

PATTERNS OF LEGAL RELATIONSHIPS IN SUPPLY CHAIN PARTNERSHIPS PALM OIL THROUGH ISPO CERTIFICATION IN AN EFFORT TO INCREASE COMPETITIVENESS FOR BUSINESSES

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Abstract

The aim of this research is to examine the implementation of legal regulations for the Indonesian sustainable palm oil plantation certification system (ISPO) through supply chain partnership patterns by business actors, then understand the concept of supply chain partnership legal relationship patterns between the private sector and palm oil planters in realizing competitiveness for business actors. oil palm plantation. Qualitative research method, with a normative research type with a conceptual approach and statutory regulations using literature study and field research techniques. The research results show that the implementation of ISPO regulations has a positive impact by increasing productivity, income, purchasing guarantees, providing technical guidance for cultivation, cooperative institutional management as well as financial support for financing, land legality, and has achieved ISPO certificate as recognition of sustainable palm oil standards. Regarding the concept of legal relationship patterns, it has been found that the supply chain partnership concept has fulfilled the elements of agreement, protection and dispute resolution and has the right to use the ISPO label, so that this concept can realize increased competitiveness for business actors

Keywords: Patern of Legal Relation, Partnership, ISPO, Legal Protection, Competitiveness

INTRODUCTION

Increasing competitiveness for business actors can be done with a legal relationship pattern of palm oil supply chain partnerships through ISPO certification. This is to maintain dependence on the flow of goods and services (in this case palm oil products) and also to make it easier to certify plantation businesses and the palm oil processing industry. Palm oil certification, which is often referred to as the Indonesian Sustainable Palm Oil (ISPO) Certificate, is a mandatory certification stipulated by the Government through Minister of Agriculture Regulation Number 19 of 2011 concerning Guidelines for Indonesian Sustainable Palm Oil Plantations (ISPO), then updated through Regulations Minister of Agriculture Number 11 of 2015.

Currently, ISPO regulations have been strengthened through Presidential Regulation Number 44 of 2020 concerning the Indonesian Sustainable Palm Oil Plantation Certification System (ISPO) and technical implementation rules through Minister of Agriculture Regulation Number 38 of 2020 concerning Implementation of Indonesian Sustainable Palm Oil Plantation Certification. The issuance of these two regulations is in an effort to help palm oil business actors to increase productivity in a legal, responsible and sustainable manner, namely economically, socio-culturally and environmentally friendly as well as a form of strengthening and acceptance of Indonesian palm oil products globally, so that they are expected to have strong competitiveness

and can also support sustainable development goals (TPB). Apart from that, this ISPO regulation is also one of the Indonesian government's answers to the onslaught and pressure from global issues that suggest that governance and the palm oil products produced do not yet practice sustainability, regarding land legality and the environment.

As the largest palm oil producing country in the world, Indonesia has seriously made improvements by requiring plantation business actors to practice sustainable development in the palm oil industry. The implementation of ISPO certification can provide benefits for palm oil plantation business actors, including: proof of business legality, a form of environmental conservation, minimizing social impacts, increasing product marketability, organizing groups of planters, ensuring business sustainability, and improving the quality of oil palm farmers (Mutu International, 2023)

In practice, the implementation of ISPO obligation rules encounters many obstacles. The various factors are: 1), limited access to information regarding ISPO for oil palm planters; 2), The legality of the land of independent oil palm plantations is not yet compliant; 3) Differences in interpretation of certification requirements such as Cultivation Registration Certificate (STDB), Certified Seeds, Management and Environmental Capability Statement (SPPL), and so on; 4) The complexity of the ISPO certification process. Meanwhile, the final or 5) factor is incentives for independent smallholders after obtaining ISPO certification (Firman Hidranto, 2023) Another research result is that planters are not ready because the results of oil palm plantations are not the main income, there is no legal basis for land rights and there is also no legality of seeds (Arya Hadi Dharmawan, 2019).

Other obstacles in implementing ISPO include no land certificate, no business permit, oil palm plants entering old age (more than 20 years old), low productivity (needs rejuvenation), uncertified seeds, low FFB quality and yield, low human resource skills of planter updates, inadequate facilities and infrastructure, high production costs and lots of palm oil theft (Sri Gunawan, 2023). Another study revealed that land legality and capacity, such as lack of capital and knowledge and the absence of growers' institutions, are the main obstacles to meeting sustainable standards (Brandi, et al, 2015).

