

Perbandingan jasa keuangan dalam general agreement on trade in services (GATS) mengenai perbankan dengan prinsip syariah di Indonesia = The comparison between financial services in general agreement on trade in services (GATS) about banking with syariah banking principle in Indonesia

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Abstrak

ABSTRAK

World Trade Organization (WTO) sebagai suatu badan perdagangan dibentuk berdasarkan ide liberalisasi perdagangan internasional untuk meningkatkan perdagangan dunia, dengan perdagangan dunia yang meningkat diharapkan kemakmuran umat manusia akan meningkat. WTO secara umum terbagi atas tiga perjanjian, yaitu the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), dan Trade-Related Aspects of Intellectual Property Rights (TRIPs). Dalam GATS, WTO mengatur tentang perdagangan jasa-jasa, salah satunya yaitu financial services atau jasa keuangan yang di dalamnya mengatur tentang jasa perbankan. Indonesia sebagai negara yang telah meratifikasi WTO dengan Undang-undang Republik Indonesia No 7 tahun 1994 Tentang Pengesahan Agreement Establishing the World Trade Organization, bertanggung jawab untuk mengimplementasikan perjanjian-perjanjian dalam WTO, termasuk tentang jasa perbankan yang diatur dalam GATS ke dalam peraturan perundang-undangan tentang perbankan Indonesia. Dalam dunia perbankan, sistem perbankan terbagi dua, yaitu sistem konvensional dan syariah, sistem perbankan syariah dewasa ini berkembang sangat pesat, dan telah menjadi salah satu pilihan transaksi perbankan. GATS mengatur tentang pembukaan bank di negara-negara anggotanya dengan prinsip-prinsip nondiskriminasi dan harus seliberal mungkin, namun GATS juga memberikan kemungkinan negara untuk membuat Schedule of Specific Commitments (SoC) untuk menunjukkan bagaimana setiap negara anggota menerapkan kewajiban akses pasar dan perlakuan nasionalnya. Indonesia dalam SoC nya, mengatakan pembukaan bank asing syariah wajib dalam bentuk joint venture dengan lokal, dengan memungkinkan asing memiliki maksimum 99% dari modal disetor bank. Di Indonesia terdapat dua bank asing syariah yang telah beroperasi, yaitu Maybank Syariah dan Bank Muamalat Indonesia. Dalam pembukaan bank asing syariah, Indonesia telah menerapkan prinsip Most-Favoured Nation dengan baik, hanya prinsip resiprositas yang belum terlaksana dengan baik. Kedepannya, Indonesia wajib mengatur ulang kebijakannya di dalam negeri dan mengadakan negosiasi dengan negara lain agar bank nasional Indonesia dapat membuka cabangnya di luar negeri

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ABSTRACT

World Trade Organization (WTO) is an organization which was founded in the spirit of international trade liberalization with a view to improve the world trade, which consequently would improve the prosperity of mankind. Generally, WTO is based on three agreements; the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and the Trade-Related Aspects of Intellectual Property Rights (TRIPs). In GATS, WTO regulates the trade of services; the financial services being one of them. It, furthermore, manages Indonesian banking services As a country that has ratified WTO, as stated in Law No 7 year 1994 of Republic of Indonesia on the ratification of Agreement Establishing the World Trade Organization, Indonesia is responsible in implementing the agreements stated in WTO; which includes the banking services that is stated in GATS, into the banking law of Indonesia. The banking system is fundamentally divided into two; the conventional banking and the Islamic banking system which has rapidly developed and has successfully become a choice for people's banking transactions. GATS regulates the establishment of banks in its member countries based on the non-discriminating and liberal principles. GATS, however, offers possibilities for its member countries to form a Schedule of Specific Commitments (SoC) as a mean to show their market access liability and their national banking acts. In its SoC, Indonesia states that any foreign Islamic banks must form a joint venture with local banks, with maximum capital of 99%. At the moment, there are two operating islamic banks in Indonesia; Maybank Syariah and Bank Muamalat Indonesia. In the establishment of islamic banks, Indonesia has applied Most-Favoured nation principle. However, the principle of reciprocity has yet to be applied effectively. In the near future, it is hoped that Indonesia could reconsider its national regulation, and hold negotiations with other countries, so as Indonesia's own banks would be able to open their branches