the suspect was a CV Surya Artha Sentosa marketing person who was charged under Article 106 and Article 113 Law no. 7 of 2014 concerning Trade.

In January 2022, the Gresik Police Criminal Investigation Unit thwarted the delivery of 12 tons of unlabeled and non-SNI fertilizer, which was to be sent to Palembang in the packaging of CV Kawan Tani Sejati, the owner of which was charged under Article 122 of Law no. 22 of 2019 concerning Sustainable Agricultural Cultivation Systems in conjunction with Article 133 in conjunction with Article 57 of Law No. 7 of 2014 concerning Trade and Article 53 paragraph (1) letter b of Law no. 3 of 2014 concerning industry, but the suspect has not been detained because he requires experts from the central Ministry of Agriculture. (Java Post, 2022).

Many other cases have occurred in various places, but of these many cases, it turns out that not a single case of the production and distribution of non-SNI fertilizer has been caught up in Law No. 20 of 2014 concerning Standardization and Conformity Assessment. In fact, in Article 65 of Law No. 20 of 2014 concerning Standardization and Conformity Assessment, it is stated that every person who does not have a certificate or has a certificate but whose validity period has expired, been temporarily suspended, or revoked intentionally: a. trade or distribute Goods; b. provide services; and/or c. carrying out processes or systems which do not comply with SNI or SNI numbering as intended in Article 25 paragraph (2), shall be punished by imprisonment for a maximum of 5 (five) years or a fine of a maximum of IDR 35,000,000,000.00 (thirty-five billion rupiah). This research will discuss why in cases of fertilizers that do not have SNI the articles in Law No. 20 of 2014 concerning Standardization and Conformity Assessment are not applied

2. Method

This research uses a normative juridical research method using secondary data from primary, secondary, and tertiary legal materials. This research is also qualitative because it does not use numbers. This study aims to find a model and This research will discuss why in cases of fertilizers that do not have SNI the articles in Law No. 20 of 2014 concerning Standardization and Conformity Assessment are not applied normative and empirical legal research methods. It begins with reviewing the literature, followed by field exploration and analysis, until an accurate and concrete model

3. Implementation of SNI for Inorganic Fertilizers states

Agriculture is one of the sectors that is the mainstay of the Indonesian State because it is considered one of the sectors that supports the nation's economy. Moreover, in the current situation of the COVID-19 pandemic, the agricultural sector which produces food is the sector most relied on by the State to supply the food needs of its citizens.

Whether agricultural products will be abundant or small is determined by many factors that support them, including weather, irrigation, and fertilization to determine the nutrient content in the soil that can support maximum production of these plants. One of the elements is fertilization, the use of fertilizer for plants by farmers. As we know, there are two types of fertilizer used, namely organic fertilizer and inorganic fertilizer.

Organic fertilizer is fertilizer that comes from rotting plant residues or from pet manure such as chickens, goats, cows and so on which can be used as compost fertilizer in certain doses to restore soil fertility to produce good plant products if organic fertilizer. If this is too much, it will not have fatal consequences because the effect it will have on the soil and plants is not too bad after all it comes from nature too but is different from inorganic fertilizer.

Inorganic fertilizer is fertilizer resulting from chemical, physical, and/or biological engineering processes and is the product of industry or factories and is the product of fertilizer manufacturing industries or factories (obtained from Minister of Agriculture Regulation No. 43 of 2011). Article 2 of the Regulation of the Minister of Industry of the Republic of Indonesia Number: 08/M-IND/PER/2/2014 concerning the Implementation of SNI for Inorganic Fertilizers states:

- 1) Mandatory application of SNI for compound inorganic fertilizers on product types with SNI numbers and tariff post numbers/HS Code as follows:
- 2)

Type of compound inorganic fertilizer No. SNI Post Tariff/HS	No. SNI	Pos Tarif/HS
1. Solid NPK Fertilizer	SNI 2803-2012	HS 3105.20.00.00

- 3) Compound inorganic fertilizer as intended in paragraph (1) is a fertilizer that contains two or more chemical elements provided that solid NPK fertilizer is an artificial inorganic fertilizer in a solid form that contains the main macroelements nitrogen, phosphorus, and potassium and can be enriched with other elements. other micronutrients.
- 4) The mandatory application as intended in paragraph (1) applies to compound inorganic fertilizers in packages and/or bulk.
- 5) Compound inorganic fertilizer as intended in paragraph (1) is used in the agricultural sector which includes:
 - a. Crops;
 - b. Horticulture;

- c. Plantation;
- d. Fishery;
- e. Livestock; and
- f. Forestry.