Meanwhile, the implementation of partnerships in Indonesia, especially in the oil palm plantation sector, still has many problems, both in terms of implementing regulations and at the level of partnership practices by plantation business actors. The government has issued partnership arrangements in Law Number 6 of 2023 concerning Job Creation, Law Number 38 of 2020 concerning Micro, Small and Medium Enterprises, Law Number 39 of 2014 concerning Plantations and Government Regulation Number 7 of 2021 concerning Convenience, Protection and Empowerment of Cooperatives and Micro, Small and Medium Enterprises.

Problems in partnerships between oil palm plantation companies and farmers generally originate from: 1) land problems, 2) violations of agreements by plantation companies and 3) cooperative problems. Agreement problems include: 1) Plantation companies break their promises, when drafting agreements or MoU farmers are not involved, 2) Land certificates for farmers cannot be issued even though the partnership has ended, 3) problems with farmers' debt burden, and 4) prices of Fresh Fruit Bunches (Hifzil Alim, et al, 2018).

Synergizing the fulfillment of ISPO certification obligations and implementing partnerships to achieve sustainable palm oil plantation governance is not an easy job, it requires a strong commitment by all stakeholders in the palm oil industry, namely: government, the private sector and planters. It is hoped that there will be a greater moral responsibility and role, especially

from the private sector, to be able to establish partnerships that have mutual benefits, are more effective, transparent, fair and sustainable with the growers who are partners.

Based on the description above, research was conducted to examine the implementation of the legal rules for the Indonesian sustainable palm oil plantation certification system (ISPO) through supply chain partnership patterns by business actors, then to understand the concept of supply chain partnership legal relationship patterns between the private sector and palm oil planters in realizing power. competition for palm oil plantation business actors, where one of the private sectors operating in the Sumatra and Kalimantan areas, namely the WGI Group, has developed another partnership pattern as an alternative, namely the first supply chain partnership pattern in Indonesia through collaboration with palm oil planters who are members of the forum cooperative.

LITERATURE REVIEW

One strategy for community economic development and empowerment is to encourage business actors to enter into partnership patterns. Through partnerships, it is hoped that a mutualistic symbiosis can quickly occur between the two business actors, so that the shortcomings and limited capabilities of small businesses can be overcome, while increasing their competitive advantages. With the development of the modern business world today, partnerships are also called "Partnerships" or "Business Networking", or also known as "Strategy Alliances". So in essence two or more businesses combine to combine their respective advantages, then from this merger the parties will gain benefits (synergy).

The definition of partnership, states that it is a business strategy carried out by two or more parties within a certain period of time to achieve mutual benefits and mutual benefits according to the principle of mutual need and mutual complementarity according to the agreement that emerges (Thoby Mutis, 1992).

The definition of partnership in Article 1 Number (13) of Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises is formulated: "Partnership is cooperation in business relationships, either directly or indirectly, based on the principles of mutual need, trust, strengthening, and profitable, involving Micro, Small and Medium Enterprises with Large Enterprises". Meanwhile, the definition of partnership with a supply chain pattern according to the formulation of Article 1 Number 8 PP Number 7/2021, is cooperation between micro, small, medium and large businesses that are dependent on the flow of goods and services that convert raw materials into products in an effort that Efficient and economical includes various processes from production, product and service development, information systems, as well as product packaging or service delivery to consumers.

The supply chain is a series of business process activities that connect several actors to increase the added value of raw materials/products and distribute them back to consumers. Apart from adding value, the supply chain is also to meet consumer demand, increase competitiveness, increase profits and build good relationships between actors in the supply chain.⁶⁹

Meanwhile, supply chain management is an integrated process of all product or service movement activities from suppliers to customers which includes information, funds and other interrelated resources. Supply chain management activities are carried out starting from procurement of raw materials, collaborative planning, information dissemination, order delivery, order tracking, post-sales service, measuring company performance, to developing the latest products.

