



## The Concept Of Legal Regulation Of Soe Restructuring Through Holding Mechanism

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### ABSTRACT

Given the contribution of state-owned enterprises that need to be increased enough, to improve and empower massively several sectors in the state-owned companies, restructuring must be accommodated. Thus, the restructuring of state-owned enterprises with formation of holding companies for each sector has been planned by the government, which is the Ministry of SOEs. The purpose of the initial idea of restructuring and establishing a state-owned holding company is to optimize its management. However, while its main objective is to gradually intensify its management and profitability, the government plans to restructuring SOEs must face several obstacles, one of which is related to anti-competitive law. In an Operating Holding Company, the parent company carries out business activities and controls subsidiaries. The form of Operating Holding Company run by PTPN III (Persero) as the parent company is not only to carry out its business activities but also control and supervise subsidiaries.

### INTRODUCTION

Indonesia is a country that has very many state-owned enterprises (BUMN). Based on data from the Ministry of BUMN, the number of SOEs in Indonesia is 107 (Antara,2020) companies with a total contribution to the country of more than Rp. 126 trillion when viewed from the net profit of BUMN in 2021 (Tempo,2022). Given the importance of the role of BUMN in the national economy in general, the existing legislation should be used to direct the transformation of BUMN management towards a better.

The position of BUMN is currently regulated in law No. 19 of 2003 on State-Owned Enterprises (hereinafter referred to as the BUMN law) by dividing business forms into 2 (two) types, namely public companies (Perum) and corporate companies (Persero). Thus, BUMN in Indonesia basically play

two main roles, namely as state companies that seek profits to increase foreign exchange for the state (agent of business) and as a means for the government to provide services to the community in an effort to realize the task of the state prosperity and welfare of the people (Pasal 9 UU No. 19 Tahun 2003).

BUMN is a limited liability company whose capital is divided into shares in which all or at least 51 % (fifty-one percent) of the shares are owned by the Republic of Indonesia whose main purpose is the pursuit of profit. Furthermore, it is emphasized that in conducting its business, BUMN Persero applies all provisions and principles that apply to limited liability companies as stipulated in the law on Limited Liability Companies.

The formation of the holding company structure is not regulated explicitly and specifically in

the BUMN law and The Limited Liability Company Law as the basis for the management of BUMN. Sulistiowati gave the view that Law No. 40 of 2007 on Limited Liability Company (hereinafter referred to as UUPT) does not provide juridical recognition of Group companies as separate legal entities vis-à-vis other legal entities. It does not spell out in its arrangement the relationship between parent and subsidiary, but in the provisions of Article 84 paragraph 2 (b) of the Company Law using the term with the word parent and subsidiary (Sulistiowati,2010).

The provisions of Article 7 Paragraph 1 of the Company Law stipulates that there is no prohibition for a legal entity to become a shareholder, it is stated in the provision that the company is established by two or more persons. Furthermore, the explanatory memory of this provision explains that what is meant by "person" is an individual, either an Indonesian or foreign citizen or an Indonesian or foreign legal entity. Explanation of this provision is a form of legitimacy of a legal entity or company to establish another company. The legal act in the establishment of this company causes a legal entity or company to own or acquire shares from another company. Ownership of shares of a legal entity or other company has implications for the emergence of parent and subsidiary relationships. This also applies to share takeovers and separations as stipulated in Article 1 Number (11) and number (12) of the Company Law.

The formation of a holding company carried out in Indonesian BUMN is currently a corporate action that can be carried out by the company in accordance with the provisions of the Articles of Association. The government as the majority shareholder or 100% of BUMN can form a Soe Holding company in accordance with the provisions of the Articles of Association and the principles of a healthy Corporation. Thus, although the provisions of the holding company are not expressly regulated in the BUMN law or The Limited Liability Company Law, it does not mean that the formation of the BUMN holding has no legal basis (Bismar Nasution,2010).

The holding of BUMN in Indonesia is one of them carried out with a stay alone pattern, by making changes in state capital participation in BUMN, so that an existing BUMN is retained to later become the holding company of BUMN. In other words, the pattern of formation of state-owned Holding in Indonesia is not done by forming a new entity (new company). The process of holding with a stay alone pattern is also called Holding Champion.