Fertilizers that come from chemical substances are made to maximize agricultural crop production and to loosen the soil or provide nutrients to the soil but with chemical substances, which automatically require certain precise dosages to be used because if this inorganic fertilizer is given haphazardly without the correct dosage it will cause the soil to become hot and plants will die because there is too much chemical fertilizer, the most fatal consequence is that it can damage the nutrients in the soil so that the land becomes no longer arable. Soil that is barren due to inappropriate use of fertilizer takes hundreds of years to restore its nutrients. (Nadila Cahyani Putri, 2023)

Starting from the importance of maintaining soil nutrients for our agriculture, the government regulates the production of inorganic fertilizer, namely that the production of NPK-type inorganic fertilizer to have an SNI certificate with the aim of ensuring that the inorganic fertilizer circulating in the community is fertilizer that is safe for the soil and plants. so that it will not harm farmers.

SNI or Indonesian National Standard is a limitation on goods or services produced that can be bought and sold to the public or consumers so the purpose of this SNI is not to let consumers as market share or users of the product become disadvantaged because there is no standard standard for a product. goods (Law No. 20 of 2014 concerning Standardization and Conformity Assessment).

This standardization and conformity assessment aims to (in Law No.20 of 2014 concerning Standardization and Conformity Assessment): Improving quality assurance, production efficiency, national competitiveness, healthy and transparent business competition in trade, business certainty, and the ability of business actors as well as technological innovation capabilities;

Increasing protection for consumers, business actors, workers, and other communities, as well as the state from the aspects of safety, security, health, and preserving environmental functions; And Increase certainty, smoothness, and efficiency of trade transactions in goods and/or services at home and abroad. This standardization and conformity assessment applies to goods, services, systems, processes, and personnel. In Indonesia, the assessment and issuance of SNI certification is the authority of BSN.

Regulations regarding inorganic fertilizers having to have SNI are contained in several laws, namely Article 57 of Law No. 7 of 2014 concerning Trade which states that every business actor who trades goods domestically is required to have an SNI certificate, in Law No. 8 of 1999, to be precise, Article 8 also states that goods traded by business actors must also meet specified standards. Article 53 of Law No. 3 of 2014 concerning Industry also states that goods produced, imported, and/or marketed must have an SNI certificate, confirmed also in Emergency Law No. 7 of 1955 concerning investigation, prosecution, and trial of economic crimes which strengthens other regulations that are prohibited as economic crimes, in Presidential Regulation no. 15 of 2011 concerning the

determination of subsidized fertilizer as goods under supervision as well as in Regulation of the Minister of Industry of the Republic of Indonesia No. 08/M-IND/PER/2/2014 concerning the implementation of SNI for inorganic fertilizers which requires inorganic fertilizers to have SNI, all these regulations regulate the obligation for inorganic fertilizer production to have an SNI certificate, even in the SNI Law, namely Law no. 20 of 2014 concerning Standardization and Conformity Assessment also regulates goods that require SNI and the SNI Law also regulates criminal sanctions for business actors who produce goods, especially inorganic fertilizers that do not have an SNI certificate.

An act that does not comply with statutory regulations or violates statutory regulations is a criminal act if it meets the elements of a criminal act, namely the existence of a perpetrator, the consequences, and the existence of an unlawful act so that the perpetrator must be subject to criminal sanctions as in the case distribution of inorganic fertilizers that do not have SNI.

Law No. 20 of 2014 concerning Standardization and Conformity Assessment states that it is mandatory for every item produced to have SNI so that no party, especially consumers, is harmed as in Article 24 in matters relating to the interests of safety, security, health, or preserving environmental functions. , ministries/non-ministerial government institutions have the authority to determine the mandatory application of SNI using a Ministerial Regulation or Regulation of the Head of a Non-Ministerial Government Institution. Every Business Actor, ministry/non-ministerial government agency, and/or Regional Government is obliged to implement Ministerial Regulations or Regulations of the Head of Non-Ministerial Government Institutions regarding the mandatory implementation of SNI. Article 25 states that every Business Actor, ministry/non-ministerial government agency, and/or Regional Government is required to have an SNI certificate which is enforced compulsorily as intended in Article 24 paragraph (1). It also regulates that every Business Actor who does not have a certificate or has a certificate as intended in paragraph (1) but whose validity period has expired, been temporarily suspended or revoked is prohibited from:

- a. trade or distribute Goods;
- b. provide services; and/or
- c. running a Process or System, which is not by SNI or SNI numbering.

