

Harmonization of Standardization, Certification and Labeling for Halal Products in Indonesia in Drafting the Policies with Regards to the Import of Food Pursuant to the TBT Agreement

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Abstract:

In recent years, developing countries tend to take defense action against the aggression from the import products as the effect of rapid process of the international trade, which is supported by technology, information and communication. One of such developing countries is Indonesia, that in this regard is taking measures in the field of trade security, one of which is through the protection of policy in the poultry sector, this requires people to stop importing chicken meat from Brazil. National regulation shows that Indonesia is enacting a quite strict supervision to the products circulating around the Indonesian market, either originating from domestic or international sources. The policy with regards to Brazil was made pursuant to an agreement proposed by Brazil itself. Brazil was questioning the implementation of procedures from the TBT Agreement concerning standardization, labelling and certification for halal products in Indonesia. The purpose of this study is to understand the cause or legal basis underlying the act of Indonesian government to restrict the import of chicken meat from Brazil to Indonesia in connection with the standardization, certification and labelling of halal products in Indonesia, and to analyze how the government is arranging steps and strategy to increase the policy on import according to the national interest without creating impediments in the field of trade. This study is using normative juridical approach towards the rules and regulations (statute approach) as well as cases (case approach). The data used are secondary data, it includes rules and regulations and relevant literatures to the non-tariff infringement, certification, and labelling of halal products for food.

Keywords: Non-Tariff Barriers, Halal Certification and Labelling, TBT Agreement.

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INTRODUCTION

As a state with high level of economic growth and 4th largest population in the world, Indonesia becomes the right country for investment and trade, especially in the food sector. In recent years, states tend to take defense action against the aggression from the import products as the effect of rapid process of the international trade, which is supported by technology, information and communication. The government is taking such defense act in order to improve its domestic economy. This effort is a trade

remedy measures/contingency which includes restriction policies in a trade. (Prayitno & Santoso, 1996, p. 260) These trade remedies have the purpose to protect the industry from fair trading and unfair trading. One of the International Trading Policies in Indonesia that has created dispute with other state is the protection policy in the poultry sector stipulated under the Law Number 33 of 2014 concerning Guarantee for Halal Product (GHP Law) and Regulation of the Minister of Agriculture Number 139/Permentan/PD.410/12/2014 concerning the

Import of Carcasses, Meats, and or Their Processed Products into the territory of the Republic of Indonesia (Permentan No.139/2014) From this policy, Brazil claimed that Indonesia has conducted trade protection, where in this regard has violated various WTO rules, one of which is the Agreement on Technical Barriers to Trade (TBT Agreement). This dispute has been processed in the WTO Dispute Settlement Body (DSB) with DS number: 484 Indonesia Measures Concerning the Importation of Chicken Meat and Chicken Products. (Kurniawan, 2019) Brazil filed the dispute by questioning the implementation of the TBT Agreement procedures related to the standardization, labeling certification of halal products in Indonesia, noting that in 2015, Brazil has been dominating 82% of imported boiler chicken market for two decades within Saudi Arabia based on the data presented in the GAIN report number SA1607. Brazil considers that the implementation of halal labeling enacted by Indonesia has distorted the practice of international trade, it has illogically require Brazil to send poultry products with halal labels. Brazil underlies this assessment on the fact that the wet market (traditional market) in Indonesia itself does not apply any guarantee to the halal status of the products through certification and labeling conduct. In addition, Brazil also consider that Indonesia does not take action in good faith with regards to the consistent failure of conducting and settling procedures of examination in fulfilling sanitation requirements for the import process of the chicken meat from Brazil to Indonesia. The case of DS-484 has been decided by the WTO DSB which mostly in favour of Brazili, since the protection measures from Indonesia deemed as infringing several principles of international trade and the rules in the TBT Agreement. Standardization practice is viewed in larger scope in terms of producing globally applicabe standard, not limited to ASEAN countries only. (Spiegel, 2012, p. 111) Different views between Indonesia and Brazil shows an existence of urgency to determine a common standard in the international trade activities. This covers that "one standard" consistent with the certification and labeling of halal products around the world and also categorization of actions considered as an infringement to the principles of international trade by determination of excluded situation or circumstances. Based on the elaboration of case

above, we can see the relevance between the practice of international trade with the efforts of states in protecting the interests and security of its domestic products related to the application of principles of the international trade. This existence of different views, interests and implementation of policies in the international trade becoming the background for the authors to conduct this study. The purpose of this study is to determine the implemenation of policy for the certification and labeling of halal products conducted by Indonesia against poultry products from Brazil and to understand government's measures and strategies in its best endeavor to formulate suitable policies for the national interests and of which, in line with the TBT Agreement to avoid unnecessary obstacles.