The plantation sector is one of the sectors of work that has been carried out by the government

with the issuance of Government Regulation No. 72 of 2014 concerning the addition of State capital participation of the Republic of Indonesia into the share capital of the company (Persero) PT Perkebunan Nusantara III. This policy is issued with the consideration that in order to improve the capital structure and increase the business capacity of Perusahaan Perseroan (Persero) PT Perkebunan Nusantara III, it is necessary to increase the capital participation of the Republic of Indonesia into the share capital of Perusahaan Perseroan (Persero) PT Perkebunan Nusantara III derived from the transfer of 90% (ninety percent) of shares owned by the Republic of Indonesia in Perusahaan Perseroan (Persero) PT Perkebunan Nusantara I to Perusahaan Perseroan (Persero) PT Perkebunan Nusantara XIV.

Establishment of holding PT. Perkebunan Nusantara (PTPN) will make all PTPN starting from PTPN I to PTPN XIV consolidated under PTPN III. The launch of the holding of BUMN Perkebunan was carried out in Surabaya, on October 2, 2014, which began with the signing of a document handing over shares of 90 percent from PTPN I to PTPN XIV to PTPN III Holding of BUMN Perkebunan, the document was signed by Dahlan Iskan who served as Minister of BUMN at that time, as deputy shareholder and President Director of PT Perkebunan Nusantara III (Persero) Bagas Angkasa.

The management of holding companies is a legal issue in Indonesia, especially in BUMN, which deserves a deeper study, considering the development of group companies in Indonesia into a form of business that is widely chosen by business actors. The position of the parent and subsidiary companies in the management of BUMN is a separate issue to the status attached to it as a state company. As a business entity with the company's business form, each BUMN both parent and subsidiary as an independent legal entity.

The ratification of the subsidiary's legal entity status as an independent legal entity does not remove the legal entity status of the subsidiary concerned, so that the subsidiary is still viewed as an independent legal subject. Juridical recognition of subsidiary legal entities leads to the enactment of the legal principle of the company as a legal person and the legal principle of limited liability. As a legal person or an independent legal subject, subsidiaries have juridical independence to do their own legal acts, so the parent company is not responsible for the legal actions of subsidiaries. In practice, it is necessary to know what is meant by a group company or holding company in its position as a parent company or parent company dealing with a subsidiary company or subsidiary company.

Yahya Harahap said it was unfortunate that the Limited Liability Company Law did not explain or regulate the provisions on group companies or holding companies. Nowadays, many companies utilize limited liability or limited liability. In order to take advantage of the principle of limited liability or limited liability, a company may establish a subsidiary company to run the business of "parent Company" (Parent Company). Thus, in accordance with the principle of separation and distinction known as separate entity, the assets of the parent company and the subsidiary company are "isolated" against potential losses that will be experienced by one of them (Yahya Harahap,2011).

Company Law is essentially intended for autonomous sole proprietorships. The Company Law represents a mechanism for regulating the distribution of costs and the allocation of risks. The establishment of the company is the reason for the existence of a company that bears the status of an independent legal entity with rights and obligations, has assets and liabilities, and is entitled to perform legal acts. Like other legal subjects, the company has an autonomous capacity to stand up and act so that the company must be responsible for all the consequences of its actions or known as *ubi commoda, UBI incommoda*. With the holding company pattern, a company can be controlled by another company even though it has the status of an independent legal subject (Jose Engracia Antunes,1994).

The implementation of BUMN holding by the government may cause differences in perception regarding the position of BUMN subsidiaries in the holding structure which from the beginning had the status of BUMN but was no longer controlled by the state. Following up on this, the government issued Government Regulation No. 72 of 2016 concerning amendments to Government Regulation Number 44 of 2005 concerning procedures for the inclusion and administration of State capital in state-owned enterprises and Limited Liability Companies. Through this government regulation, the government wants to state that the subsidiary BUMN in the holding structure remain controlled by the state and are treated the same as BUMN.

Based on the provisions of Article 2A paragraph (2) PP No. 72 of 2016, it was emphasized that the state property in the form of state-owned shares in BUMN was used as state capital participation in other BUMN so that most of the shares were owned by other BUMN, BUMN became subsidiaries of BUMN with the provision that the state was obliged to own shares with privileges stipulated in the articles of association. Furthermore, the

provisions of Article 2A paragraph (7) PP No. 72 of 2016, it is affirmed that the subsidiaries of BUMN as referred to in Paragraph (2) shall be treated equally with BUMN for the following matters: (a). obtain government assignments or perform public services; and / or (b). obtain special policies of the state and / or government, including in the management of natural resources with certain treatment as applied to BUMN.