4. The criminal sanctions are heavier than the sanctions in the Industry Law and the Trade Law, the sanctions are lighter

Article 65 of Law No. 20 of 2014 regulates criminal sanctions, namely, every person who does not have a certificate or has a certificate but its validity period has expired has been temporarily suspended, or been revoked who intentionally:

- a. trade or distribute Goods;
- b. provide services; and/or
- c. carrying out processes or systems which do not comply with SNI or SNI numbering as intended in Article 25 paragraph (2), shall be punished by imprisonment for a maximum of 5 (five) years or a fine of a maximum of IDR 35,000,000,000.00 (thirty- five billion rupiah).

The criminal sanctions in Law No. 20 of 2014 are heavier than the sanctions in the Industry Law and the Trade Law, the sanctions are lighter. So, by including the articles in Law No. 20 of 2014 concerning Standardization and Conformity Assessment of investigative files from investigators, they become more complete and can ensnare perpetrators with the right articles.

If we examine it, the act of not including SNI on fertilizer products is an act that can be categorized as an economic crime. Mardjono Reksodiputro defines economic crime as any act that violates laws and regulations in the economic and financial sectors and has criminal sanctions. (B Mardjono Reksodiputro, 1989) Economic crimes in a broad sense are often also called economic crimes. Sunarjati Hartono in his book *Edi Setiadi and Rena Yulia* states that economic crime is broader than business crime. Because the losses caused are not only economic but also social and can even have political impacts. (Edi Setiadi and Rena Yulia, 2010)

Sunarjati Hartono stated again that the development of crime in the economic sector has led to what is called white-collar crime, while Muladi calls it a socio-economic crime (Edi Setiadi and Rena Yulia, 2010, p. 35).

The most important characteristic of economic crime is the process of possessing property and wealth by cunning or through fraud and operating secretly (hidden) which is often carried out by individuals who have high social and economic status. Furthermore, economic crimes contain the following elements (Edi Setiadi and Rena Yulia, 2010):

Actions are carried out within the framework of economic activities which are normal and legal. The act violates or harms the interests of the state or society in general, not just individual interests. This action also includes actions in the business environment that are detrimental to other companies.

Law enforcement is very essential and substantial in the concept of a rule of law such as in Indonesia. Sudikno Mertokusumo in his book *Edi Setiadi* says that one of the elements for creating or restoring balance in society is law enforcement. (Edi Setiadi and Kristian, 2017).

Satjipto Rahardjo in his book *Edi Setiadi* states that law enforcement is essentially the application of discretion or policy which makes legal decisions not strictly regulated by law but also based on wisdom between law and ethics. Therefore, considerations are applied selectively in crime prevention issues. (Edi Setiadi and Kristian, 2017, p. 36) Yahya Harahap said that the principle of equality before the law is one of the principles of law enforcement mandated by the Criminal Procedure Code and is placed as one of the links in the chain of human rights. (Oksidelfa Yanto, 2020)

Barda Nawawi Arief said that to carry out law enforcement with certainty and fairness, it is necessary not only to update legislative regulations or legal substance but also to update the legal structure and the legal culture. (Barda Nawawi Arief, 2002). This is in line with the legal concept put forward by Mochtar Kusumaatmadja who said that the concept of law in a dynamic sense includes four elements as a unit that are related to one another, namely including legal principles and rules, including institutions and

processes that embody the law into the reality of people's lives. (Romli Atmasasmitha, 2019). But Romli's integrative legal theory not only examines the problem of national legal development but also in the context of the influence of international relations on the life system of the Indonesian nation, which is caused by the influence of globalization, (Romli Atmasasmitha, 2019, p. 80)

Soerjono Soekanto said that the law enforcement process is influenced by five factors, namely:

1. Legal factors themselves;
2. Law enforcement factors, namely those who form and implement the law.
3. Facilities or facility factors that support law enforcement;
4. Community factors, namely the environment in which the law applies and is implemented;
5. Cultural factors, namely as a result of work, creativity, and feelings that are based on human intention in social life. (Soerjono Soekanto, 2007)

As a country of law, the Indonesian State guarantees legal certainty in society. The law itself aims to create certainty in relationships between humans. Legal certainty is the certainty of legal rules, not the certainty of actions towards or actions by legal rules. Because the phrase legal certainty cannot truly describe the certainty of behavior towards the law. (Effendy Abdullah, 2020). Lawrence stated that the objectives of the law to be realized are justice, benefit, and legal certainty. (Margono, 2023) the legal thinking approach is oriented towards global insight which must always be updated, especially in the formation of laws, to achieve the legal objectives. (Barda Nawawi Arief, 2012)

Law enforcement against the perpetrators, whether they are business actors who produce or distribute, seems to still be ineffective, this is because the criminal act of producing and distributing fertilizers that do not have SNI has reappeared in the not-too-distant future, as if there was no deterrent effect from learning for other parties not to produce and distribute fertilizers that do not have SNI. Investigators also determined the crime of producing and distributing fertilizer without SNI to ensnare the perpetrator under Law No. 20 of 2014 concerning Trade but do not use the SNI Law or the Agricultural Law which are in direct conflict with this criminal act.