In order to support and realize the goals of sustainable development and national economic development, especially in the palm oil plantation sector, the government has issued regulations for a sustainable Indonesian palm oil plantation certification system which is mandatory for all plantation business actors, both the private sector and smallholders, so that the palm oil plantation management system is carried out effectively, efficient, fair and sustainable that is economically viable, socio-cultural and environmentally friendly, known as "Indonesian Sustainable Palm Oil" abbreviated as ISPO.

ISPO regulations are designed to ensure that the business process and governance of palm oil plantations in Indonesia from upstream to downstream, from land clearing, planting, maintenance, management, harvesting to the palm oil production process has been carried out responsibly and sustainably by taking into account the impact on environment, surrounding communities, and welfare.

Sustainable resource management is currently a necessity in the palm oil industry. In other words, business actors in the palm oil industry must adopt and implement sustainable practices to be able to survive, especially in the supply chain, starting from palm oil farmers (smallholders), mills, refiners to buyers (brands).

ISPO is a certification system established by the Indonesian Government to promote sustainable and responsible palm oil plantation practices in Indonesia. ISPO was formed in 2009 by the Indonesian government to ensure that all oil palm plantation businesses meet permitted agricultural standards. So it can be said that ISPO is the first national standard for palm oil for a country. With ISPO certification, business actors, both Planters and the Private Sector, apart from showing a commitment to comply with regulations, can also increase the acceptance and competitiveness of Indonesian Palm Oil Products and derivatives in the national and international markets, while also helping to protect the environment by accelerating emission reduction. greenhouse gas.

Competitiveness is efficiency and effectiveness that has the right target in determining the direction and results to be achieved, which includes the final goal and the final achievement process in facing competition. Competitiveness, that is, the word "power" in the sentence competitiveness has the meaning of strength, and the word "competitiveness" has the meaning of achieving more than others, or being different from others in terms of quality, or having certain advantages.

Michael E. Porter (1985), stated that there are 3 (three) indicators of competitiveness, namely: 1) Price, 2) Product quality, and 3) Product excellence. Apart from that, the supporting factors for the competitiveness of Indonesian palm oil products in the international/global market are: 1) production factors, namely implementing sustainable practices from cultivation to processing, 2) human resources, namely mentoring and training for the planters so that they become skilled, 3) the role of the government and related supporting institutions, namely through campaigns and lobbying at world trade forums together with institutions or company associations, namely the Indonesian Palm Oil Entrepreneurs Association (GAPKI).

RESEARCH METHOD

Qualitative research method, with normative research type, analyzed descriptively, to examine and explain the research object to be studied both deductively and inductively through a conceptual approach and statutory regulations using library research and field research techniques. . The

sample and research location are supply chain partnerships developed by the private sector, namely the WGI Group in Merangin Regency, Jambi Province, Siak Regency, Riau Province and East Kotawaringin Regency, Central Kalimantan Province.

DATA AND ANALYSIS

Implementation of ISPO Legal Rules

Indonesia is committed to sustainable development which refers to the global agreement outlined in the Sustainable Development Goals Agenda Document (Transforming Our World: The 2030 Agenda for Sustainable Development Goals/SDGs) in 2015 at the United Nations Headquarters in New York City, United States followed by 193 countries.

In fact, Indonesia has applied sustainable development to the oil palm plantation sector, through regulations in Law Number 39 of 2014 concerning Plantations, which mandates that plantation development must be guided by the principles of sustainable plantations. This is an embodiment of the constitutional rule in Article 33 Paragraph (4) of the 1945 Constitution, that national economic development is carried out based on the principles of sustainability and environmental insight.

Implementation of the rules for the Indonesian Sustainable Palm Oil (ISPO) certification system was initially only regulated through Minister of Agriculture Regulation No.19/Permentan/OT.140/3/2011 concerning Guidelines for Indonesian Sustainable Palm Oil Plantations (ISPO). The implementation of this regulation of the Ministry of Agriculture is only aimed at the private sector which is mandatory so that by the deadline of 31 December 2014 in accordance with the rules in Article 3, they must have carried out business in accordance with the provisions of this Minister of Agriculture, while for planters it is voluntary.

Implementation of certification and issuance of ISPO certificates is carried out by a Certification Body that has received recognition from the Accreditation Body, with the certification application previously submitted to the ISPO Commission. To implement ISPO certification, the private sector must first fulfill requirements including compliance with legal, economic, environmental and social aspects. Apart from that, gardens that will be ISPO certified have undergone a Garden Class assessment.

