

Halal Certification Policy in Indonesia and the World Trade Organization

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ABSTRACT

International trade between countries concerns the formation of multilateral relations between various countries to facilitate cooperation in the field of international trade, so international organizations were formed that regulate trade relations between countries so that international trade can be easier, and there are no obstacles in international relations trade between countries, namely the WTO (World Trade Organization). With the formation of the WTO, there are agreements that have been agreed upon by member countries. Indonesia is a member of the WTO and is bound by the provisions established in 1995 which were marked by the ratification of the WTO agreement through Law Number 7 of 1994. Indonesia must comply with all WTO provisions in order to increase market access in other member countries. The Indonesian state has a policy in the form of a halal policy which is regulated in UU/33/2014 concerning Halal Product Guarantees. The existence of a policy stating that all products, both domestic and imported, must be halal certified is considered to be an obstacle to international trade because it is contrary to GATT policy and the TBT Agreement. The method used is normative legal research and the data used is secondary data sourced from primary legal materials and tertiary legal materials. The approach used is a historical, explanatory and legal synchronization approach. Data collection techniques through literature studies and studied using qualitative analysis.

INTRODUCTION

International trade is multilateral trade between countries around the world. Without international trade, all the country's needs must be met from the country's own production.¹Being one of the countries that adheres to international trade, Indonesia has carried out trade cooperation through the WTO (World Trade Organization), APEC (Asia Pacific Economic Cooperation), and other collaborations.²The World Trade Organization (WTO) is a world organization that aims to promote trade between countries. The WTO was founded on January 1, 1995, based on the Marrakesh Agreement Establishing the World Trade Organization whose legal system is binding on its members. The WTO has rules regarding market access, regulating trade so that it is fair, regulating trade liberalization relations and other socio-economic interests as well as regulations regarding the harmonization of national legal instruments in certain fields.³

One of the things that determines a country's economic growth is international trade which includes import-export activities.⁴Exports are the driving wheel of economic growth, where if exports increase then economic growth will also increase.⁵Exports and imports play an important role in economic growth in developed and developing countries, economic growth is an important determinant of economic prosperity.⁶Indonesia is a member of the WTO and is bound by its provisions. WTO member countries have the consequence that national trade rules and WTO rules are in line and must be in harmony with WTO legal provisions. However, each country certainly has different national regulations due to socio-cultural and religious factors, so these differences in regulations sometimes create trade barriers between countries. National regulations with the WTO must be harmonized to avoid trade barriers between countries (trade barriers). If national regulations and WTO regulations are not in line, this can result in discrimination, overprotection and non-transparent regulations. The WTO has the principles of most favored nation treatment (MFN treatment) and national treatment. The majority of the population in Indonesia is Muslim, so it can influence legal regulations in

¹ Salvatore, D, "Growth and trade in the United States and world economy: Overview," *Journal of Policy Modeling* 4 (2020).

² Siagian, M. A, "Indonesian diplomacy in including CPO on the environmental goodlist at APEC in 2012-2017," *Journal of Diplomacy and International Studies* 2 (2019).

³ Petter Van Den Bosce, *Introduction to WTO Law* 2010 edition. (Jakarta: Indonesian Obor Foundation, nd).

⁴ Wulandari, LM, Zuhri, S, "The Influence of International Trade and Investment on Indonesia's Economic Growth," *REP Journal*, 2019.

⁵ Hodijah, S, Grace, PA, "Analysis of the Influence of Exports and Imports on Economic Growth in Indonesia," *Journal of Applied Management and Finance*, 2021.

⁶ Merdita Mamik, "The Influence of International Trade on Indonesia's Economic Growth," *Journal of Economics, Management and Business* 23 (October 2022).

