Knowledge E
enriching | engaging | empowering

Conference

Cartel and Rational Choice Institutionalism:The Case of Garlic Commodity Import in Indonesia

Tonny Timbul Tampubolon*, Gabriel Lele, Wahyudi Kumorotomo, and Suripto

Department of Public Policy and Management, Faculty of Social and Political Sciences, Universitas Gadjah Mada

ORCID
Tonny Timbul Tampubolon: 0000-0002-3731-8595

Abstract. The purpose of this research was to examine why the cartel is still growing in Indonesia, through using an institutional political economy analysis approach, namely rational choice institutionalism. This approach was used so as to investigate how institutional rules and arrangements regulate individual actions and how individual actors try to change rules and regulations that cause institutional problems. This study focused on two cases that depicted the interactions of three actors (entrepreneurs, bureaucrats, and politicians) which helped perpetuate the cartel. Findings indicated that actors can be motivated by the rewards and costs incurred for their actions and pursue their interests rationally. Also, according to the results, the import quota policy which aims to protect domestic producers is vulnerable to misuse and corruption due to the lack of transparency in granting quotas to importers.

Keywords: cartel, institutionalism, rational choice, Indonesia

Corresponding Author: Tonny Timbul Tampubolon; email: tonnytimbul@mail.ugm.ac.id

1. Introduction

The birth of government institutions and the issuance of government policies aimed at anticipating and preventing cartel practices, but practically these cartels still exist in commodity trading. In 2014, the Business Competition Supervision Commission (KPPU) stated that 19 garlic importers were guilty of committing cartels. In this case, the judge declared the Minister of Trade, the Director-General of Foreign Trade, and the Quarantine Agency of the Ministry of Agriculture to be guilty of conspiring. (Decision Case Number 05 / KPPU-I / 2013 pronounced on March 20, 2014). Furthermore, in August 2019, I Nyoman Dhamantra, a politician from the Indonesian Democratic Party of Struggle (PDIP), was arrested by the Corruption Eradication Commission (KPK) for alleged bribery from a garlic importer and was found guilty by decision Number 119 / Pid.Sus-TPK / 2019 /PN.Jkt.PSt.

During this time, neoclassical economists consider those market mechanisms (market economy) as the driving wheels of the economy and denying the institution. They

insisted that all economic problems can be solved by the market economy. This model does not question the motivation of the actors involved in the process or a specific event. Motivational assumed ceteris paribus and the economists do not want to be involved with the analysis actor's motivation.

Neoclassical economists are reluctant to get involved to discuss the issues related to the institutional. Criticism (1), stated that the theories of classical and neoclassical are equally biased and overly simplified economic phenomena and ignore the role of the non-economic aspects such as institutional and environmental. Many institutions and environments influence in shaping of economic behavior patterns of society. Political and social structures that do not support will distort any process of economic.

(2), who also criticized the view of neoclassical economists said that the role of institutions, both formal (eg. the constitution, laws, and property rights outlined in the law made by the government), and informal (eg. customs, mores, behavior in society) are very important in economic development. Without good institutions, transaction costs in economic activity will be high. Therefore we need the institution's presence as a tool to regulate and control the economic actors in the market to create fair and dynamic competition. (3) distinguishes between institutions and organizations; institutions are the rules of the game, while organizations are players.

The cartel in this research is referred to as an illegal commercial agreement, planned and regulated, which involves several players and several complex factors (4). In industry and trade, many cartel groups of their objectives and actions are categorized as illegal in a country, especially in the term of price-fixing (5, 6). George Stigler first put forward the theory of modern cartels in a classic article in 1964 called "A Theory of Oligopoly". Stigler's theory was built on the assumption that the oligopolist wanted to collude to maximize mutual benefits but the asymmetric information leads the problems in this collusive agreement. Stigler argued that the collusive agreement takes place due to several factors while collusion is not fIn a competitive business environment, companies will each act not only to get the maximum economic returns but also risks that follow. If there is an opportunity to do with cooperation between companies (collusion) to obtain maximum economic returns but also divide the risks are minimal. According to (7), the collusive behavior of the company is to facilitate competition rather than an attempt to maximize the mutual benefit.

In international trade, government involvement in protectionism brought its own problems. The policy made by the government to set production outputs and quotas could have an impact on cartelization. Import restrictions (quota) by implementing trade

policies will affect prosperity. The impact of quotas in a partial balance analysis can be explained by illustrating a country's supply and demand as shown in Figure 1.
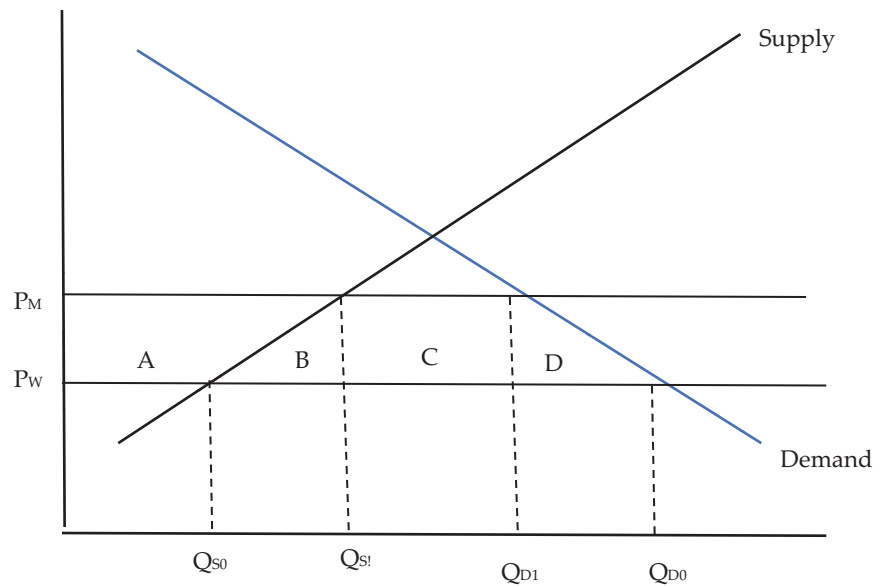

Figure 1: Impact of Quota Towards Welfare. (Sources: Wall (1999)).