Implementation of the Policy for the Certification and Labeling of Halal Products against Poultry Products from Brazil pursuant to the TBT Agreement.

There is a necessity of agreement that can ensure that technical regulations as well as standardization are made simultaneously with indiscriminating procedures far from infringement to the trade, in order to accelerate the economic growth and to expedite the international trade, as well as minimize technical barriers. Thus, an agreement called the Agreement on Technical Barriers to Trade (TBT Agreement) was made. This agreement has a role in reducing various technical barriers that might occur particularly in the international trade through technical regulations, standards and conformity procedures. (Bossche, 2005, p. 5) These three matters are the scope regulated under the TBT Agreement, they are both functioned as easement to identify trading goods, and also to prevent the circulation of unqualified goods, which do not meet the requirements of good health, security, and safety. (Faisal & Trisnamansyah, 2017, p. 116) As a WTO member countries, Indonesia is automatically subjected to the TBT Agreement through the Law No. 7 of 1994 concerning the Ratification of the World Trade Organization Agreement precisely in Annex 1A. Indonesia has taken a number of actions with regulating nature to the national law, in line with the principles of the TBT Agreement .

Standard and Standardization

Standard is one of the scientific focus studied and developed by the experts in selecting, examining, or certifying a product. (Amanda, 2012, p. 37) International Organization for Standardization (ISO) defines a standard as a document made based on a consensus, approved by an official institution which provide public necessity and made for recurrent use. It is a regulation, guideline, or characteristic of activities or which outcome is addressed to achieve certain level of importance. (Vries, 1997, p. 67)

In its Preamble, the TBT Agreement recognize that the international standard has a value that aim to increase the efficiency of production, to facilitate international trade, as well as to encourage these standards' development. International standard are used by the TBT Agreement as a facility to promote the international harmonization of technical regulations procedure of conformity assessment, and national standards. In other words, the international standard might help in promoting the harmonization of regulations, either within domestic or global scale. The TBT Agreement is also emphasizing the enforcement of international standard as the basis of regulation for the WTO members, to be adopted as the main guideline to harmonize the regulations to facilitate the international trade. The effort to reduce or avoid "unnecessary obstacles" is relying to the use of relevant international standard as a benchmark for a regulation. Better operation of system of arrangement for the international standard will lead to more effective standard in overcoming trade barriers and ease the harmonization of the regulations. The obligation of member states to comply to the international standard is stipulated in the sentence "Members shall use or shall ensure the use of," it is closely related to the concept of necessity. In the Article 2.5, it is stipulated that international standard provides a benchmark to avoid the "unnecessary obstacles" which is the core of the TBT Agreement. However, it does not mean that it is superseding permissibility of "necessary" obstacles as sovereign right of a government to rule its country. The existence of such balance is contained in the Preamble of the TBT Agreement which is described by the Appellate Body as: "on the one hand, the desire to avoid creating unnecessary obstacles to international trade and, on the other hand, the recognition of Members' right to regulate". The standardization in Indonesia is regulated under

the Law Number 20 of 2014 concerning the Standardization and Assessment of Conformity. The Law appoints the National Standardization Body (NSB) to establish a standardization in the form of certification through Indonesian National Standard (hereinafter referred to as INS). The implementation of the TBT Agreement in Indonesia is made through the NSB which acts as the Notification Body and Enquiry Point for the TBT Agreement, it has the task to coordinate with the activities related to the handling of various problems in the implementation of the TBT Agreement in Indonesia.