Indonesia, such as the provisions for consuming/using halal certified products which are important for Muslims and the fulfillment of human rights in Indonesia. When buying food and products traded in Indonesia, Indonesian people pay close attention to the halal guarantee on the product label. Food packaging that has been certified halal has a label as a guarantee of its halalness.⁷

The halal label on a product is considered to guarantee cleanliness and safety for consumption or use. Halal certification is issued by the MUI which is requested by producers based on the Fatwa of the Indonesian Ulema Council. All food, medicine and cosmetics must apply for halal certification from the MUI Institute. In 1989 LPPOM MUI was formed because of the problem of pork fat in food which was disrupting the national economy.⁸In 2019, a law regarding halal product guarantees was implemented which requires products entering and leaving Indonesia to be halal certified. However, these rules can create obstacles in trade. With the enactment of this regulation, imported food, cosmetics and medicine products are required to have halal certification before being distributed. The existence of these obligations makes multilateral trade difficult and hinders access to the Indonesian market. In fact, the European Union has stated that the existence of mandatory halal certification regulations is a cruel regulation and can increase the costs of exporting products to Indonesia, thereby becoming an obstacle to their import trade to Indonesia.⁹

For example, in the case of imported meat from Brazil, there was a dispute between Indonesia and Brazil regarding the obligation to provide halal certification to imported food. So Brazil, which wants to export meat to Indonesia, considers the mandatory halal certification regulations to be a trade restriction that is considered to violate WTO legal rules. Rules that are considered to hinder international trade, complicate market access and are not in line with WTO objectives, must be harmonized. This must be realized because the WTO rules in GATT have a Technical Barriers to Trade (TBT) Agreement which aims to reduce barriers related to international trade. Technical Barrier to Trade aims to reduce barriers related to technical regulations in the form of composition, quality, safety, production processes, labels and so on, for products traded within WTO countries. Starting January 1, 1995, the TBT Agreement entered into force and was approved in Appendix IA to the Agreement Establishing the World Trade Organization. On April 15, 1994 the WTO Agreement was signed by 111 countries based on the Uruguay round.¹⁰Forms of international trade policy

⁷ Kusnandar F, FAQ about Halal Food (Bogor: Department of Technology IPB, nd).

⁸ Hakim L, LPPOM MUI Olympic Halal Guidebook (Bogor: IPB Technology Department, 2014).

⁹ zona halal, "European Union Criticizes Halal Law," October 28, 2016, <http://www.zona-halal.com/2015/03/uni-eropa-kritik-undang-halal.html>..

¹⁰ Pandika R, Universal Trade Sanctions in the WTO Legal System (Bandung: Alumni, 2010).

protection can take the form of tariff policies, quotas, import bans, subsidies and dumping.¹¹

WTO member countries must not have technical rules that could create obstacles. Article 2.2 of the TBT Agreement states that: "Members shall ensure that technical regulations are not prepared, adopted or implemented with the intention or with the effect of creating unnecessary obstacles to international trade. A country's obedience and cooperation with other countries does not mean the loss of a country's sovereignty, but is a free choice in realizing a country's sovereignty in finding that country's preferences in international relations."¹²

To achieve this goal, technical regulations should not restrict trading further. To achieve this, technical regulations must not be more trade restrictive than necessary to fulfill legitimate objectives, including: national security requirements; prevention of fraudulent practices; protection of human health or safety, the health of animal or plant life, or the environment. In assessing such risks, relevant elements of consideration are, among others: available scientific and technical information, related processing technology, or the intended end use of the product). It is important to understand the principles contained in the provisions of the TBT Agreement so that they are not misused as protective measures and to protect domestic production. The obligation for halal certification as a mandatory standard needs to be seen and analyzed in accordance with the provisions governing international trade relations for WTO member countries, namely the provisions of the TBT Agreement.

Previous research related to the topic that the author discusses is: First, Neni Ruhaeni, Eka Aqqimudin, and Hadian Afriyadi with the title *Community Morality as a Basis for Justifying the Obligation to Certify Halal Food Products in Indonesia Based on GATT-WTO 1994*, Focusing on the analysis of halal certification obligations in Indonesia which are considered discriminatory but justified by societal morality.¹³ Meanwhile, what the author researched focused on Indonesia's halal certification policy which is in conflict with WTO policy and the exception clauses of Article XIV and Article XX GATT. Second, Hambali with the title *Implementation of the Obligation to Certify Halal Foreign Products in Accordance with the Agreement on Technical Barriers to Trade*, focuses on analyzing the existence of legal regulations on the obligation to certify halal foreign products in accordance with the TBT Agreement.¹⁴ Meanwhile, what the

¹¹ Evenett, S. J, "Protectionism, state discrimination, and international business since the onset of the Global Financial Crisis," *Journal of International Business Policy* 2 (2019).