From Figure 1, if free trade occurs the goods are imported will be at world prices, namely Pw. The country will consume as much as QD0 and produce as much as QS0. The amount to be imported from other countries is QD0-QS0. When there is import protection, the price will increase to PM. As the result, the country will produce as much as QS1 and the number of imports will be reduced to QD1-QS1. Consumers will suffer losses because they bear higher prices and producers will benefit from the increasing production at higher prices. Consumer surplus will decrease by area A + B + C + D. A is a consumer surplus that is transferred to producers. B and D are loss of welfare or Dead Weight Loss (DWL) which is the economic loss. C does not represent government revenue from tariffs, because import restrictions do not originate from tariff policies but non-tariff policies. This area is theoretically measured as a quota rent. If there is no increase in government revenue derived from this quota rent, the quota rent will be obtained by producers of other countries, so that C is represented as net welfare loss to economy. Government revenue can only increase through the sale of quota licenses. By using θ that reflects the share of quota rent, the total net welfare loss from import restrictions is B + D + (1- θ) C.

The potential existence of DWL is what economically causes inefficiency because of the welfare loss. Import quota policy has the potential to cause harm to consumers. For consumers, the import quota policy will reduce the consumer surplus, which is the

difference between the satisfaction a person receives in consuming a number of goods and the payment that must be made to obtain the goods. As a result, the level of consumer satisfaction will be depressed and reduce social welfare. If the import quota is limited by volume far below the deficit between supply and demand for food products produced in the country, then the price food commodities will increase. Increased prices can be unnatural and this condition makes consumers disadvantaged. The loss of well-being is suffered not only by consumers but it could be by the government. The quota rent which is supposed to be government revenue is vulnerable to being mocked and cannot become as state income.

In the United States, cartel behavior has been followed since the adoption of the Sherman Act in 1890, and in the last decade, some countries also do the same thing (8,9). While in Indonesia, cartel enforcement occurs with the birth of the Business Competition Supervisory Commission (KPPU)[?] with authority supported by Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Competition.

Several studies showed that the institutions must prevent cartels by applying anti-trust, leniency programs, and supervision by institutions set up by the authorities (10, 11, 12, 13). Other studies mentioned that their policies and institutions created by the authority have not been effective in suppressing cartels. Leniency program oversees ineffective to suppress the cartel (15,16). The application of anti-trust policies has an ambiguous effect, so an inclusive cartel being not inclusive (17). Collusion may occur without government intervention, even with the existence of the competition supervision authority (18).

Empirical studies using a social approach to cartel sustainability are rarely conducted, but we can find an explanation for informal cooperative behavior in studies of business law behavior referred to as 'the shadow of the law' (19). Business relationships are socially embedded and capable of generating social norms that make legal sanctions unnecessary and even considered excessive (20, 21, 22, 23, 24, 25).

This research may explain why cartels still exist using the rational choice institution-alism approach. How the rules and institutional arrangements govern the actors' action in the garlic import, and how actors can change the relevant institution's garlic import policy for the actors' benefit. This study is also expected to contribute to enriching the development of literature studies in management studies and public policy, and specifically to the study of the political economy of institutional linked to cartels and import policy food commodities.

Based on the background and explanation of the problems described above, the fundamental question that can be formulated in this study is "How do the roles and

bargaining power of the actors influence each other institutionally to maximize their preferences in the garlic import?"

The author's argument is based on the fact that actors (bureaucrats and politicians), based on their rationality, build relationships with business actors to influence food import policies in perpetuating garlic cartel practices. The main objective of this study was to conduct a review of why it is still growing and the persistence of cartel practices imported food commodities (in the case of imported garlic) in Indonesia with the institutional political economy analysis approach that is rational choice institutionalism.

For this reason, this study tries to answer a gap that has not been found from research cartels food commodities from the perspective of institutionalism that the dynamics of the mutual interaction between the actors (entrepreneurs, bureaucrats, and politicians) to achieve the expectations of each (26) and institutional arrangements with the approach Rational Choice Institutionalism. This approach is to see how institutional rules and arrangements regulate individual actions and how individual actors try to change the rules (27).

The author believes that cartel practices also occur due to the rationality of actors in choosing the most desirable action within the institutional framework to maximize their preferences with import policies that open up opportunities for cartel operations. The import policy includes determining quotas, import periods, and importer regulations. This is a research gap that the authors found in various studies related to cartels.

Rational Choice Institutionalism in Institutional Studies

The study of institutionalism by academics defines institutions in many meanings. However, academics prefer to use this term to refer to rules, norms, and strategies that are accepted or adopted by individuals in or across organizations (28,2). Meanwhile, (29) defines an institution "as a diverse and long-lasting social structure, consisting of symbolic elements, social activities, and having material resources". Three pillars make up the institution, namely: 1) The Regulative Pillar 2) The Normative Pillar and 3) The Cultural-Cognitive Pillar.

