

# MODULE 6B

## LEGALITY ASPECT & ENVIRONMENT ASPECT



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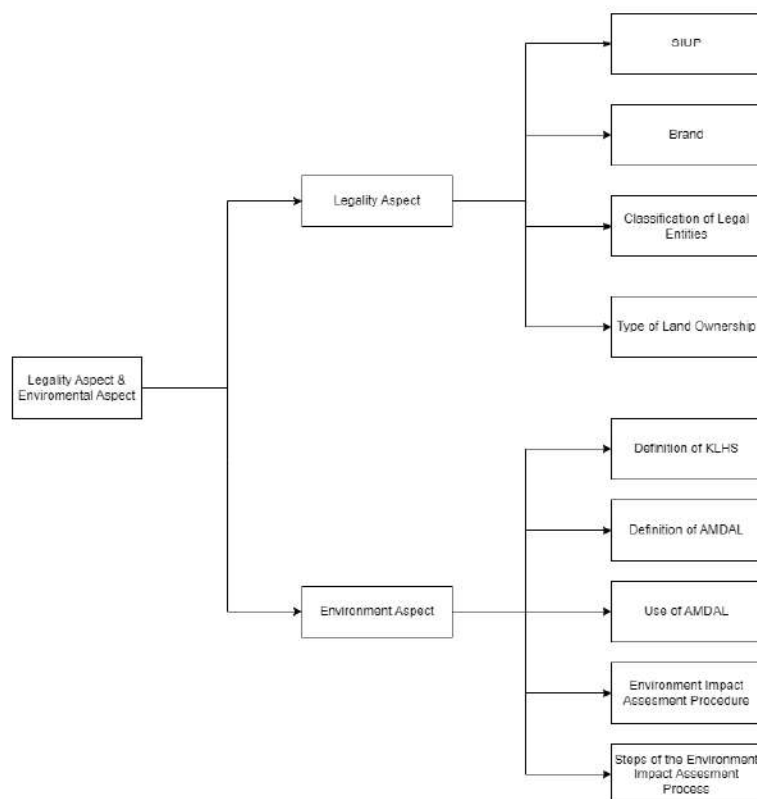
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### LEGALITY ASPECT AND ENVIRONMENT ASPECT

#### LABWORK OBJECTIVES

1. Students are able to determine and collect necessary data regarding the legality aspect of the company
2. Students are able to understand step to making SIUP (Surat Izin Usaha Perdagangan or Business License)
3. Students are able to determine the cost of SIUP required in accordance with the conditions and location of the business
4. Students are able to make an AMDAL (Analisis Mengenai Dampak Lingkungan or Environment Impact Analysis) plan in accordance with the business undertaken.

#### PRACTICUM OUTLINE



#### THEORETICAL EXPLANATION

## 6.1 Legality Aspect

### 6.1.1 Surat Izin Usaha Perdagangan (SIUP)

In the Decree of the Ministry of Domestic Trade No. 591 / MPP / KEP / 10 / 1999 concerning Provisions and Procedures for Granting SIUP States that: SIUP is a permit to carry out trading activities. SIUP is a permit issued by the Minister or an official appointed to the entrepreneur to carry out business in the field of trade and services.

#### 1. Benefit of SIUP

According to Setianto (2008, p.81) there are three benefits in taking care of SIUP, including :

- a. Received recognition from the local government,
- b. As a requirement of dealing with the bank,
- c. Making a relationship and/or cooperation with other parties.

#### 2. Legal Basis of SIUP

SIUP is a permit issued directly by the government, therefore SIUP has a strong legal basis, including :

- a. Regulation of the Ministry of Trade No. 36 / M-DAG / PER / 9 / 2007 concerning Issuance of Business License,
- b. Regulation of the Ministry of Trade of the Republic of Indonesian No. 46 / M-DAG / PER / 9 / 2007 concerning amendment to the regulation of the Ministry of Trade Number No.36 / M-DAG / PER / 9 / 2007,
- c. Regulation of the Ministry of Trade No. 7 / M-DAG / PER / 2 / 2017 concerning the third amendment to the Regulation of the Ministry of Trade No. 36 / M-DAG / PER / 9 / 2007 concerning the issuance of Business Licenses,
- d. Regional Regulation No.20 of 2002 concerning Business License