¹² Firdaus, "The Position of International Law in the Indonesian National Legislative System," *Fiat Justisia Journal of Legal Studies* 8 (1 January 2014).

¹³ Neni Ruhaeni, Eka Aqqimudin and Hadian Afriyadi, "Public morality as a justification for the obligation to certify halal food products in Indonesia based on GATT," *Journal of Law and Development*, 2022.

¹⁴ Hambali, "Implementation of Mandatory Halal Certification for Foreign Products," *PTUN Registrar Journal*, 2020.

author examines is Indonesia's halal certification policy which is in conflict with the WTO and the exception clauses of Article XIV and Article XX GATT. Third, Haris, M. Zakin Azrial, Susiatiningsih and Hermeni and Wahyudi, Fendi E with the title Indonesia's Compliance in the Halal Certification Dispute with Brazil at the WTO. Focus on studies. The Indonesian government is willing to comply with the results of WTO decisions through the dispute resolution body mechanism.¹⁵ Meanwhile, what the author examines is Indonesia's halal certification policy which is in conflict with the WTO and the exception clauses of Article XIV and Article XX GATT. In these three studies, the author has not found any research that discusses Indonesia's halal certification policy which is in conflict with the WTO and the exception clauses of Article XIV and Article XX GATT.

However, in Indonesia there is also a polemic in the form of an exception clause applied by the Indonesian state regarding international trade, especially in the field of meat imports related to halal certification. To meet its needs, Indonesia imports meat from various countries, especially WTO member countries, such as Australia, the United States, New Zealand and Brazil.¹⁶ Article 4 of Law Number 33 of 2014 concerning Halal Product Guarantees (hereinafter referred to as Law Number 33 of 2014) states that all products, both imported and local, are required to have halal certification, which obligation has the potential to become a trade barrier for foreign business actors. Based on the description above, the author will conduct a study of the provisions on halal certification obligations as referred to in article XX (a) GATT and what attitude the Indonesian government must take towards international halal standard regulations to avoid trade conflicts between the WTO.

THEORETICAL FRAMEWORK

Hans Kelsen's theory

Hans Kelsen's theory which understands that international law and national law are two aspects of one legal system or that international law and national law are part of the same legal system. Kelsen also stated that international legal rules have a higher hierarchy compared to national law and if national law is inconsistent with international law then it is automatically invalid.

John Austin theory

John Austin stated that agreements are the basis for the formation of international law and these agreements can force countries to obey international

¹⁵ Haris, M. Zakin Azrial and Susiatiningsih, Hermeni and Wahyudi, Fendi E., "Indonesia's Compliance in the Halal Certification Dispute with Brazil at the WTO: Turning Charcoal into Ash" (Semarang, Diponegoro University, 2021), <https://eprints2.undip.ac.id/eprint/8511/>.

¹⁶ Tempo, "Import Trade in 5 Meat Supplier Countries," Tempo.com, August 4 2023, <https://bisnis.tempo.co/read/1755814/impor-pangan-ini-5-negara-pemasok-daging-sapi-ke-Indonesia>.

law itself. The binding of international law based on legal positivism can be found in the theory of state will and volunteerism developed by the Vienna School.

METHODS

The author uses normative legal research methods with approaches: statute approach, conceptual approach, and analytical approach, as well as analytical approach. The data used is secondary data sourced from primary legal materials, namely Law Number 33 of 2014, the WTO Agreement and the TBT Agreement, secondary legal materials, namely books and scientific journals, and tertiary legal materials, namely legal dictionaries. Study of the existence of legal regulations for the obligation to halal certification of imported meat in relation to WTO provisions and laws in Indonesia. The research analysis technique uses qualitative analysis.¹⁷

RESULTS

1. Conformity of Halal Certification Policy Based on Law Number 33 of 2014 concerning Halal Product Guarantees with WTO Policy