Rational choice theory is a framework to gain understanding and modeling economic behavior and social behavior. The theory was popularized by (51) is built on the premise that the aggregate social behaviors are the result of the behavior of individual actors, where each individual makes an individual decision (30). (31) states: "The essence of rational choice explanation embodies a conception of how preferences, beliefs, resources, and action stand with another." An action is called rational if it can show links to preferences, beliefs, and resources. An action is said to be rational if (1) it can be proven (ex-ante rather than ex-post) as the best course of action that might be

taken to meet the preferences of an agent under his belief, (2) the belief that rational according to the evidence available, (3) process and the quality of evidence can be justified according to the analysis of cost versus benefit.

Rational choice theory adopts a methodology of individual positions and efforts to explain all social phenomena created by individuals for the benefit of the individual. This theory sees social interaction as a social exchange modeled in economic action. People will be motivated by the rewards and costs incurred for their actions and the benefits they get (29).

In the book of (32), Public Policy Theories, Models and Concepts: An Anthology, he described the thought economist (33) to the field of political science, who began to embrace the rational choice theory (32). Previously (34) developed the theory and framework of (33) and stated that public choice theory is "a combination of economics and politics for the practical study of public problems" (32, 34). The rational choice theory emphasizes that individuals are selfish, rational, utility-maximizing, self-interested, and autonomous (35, 32, 36, 33).

Meanwhile, (37) tried to unify and balance Old Institutionalism theory with atomistic rational choice theory. From the efforts of (37), they created New Institutionalism (35, 37). This New Institutionalism does not emphasize top-down, old institutionalism, or bottom-up, individual, atomistic approach, but institutions and individuals produce endogenous results in describing and explaining political science phenomena (35, 37).

The basic idea put forward by the Rational Choice Theory of institutionalism paradigm is that the institution is the result of agents that aim to address existential issues, forge alliances, and pursue rational interests. Although initially, rational choice is not relevant to institutions, it eventually results in theoretical developments in the role of institutions. In this sense, some writers use the term "actor-centered institutionalism" which indicates the important role given to individuals (35). James Coleman (1990) is an expert on this approach in the book Foundations of Social Theory, treating institutions and norms as patterns of individual behavior that are coordinated and mutually reinforcing.

Rational Choice Institutionalism which is rooted in economics and organizational theory discusses institutions as a system of rules and incentives. Rules are debated so that one group of actors can be impacted by another actor's actions. Decision making is explained from modeling assumptions and game theory in which one party is the challenger and the other party is the power holder facing each other (38).

Rational Choice Institutionalism considers organizations as voluntary cooperative structures that solve collective problems and benefit all parties. Therefore the way to solve these collective problems through cooperation is found in either formal institutions

or informal institutions, and this allows opportunistic individuals to seek personal gain in realizing mutual benefits. Individuals observe that institutional rules also limit competitors' choices and that rules will benefit entire groups of individuals. Rational actors, in the aggregate, can choose to malfunction institutions even when, as individuals, they understand what they are doing. Indeed, the most basic results in rational choice provide us with sufficient reason to expect dysfunctional results from rational individual choices (39).

In Rational Choice Institutionalism, institutional arrangements are illustrated as amorphous but they all consist of a collection of "rules and incentives that set parameters on individual behavior" (35). It establishes a political space in which individuals act rationally (40, 41, 42, 35). These rules offend and determine who the actors are in institutional settings. Individual actors work to influence the behavior of others in institutional settings to maximize self-interest, profits, and also actors work to influence the rules of institutional arrangements; concurrently, institutional rules work to control the behavior of actors (35).

The rational choice institutionalism highlights the role of institutions in the strategic interaction between the actors and the determination of the result (43). However, this institution does not explain the details of how institutions are created, although it does acknowledge the possibility that the creation of institutions is a rational act of actors interested in the same creation. This approach has functionalist content (Peters, 1999) and deduces the "goodness" of institutions (44). (45) distinguishes between institutions as exogenous and institutions as endogenous. Exogenous, namely the rules and practices of fixed and external institutions for individuals operating in them, while endogenous sees rules and practices as the intentions and actions of the individual itself. In the second view (endogenous), it is open to individuals in an activity to try to change the rules; considering that one set of rules will probably have better results for one purpose than another.

Two separate levels of analysis can be distinguished in Rational Choice Institutionalism (46), namely; a) by considering institutions as fixed and exogenous, i.e. by analyzing and studying the effects of institutions, and b) analyzing institutions as endogenous variables, i.e. why institutions take certain forms. The first is a study of the effects of institutions, a theoretical choice of the institution requires that the individual have any expectations about the effects of institutions. At this level, the institution consists of the actors, the strategies and the order in which they were chosen, the information they had when making their choices, and the results of the combination of those choices. This approach treats institutions as exogenous. The first level of analysis is antecedent

to the second level of analysis. In the language of game theory, Nash Equilibrium at this level is that the actors will both offer the ideal strategy for them, and one of the actors will randomly be selected as the winner. (47) calls it the structure-induced equilibrium of institutional games.

Meanwhile, at the second level of analysis, the study of institutions is more in-depth to analyze the effects of institutions along with social and political interactions. Understanding the long-term evolution and survival, and the shape of the institution. The study of institutions as endogenous produces particular theories regarding stability, form, and viability. In contrast to the approach that is "institution as given", this approach allows a study of how actors influence institutions when conditions change. The rules in this second analysis are determined by the actors themselves as they wish, but often the results are not as intended.