5. Penutup

Law enforcement against perpetrators of the production and distribution of non-SNI fertilizer is currently very important because fertilizer is one of the most important elements for agricultural success to realize a food security program which is the government's priority program to face the transition period. The recurrence of criminal acts of production and distribution of non-SNI fertilizer from year to year with locations always changing is a sign that the law enforcement carried out so far has not been effective. Law enforcement against perpetrators of the production and distribution of non-SNI fertilizer requires cooperation between various related agencies. As long as non-SNI fertilizer is still in circulation and fertilizer adequacy is not yet maximized, the food security program will still be a dream that cannot be realized, and imports are the only way

Daftar Pustaka

- Antara Jantor Berita Indonesia. *Polisi Sidoarjo Ungkap Kasus peredaran pupuk ilegal*. 2020 Diambil kembali dari <https://www.antaraneews.com/berita/1317474/polisi-sidoarjo-ungkap-kasus-perdagangan-pupuk-ilegal>:
<https://www.antaraneews.com/berita/1317474/polisi-sidoarjo-ungkap-kasus-perdagangan-pupuk-ilegal>
- B Mardjono Reksodiputro. *Hukum Positif, Mengenai Kejahatan Ekonomi di Bidang Perbankan*. Dalam B. M. Reksodiputro, *Hukum Positif, Mengenai Kejahatan Ekonomi Di Bidang Perbankan*. Jakarta. 1989.
- Barda Nawawi Arief. *Masalah Peneggakan Hukum dan Kebijakanaksanaan Hukum Pidana dalam Penanggulangan Kejahatan*. Kencana Perdana. Jakarta, 2002.
- Barda Nawawi Arief. *Reformasi Sistem Peradilan (Sistem Penegakan Hukum* . Semarang: Penerbit UNDIP. 2012
- Edi Setiadi dan Kristian. *Sistem Peradilan Pidana Terpadu dan Sistem Penegakan Hukum di Indonesia*. Kencana, Jakarta: 2017.
- Edi Setiadi dan Rena Yulia. *Hukum Pidana Ekonomi*. Dalam E. S. Yulia, *Hukum Pidana Ekonomi*. Yogyakarta: Graha Ilmu.
- Effendy Abdullah. (2020). *Masa Depan Kepastian Hukum Visi Reformasi Sistem Kelembagaan Hukum*. Deeppublish, Yogyakarta: 2010.
- Jawa Pos.. *Polisi belum tetapkan tersangk kasus pupuk tidak berlabel SNI*. 2022, Diambil kembali dari rcti+: <https://m.rctiplus.com/news/detail/nasional/1870598/polisi-belum-tetapan-tersangka-kasus-pupuk-tidak-berlabel>
- Margono. *Asas Keadilan, Kemanfaatan dan Kepastian Hukum Dalam Putusan Hakim*. Sinar Grafika. Jakarta: 2023.
- Nadila cahyani putri.. *Pupuk Anorganik pengertian, sifat dan cara*. 2023, Diambil kembali dari mentari.co.id: <https://www.mertani.co.id/post/pupuk-anorganik-pengertian-sifat-dan-cara#:~:text=Menurut%20Permentan%20No.%2043%20tahun%202011%2C%20pupuk%20anorganik,hara%20utama%20atau%20unsur%20hara%20mikro%20dan%20mikroba>.
- Oksidelfa Yanto. *Negara Hukum, Kepastian Hukum, Keadilan dan Kemanfaatan Hukum dalam sistem Peradilan Pidana di Indonesia*. Pustaka Rineka Cipta, Bandung: (2020).
- Romli Atmasasmitha. *Teori Hukum Integratif*. Mandar Maju, Bandung:2019.

Soerjono Soekanto. *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Rajawali Press, Jakarta: 2007.

Taufik Ridwan. *196 ton pupuk palsu di Jakarta serta produsennya ditangkap*. 2016, Diambil kembali dari antaranews: <https://www.antaranews.com/berita/582713/196-ton-pupuk-palsu-di-jakarta-serta-produsennya-ditangkap>