Every Muslim consumer has a need for halal consumer products, whether food products, medicines or other consumer goods. With the majority of the population being Muslim, the market in Indonesia must trade halal products. Halal product certification in the international trade system must be considered as well as being a globalization challenge that must be implemented by the free market system within the framework of ASEAN-AFTA, NAFTA, the European Economic Community and the WTO. This system has long recognized halal provisions in CODEX which are supported by influential international organizations including WHO, FAO and WTO. In addition, throughout the world there is a halal lifestyle, not only in countries where the majority of the population is Muslim, but also in countries where the majority of the population is non-Muslim. The existence of global companies that have a halal system, such as Japan Airlines, Singapore AirLines, Qantas, America Airlines which provide halal menus (Muslim food) has made halal widespread in America, Australia, Japan, China, India and Latin American countries.¹⁸

Regarding the issue of halal products, the Government of the Republic of Indonesia has done this by issuing several supporting laws. However, these national regulations are partial regulations that are inconsistent/seem to overlap and are not technically systematic, this has resulted in producers questioning halal guarantees to consumers. This can result in a lack of legal certainty regarding halal products, which is the main thing related to consumer protection

¹⁸ Asronum Ni'am Sholeh, Halal Becomes a Global Trend (GATRA, 2019).

and global trade. The enactment of Law Number 33 of 2014 aims to make Muslim consumers feel safe. Concerns regarding free trade between countries are reduced because of this arrangement. This regulation emphasizes halal and haram issues from production to consumers. All countries always have different characteristics, both in terms of natural resources and human resources, so that the products produced are different. To meet the needs of each country, the implementation of international transactions is very necessary. International trade activities must adapt to a country's legal system, so this is not easy to do. The different legal systems in each country provide unified legal harmonization so that legal rules are formed in international trade. The principle of national treatment, namely the principle of non-discrimination, requires the same action towards foreign goods, services or capital entering the territory of a country as the laws and regulations governing domestic products or services.¹⁹

With the mandatory halal certification, the Brazilian government considered this to be discrimination, so at the end of 2016 the Indonesian government was sued at the WTO. Lawsuit no DS: 484, Indonesia's actions regarding imports of chicken meat and chicken products, according to Brazil halal certification of imported meat is trade protection.²⁰

For the sake of health and safety, Indonesia guarantees halal products, this has the impact of eliminating imports of chicken meat and is opposed by Brazil. These steps are:

1. Imports of chicken meat and chicken products are prohibited;
2. Prohibition of imports of processed chicken meat and chicken products;
3. Restrictions on the Use of Imported Products;
4. Import licensing procedures are stricter;
5. Unnecessary sanitation requirements are postponed by agreement;
6. Transport of imported products is restricted;
7. Discrimination in the application of halal label requirements.

Brazil consulted and sued Indonesia through the Dispute Settlement Body (DSB), is part of the WTO. Brazil considers that Indonesia has implemented discrimination or exclusion clauses against meat exporting countries from countries that are members of the WTO, then through the settlement institution as a dispute resolution body at the WTO directs rules that do not allow the addition/reduction of rights and obligations. . . member states listed in the agreement, they can apply for it. Countries that adhere to open economies are very sensitive when there is turmoil in the world economy. The more widespread a country's international trade activities are, the more sensitive its economic stability is.²¹

²¹ Suryanto, Poni Sukaesihkurniati, "Analysis of Indonesian International Trade and the Factors That Influence It," *Intermestic* 7, no. 1 (November 2022).

The dispute resolution mechanism Article 3 DSU consists of consultation, dispute resolution based on Article XXIII (Panel), Panel process, results of WTO decisions, appeals through the Appellate Body, implementation of decisions, retaliation as implementation of decisions.