The enactment of this government regulation was brought to the Supreme Court by a number of individuals and organizations who petitioned for a judicial review of PP No. 72 in 2016. The Supreme Court made its decision through Decision No. 21P/HUM / 2017 in June 2017 which was won by the government, thus confirming the legitimacy of PP No. 72 in 2016. This decision allowed the government to continue the process of holding BUMN.

The formation or growth of a holding company cannot be separated from the business reality that occurs, when business management through a holding company is considered to provide more economic benefits than a single company. The transformation of Plantation state-owned enterprises into holding companies is an implication of changes in the strategy and structure of state-owned enterprises, but nevertheless, efforts must be made to be in line with the goals of their formation.

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Both public service and business organizations face the demand to always actively adapt to changes or even create changes. Kotter says the global economy is creating more risks and opportunities for everyone, pushing companies to make dramatic progress not only in terms of competitiveness and asset ownership, but also simply to stay afloat. In turn, globalization is driven by a powerful and broad set of forces related to technological change, international economic integration, the maturity of domestic markets in more developed countries (John P Kotter,2008).

The process of competitive liberalization encourages many countries regardless of their philosophies to compete aggressively. The last decade shows that many countries in Asia are adopting economic systems that tend to change in a

more liberal direction by adopting market economic systems. Competitive liberalization is even carried out by various countries that have become accustomed to the tradition of protectionism (C. Fred Bergsten, 2006).

Economic policy is a political decision that affects the distribution of wealth and income in society. The governing party will determine economic policy and will make decisions from the various alternatives available in solving economic problems. Therefore, who governs largely determines the choice of economic policy, while the determination of who governs is a product of politics (Ramlan Surbakti, 1991).

This study focused on the formation of a holding company in the Plantation state-owned enterprises which is one of the state-owned enterprises that have been restructured in an effort to nourish the management mechanism. This study will discuss how the mechanism of the formation of holding on state-owned plantations in the perspective of corporate law, where with the enactment of Government Regulation No. 72 of 2016 as the legal basis for the formation of a holding company in BUMN will be reviewed and analyzed in depth in conjunction with the management mechanism of BUMN Perkebunan (Persero) based on the Limited Liability Company Law, as well as the legal basis for the management of BUMN based on the BUMN law.

## METHOD

Research is "the search for something (inquiry) in systematic with the emphasis that this is done towards problems that can be solved." In conducting research there are several types of research, namely normative juridical research and empirical or sociological juridical research (Ariman Sitompul, 2023). Legal research carried out by researching library materials or mere secondary data, can be called normative juridical law research or library Law Research. In the writing and research of this thesis, the type of research used is "normative juridical research that includes research on the principles of Law, Research on legal Systematics, research on the level of legal synchronization, legal history research, and Comparative Law Research

## RESULTS AND DISCUSSION

### A. BUMN PTPN III as a Holding Company

BUMN are the dominant business actors in Indonesia, although there are still many BUMN whose condition is poor but their role in the economy is still

very large. In addition, BUMN indirectly becomes a driver of economic growth through capital expenditures and large operational expenditures. The establishment of BUMN holding is the government's effort to increase the added value of BUMN. The concept of BUMN formation is basically a strategy at the corporate level (corporate level strategy). In this case, companies from various Soe business lines are combined and a holding company is formed that houses the company. This concept is known as the BUMN Corporate Parenting Strategy. In this concept, there is one state-owned company that becomes the parent company and there are several other state-owned companies that become subsidiaries.

The business carried out by BUMN today is basically for the future so that the business built today must be oriented towards Indonesia in the future. As for measures such as the downstream increase in foreign exchange, food security, infrastructure development, provision of raw materials for medicines, as well as the utilization of resources owned by BUMN to succeed the one million house program are roles that BUMN can take for a more prosperous Indonesia.