#### 3. Type of SIUP

According to the Regulation of the Ministry of Trade concerning the changes of Regulation of the Ministry of Trade No. 46 / M-DAG / PER / 9 / 2009, regarding the Issuance of Trade Licenses is divided into 3 classifications, including :

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a. Small

SIUP must be owned by a trading company whose wealth (paid up capital) is more than Rp 50.000.000 to a maximum of Rp 500.000.000 excluding land and buildings for business premises.

b. Medium

SIUP must be owned by a trading company whose wealth (paid up capital) is more than Rp 500.000.000 up to a maximum of Rp 10.000.000.000 excluding land and buildings for business premises.

c. Large

SIUP must be owned by a trading company whose wealth (paid up capital) is more than Rp 10.000.000.000 excluding, land and buildings for business premises.

4. SIUP Free Company

There are several companies or types of businesses that are exempt from the SIUP, including :

- a. Branch/representative companies
- b. Companies that have received business licenses from the technical department
- c. Production company that established in the framework of UU No. 6 of 1968 concerning PMDN (Penanaman Modal Dalam Negeri or Domestic Investment)
- d. BUMN (Badan Usaha Milik Negara or State Owned Company) and BUMD (Badan Usaha Milik Daerah or Regional Owned Company)
- e. Individual small company
- f. Wholesalers and street vendors.

## 6.1.2 Brand

Brand is a graphic representation of a picture, logo, name, word, letter, number, color arrangement, in two dimensional and/or three dimensional form, sound, hologram, or a combination of two or more of these elements to distinguish the goods and/or services generated by a person or legal entity in the trading of goods and/or services.

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## 1. Trademark

Trademarks are marks used in goods traded by persons or persons jointly or by legal entities to distinguish them from other similar goods.

## 2. Brand Service

Brand Service is a brands that are used for services traded by people or persons jointly or legal entities to differentiate from other similar services.

Based on the Government Regulation No. 28 of 2019 concerning Types and Rates of Non-Tax State Revenues that apply to the Ministry of Law and Human Rights (PP. 28 / 2019). For the types of intellectual property rights services as stated in the Appendix of Non-Tax State Revenues that apply to the Ministry of Justice and Human Rights, application rates are applied for trademark registration are the following :

### 1. Micro Business

- a. Electronically (online) : Rp 500.000 per brand
- b. Non – electronic (manual) : Rp 600.000 per brand

### 2. General

- a. Electronically (online) : Rp 1.800.000 per brand
- b. Non- electronic (manual) : Rp 2.000.000 per brand

### 6.1.3 Classification of Legal Entities

Business entity is an organizational unit consisting of factors production aimed at seeking profit. There are business entity differences, which are:

Factor	Corporated	Incorporated
Legal Subjects	The subject of law is the business entity itself. This meant that third parties can sue business entities, but cannot sue individuals in it.	The subject of law is individuals who take care of business entities. This means that third parties can sue individuals who are in the business entity.

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<p>Company Asset</p>	<p>a. The company's assets are separate from the personal assets of the management or its member</p> <p>b. if the company goes bankrupt, only the company's assets will be confiscated. So that if there is a loss or prosecution that led to the payment of compensation or debt settlement is only limited to the company's wealth.</p>	<p>a. The company's assets are united from the personal assets of the management or its member.</p> <p>b. if the company goes bankrupt, personal assets are also confiscated so that if there is a loss or prosecution that results in the payment of compensation or debt repayment, personal assets can become collateral.</p>
<p>Example</p>	<p>PT (Perseroan Terbatas or Limited Liabilities Company), PN (Perseroan Negara or State Company), PD (Perseroan Daerah or Regional Company), Koperasi, Perum, Perjan, Persero, and Yayasan (Union, Public Corporation, Service Company, Company and Foundation).</p>	<p>CV, Firm, Individual Company (Limited Partnership &amp; Firm)</p>

## 1. Koperasi (Union)

Koperasi is a type of business entity consisting of people or union legal entities. Koperasi based their activities based on the principles of the people's economic movement based on kinship principle (family principle). According to UU No. 25 of 1992 article 5 stated the principle of cooperatives, namely :

- a. Membership is voluntary and open
- b. Management is carried out democratically

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- c. The distribution of SHU (Sisa Hasil Usaha or Remaining Results of Operations) is carried out fairly in proportion to the number of business services of each member (the share of these members in the union).
- d. Providing limited compensation for capital
- e. Independence
- f. Operational education
- g. Cooperation between cooperatives