Then, based on Brazil's decision, Indonesia and Brazil agreed not to appeal. Therefore, Indonesia is obliged to harmonize legal rules in accordance with the final decision of the WTO Panel by making changes and simplifications, namely Regulation of the Minister of Trade Number 59 of 2016 concerning Provisions for the Export and Import of Animals and Animal Products (hereinafter referred to as RMT No. 59/2016). RMT No.59/2016 becomes Minister of Agriculture Regulation Number 65 of 2018 (hereinafter referred to as MAR No.65/2018) which conflicts with Law No.33/2014, namely that non-halal products may enter Indonesia. Article 4 clearly states that all products traded in Indonesia must be halal certified. The political aim of the principle of non-discrimination in international trade is to avoid disputes between countries, because discrimination will give rise to disputes between countries in carrying out international relations. Meanwhile, the economic goal in the principle of non-discrimination aims to avoid inefficiency in liberalization.²²

Legal rules in a country have the function of providing certainty in a policy. Indonesia has the necessary legal regulations so that no policies overlap with other regulations. As a result of the Dispute Settlement Body's decision number 484 regarding the case of imported chicken meat and processed chicken by Brazil, the halal label policy as regulated in Article 4 of Law No.33/2014 has become unclear. Halal labels are required for imported meat products before being traded in Indonesia. However, in MAR Regulation no. 65 of 2018, the results of the above decision recommendation regarding import activities of meat labeled halal have not been explained. DSB assesses that the removal of the halal recommendation attachment for import activities creates obstacles that are prohibited by GATT. So that the halal label is not included in the obligations for import activities, there is an overlap in policies between MAR No.65/2018 and Law No.33/2014 concerning imported animal distribution activities.

In the above case, there needs to be harmonization between the policies taken by the Indonesian government and the policies that have been decided by the Dispute Resolution Body. With the amendment to the Ministerial Regulation, Law no. 33/2014 becomes less effective, especially in international trade.

2. Exclusion Clause Article XIV and Article XX GATT Concerning Trade in Halal Imported Meat Between WTO Member Countries

To meet the increasing consumption needs of society, Indonesia imports meat from various countries, such as India, Australia, Brazil, the United States, New Zealand, Spain and other countries. However, due to cultural, health and religious factors, because the majority of Indonesian people are Muslim, the

Indonesian government issued Law no. 33 of 2014, Indonesia has its own regulations regarding the halalness of imported livestock meat. in the form of cows/buffalo and chickens. In fact, the meat is indeed halal but still must have halal certification which is submitted to the Halal Product Guarantee Agency (HPGA) (Article 29 of Law No. 33/2014. However, this is opposed by one of the meat exporting countries, namely Brazil, which considers Indonesia to have violated Article XIV and Article XX of the GATT regulate the Exception Clause in international trade for WTO Members.

Several WTO member countries that export meat to Indonesia are:

NO	Country name	Value/Ton
1.	India	105,756.3
2.	Australia	77,515.6
3.	Brazil	20,106.8
4.	United States of America	13.693.1
5.	New Zealand	7,414.8
6.	Spaniard	1,114.5
7.	Other countries	15,918.8

Table I List of countries exporting beef, buffalo, chicken and the like to Indonesia.²³

In the provisions of Article XX GATT

GATT Article XX on General Exceptions consists of two cumulative requirements. For environmental actions that are incompatible with GATT to be justified under Article XX, members must conduct a two-level analysis that proves:

- first, that the action falls within at least one exception (e.g. paragraphs (b) to (g), two of the ten exceptions under Article XX) and, then, that the action meets the requirements of the introductory paragraph (“chapeau” of Article XX), i.e. that such activities are not carried out in a manner that could constitute “arbitrary or unjustifiable means of discrimination between countries where similar conditions apply”, and do not constitute “disguised restrictions on international trade”.

Multilateral trade agreements are regulated in the General Agreement on Tariffs and Trade (GATT) which aims at economic growth, prosperity and fair and free trade. The agreement was approved by more than 125 countries. The aim of GAAT is to stabilize international trade, reduce import duties and remove trade barriers. GATT international trade principles require trade relations between countries without discrimination. So all countries that are members of GATT cannot receive special treatment. All countries are obliged to treat international trade equally and reciprocally. GATT's function is to consult with

²³ Adi Ahdiat, “Volume of Beef Imports in Indonesia Based on Country of Origin (2022),” in Databoks (Katadata media network, May 16, 2023).

member countries to discuss and resolve problems arising from international trade. Apart from that, GATT is also a forum for submitting objections to countries that suffer losses if they receive discriminatory treatment from other participating countries. Problems that arise will be resolved bilaterally with the relevant countries through consultation, conciliation and the results will be submitted to GATT.