Certification and Labeling of Halal Products as a Non-Tariff Barriers

Standards and certification made to halal products are the tools to determine whether certain goods or services are truly safe, clean, and has met halal requirements. In fact, each state has a different practice on this regard, based on the requirements of halal products of that country. Even the involvement of certification agencies are also varied based on culture and interest of each country. (Shaarani, Othman & Bahron, 2016, p. 3) Pursuant to the Law No. 20 of 2014 concerning the Standardization and Assessment of Conformity, a certification has the role of becoming a series of assessment to the conformity to provide a written guarantee that certain goods, services, systems, processes, or personal have already fulfilled a pre-determined standard and/or regulation. In this discussion, the halal certificate means a statement letter issued by the Council of Ulema in Indonesia (CUI) from the capital or provincial, to certain products in the form of foods, drinks, medicines and cosmetics produced by companies, after going through examination and declared as halal by the authorized certification issuer for the halal products, which is the Food, Drug and Cosmetics Assessment Institute (FDCAI). Meanwhile, label is any statement about certain goods in either form of writing, combination of pictures and writing, or other forms containing information about the relevant goods, it often includes, put in, embed, attach or print other information about the goods such as about the business practitioners or funds, which becomes the part of the packaging. (Article 4 Regulation of the Minister of Trade Number 73, 2015) Label is used to give correct information that is not misleading about the edible through the information attached on it.

Affixation of label in Indonesia must meet the following elements: mandatory use of Indonesian language, in printed form, affixed or attached as a whole, and included or inserted into the goods and/or the packaging. Out of the three scopes regulated under the TBT Agreement, the certification and labeling of halal products are classified as technical regulation. It is stipulated under the Annex 1.1 of the TBT Agreement and relevant WTO cases, that an action or a policy can be considered as a "technical regulation" if:

The action applies to identifiable product or group of products;

The action mentioning the characteristics of the product and/or the process or method of production related to the product; and

Complied mandatorily to the characteristics of the product mentioned in the action.

The government is imposing the technical regulations with the aim to protect consumer safety, public health, state security, and the preservation of environmental functions. Before coming into force, policy makers (regulators) expect that the creation of technical regulations may counter the unfair competition, counter the threats impeding the development of domestic production, or various other considerations. The market must comply to the existing requirements in the technical regulations, it does not apply like the standard. Therefore, a technical regulation can be said as a government intervention potentially impede or restrict the flexibility space for the producers and importers in the circulation of a product. Thus, when this is compared with the standards, a technical regulation has a stronger influence on the development of competition and competitiveness factors. As technology develops, additives, including coloring substance, are inseparable from the processed foods and beverages. (Arintawati, 2012, p. 14) Starting from the procurement of raw materials and additives, processing, packaging, distribution of transportation, up to the sales. As a result, it becomes difficult for the consumer to access information about the halal status of certain food products from the producers. Producers are in an everlasting beneficial point amidst the limited knowledge from the consumer about the products. Many use of elements, or processing techniques, storage, handling, and packaging which are not in accordance with the Islamic shari'a, or contain illegitimate (*haram*)

elements. In the effort to give guarantee to the consumer, one of the ways from the government is to provide procurement of certification and labeling of halal to the products. The regulations on the labeling are stipulated in the Annex 1.1 of the TBT Agreement which stated that: "Document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method. " The regulation about the labeling in Indonesia stipulated under several regulations, some of them namely the Law No.33 of 2014, (Article 4 Law No. 33, 2014) the Government Regulation No. 31 of 2019, the Government Regulation No. 69 of 1999, (Article 10(1) Government Regulation No. 69, 1999) the Food and Medicines Supervisory Agency (FMSA) Regulation No. 31 of 2018, (Article 2 FMSA Regulation No. 31, 2018) the Ministry of Trade Regulation No. 29 of 2019 (Article 13, Ministry of Trade Regulation No. 29, 2019) which has replaced by the Ministry of Trade Regulation No. 59 of 2016. These regulations are determining the characteristics or technical specifications of certain products circulated in the Indonesian market, they aim to protect the safety of the consumer. The provision about the label are administrative requirements, which fulfillment is mandatory. Therefore, the regulations are included in the technical category within the TBT Agreement. The terms and conditions about the certification and labelling of the halal products in these regulations applied to all business practitioners, to each person stating that certain food is halal for Muslims, he shall be responsible for the truth of such statement, and he is obliged to affix description of halal on the food label. Likewise, the provisions to affix halal labels in Indonesian language. This obligation is imposed to every business practitioners, both from domestic or abroad. This means, that these regulations have enacted the principle of non-discrimination and national treatment according to the Article 2.1 of the TBT Agreement. It is done since the regulations are mandatorily applicable to all importers (does not depend on certain countries) and to all business practitioners (does not differentiating between imported from domestic products). It should be

noted that with regards to halal products certified by foreign certification institutions, Indonesia cannot accept the implementation of all kinds of international standards since the halal requirements in Indonesia is the most restrictive and cannot be deviated. Aside from protecting Muslim consumers from a variety of foods deemed as inappropriate according to Islamic shari'a, halal certification also encourage competitiveness or business competition. This is due to the fact that halal certification is not only related to religious issues, it also relate to the level of awareness in the healthy and hygienic cooking styles. It is proven with the existence of strong demand for halal products in various non-Muslim countries as healthier choice of food. (Hassan & Awang, 2009, p. 385-402)

Steps and Strategies of the Indonesian Government in Drafting the Import Policies related to the Certification and Labeling of Halal Products in Accordance with the National Interest without Violating the TBT Agreement.