Then the ISPO regulations were updated through Minister of Agriculture Regulation Number 11 of 2015. This regulation includes an expansion of certification objects, initially only oil palm plantations were required to be certified, but according to Article 2 Paragraph (2), certification is carried out on (Sudaryatmo, 1999):

1. Plantation Companies that carry out plantation cultivation businesses integrated with processing businesses;
2. Plantation Companies that carry out plantation cultivation businesses;
3. Plantation Companies that carry out plantation product processing businesses;

The implementation of this rule is not going well and is considered to be still weak to the point of 'not selling' on the world market. So that the implementation of ISPO certification obligations can run faster and better, ISPO regulations are then strengthened through higher regulations, namely Presidential Regulation of the Republic of Indonesia Number 44 of 2020 concerning the Indonesian Sustainable Palm Oil Plantation Certification System. Some of the strengthening points regulated in the Presidential Decree are:

1. Mandatory for plantation business actors a maximum of 5 (five) years from the enactment of the Presidential Decree;
2. Does not distinguish between principles and criteria for Plasma Planters (Scheme Smallholders) and Independent Smallholders;
3. ISPO certificates are issued by Certification Bodies that are registered and meet the requirements;
4. ISPO institutional improvements, with the Steering Committee chaired by the Coordinating Minister for the Economy, while the ISPO Committee is chaired by the Minister of Agriculture;

To implement regulations related to guidance and supervision of the implementation of ISPO certification, the Republic of Indonesia Minister of Agriculture Regulation (Permentan) Number 38 of 2020 concerning Implementation of Indonesian Sustainable Palm Oil Plantation Certification was issued. The scope of this Minister of Agriculture regulation is in accordance with Article 2, including: ISPO principles and criteria, requirements and procedures for ISPO Certification, guidance and supervision, ISPO Certification costs and funding facilitation and administrative sanctions. ISPO certification provides assurance to consumers that the palm oil products purchased have been produced responsibly and sustainably. In accordance with Article 3 Paragraph (1) of Minister of Agriculture Regulation no. 38 of 2020, it is stated that "To ensure sustainable Indonesian Palm Oil Plantations, ISPO Certification is carried out for Plantation Companies and Planters".

However, in its implementation, the ISPO regulations have obstacles, especially related to the legality of land managed by the private sector and planters, because some of it is still included in forest areas which are legally prohibited from being managed as plantation land. Apart from that, another obstacle for growers is the cost required for ISPO certification which is felt to be burdensome, because they have to process all permits including taking care of the legality of the land, infrastructure, certification costs and monitoring audit costs.

To maintain its position as the largest palm oil producing country in the world and increase productivity, the government should be able to immediately resolve the legality issue of land, both controlled by the private sector and land planted with oil palm which is managed by the community or planters. Another obstacle is the complexity of the ISPO certification process and also the issue of costs, especially for growers. In accordance with ISPO regulations, it is possible for growers through groups or cooperatives to apply for assistance costs through the APBN or APBD. However, in practice this application is very difficult, both in terms of bureaucracy and the time required is very long because the application must be verified several times.

For this reason, the government is aware of the complexity of obstacles in implementing this regulation, so one solution is to encourage partnerships between business actors, especially the private sector by collaborating with planters. Apart from that, it can also empower the role of the Palm Oil Plantation Fund Management Agency (BPDPKS) to be able to assist funding for planters who will carry out ISPO certification.

The government through the Directorate General of Plantations, Ministry of Agriculture has issued Circular Letter Number 286/KB.410./E/03/2024, dated March 23 2024, regarding the Obligation to Certify Indonesian Sustainable Palm Oil Plantations (ISPO) which aims to implement ISPO certification and remind to all plantation business actors to carry out ISPO certification obligations. According to the regulations, the obligation to fulfill ISPO certification is no later than 2025.

Achieving ISPO certification until June 2023, according to data from the Directorate General of Plantations, Ministry of Agriculture,⁷ in total area is 5.31 million hectares or around 32% of the total area of oil palm plantations in Indonesia covering 16.38 million hectares with the number of ISPO certificates. as many as 823. Each area of PBN is 342 thousand hectares with 65 certificates, PBS 4.94 million hectares with 764 certificates and PR 22.5 thousand hectares with 34 certificates. The lowest achievement was certification for smallholder plantations which only reached 3.3% of the total area of around 6.8 million hectares.