Regulations in Indonesia regarding halal certificate requirements for imported meat from various WTO member countries have resulted in several countries feeling that they have been given regulations that limit trade. Of course this is contrary to GATT rules, Article XX GATT 1994 concerning general exceptions, article 2.2 of the rules regarding the TBT Agreement. The existence of technical regulations in the form of mandatory halal certificates for all imported meat entering Indonesia is also considered to be in conflict with TBT regulations regarding technical regulations, namely the use of the word "exclusive" and the connecting word "or" here. indicates that "technical regulations" can only be limited to provisions. only one or several "product characteristics", or only terminology, symbols, packaging, labeling requirements, "technical regulations" can establish "applicable administrative provisions" for products that have certain "characteristics". In these regulations, GATT has stated that there is room to discuss the TBT agreement regarding "product characteristics" not only covering the features and qualities inherent in the product itself, but also related "characteristics", such as the way of identification, presentation and appearance. of a product. In addition, according to the definition in Appendix 1.1 of the TBT Agreement, with the composition, size, shape, color, texture, hardness, tensile strength, flammability, conductivity, and flammability of a product, density, or viscosity. The word "characteristic" has a number of synonyms that are useful in understanding the general meaning of the word, in this context. Therefore, the "characteristics" of a product, in our view, include all objectively interpretable "features," "qualities," "attributes," or "distinctive marks" of a product.

The Indonesian government does not manage halal certification, but is managed by the Food, Drug and Cosmetic Research Center, namely the Indonesian Ulema Council (MUI), which is adjusted to halal standards determined based on the fatwa of the MUI Fatwa Commission. Halal certification refers to 3 standards, namely:

1. Halal Assurance System (HAS) 2300, halal certification is required according to policies and procedures reviewed by MUI;
2. HAS 23201, Halal food ingredients distributed by MUI and;

HAS 23103, the criteria for a halal guarantee system in slaughterhouses which is being studied by the Indonesian Ulema Council is an Islamic mass organization or mass organization and is not an official authority of the government. After the promulgation of Law no. 33/2014, halal standards were then reviewed, reorganized and taken over by the Council.Government. The Indonesian government through the National Standardization Agency

(hereinafter referred to as BSN) in 2015 formed a halal technical committee consisting of 22 experts from Indonesian Consumers Foundation (YLKI), Indonesian Food and Beverage Entrepreneurs Association (GAPMMI), Food and Drug Supervisory Agency (BPOM), National Standardization Agency (BSN), Ministry of Religion, LPPOM MUI, IPB and representatives of testing laboratories. Then the committee produced the Indonesian national standard 99001:2016 which was determined based on the Decree of the Head of the National Standardization Agency Number: 230/KEP/BSN/10/2016 dated 7 October 2016. SNI 99001:2016 applies generally to all categories of companies, including food processing industry companies, medicines, cosmetics, slaughterhouses (RPH), production processes (kitchens), catering, restaurants, service industries (distributors, warehouses, transporters, retailers).

HPGA Organization and Work Procedures, government regulations regarding the implementation of Law no. 33/2014 and halal certification rates are prepared by the Ministry of Religion. The National Standardization Body is a government institution authorized by Law Number 20 of 2014 concerning Standardization and Conformity Assessment (hereinafter referred to as Law Number 20 of 2014) to carry out governance in the field of standardization and accreditation and is obliged to harmonize existing technical requirements. regulation. The government's efforts can also be seen in the formulation of SNI 99001:2016 which not only adopts the provisions of the LPPOM MUI halal standard but has made the SMIIC international standard, namely OIC/SMIIC I: General Guidelines for Halal Food, into a reference. as required in the TBT Agreement. OIC/SMIIC I: General Guidelines on Halal Food which is one of the international halal standards originating from the Standards and Metrology Institute Institute for Islamic Countries (SMIIC). SMIIC was formed by the Organization of Islamic Cooperation (OIC) in May 2010 in an effort to harmonize standards, accreditation schemes and certification schemes of OIC member countries, as well as to realize equality of competence between OIC countries and develop certificates between SMIIC members to increase trade volume.²⁴