In connection with (46) second-level analysis, questions arise such as why institutions take one form differently from another, and why institutions are changed in some circumstances but not in others. Rules of the game are made by the players themselves, and these tend to be simple rules. Institutional arrangements are focused and can encourage coordination in the vicinity (45). The model of institutional stability also enables the institution transformed by a certain actor but there are also these actors who do not get incentives when doing so as occurs in non-governmental organizations (46).

This theory considers the organization as a voluntary cooperation structure to solve the problem of collective and beneficial to all parties, and also allows individual opportunists seeking personal gain. It is used in this research design to investigate the relationships and influences between actors. Research framework can be seen in Figure 2.
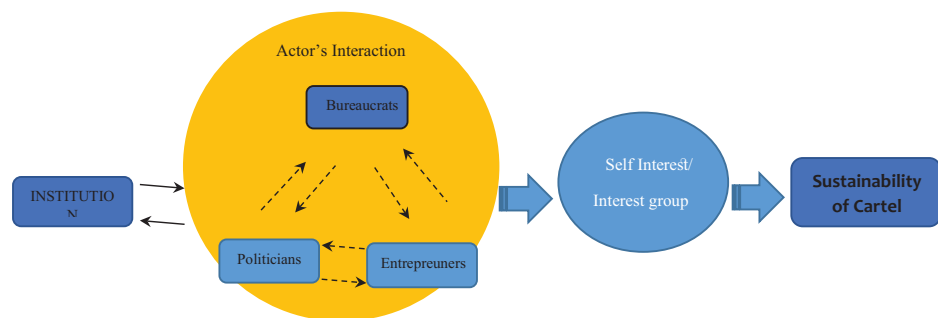

Figure 2: Research Framework.

An arrow with a dotted line connecting the actors depicts the interaction between the actors. At this stage, it can be used to analyze, predict, and explain individual behavior

in institutions and can describe individual interaction patterns. Whereas the line with two arrows at each end of the line illustrates how institutional rules and arrangements govern individual actions and how individual actors attempt to change the rules.

2. Research Method and Case Selection

To understand cartel behavior from an institutional economics perspective, this study analyzed two cases of imported garlic cartel. In this study, there were 2 cases of cartel-related imports of garlic (a) The case of 19 importers cartel in 2014 and (b) Case I Nyoman Dhamantra 2019. In both cases the actors are motivated for rewards and cost incurred for their actions and benefits they get (29) and there is "actor-centered institutionalism" which indicates the important role assigned to the individual (Peters, 1999).

This study explores the process of cartel occurrence and analyzes the key actors involved in the policy change process, their access channels, strategies, interests, and influences. This research undertakes extensive documentary research on published policy documents, memos, court decisions, media reports, and academic papers. It is worth mentioning that the two cases in this study are high profile cases and have been published by many media. Thus, this study mainly relied on documentary research to collect data. In-depth interviews are an additional tool for data collection.

Both cases have the same aspect. However, there is a significant difference, namely that there are striking variations in the involvement of actors in cartels. For example, the case of I Nyoman Dhamantra in 2019 involved political actors in influencing existing policies. Accordingly, the similarities and differences between the two cases form the basis for a comparative study.

Finally, given the availability of data, these cases are well known to the public. The media have conducted some reports and interviews on policy issues, and several studies have revealed the inside story of the garlic import policy process. All of these important resources contribute to a better understanding of the policy change process and make this dual case study can be carried out.

Garlic Import Cartel : Institutional Analysis Perspective

The price of garlic rises every year to a price of IDR 50,000 per kilogram. During the grace period 2012-2018, the domestic garlic production stands at around 17-40 thousand tons per year are imported from China's main producers of garlic. Whereas in China, it is not more than IDR 10,000 per kilogram. Domestic consumption of garlic continues to increase from 465 thousand tons to 622 thousand tons and for the next year, it is estimated to continue to increase. As a result, there is a huge deficit in the

availability of garlic. This figure of course is an interesting picture for the perpetrators of garlic that was imported in addition to sub-tropical plants that are difficult to grow in the tropical climate of Indonesia and not a self-serving product category.

TABLE 1: Percentage of Domestic Production on Availability of Garlic (ton)

Year	2012	2013	2014	2015	2016	2017	2018
Domestic Production	17.638	15.766	16.894	20.293	21.150	19.510	39.302
Imported	448.098	442.762	494.631	479.941	448.881	556.060	582.995
Amount	465.736	458.528	511.525	500.234	470.031	575.570	622.297
Percentage	3,79	3,44	3,30	4,06	4,50	3,39	6,32