Until now, there has been no legal enforcement regarding the implementation of ISPO regulations, because the deadline is after 2025. Provisions for providing sanctions for business actors who violate ISPO certification obligations are regulated in Article 6 Paragraph (1) of Presidential Decree Number 44/2020, they will be subject to administrative sanctions. The form of sanctions is in accordance with Paragraph (2) in conjunction with Article 58 of Minister of Agriculture Regulation Number 38/2020, starting from a written warning to temporary dismissal from the plantation business. Apart from that, there is also the suspension and revocation of ISPO certificates.

Concept of Supply Chain Partnership Legal Relationship Patterns in Realizing Competitiveness for Business Actors

The Supply Chain Partnership pattern developed by the private sector, namely the WGI Group, is the 360° Program, namely an integrated partnership program that includes 2 (two) main things at once which are outlined in the supply chain partnership agreement, namely the implementation of the partnership and the sale and purchase agreement for fresh fruit bunches (TBS). The implementation of the supply chain partnership developed by the WGI Group is to directly establish partnerships with growers who are members of the cooperative. This partnership concept is the first to be implemented in Indonesia.

The details of the 360° Program implemented in the supply chain partnership agreement include: Technical assistant, Building capacity, Fertilizer access, Access to seed, Access to Financing, Certification, Access to market and Purchase guarantee. These eight programs are carried out in an integrated manner and are outlined in a written supply chain partnership agreement.

In the context of partnerships, to achieve harmonious legal relations, it is mandatory to follow the provisions as regulated in Law Number 20 of 2018 concerning Micro, Small and Medium Enterprises in conjunction with Government Regulation Number 7 of 2021 in conjunction with Regulation of the Minister of Agriculture Number 98 of 2013 concerning Guidelines for Business Licensing in conjunction with Decree of the Minister of Agriculture Number 940/Kpts/OT.210/10/97 concerning Guidelines for Agricultural Business Partnerships, namely in the form of a written agreement and the format and minimum rules for the contents of the agreement have also been determined, namely: time period, rights and obligations the parties. This means that a partnership agreement must not be made haphazardly and haphazardly, it must comply with legal principles, especially the principle of legal certainty and also be subject to the general rules in Book III of the Civil Code.

The pattern of legal relations that usually arises in partnership agreements in general, namely:

1. Legal Relationship between the Community as plasma farmers and the Company as the core;
2. Legal Relationship between Farmer Group Leaders and Farmers;
3. Legal Relationship between Farmers and Banks;

4. Company Legal Relations as an help with the Bank;

In the supply chain partnership developed by the private sector of the WGI Group, the legal relationship pattern is the legal relationship between the private sector and the cooperative, in the form of a "Partnership Agreement" and the legal relationship between the growers and the Chairman/Manager of the Cooperative in the form of Cooperative Membership based on the Articles of Association (AD) and Bylaws (ART).

The agreement stipulates 2 (two) main things at once, as the scope of the agreement, namely the implementation of the partnership (cooperative aspect) and the regulation of the terms of sale and purchase of Fresh Fruit Bunches (commercial aspect). The agreement was carried out through a subsidiary of the WGI Group, namely: PT. AIP with the PNT Cooperative located in Merangin Regency, Jambi, PT. SPS with the TJ Cooperative in Siak Regency, Riau and PT. MSM with the BHS Cooperative in East Kotawaringin Regency, Central Kalimantan.

The results of the review of the supply chain partnership agreement above, the systematics and structure of the agreement, are in the initial part, consisting of the title of the agreement, preamble, identity, domicile, position of the parties, recital (background), scope and term of the agreement, namely 5 (five years. In this initial section there are 5 (five) articles.

In the middle part of the agreement, it is regulated in 10 (ten) articles related to the main material, namely the rights and obligations of the parties, the terms and conditions of the TBS sale and purchase and the form of business development. Regarding the main material regarding the rights and obligations of the parties, matters related to the implementation of the partnership are regulated, namely technical arrangements, guidance, training and mentoring in the field related to the licensing process and plantation governance through the 360⁰ Program.