SMIIC Technical Committees are in the areas of Halal Food, Halal Cosmetics, Place of Service, Renewable Energy, Tourism and Related Services, Agricultural Processes, Transportation, Leather and Tanning Materials, Textiles and Related Products, Halal Supply Chain, Halal Management Systems, Transportation of Dangerous Goods Requirements, Jewelry and Petroleum and Petroleum Products with 3 standards as references, namely OIC/SMIIC I: General Guidelines for Halal Food; OIC/SMIIC 2: Guidelines for Halal

²⁴ PT. Sukofindo, "The importance of halal certification in global marketing," December 21, 2023, https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.sucofindo.co.id/article-1/importance-of-halal-certification-in-global-marketing/&ved=2ahUKEwin-5Ct-6CGAxX_zjgGHVPYBzoQFnoECCgQAQ&usg=AOvVaw1EUvkZY-AyAoeCPCaJIBb4.

Certification Organizing Bodies; and OIC/SMIIC 3: Halal Accreditation Body Guidelines for Accrediting Halal Certification Institutions.²⁵

Indonesia as part of the international community is interdependent, therefore the Indonesian Government has no choice not to comply with WTO rules. The government's goal is to advance the economy and improve the welfare of its citizens, one of which is through international trade relations. The consequence of Indonesia joining as a WTO member country is that it is bound by all its provisions so that the government takes careful action in implementing every national rule or policy that needs to be taken to avoid violations, even if necessary the government can do this. . . makes it possible to change a number of national regulations. Indonesia also cannot choose to carry out trade transactions with only one or two particular member countries, because if so it must be carried out within a regional framework such as ASEAN Free Trade so as not to violate international trade principles and there are no demands from other parties. The parties. member countries too. demands for compensation or sanctions through the WTO Dispute Settlement Body in the form of possible retaliation that can be justified by the WTO based on the principle of retaliation. Not only will Indonesia be given legal sanctions, exceptions and political pressure will also be given if it violates WTO trade provisions, especially if Indonesia is dealing with developed countries which could then harm national interests.

This fact cannot be ruled out, because it has happened frequently and considering Indonesia's position which is still very dependent on other countries, avoiding disputes is the best way for the Indonesian government to do this. One of the keys to the successful implementation of mandatory halal certification by the Indonesian government is trust. The Indonesian government must be able to make other countries believe and believe that the existing regulations are regulations that do not hinder trade. Regulations, rules and requirements created and established must be guaranteed by the government to be implemented effectively and efficiently and not to cause excessive costs so that they can make it easier and provide benefits for producers in producing and marketing their products within the country's territory. Indonesia. Concerns and reactions from other countries arise because they do not believe in the actions of the Indonesian government in making regulations, even within their own country. This concern arose from local producers with the promulgation of Law No.33/2014. Resistance can be eliminated and eliminated if they believe in the implementation of government regulations and vice versa, they will support the implementation of mandatory halal certification.

Conflicts over regulations in Indonesia that apply to all WTO member countries wishing to export meat to Indonesia resulted in one of the WTO members exporting meat to Indonesia suing the WTO. Namely, Brazil considers Indonesia's import list to be inconsistent with the article. With these violations,

²⁵ Hasan, KNS, "Legal Certainty of Halal Certification and Labeling of Food Products," *Journal of Legal Dynamics*, 2014, 227–38.

Indonesia is currently harmonizing import policies. Then the government changed the policy, namely RMT Regulation no. 59 of 2016 Regulation of the Minister of Agriculture Number 23 of 2018 concerning the Importation of Carcasses, Meat, Offal and Their Processed Products into Indonesian Territory (hereinafter referred to as MAR No. regulated in Attachment 2 of GATT 1947 concerning the Definition of Rules and Procedures for Regulating Dispute Settlement as Procedural Laws for Settlement Dispute at the WTO Court. By following the appeal process, Indonesia is also trying to negotiate with Brazil. According to Professor Dr. Joko Priyono, SHMHum is the same as previous Horticulture imports.²⁶