Source : Directorate General of Horticulture, Ministry of Agriculture 2019

Socio-economically, the garlic import cartel tends to rarely appear in public attention because garlic is considered less strategic when compared to other commodities such as rice, shallots, or beef. The change in the garlic import trade system is one of the causes of the cartel. The change in the import trade system in question is the existence of a mechanism for issuing a Horticultural Product Import Recommendation (RIPH) from the Ministry of Agriculture which is then used as a reference to obtain an Import Approval Letter (SPI) from the Ministry of Trade.
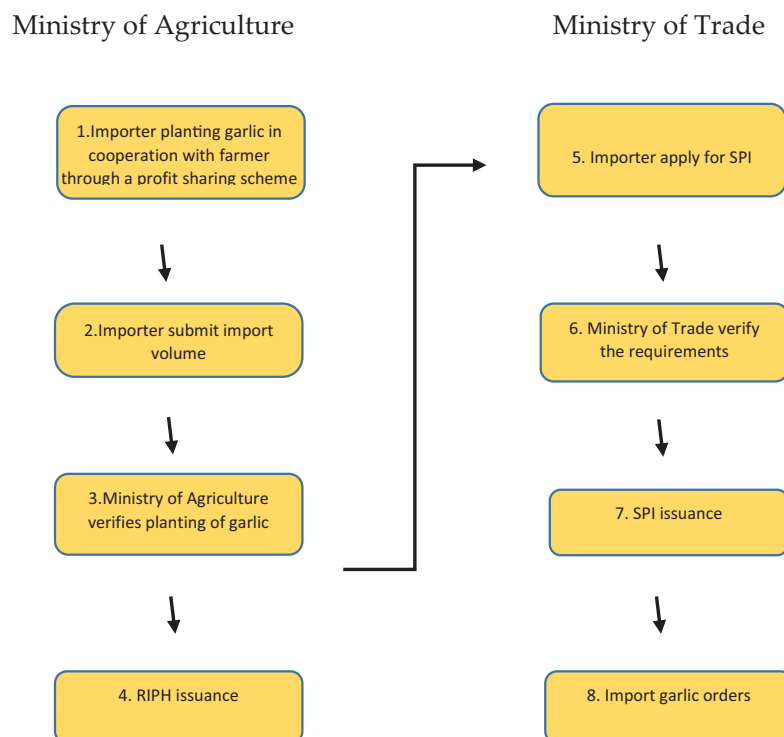
Ministry of Agriculture   Ministry of Trade

1. Importer planting garlic in cooperation with farmer through a profit sharing scheme

5. Importer apply for SPI

2. Importer submit import volume

6. Ministry of Trade verify the requirements

3. Ministry of Agriculture verifies planting of garlic

7. SPI issuance

4. RIPH issuance

8. Import garlic orders

Figure 3: Garlic Import Flow. (Source : Author's Compilation of Ministry of Agriculture Regulation No. 38 of 2017 concerning RIPH).

Two Cases of Garlic Import Cartel

The Cartel Case of 19 importers in 2013

In 2014, in the trial of the verdict on alleged violations of Law No. 5 of 1999, the KPPU found 19 affiliated garlic importers[?] guilty of committing cartels. Cooperation among affiliated companies by coordinating prices, regulating imports, and marketing garlic in the country to obtain higher profits. The panel of judges fined importers ranging from 10 of millions of rupiah to 921 million rupiahs, totaling 13.3 billion rupiahs. In this case, the Director-General of Foreign Trade of the Ministry of Trade and the Quarantine Agency of the Ministry of Agriculture was involved in the conspiracy. (Decision on case Number: 05 / KPPU-I / 2013 was read out on March 20, 2014).

In that period the Ministry of Agriculture issued Regulation of the Minister of Agriculture Number 60 / Permentan / OT.140 / 9/2012 concerning Import Recommendations for Horticultural Products. Meanwhile, the Ministry of Trade issued Regulation of the Minister of Trade Number 30 / M-DAG / PER / 5/2012 concerning Provisions on the Import of Horticultural Products as the basis for issuing SPI. Nineteen importing companies affiliated with the 3 groups can extend SPI without having a RIPH. Meanwhile in the provisions of the Regulation of the Minister of Trade Number 30 / M-DAG / PER / 5/2012 concerning Provisions for the Import of Horticultural Products Article 11 paragraph 4 reads "import approval as referred to in paragraph (2) letter a applies in accordance with the recommendations of the relevant agencies as of the date of issuance."

In the case of this cartel, there was an interaction between fellow entrepreneurs and interactions in building mutually beneficial relationships between entrepreneurs and bureaucrats. Importers choose to cooperate where they should compete in the garlic trade by forming affiliates, processing SPI documents by the same party. Importers arrange supplies according to affiliation by not carrying out their obligation to import garlic according to the quota within the stipulated grace period. In Cournot Competition Theory, the determination of the sales volume is carried out by (a) determining the quantity of supply carried out sequentially, namely the first company sets the price which is then followed by other companies (b) the determination of the quantity of supply is carried out simultaneously, namely the company determines the volume of goods sold simultaneously (Thigh, 2013).

There is also a conspiracy between entrepreneurs and bureaucrats in this garlic import cartel. Director-General of Foreign Trade provides SPI extension beyond the period RIPH which has no legal basis. One of the reasons the Ministry of Trade to do an extension of SPI without RIPH is that by December 2012 monthly calculation of garlic into Indonesia was only around 35% of the total import quota of garlic given by the government, so there are still about 65% not signed in.

The Ministry of Trade believes that if an extension is not carried out, the price will be increasingly out of control (Court Decision Number: 05 / KPPU-I / 2013, p. 234). The policy for extending the validity period of the SPI is also non-transparent and discriminatory. The Directorate General of Foreign Trade of the Ministry of Trade did not officially announce the policy of extending the SPI period and was discriminatory by rejecting one of the business actors, PT Indobaru Utama Sejahtera, who would extend SPI who was not affiliated with 3 importers groups. Also, the Quarantine Agency of the Ministry of Agriculture still provides quarantine services for imported garlic even though there is a mismatch between the RIPH validity period and the SPI validity period.