The form of guidance is through training in the management of cooperative institutions, managing member databases, preparing reports, basic bookkeeping or accounting and introducing technology as well as providing assistance and providing funding facilities as assistance to growers for the costs of implementing ISPO certification. Meanwhile, the rights and obligations of cooperatives, in essence, are: to carry out the management of the cooperative organization properly in accordance with directions and submit updated data regarding grower membership, land area and legality;

Furthermore, clauses are also regulated regarding the terms and conditions for buying and selling garden products, namely fresh fruit bunches (FFB). In this arrangement, the private sector is the collector and buyer with the basic terms and conditions, namely: receiving all FFB harvests from the Cooperative with good quality, in fresh condition, ripe for harvest and received no later than 2 x 24 hours after harvest and make payment to the Cooperative the day after delivery of the FFB.

Meanwhile, the terms and conditions that must be fulfilled by the cooperative as a seller are: harvesting at the right time and in accordance with the correct harvesting techniques, so that the quality and quality of the FFB is maintained, delivering the FFB to the PKS or location specified by the Buyer, a maximum of 2 x 24 hours after harvest and receive payment from the buyer, the day after FFB delivery.

At the conclusion of the agreement, clauses regarding force majeure circumstances, dispute resolution/disputes and the validity of the agreement are regulated, which are formulated in 4 articles. The formulation for dispute resolution as a form of legal protection for the parties is formulated as follows:

1. Any dispute or difference in any form that arises between the Parties in connection with or as a result of the agreement, will be resolved by deliberation. If the deliberations do not

reach a consensus, then the PARTIES choose to settle at the local District Court Registrar's Office;

2. While the deliberation process is still ongoing, THE PARTIES are not permitted to terminate their obligations;

From the above formulation, it can be concluded that the Parties in resolving disputes, prioritize deliberation and remain committed to fulfilling their respective obligations until a resolution is reached. This shows that deliberation is the best way to resolve disputes and not to rush to resolve them through legal channels in court.

In implementing supply chain partnerships through ISPO certification, in an average of 2 (two) years partner cooperatives have received ISPO certificates. The ISPO certificate shows that the management of the plantation and its processing industry has met the sustainability principles and criteria set by the government. Every palm oil product produced must have an "ISPO Label" attached to show the superiority of the product because legality has been guaranteed and as the main identity that the business actor has implemented sustainability standards in each of its supply chains.

With the ISPO label, the level of acceptance and competitiveness of palm oil products in the domestic and global markets will become stronger. Apart from countries in Asia and the Middle East, currently Indonesian palm products are also starting to be accepted in European markets, such as the Netherlands and Switzerland, and are also accepted by the United States. Especially for the European market which sets high standards and cares about sustainable practices, ISPO certification is very important in addition to other forms of certification, such as RSPO and EUDR policies.

CONCLUSION AND SUGGESTION

Conclusion:

1. Implementation of the legal regulations for the Indonesian sustainable palm oil plantation certification system (ISPO) through a supply chain partnership pattern by business actors was the first to be developed in Indonesia and its implementation complies with legal regulations, so it can be said that its implementation has produced positive results with increased productivity, income, purchase guarantees, technical guidance on cultivation, cooperative institutional management, as well as financial support for financing, land legality, and recognition of sustainable palm oil plantation governance standards.
2. The concept of a legal relationship pattern of oil palm plantation supply chain partnerships in an effort to create competitiveness for business actors is a supply chain partnership concept between the private sector and growers with a cooperative platform, which has fulfilled the elements of agreement, legal protection and good dispute resolution, so that this concept can be realized increasing competitiveness for business actors and can be implemented as the Indonesian Sustainable Palm Oil Plantation Certification System (ISPO) with the principles of mutual need, trust, strengthening and mutual benefit.

Suggestions:

1. The government is expected to revise ISPO regulations, especially regarding the legality of oil palm plantation land, which is currently still in forest areas, and also make breakthroughs in providing financial assistance to planters, other than through the

APBN/APBD, for example through funding facilities from the Plantation Fund Management Agency. Palm Oil (BPDPKS).

2. Business actors, especially the private sector, must continue to build partnerships with planters, for the sake of economic equality and accelerate the implementation of ISPO, so that the palm oil products produced have strong competitiveness, both in the domestic and global markets.

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