Drafting regulation on the international standard is a complicated process. The process involves a variety of actors, such as the government, national standardization agencies, and the private sector, it also involves various regulations, such as the organization of international standard establishment, consortium from private sector , and also the market.(Abbot & Snidal, 2001, p. 345-370) it also related to the dispute settlement on the coordination between these actors and various other external factors. (Farrell & Saloner, 1988, p. 235-252) We can see a significant impact from the influence of national standardization agencies or institutions to the process of the establishment of international standards, that will also vary, since, the domestic standardization agencies or institutions of each country are having different structures and resources. A policy requires prudence and profound consideration up to the enactment process. A regulation, may it be technical, standard, or others will need an underlying purpose which is strong and understandable to the actors, it must also cause less impediments than the desirable objectives.

The flexibility given by the TBT Agreement to the member countries

In fact, the TBT Agreement gives flexibility to the drafting and enactment of a policy to its member

countries. This flexibility is found in a number of ways. First, the word "relevant" itself (Articles 2.4 and 5.4), it gives room for the member countries to argue that the international standards are irrelevant to certain condition of particular policy. Second, the member countries have an obligation to use relevant standards as a basis of a regulation, which means that they are not necessarily obligatory in the implementation. Third, a standard can be considered as "ineffective" or "inappropriate" . And fourth, in certain circumstances, members which are developing countries are not incurred with the obligation to use the international standards that are not in accordance with their necessity of development, financial and trade. This is regulated under the Article 12.4 concerning Special and Differential Treatment . (Wijkstrom & McDaniels, 2013, p. 5) Besides, the TBT Agreement is also liberating its members to form their own domestic regulations if it is dedicated to protect the health and safety of the consumers, the environment and national security. This liberty is pursuant to the Preamble and the Article 2.2 of the TBT Agreement which explains that domestic regulations are considered as legitimate and valid even if they are not complying to the international standards, if it is dedicated for "national security requirements; the prevention of deceptive practices; protection for human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; and fundamental technological problems. " The member countries are not required to use international standards as a basis of their regulations, either for the technical regulations or the conformity assessment procedures, if the standards are inaccurate or ineffective in achieving the desired level of protection, in connection with the objective of the regulations. (Article 5.4 TBT Agreement, 1995) In determining the ineffectiveness of an international standard, the Appellate Body states that an ineffectiveness means that the relevant standard does not have a function, fulfilment facilities, and results in achieving the objectives pursued. (US Panel Report, [year], para 7, 730; para 7, 721; para 7, 116; para 274-275; para 285-290)

This means, that there is a possibility of the international standards ratified by a national standardization agencies in certain country, left unused by the regulators and is not being enacted in the relevant country . Since, these standards are

inappropriate or ineffective to achieve the objectives of the policies in that particular country. Thus, in this regard, the government is reluctant to follow the international standards as a way to protect its domestic producers.

Technical Content, Method of Development, and the Six Principles

In connection with the discussion above, the TBT Agreement is actually giving a limited flexibility to its member countries. This is stated in the article 2.1 of the TBT Agreement, which stated that: "Parties shall ensure that technical regulations and standards are not prepared, adopted or applied with a view to creating obstacles to international trade. Furthermore, products imported from the territory of any Party shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country in relation to such technical regulations or standards. They shall likewise ensure that neither technical regulations nor standards themselves nor their applications have the effect of creating unnecessary obstacles to international trade. Such article shows that each country must ensure that the technical regulations and standards imposed in the TBT Agreement are not aiming to create trade barriers. In other words, a country must not create standards that cause unnecessary impediments to the trade activities, a regulation considered as resulting into unnecessary impediments if the enactment of the regulation is made unreasonably strict despite that the objective of the regulation may be achieved without such strict standardization. The author views that this limitation on the flexibility inherent in the TBT Agreement will potentially create problems, since it may be set as or a loophole for a trap through an accusation of creating trade barriers. The dispute on the import of chicken between Indonesia and Brazil is an example of problem arising from the said flexibility. This creates challenge for the state to settle its burden in maintaining the harmony in the international trade, by complying to the international standards, which is contrary to the obligation of the state to maintain the security of its citizens and its domestic market. Based on the current Indonesia's experience in facing the complexity of the challenges, the author is suggesting to the government, notably to the regulators, to focus on the actual substantive content of the standardization,