In the final decision of the WTO, Brazil won 4 points in the lawsuit, namely health, reporting importer realization, not allowing changes in product quantities, and delaying the issuance of Health certificates. And Indonesia won 3 points because Indonesia was deemed to have failed to prove it in the form of discrimination regarding halal label requirements, direct transportation requirements, general prohibition on imports of chicken meat and chicken products. Currently, Indonesia is preparing to appeal the DS 484 case to the DSB. There were 2 (two) disputes discussed with the Brazilian side in the appeal process at the WTO, namely the first regarding the process of issuing health certification which is contrary to Article 8 and Appendix C (1) (a) of the SPS Agreement. Second, regarding the allegation that the requirements for the use of imported products are in conflict with Article XI GATT and Article III: 4 GATT. The Indonesian government assesses that this policy does not violate WTO provisions. Until now, the appeal has not been processed due to the blockade of the Appellate Body election carried out by one of the WTO members, namely the United States.

To avoid disputes between WTO member countries as a result of this lawsuit, the Indonesian Government is carrying out policy harmonization, namely:

- 1) MAR Number 23 of 2018 which came into effect on May 24 2018;
- 2) MTR No.65/2018 which came into effect on 31 May 2018.

Based on the Dispute Settlement Body World decision in this case, halal certification for animals is carried out separately, meaning that halal certification is not mandatory for animals. However, applications submitted to the relevant veterinary authorities and halal certification authorities will be processed if the requirements have been met. Importers are allowed to change the information

²⁶ KlikLegal, "Indonesia's Appeal in the Dispute on the Dispute on the Import of Brazilian Chicken Meat at the WTO," at KlikLegal.com, accessed 19 August 2021, Indonesia's Appeal in the Dispute on the Import of Brazilian Chicken Meat at the WTO," at KlikLegal.com, accessed 19 August 2021, <https://kliklegal.com/banding-indonesia-dalam-sengketa-import-damping-ayam-brazil-di-wto-will-have-the-same-fate-as-horticulture-import-case-against-america/>.

contained in the import permit. For distribution plans, Indonesian producers also have plans to continue distributing Brazilian products. **DISCUSSION**

There is previous research that is almost similar to the author's, Neni Ruhaeni, Eka Aqqimudin and Hadian Afriyadi (Journal of Law and Development 2022), The Title is "Public morality as a justification for the obligation to certify halal food products in Indonesia based on GATT-WTO 1994", Focuses on analyzing the halal certification obligation in Indonesia which is considered discriminatory but is justified by public morality.

Research results: halal certification of food products in Indonesia is mandatory, not voluntary. This is to provide certainty for Muslim consumers to consume halal food products as a form of implementing their right to freedom of religion. In addition, halal certification can fall into the category of public morality. Thus, UUJPH can be used as a valid exception as regulated in Article XX (a) GATT-WTO. Therefore, the Government needs to pay attention to the provisions in GATT-WTO so that the policies made do not conflict with Indonesia's obligations at the international level.

Meanwhile, what the author researched was the evaluation of Indonesia's halal certification policy with the provisions of WTO policy in order to avoid obstacles or discrimination in international trade between members of the WTO international organization.

CONCLUSIONS AND RECOMMENDATIONS

1. Halal meat products are something that is very important for people in Indonesia, therefore the government has issued a policy regarding the requirements for imported meat to have halal certification issued by the Halal Product Guarantee Organizing Agency based on the fatwa of the Indonesian Ulema Council based on Law Number 33 of 2014. Legal harmonization aims to fulfill the state's obligation to the community to provide safe, healthy and halal food because the Indonesian people are Muslim, this is a form of religious right whose implementation is protected by the government.
2. The existence of law in a country functions as legal certainty in a policy. Indonesia has issued a policy requiring halal certification for imported meat from various WTO member countries, but this policy is in conflict with the Exclusion Clause. Indonesia has issued policies that are adapted to the GATT agreement made by WTO member countries. so that international trade can continue without any regulatory obstacles from the Indonesian state.

The Indonesian government should harmonize its policies regarding halal certification so that national and international policies do not conflict and international trade can run smoothly as it should.

FURTHER STUDY

That's the research I have done, there is definitely a lot more that needs to be researched regarding halal certification in Indonesia, hopefully future researchers who research halal certification can develop it.

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