## 2. BUMN (Badan Usaha Milik negara or State owned Company)

BUMN is a business entity whose capital is wholly or partly owned by the BUMN Government. There are three types of BUMN companies, including:

Kind of BUMN	Definition	Example
Perjan	The form of BUMN which is wholly owned by the government. Perjan is service oriented to the community	PT KAI (Kereta Api Indonesia)
Perum	Perum is perjan whose purpose has been changed to profit oriented	Perum, Perumnas, Perum Bulog
Persero	<ul style="list-style-type: none"><li>a. Persero is one of the business entities managed by the State or Region. The aim is to seek profits and provide services to the general public.</li><li>b. Source of capital is from stocks</li><li>c. Persero is led by directors</li><li>d. Employee status is private employee</li></ul>	<ul style="list-style-type: none"><li>PT Bio Farma (Persero)</li><li>PT Dirgantara Indonesia (Persero)</li></ul>

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### 3. BUMS (Badan Usaha Milik Swasta or Private Owned Company)

BUMS is a business entity established and capitalized by a person or group. Based on Article 33 of the 1945 Constitution, business sectors granted to the private sector are managing economic resources that are not vital and strategic or that do not control the interests of many people. Based on the legal form, private – owned business entities can be distinguished as follows :

Kind of BUMS	Definition	Characteristic
Perseroan Terbatas	PT is a business entity whose capital is obtained from the sale of shares. Each shareholder has the right to the company and its benefits.	<ul style="list-style-type: none"><li>a. Liabilities are limited to capital without involving personal property</li><li>b. Capital and large company ize</li><li>c. Led by people who do not have shares</li><li>d. Ownership is easy tochange hands</li><li>e. Easy to find labor</li><li>f. Difficult to dissolve company</li><li>g. The strength of the board of directors is greater than the shareholders</li><li>h. Profits are distributed in dividends.</li></ul>



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<p>Firma</p>	<p>A business entity established by two or more people where each member is fully responsible for the company.</p>	<ul style="list-style-type: none"> <li>a. Every member has the right to be a leader</li> <li>b. A member is not entitled to add new members without permission</li> <li>c. Membership of the firm is for life</li> <li>d. Members have the right to dissolve the firm</li> <li>e. If the debt is not paid, then each owner must pay off with personal property</li> </ul>
<p>Persekutuan komanditer</p>	<p>Commanditaire Vennootschap (CV) is an alliance established by two or more people</p>	<ul style="list-style-type: none"> <li>a. Relatively easy to set up</li> <li>b. Big capital because it was founded by many parties</li> <li>c. Easily get loans</li> <li>d. Uncertainty of company survivability</li> <li>e. Difficult to withdraw the paid up capital that has been deposited</li> </ul>

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		f. There are different member roles
Perusahaan Persekutuan	Companies that have two or more investors	a. Unlimited liability b. It is carried out with joint ownership rights c. Have a certain period of time d. The amount of profit its determined based on the agreement

## 6.1.4 Type of Land Ownership

### 1. HM (Hak Milik or Ownership)

Ownership can be defined as rights that have an unlimited period of time (ongoing), rights can be inherited and is provided by UUPA No.20 regarding ownership. This ownership can also be interpreted as a right that can be owned by someone, also can be applied to other parties and only Indonesian Citizens / Legal Entities can own it.

### 2. HGU (Hak Guna Usaha or Cultivation Rights)

Based on point 28 of UUPA, the Cultivation Rights is the right to undertake agricultural activities (Plantation, Farms, Fishery) on State land for maximum period of 25 years. This right can be transferred to other parties, and only Indonesian citizen or Indonesian legal entities can own it.

### 3. HGB (Hak Guna Bangunan or Building Rights)

Based on point 35 of UUPA, right to build is the right to build buildings on State land for 30 years and can be extended for maximum period of 20 years, can be applied to other parties and only Indonesian Citizens / Legal Entities can own it.

### 4. HP (Hak Pakai or (Right of Use)

Based on point 41 of UUPA, the right to use and / or collect results form land that is controlled directly by the state or other people's land.

## 5. Hak Sewa ( Rental Right)

Based on point 44 of UUPA, the right that belongs to a person or legal entity over land that authorizes the holder to use someone's land for building purposes by paying the owner a certain amount of rent.