The legal basis for the formation of BUMN holding is : 1. Law No.19 of 2003 on SBUMN; 2. Law No.17 of 2003 on state finances; 3. Law No.40 of 2007 on Limited Liability Company; 4. Government Regulation No.72 of 2016 on amendments to government regulation no.44 of 2005 on procedures for the inclusion and administration of State capital in BUMN and Limited Liability Companies;

PTPN III (Persero) is a state-owned enterprise (Soe) engaged in Agro business and Agro palm oil and rubber industry, which was established on March 11, 1996 with the legal basis of establishment referring to PP No. 8, 1996 February 14, 1996. PTPN III (Persero) is the result of the merger of Pt Perkebunan III. IV and V, and make PTPN III (Persero) as the parent company of plantations in Indonesia.

Holding Perkebunan Nusantara PTPN III (Persero) applies the principles of transparency, accountability, independence, responsibility, and fairness that apply to all plantation personnel as one form of basic commitment. The goal is to build a healthy business environment with all stakeholders.

### B. Restructuring Of Plantation Subsidiaries Through Holding Mechanism

Restructuring is not a new topic. Restructuring is an effort carried out in the context of SOE restructuring which is one of the strategic steps to improve the company's internal conditions in order to improve performance and increase company value. Restructuring is an action or activity to change

the structure of the company with the aim of improving and maximizing. A company needs to think about a corporate restructuring, if it wants its business to compete with other companies both nationally and internationally.

Business restructuring is structuring the value of the entire business chain of the company with the aim of creating competitiveness and competition, as well as ways that can be done to get restructuring is through: mergers and acquisitions; regrouping holding and consolidation; joint operation and management; strategic alliance; discontinue some business or product or branch: break up the firm to some companies; liquidation.

Various efforts can be made to improve the performance of BUMN, including through profitability, restructuring, and privatization. Especially for restructuring, there is a choice of methods such as the formation of holding companies, mergers, mergers and takeovers (mergers and acquisitions), initial public offering (IPO), sales to strategic partners (strategic sale), sales to management management, management contracts and other strategic alliances (Nugroho,2005).

One of the steps taken by the government in order to restructure SOEs by forming a holding company. The purpose of restructuring for: 1. improve company performance and value; 2. provide benefits in the form of dividends and taxes to the state; 3. produce products and services at competitive prices to consumers; 4. facilitate the implementation of privatization.

Seeing the low contribution of BUMN, the improvement and empowerment of several BUMN sectors must be further improved. The key to the success of BUMN restructuring lies in the government's decisive action in choosing the most appropriate method for achieving results, such as policy control efficiency and strengthening activity chains to achieve corporate value enhancement, including restructuring subsidiaries through holding mechanisms.

Regarding subsidiaries in the holding has also been emphasized in the definition contained in the regulation of the Minister of BUMN No. PER-03/MBU/2012 of 2012 concerning guidelines for the appointment of members of the Board of Directors and members of the Board of Commissioners of subsidiaries of BUMN. Article 1 Number 2 of the Permeneg of BUMN explains what is meant by BUMN subsidiaries, namely Limited Liability Companies, most of which are owned by BUMN or limited liability companies controlled by BUMN. From this definition, it can be seen that BUMN that have become

subsidiaries are only referred to as limited liability companies are no longer BUMN.

In accordance with the regulation of the Minister of state-owned enterprises No. PER-03/MBU/2012, a limited liability company that is mostly owned by BUMN or a limited liability company controlled by BUMN, then the ownership of most of the shares or the majority of the shares has the intent or meaning so that the state in this case the government can still control BUMN subsidiaries through BUMN that become the parent company. In this case, BUMN PTPN III, which is the parent company, has an important role as an extension of the state/government in supervising and fostering functions for the plantation subsidiary.

Based on other aspects that are non-juridical is the restructuring method chosen. The difference between a holding company and other options refers to several factors that must be considered. The law acts as a safeguard and guideline for the restructuring activities of the company.