The Case of I Nyoman Dhamantra in 2019

Furthermore, in the second case, in August 2019, I Nyoman Dhamantra, a politician from the Indonesian Democratic Party of Struggle (PDIP), was arrested by the Corruption Eradication Commission (KPK) for alleged bribery related to garlic imports and has been convicted with verdict No. 119 /Pid.Sus-TPK / 2019 / PN.Jkt.Pst. Previously, in this case, the KPPU had suspected unfair competition among importers.

I Nyoman Dhamantra received a bribe of two billion rupiahs from the owner of PT Cahaya Sakti Agro Chandry Suanda and Doddy Wahyudi, the owner of PT Sampico Adhi Abattoir. With the bribe, Doddy Wahyudi asked I Nyoman Dhamantra to influence the Ministry of Agriculture to issue RIPH and the Ministry of Trade to issue SPI for garlic to a company owned by Chandry Suanda. I Nyoman Dhamantra has the position of a member of Commission VI, a member of the DPR RI from the PDIP faction for the 2014-2019 period. Commission VI of the DPR RI has the task and authority in the functions of legislation, budgeting, and supervision in the fields of investment, industry, and trade where one of the defendants' partners in Commission VI of the DPR RI is the Ministry of Trade, the agency authorized to issue SPI.

In early 2019, Chandry Suanda attempted again to apply for an import quota permit of 20,000 tons of garlic. He proposed cooperation with PT Pertani (Persero) through 4 newly founded companies, namely PT Perkasa Teo Agro, PT Citra Sejahtera Antarasia, PT Cipta Sentosa Aryaguna, and PT Abelux Kawan Sejahtera to fulfill the mandatory five percent planting obligation as a condition for the issuance of RIPH from the Ministry of Agriculture. Even though it was known that in 2018 PT Cahaya Sakti Agro had not completed the payment obligation to PT Pertani (Persero) for compulsory planting that had been implemented by PT Pertani (Persero) in 2018[?]. Of the four newly established companies, only PT Perkasa Teo Agro has been approved by RIPH with an import volume of 7.5 million kilograms.

In 2019, the Ministry of Agriculture noted half importers of 75 companies failed to meet the obligations required of planting five percent. For that fail, the Ministry of Agriculture blacklists the list of candidates for next year's quota. However, importers can trick the sanctions by changing names or establishing new companies. Corruption and weak surveillance make this strategy as if it can not be detected.

Through Mirawati, the confidant of I Nyoman Dhamantra, Chandry Suanda asked I Nyoman Dhamantra for help in arranging a garlic import permit. Chandry Suanda gave two billion rupiahs and a promise of one billion five hundred million rupiahs through Mirawati. The gift had something to do with I Nyoman Dhamantra's position as a member House of Representatives the Republic of Indonesia Commission VI in taking care of the administration of SPI garlic at the Ministry of Trade of the Republic of Indonesia and RIPH at the Ministry of Agriculture of the Republic of Indonesia.

The role of I Nyoman Dhamantra, in this case, was to contact the Minister of Trade to administer SPI for the amount of garlic import quota, and he did it from the party line[?]. In this case, there is an interaction between entrepreneurs and politicians.. Entrepreneur actors try to build relationships, then influence the politicians in institutional settings to maximize personal interests and profits. The actors also influence the rules of institutional arrangements (35).

There is an inappropriate garlic import policy with the quota regime by limited permits to importers because import quotas are very vulnerable and misused for corruption due to the lack of transparency in granting quotas to importers. Besides the effect of the quota policy, it limits the number of items that exist then the domestic price will be higher than the world price. The importer can deliberately withhold supply by deferring part of its import obligations to take advantage. As a result, consumers buy at a higher price, where the profits are enjoyed by licensees who buy at world prices but sell at domestic prices. There is an entry point to commit a cartel, which is caused by the imposition of cartels, and even cartels are easier to carry out in a quota regime than in a tariff[?].

Consistently with Rational Expectation Theory, where every economic agent will form expectations based on related information and act based on their expectation that they form (48, 49). For self-interest and sufficient reasons, rational actors who represent strong interest groups can negotiate inefficient regulatory solutions that will become a problem for the institution itself (50).

3. Discussion and Conclusion

This study uses two cases in the imported garlic cartel, namely (a) The Case of 19 importers cartel in 2014 and (b) The Case of I Nyoman Dhamantra in 2019. In case (a), the Director-General of Foreign Trade of the Ministry of Trade and the Quarantine Agency of the Ministry of Agriculture participated in the conspiracy. There is an interaction among entrepreneurs and interaction among entrepreneur actors and bureaucratic actors that are mutually beneficial. The coordination among affiliated companies did by managing import documents with the same party, coordinating prices, regulating imports, and marketing garlic to obtain higher profit. Entrepreneurs and bureaucrats also conspire. The Director-General of Foreign Trade provides an extension of the SPI beyond the RIPH period for which there is no legal basis. The Quarantine Agency of the Ministry of Agriculture continues to present quarantine services for imported garlic even though there is a mismatch between the RIPH validity period and the SPI validity period.

Case (b), entrepreneur actors will influence politicians and politicians because their positions will influence bureaucrats for garlic import quota policy. Chandry Suanda influenced politician I Nyoman Dhamantra for the amount of the import quota of his affiliated companies. Furthermore, I Nyoman Dhamantra as a parliament member in partnership with the Ministry of Trade will affect the Secretary of Commerce for Import permits pass-owned companies Chandry Suanda.