## 6.2 Environmental Aspect

Environmental aspects are carried out to determine the impact of a company's production process, both negative and positive impacts. Therefore, before a business is run, it is necessary to study the environmental impacts to determine the impacts that will emerge to be analyzed and planned to minimize or eliminate these impacts by using KLHS (Kajian Lingkungan Hidup Strategis or Strategic Environmental Assessment) and AMDAL.

### 6.2.1 Definition of KLHS

KLHS is a series of systematic analysis processes to evaluate the environmental consequences of a proposed policy, plan, or program to ensure that the intended consequences have been considered and included as early as possible in the parallel decision-making process with social and economic considerations.

### 6.2.2 Definition of AMDAL

AMDAL (Analisis Mengenai Dampak Lingkungan) is a study of the large and significant impacts of a planned business or activity on the environment that is required for the decision-making process regarding the conduct of a business or activity. According to Otto Soemarwoto (2003:1), it is stated that: "Environmental Impact Assessment is a reaction to environmental pollution by pesticides and industrial waste committee transport, destruction of rare plant and animal habitats, as well as the low aesthetic value of nature".

### 6.2.3 Use of Amdal

With the investment or business activities, environmental components will automatically change by causing various impacts, especially negative impacts that are not desirable. Some of the roles of AMDAL for companies:

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1. AMDAL is a document for regional development planning.
2. AMDAL can help the decision-making process about the environmental feasibility of a business plan.
3. AMDAL can estimate the environmental impact that will arise from the company of the company that we build.
4. AMDAL is part of technical and economic aspects that indicate the state of the environment for the realization of the project, especially the resources needed for the project such as water, energy, human threats, and nature.
5. AMDAL provides information to the public about the impacts caused by the business plan
6. AMDAL provides alternative solutions to minimize negative impacts
7. AMDAL as an important document. The AMDAL report is an important document of detailed information about the state of the environmental conditions in the post-project period.

## 6.2.4 Environmental Impact Assessment Procedure

Evaluation of AMDAL document is carried out by the Central AMDAL Assessment Commission based in Jakarta, which is to assess AMDAL document from strategic business or activities. In the implementation of regional autonomy, for the provincial level, the AMDAL document assessment is carried out by the Provincial Bapedal (environment impact control agency), which is to assess business or activities that are located in more than one Regency / City. At the Regency / City level, an assessment team is also available, namely officials who have received an Appraiser Certificate (AMDALC).

Evaluation of AMDAL document is carried out for many documents and includes an assessment of the administrative requirements and contents of documents.

Documents assessed include:

1. Evaluation of Kerangka Acuan Analisis Dampak Lingkungan (KA-ANDAL) document.
2. Assessment of Analisis Dampak Lingkungan (ANDAL) document.

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3. Assessment of the Rencana Pengolahan Lingkungan (RKL).
4. Assessment of the Rencana Pemantauan Lingkungan (RPL).
5. Environmental Approval Agreement.

## 6.2.5 Steps of the Environmental Impact Assessment Process

The Outline of AMDAL process Valuation steps are as follows:

1. Identify the impact of the planned business or activity.  
Based on this analysis it can be seen in more detail the negative and positive impact arising from business or activities, so the initial steps have been prepared to overcome the negative impact and develop positive impacts.
2. Describe the baseline environment.  
Describe data relevant to the likely impact of a business plan or activity. This description is based on actual secondary data and is supported by the results of field observations.
3. Predict significant impacts.  
Explain the impact forecasting methods used to estimate the magnitude and importance of impact is an AMDAL study.
4. Evaluate significant impact and formulate RKL and RPL directives.  
This section explains the methods commonly used in AMDAL studies to evaluate.
5. The form of the AMDAL study result becomes a document consisting of 5 documents namely:
  - a. Document of Kerangka Acuan Analisis Dampak Lingkungan (KAANDAL)  
The document that contains the scope and depth of the ANDAL study.
  - b. Document of Analisis Dampak Lingkungan (ANDAL)  
Documents containing a careful review of the significant impact of the planned activity
  - c. Document of Rencana Pengelolaan Lingkungan (RKL)  
Document containing effort to prevent, control negative impacts and maximize the positive impacts of planned activities.

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d. Document of Rencana Pemantauan Lingkungan (RPL)

Documents containing monitoring programs to see environmental changes caused by impacts arising from planned activities.

e. Document of Executive Summary

The document contains a brief description of the magnitude of the impact and the significant nature of the impacts assessed in the ANDAL and the environmental management and monitoring efforts that will be undertaken to manage these impacts.

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