The consequence of restructuring a business entity is a change in treatment in some internal aspects of the company. Aspects that need to be considered in the formation of a holding company in Indonesia include:

1. The legal aspect is related to the formation of a new legal entity or the appointment of an existing company as a symmetric control relationship that oversees both BUMN by taking into account the existence of two or more banking BUMN. Government shares in banking BUMN that are used as holding subsidiaries are transferred or transferred or transferred to BUMN that are used as holding companies, namely Indonesia Danarekasa;
2. Aspects of Human Resources (HR) and corporate culture related to the status of personnel in the parent company can be different from subsidiaries. The HR system (including remuneration) in the parent company can be different from that of the subsidiary. The corporate culture in the parent company can be different from that of the subsidiaries;
3. The tax aspect is that there is no tax payable because there is only a transfer of government-owned shares to BUMN designated as holding, namely Indonesia Danareksa. Although there is a capital gain on the transfer of shares, but because the government is not a subject of tax, it is not subject to Income Tax (PPh).

BUMN Holding is indeed a Monopoly by Law, namely a monopoly by the state for branches of

production that are vital for many people. According to Saidah Sakwan, a member of KPPU, the holding of BUMN was granted concessions by the government to monopolize and was not bound by competition laws. State-owned Holding is indeed a Monopoly by Law, namely a monopoly by the state for branches of production that are vital for many people. Monopoly by Law is supported by regulations, both in the form of laws, government regulations (PP), presidential regulations (Perpres) and ministerial regulations (Permen). With the privileges obtained by a number of state companies, it will be free from the Anti-Monopoly Law. However, if the holding of BUMN is not regulated and is only a corporate policy or company commissioner, then KPPU can act in accordance with applicable rules (Gatot Supramono, 2016).

The ideal Model for restructuring BUMN in the plantation sector is the establishment of an Operational Holding Company. In an Operating Holding Company, the parent company carries out business activities and controls subsidiaries. In practice, the business activity of the parent company is often a guideline in determining the type of Business Activity Permit that must be carried out by subsidiaries. The form of Operating Holding Company run by PTPN III (Persero) as the parent company is not only to carry out its business activities but also control and supervise subsidiaries.

Through this BUMN holding, the BUMN holding company will become a super holding that is expected to be led by a professional Chief Executive Officer (CEO) who reports the company's performance to the government. The task of the Ministry of BUMN is to make BUMN a competitive business actor who has competitiveness. Therefore, BUMN should not be a burden to the state and create significant added value that is able to provide profit for the government (in the form of dividends for the state) and also social contributions that have an impact on improving people's welfare.

In business, it can be said that the formation of a holding company is expected to encourage BUMN to be more healthy and highly competitive and develop economies of scale. It's just that if the legal umbrella used is not strong, the formation of a state-owned holding company is very vulnerable to legal problems, especially related to the state's financial system and provisions. BUMN holding process that is not based on the provisions of law, namely law No.17 of 2003 on state finance and Law No.19 of 2003 on the grounds that there is no single article that specifically regulates the provisions on the formation and existence of state-owned holding companies. As a way out, it was issued by the government in the

form of Government Regulation No.72 of 2016 concerning procedures for the inclusion and administration of State capital in BUMN and Limited Liability Companies which is an amendment to Government Regulation No. 44 in 2005.

One form of concrete restructuring Holding Perkebunan Nusantara PTPN III (Persero) is restructuring in the field of human resources who have restructured the organization at the level of the Board of Directors and continued by creating a Talent Pool for officials 1 level and 2 levels under the Board of directors managed by the Holding. In relation to the restructuring of human resources. Holding has conducted a re-assessment of all officials 1 level below the Board of Directors. The results of the re-assessment will be used to determine the competency gap and then implement a development program to meet the competency gap that has been required for All Level 1 officials under the Board of Directors.

All plantation personnel have a shared commitment to uphold the value of honesty. sincerity and sincerity as a character principle and behavior in working to produce good quality human resources in the Holding PTPN III (Persero). In practice. each employee also adheres to the following principles: 1. Knowledge; that is, the willingness to learn and continue to learn to ensure the best quality of execution. 2. Speed; speed to act. 3. Gut; that is, the courage of the leadership level to make decisions and act in carrying out executions.

Holding Perkebunan Nusantara PTPN III (Persero) in the field of Human Resources has restructured the organization at the level of the Board of Directors, and continued by creating a Talent Pool for officials 1 layer and 2 layers under the Board of Directors which will be managed by the Holding. From the result of the restructuring, the number of Commissioners, there was a reduction of 21 people from the previous number of 62 commissioners to 41 Commissioners. As for the Board of directors, there was a reduction of 20 people from the previous 61 directors to 41 directors. This is done so that the PTPN performance improvement acceleration program that has been launched can be carried out effectively and efficiently.