particularly to the technical content and the method of development or procedures. These two aspects in particular can help to overcome the challenges in drafting and harmonizing the regulations that will then reduce the tensions in the context of trading activities. This is caused by a reasoning that the improvement of procedures in enacting standards may help the government to have better national coordination and to focus their priority of the tasks to certain basic problems, as well as to create an appropriate fulcrum in the relevant coordination. Besides, the emphasis on the technical content and basic procedures may prevent the occurrence of legal uncertainty. Focusing the priorities on these two aspects shall increase the effectivity and efficiency of the harmonization of the regulations and reduce or prevent the "unnecessary obstacles" to the international trade. This means that an effective and efficient participation from the regulators and other actors shall also play an important role in ensuring that the standards or the regulations drafted, harmonized and determined shall be relevant to the regulators, the government, and the national laws of the country. Besides, the author views the Six Principles of the Committee Decision as a response to some challenges or problems in the process of drafting and enacting these standards and regulations. In author's opinion, the process of drafting and harmonizing of the national regulations shall be more effective and accurate if the regulator is going through the process based on these principles. Therefore, referring to the TBT Agreement in the Annex 3 concerning the Code of Good Practice for the Preparation, Adoption and Application of Standards, the development of the Indonesian National Standard (INS) must meet the following principles: (Hoe, 2020) openness means that it is opened to all stakeholders who wish to be involved; transparent means that all stakeholders may easily follow the process and obtain all information related to the development of INS; impartial means that it does not only favourable to one party, hence all stakeholders may channel their interests and be treated fairly; development dimension means that the drafting of INS must pay attention to the public interests and national interests, thus, it may increase the competitiveness of national products in the international market;

effective and relevant means that the drafting of INS must be truly in accordance with the scale of priorities by paying attention into the market demand and the applicable rules and regulations; consensus means that the drafting of the INS must be agreed by the stakeholders; and coherent means that the drafting of the INS must refer to the international standards, however, the process must not in duplication, hence, that national products shall be more easily entering the international market. Transparency and accountability are very important in the process of enacting the standards, either in the national level or international level. (WTO, 2012) Transparency applies throughout the process of enacting the standards, starting from the access to the necessary information in order to follow the technical committee, up to the procedure of decision making. Therefore, in the effort to prevent the emergence of trade barriers, either it is necessary or not, the government must be transparent and be responsible for the policies or regulations that have been enacted. One of the effective ways is through notification. The WTO has established an integrated notification system based on such principles, to ensure the extent of a country in performing its obligations to the TBT Agreement, it is made in collaboration with each representative appointed by the member states as a National Enquiry Point. The main task of the National Enquiry Point is to provide notification on each technical regulations, enforcement of standards, and conformity assessments which potentially cause trade barriers in implementing the TBT Agreement effectively. The purpose of such notification is to provide transparency to each country in implementing the provisions of the TBT Agreement as well as to ease the parties with interest to obtain the most update information on the regulations related to the TBT Agreement in a country. It means that the NSB can minimize the dispute potential that may rise due to the enactment of Indonesian policies which create barriers in the international trade by giving notification to the WTO in regular and detailed manner.

Application of Article XX as an Exception and a Last Resort

Peter van den Bossche has classified the exceptions regulated under the GATT in its connection with the