In both cases, there is a role for institutions in strategic interactions among actors to determine outcomes (43) that indicates the significant role assigned to individuals (35). Rules were debated, the action of another actor impacted one group of actors (38). Rational actors in the aggregate can choose to malfunction institutions even when, as individuals, they understand what they are doing. Indeed, the most fundamental results in rational choice have given us enough reasons to expect the results of a dysfunctional individual Rational Choice (39) and must be a problem for the institution.

This import quota policy itself aims to protect domestic producers from imports. Policy import quotas are very vulnerable and can misuse for corruption because of the lack of transparency in awarding quotas to importers. Formal procedures such as laws, social norms, and government bureaucracies that are manipulated by individuals and private companies aim to influence policy and state law for their favor (state capture). State capture intends to influence policy and law to protect influential personal interests (52, 53).

The quota policy limits the number of items that existed so that the domestic prices will be higher than the world price. But for their garlic products, domestic manufacturers can only provide less than 10 percent of the national requirement since garlic is a subtropical plant that is hard to grow in the tropical climate of Indonesia. While the World Trade Organization of which Indonesia is a member encourages countries to change the policy from import quotas to tariff policy.

This import tariff policy is adaptable to implement as an alternative to import policy for various reasons. First, we would know the price of food commodities abroad and domestically with certainty at any time. With this convenience, the government only has to determine how much the tariff to apply. Second, the tariff policy will benefit the government because there is a precise revenue from the import tariff. Revenue from this tariff can be an additional source of government funding for various purposes, such as incentives to increase domestic food production. Third, for Indonesia as a food importing country that cannot influence world food prices, this tariff policy protects domestic producers. The import tariff policy causes the price of imported goods to increase in the domestic market. This condition has made domestic producers still receive incentives to increase their production.

The study was limited in two imported garlic cases. Future research can enrich the literature to overcome this limitation. These two cases are typical for the type, context, and a limited but necessary prerequisite, and we got the right information about the cartel process. Future research may include more cases and use quantitative methods (surveys), which yield more information. Further studies may broaden the interview sample. The data comes from several years ago and ideally should follow with the most recent developments that cover future research efforts.

References

[1] Veblen T. The theory of leisure class: An economic study of institution. New York: Vanguard Press; 1926.

[2] North DC. Institutions, institutional change and economic performance. Cambridge: Cambridge University Press; 1990.

[3] North DC. Institutions. Journal of Economic Perspectives. 1991;5(1):97-112.

[4] Berzins M, Sofo F. The inability of compliance strategies to prevent collusive conduct. Corporate Governance. 2008;8(5):669-680.

[5] Connor JM, Lande RH. The sizes of cartel overcharges: Implications for U.S and E.U. fining policies. Antitrust Bulletin. 2006;51(4):983-1022.

[6] Pepall LM, Daniel JR. Reach for the stars: A strategic bidding game. Economica. 2001;68(22):489-504.

[7] Lypczynski J, Wilson J, Goddard J. Industrial organization – Competition, strategy, policy. 3rd ed. Edinburgh: Pearsons Education Limited; 2009.

[8] Beaton-Wells C, Ezrachi A. Criminalizing cartels. 1st ed. Oxford: Hart Publishing; 2011.

[9] Shaffer GC, Nesbitt NH, Waller SW. Comparative competition law. Duns J, Duke A, Sweeney B, editors. Cheltenham: Edgar Elgar Publishing; 2015.

[10] Nikodym L. Theoretical aspects of cartelization in central Europe: An introduction to cartel theory. Central European Papers. 2014;2(1):25-38.

[11] Levenstein MC, Suslow VY. What determines cartel success? Journal of Economic Literature. 2006;44(1):43–95.

[12] Levenstein MC, Suslow VY. Cartels and collusion - Empirical evidence. Ross School of Business working paper no. 1182. Rochester: SSRN-Elsevier; 2012.

[13] Connor JM. Private international cartels: Effectiveness, welfare and anti-cartel enforcement. Purdue Agricultural Economics Working Paper No. 03-12. Rochester: SSRN-Elsevier; 2003.

[14] Klein GJ. Cartel destabilization and leniency programs – Empirical evidence. Economics Bulletin. 2019;39(3):1918-1924.

[15] Frübing S, Polk A. Product differentiation, leniency programs and cartel stability. Institute for International Business Studies at the Berlin School of Economics and Law. Rochester: SSRN-Elsevier; 2017.

[16] Dijkstra PT, Frisch J. Sanctions and leniency to individuals, and its impact on cartel discoveries: Evidence from the Netherlands. De Economist. 2018;166:111–134.

[17] Bos I, Joseph EH. Competition policy and cartel size. International Economic Review. 2015;56(1):133-153.

[18] Vilakazi T, Roberts S. Cartels as 'fraud'? Insights from collusion in Southern and East Africa in the fertiliser and cement industries. Review of African Political Economy. 2019;46(161):369-386.

[19] Jasper JD, Corser R. Numeracy predicts more effortful and elaborative search strategies in a complex risky choice context: A process tracing approach. Journal of Behavioral Decision Making. 2017;30(2):224-235

[20] Ellickson R. Order without law: How neighbors resolve disputes. Cambridge: Harvard University Press; 1991.

[21] Granovetter M. Economic action and social structure: The problem of embeddedness. American Journal of Sociology. 1985;91(3):481–510.

[22] Black D. Crime as social control. American Sociological Review. 1983;48:34–45.