Human resource development programs are implemented internally at Pusdiklat Holding Perkebunan Nusantara PTPN III (Persero) or externally using methods : In House Training (IHT), On the Job Training (OJT), External Training (seminars, workshops, courses), benchmarking, formal education (D3 program for implementing employees and S2 for leading employees), assignments, and independent learning.

Holding Perkebunan PTPN III (Persero) always maintains a balance between rights and obligations for employees (corporate equilibrium) and it becomes a challenge, especially for the management of employee performance. Employee performance will affect the performance of the work unit and ultimately contribute to the achievement of company performance. Giving rewards and sanctions (reward and punishment) in the job is one of the management of human resources that affect employee performance. Compensation is one of the functions of HR management related to all types of individual awards in exchange for performing job duties. Compensation is very important for the employee himself as an individual because the amount of compensation is a reflection or measure of the value of the employee's work itself because compensation programs are a reflection of the company in treating its human resources (Rizal Choirul,2021).

In accordance with the vision of Holding Perkebunan Nusantara PTPN III (Persero) "to be a world-class agribusiness company with excellent performance and implementing the best business governance", then explicitly and firmly Holding Perkebunan Nusantara PTPN III (Persero) is strongly committed to always provide the best performance through the implementation of Good Corporate Governance (GCG) in all business activities and operations of the parent company to subsidiaries. We are fully aware that the implementation of GCG is a concrete manifestation of the company's commitment and dedication to provide added value and prove the trust of all shareholders and stakeholders. The realization of GCG principles in the direction of the company's movement is carried out by prioritizing business practices in accordance with the principles of transparency, accountability, responsibility, independence and fairness. Based on these principles, the Board of Commissioners always encourages all board of Directors, Management and employees to conduct business practices that uphold ethics, morals and compliance with applicable laws and regulations.

Holding Perkebunan Nusantara PTPN III (Persero) set policy to PTPN I s.d XIV to analyze workload, job enlargement and job enrichment, and eliminate redundant positions to obtain simpler business processes without reducing control and organizational effectiveness. Furthermore, as an important part of the group's overall restructuring efforts, a financial restructuring program is being carried out which is focused on 2 (two) main activities, namely restructuring existing bank loan repayment and fresh fund injection which is adjusted

to business/cashflow capabilities in the context of survival strategy. Restructuring is carried out in stages with a priority scale of 7 (seven) PTPN, namely; PTPN I, PTPN II, PTPN VII, PTPN VIII, PTPN IX, PTPN XIII and PTPN XIV which are no longer bankable. In 2016 total Holding assets reached Rp111, 962.87 billion, an increase of 2.70% from 2015 which was recorded at Rp109, 024.44 billion. Total liabilities reached Rp60, 841.35 billion or 54.34% of total liabilities and equity. The amount of liabilities is one of the problems in some PTPN in carrying out its operational activities.

After efforts to make improvements through the holding mechanism at PTPN III, changes can be seen in the Holding of Perkebunan Nusantara PTPN III (Persero). Throughout 2022, the Nusantara Plantation Holding PTPN III (Persero) achieved the highest productivity in the company's history. This performance cannot be separated from the success of PTPN Group in transforming the company. According to President Director of PTPN III Plantation Holding Mohammad Abdul Ghani, a comprehensive transformation carried out by a number of business lines and subsidiaries, the company was able to produce positive performance, especially the main commodities of PTPN Group. From the palm oil business line, for example, throughout 2022, the average productivity of fresh fruit bunches increased 3.4 percent from the previous year. Likewise, the productivity of crude palm oil (CPO), which reached more than five tons per hectare or an increase of 3.6 percent from the previous year, while the average productivity of the National CPO in 2022 was only 3.9 tons /Ha. In fact, 150 thousand hectares of 450 thousand hectares of productive crops, reaching protas to above 5.6 tons of CPO per hectare, higher than the productivity achievement of the National best Practices company.

Along with the increase in productivity, PTPN III's consolidated profit of Perkebunan Nusantara Holding amounted to Rp 5.51 trillion, up 19 percent from the previous year, also becoming the highest in the company's history. Meanwhile, the pre-tax revenue margin, interest, depreciation, and amortization or EBITDA, which are fundamental factors in the company's financial performance, amounted to Rp13.56 trillion or five percent above the 2022 budget (RKAP 2022). According to Abdul, the achievement of this performance shows the overall business transformation carried out, through three pillars of the company's Growth: Portfolio Optimization and Operational Excellence, Commercial Excellence and downstream expansion, as well as asset optimization and strategic partnerships; and two basic supporters, namely: capability and Culture

Development and system and technology improvement, are running well (Agus Prasetiyo, 2019).

The role of Perkebunan Nusantara Holding in the restructuring of subsidiaries is not only carried out on PTPN subsidiaries, but also carried out on non-PTPN subsidiaries so that effectiveness is achieved. There are 6 main priority programs to be implemented by PTPN and non-PTPN subsidiaries both whose core business is plantation and non-core plantation business. The non-PTPN subsidiaries are PT Kharisma Pemasaran Bersama Nusantara (KPBN), PT Riset Perkebunan Nusantara (RPN), PT Industri Karet Nusantara (IKN), PT ESW Nusa Tiga (ESW), PT Kawasan Industri Nusantara (KINRA), PT RS Sri Pamela Medika Nusantara (SPMN). Then, PT Industri Nabati Lestari (INL), PT LPP Agro Nusantara (LPPAN), PT Bio Industri Nusantara (BIONUSA), PT Sarana Agro Nusantara (SAN).

President Director of Pt Perkebunan Nusantara III (Persero), Muhammad Abdul Ghani changed several directors and organizational structures in the management ranks of non-PTPN subsidiaries in line with the company's transformation program that is committed to optimizing operational functions and strengthening the performance of subsidiaries to achieve company targets so as to make a major contribution to the national economy. Furthermore, he said that every company, including non-PTPN subsidiaries, needs to evaluate performance and make improvements to keep growing and be able to compete. Considering that in the current era of increasingly tight business competition, it is important to make continuous improvements (continuous improvement), so that the company's performance is getting better. The transformation also carried out in non-PTPN subsidiaries aims to enable subsidiaries to continue to excel in competition and remain viable. Through the restructuring, it is expected that the performance of non-PTPN subsidiaries can be optimal.

In the formation of state-owned holding, the government needs to take prudent steps by conducting a comprehensive study that considers macro and micro economic variables, and involves many parties in the decision-making process. This challenge is not an obstacle for the government, it can be used as a stepping stone to manage BUMN to be more effective and efficient. In the process of forming a holding takes a short time and profits can not be obtained instantly, but the return will be obtained in the long term with a greater added value when compared with the complexity.

Based on the Indonesian economic context, Soe plantations have important significance, not only

its existence implied in the Constitution of 1945, but because it requires investment for goods and services that are too large to be done by the private sector. The role of plantations is quite large in development for the economy. As the basis of National Economic Development contained in Article 33 of the Constitution of 1945. The efficiency of BUMN Perkebunan is essentially based on the desire to be better and more efficient in conducting its business activities, so that restructuring efforts are an option in an effort to improve BUMN Perkebunan and its subsidiaries under its auspices.

Thus, the restructuring of plantation subsidiaries through the holding mechanism must provide real benefits in improving the national economy and the welfare of the community as mandated by the 1945 Constitution. This is in line with Bentham's theory of usefulness, which states that a new legal provision can be considered good, if the results of its application are goodness, maximum happiness, and less suffering. On the contrary, it is considered bad if its application produces unfair consequences, losses, and only increases suffering. So it is not wrong that none of the experts stated that this theory of expediency as the economic foundations for legal thought.

The demands of business dynamics and a highly competitive business climate require Plantation BUMN to continuously improve their performance. The plantation sector is one of the strategic employment sectors and its vast territory is spread throughout Indonesia, it should be able to be developed and exploited properly to improve the national economy where the results can be enjoyed and utilized for the greatest prosperity of the people as the purpose of the formation of BUMN.

## CONCLUSION

The concept of Legal Regulation of the restructuring of Plantation state-owned enterprises through the holding mechanism is the establishment of an Operational Holding Company. In an Operating Holding Company, the parent company carries out business activities and controls subsidiaries. The form of Operating Holding Company run by PTPN III (Persero) as the parent company is not only to carry out its business activities but also control and supervise subsidiaries.

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