[23] Black D. Toward a general theory of social control. Academic Press. 1984;1:1–36.

[24] Macaulay S. Non-contractual relations in business: A preliminary study. American Sociological Review. 1963; 28(1);55–67.

[25] Macaulay S. The real and the paper deal: Empirical pictures of relationships, complexity and the urge for transparent simple rules. Revisiting the contracts scholarship of Stewart Macaulay: On the empirical and the lyrical. London: Bloomsbury Publishing; 2013.

[26] Hayami Y, Ruttan V. Agricultural development: An international perspective. Baltimore: The Johns Hopkins Press; 1983.

[27] Nelson G. Rational choice institutionalism and federal contracting officers' discretionary authority for allocating construction contracts among federally designated disadvantaged and socioeconomic small business concerns: An exploratory research design. Washington State University School of Politics, Philosophy and Public Affairs. Berlin: ResearchGate; 2017.

[28] Ostrom E. Background on the institutional analysis and development framework. The Policy Studies Journal. 2011;39(1):7-27.

[29] Scott J. Understanding contemporary society: Theories of the present. London: Sage Publications; 2000.

[30] Herfeld C. From theories of human behavior to rules of rational choice: Tracing a normative turn at the Cowles Commission, 1943-1954. History of Political Economy. 2018;50(1):1-48.

[31] Elster J. Rational choice reading in social and political theory. Manhattan: NYU Press; 1986.

[32] McCool DC. Public policy theories, models, and concepts: An anthology. Englewood: Prentice-Hall; 1995.

[33] Buchanan J, Rullock G. The calculus of consent. New York: Harper and Row; 1962.

[34] Riker W. The place of political science in public choice. 2nd ed. Public Choice 57. New York: Springer; 1988.

[35] Peters BG. Institutional theory in political science: The new institutionalism. 3rd ed. New York: The Continuum International Publishing Group; 2012.

[36] Mitchell W. Efficiency, responsibility, and democratic politics. Liberal Democracy. 1983;25:343-373.

[37] March JG, Olsen JP. The new institutionalism: Organizational factors in political life. The American Political Science Review. 1984;78(3):734-749.

[38] Ishiyama J, Breuning M. Neoinstitutionalism. Encyclopedia Britannica; 28 October 2014. Available from: https://www.britannica.com/topic/neoinstitutionalismJasper JD, Corser R. Numeracy predicts more effortful and elaborative search strategies in a complex risky choice context: A process tracing approach. Journal of Behavioral Decision Making. 2017;30(2):224-235

[39] Miller G. Rational choice and dysfunctional institutions. Governance: An International Journal of Policy and Administration. 2000;13(4):2000.

[40] Jones C. Politics and the architecture of choice. Chicago: University of Chicago Press; 2001.

[41] Jones C. Bounded rationality and political science: Lessons from public administration and public policy. Journal of Public Administration and Policy. 2003;13:395-412.

[42] Christensen T. International encyclopedia of political science. Bounded rationality. London: Sage Publications; 2011.

[43] Moe TM. Power and political institutions. Perspectives on Politics. 2005;3(2):215-233.

[44] Paha J. The economics of competition law. Giessen: Justus-Liebig-University Giessen; 2013.

[45] Moe TM. The new economics of organization. American Journal of Political Science. 1984;28(4):739-777.

[46] Shepsle KA. The Oxford handbook of political institutions. Oxford: Oxford University Press; 2006.

[47] Weingast BR. A new handbook of political science. Oxford: Oxford University Press; 1996.

[48] Shepsle KA. Studying institutions: Some lessons from the rational choice approach. Journal of Theoretical Politics. 1989;1(2):131-147.

[49] Lucas RE. Expectations and the neutrality of money. Journal of Economic Theory. 1972;4(2):103-124.

[50] Sargent TJ, Wallace N. Rational expectations, the optimal monetary instrument, and the optimal money supply rule. Journal of Political Economy. 1975;83:241-254.

[51] Moe TM. The politics of bureaucratic structure. Can the government govern? Chubb JE, Peterson PE, editors. Washingto, D.C.: Brookings Institution Press; 1989.

[52] Becker GS. Crime and punishment: An economic approach. The University of Chicago and National Bureau of Economic Research. Cambridge: NBER; 1974.

[53] Hellman JS, Jones G, Kauffman D. State capture, corruption and influence in transition. Policy research working paper 244. The World Bank; 2000.

[54] Edwards DC. Corruption and state capture under two regimes in Guyana. Berlin: ResearchGate; 2017.

4. Appendix 1

Table 2: Garlic Importer Affiliations and Supply Quantity

Affiliation	Companies	Supply Percentage	Quantity (kg)
1	a) CV Bintang b) CV Karya Pratama c) CV Mahkota Baru d) CV Mekar Jaya e) PT Dakai Impex f) PT Dwi Tunggal Buana g) PT Global Sarana Perkasa h) PT Lika Dayatama i) PT Mulya Agung Dirgantara j) PT Sumber Alam Jaya Perkasa k) PT Sumber Roso Agromakmur l) PT Tritunggal Sukses m) PT Tunas Sumber Rezeki	56,68	23.518.018
2	a) CV Agro Nusa Permai b) CV Kuda Mas c) CV Mulia Agro Lestari	14,03	5.515.000
3	a) PT Lintas Buana Unggul b) PT Prima Nusa Lentera Agung c) PT Tunas Utama Sari Perkasa	10,67	3.217.000