liberty in the trading activities, social values , and interests. Those exceptions are exceptions to the problems in general, exceptions to the problems in security, exceptions to the problem in economic emergencies, exceptions to the regional integration, and exceptions to the economic development. For the purpose of this study, the author will only discuss the exceptions to the problems in general regulated under the provisions of the 1994 GATT in its connection to the TBT Agreement . The exceptions referred to in this regard, are arranged in the provisions of the Article XX of the 1994 GATT. (SPS Agreement, [year]) Article XX of the 1994 GATT mainly stated that the member states are allowed to perform certain acts that essentially in contrary with the provisions in the 1994 GATT in order to protect its national interests, and such acts must not be a form of arbitrary decision or discrimination without justification in certain matters. (GATT, 1994) Certain matters in this regard are among others: a) an act related to the interest in protecting the morality or values held in the community; b) to protect the life and health of humans, animals and plants; c) protect the trade of golds and silvers; d) obligations related to the international commodity agreements; e) conservation efforts to the unrenewable natural resources; and e) to maintain the conformity to the national regulations of a country. In order for a country to be able to implement an act basically unjustifiable by the provisions of the 1994 GATT, however justified by the Article XX of the 1994 GATT, then there are 2 (two) matters that must be evaluated with regards to the performance of the relevant acts. First, whether the act is temporarily justifiable according to the exceptions mentioned in the Article XX letters (a) to (j) of the 1994 GATT, and second, whether the application of such act is according to the requirements mentioned in the preamble of the Article XX of the 1994 GATT. (Bossche, Natakusumah, Koesnadi, 2010, p. 54)

Besides the two matters above that must be evaluated, there are additional requirements for letter (a) to letter (j) that must be fulfilled, which of course varied, considering that each point in the Article XX of the 1994 GATT has different scope. The additional requirements related to this provision in principle states that a country must enact to protect the life or health of humans, animals, plants; and such acts indeed shall be necessary to achieve

the objectives of the relevant policies. (Bossche, 2005, p. 603)

DSB took measurements to the problematic policies, in order to determine the appropriate level of protection and necessity tests. The first additional requirement is certainly not raising problem, however, we must pay attention to the meaning of "necessary" acts in the second requirement. The word "necessary" means that there is no other alternative acts doable to achieve the same purpose with the lesser effect to the international trade, (Bossche, 2005, p. 56) or in other words, the restriction to the regulation in the international trade is only permissible if there is no other violation of the regulations from the provisions in the GATT occurred. (Trebilcock & House, 2001, p. 140) And in order to determine the existence of such alternative acts, then we must pay attention to several matters, namely how much is the importance of the social values intended to be achieved through these acts, the implications of these acts to the international trade, and how far does other alternative acts can contribute to the protection of the desired value. (Bossche, Natakusumah, Wira Koesnadi, 2010, p. 54)

Conclusion

In the effort of avoiding the "unnecessary obstacles", the TBT regulates 3 matters, one of which is through the technical regulations. In the effort to give guarantee to the consumer, one of the ways from the government is to provide procurement of certification and labeling of halal to the products. The certification and labelling for the halal products are considered as technical regulations regulated under the Annex 1.1 of the TBT Agreement. A regulation, may it be technical, standard, or others will need an underlying purpose which is strong and understandable to the actors, it must also cause less impediments than the desirable objectives. In this regard, the member states are granted with flexibility in the drafting and enactment of certain policy in its country. These flexibilities are found in: The word "relevant" (Article 2.4 and 5.4) is giving space to the member states to argue that the international standards are not relevant with the situation of certain policies;

The member states have obligation to use relevant standards as the basis to create regulation, which

means that it does not necessarily obligatory implemented;

A standard can be considered as "ineffective" or "inappropriate"; and

The members from developing countries are not incurred with the obligation to use the international standards that are not in accordance with their necessity of development, financial and trade. This is regulated under the Article 12.4 concerning Special and Differential Treatment. (Wijkstrom & McDaniels, 2013, p. 5) However, the flexibility granted to the member states remains limited. This is stipulated under the Article 2.1 of the TBT Agreement which determine that a country must not create standards that cause unnecessary obstacles to the trading activities. This creates challenge for the state to settle its burden in maintaining the harmony in the international trade, by complying to the international standards, which is contrary to the obligation of the state to maintain the security of its citizens and its domestic market. The author advises the regulators to focus on the actual substantive content of the standardization, particularly to the technical content and the method of its development or procedures and underlying such matters on the Six Principles. These matters may repair the procedures in the enactment of standards to help the government to create better national coordination and to focus their priority of the tasks to certain basic problems, as well as to create an appropriate fulcrum in the relevant coordination. Besides, the emphasis on the technical content and basic procedures may prevent the occurrence of legal uncertainty. Focusing the priorities on these two aspects shall increase the effectivity and efficiency of the harmonization of the regulations and reduce or prevent the "unnecessary obstacles" to the international trade. This means that an effective and efficient participation from the regulators and other actors shall also play an important role in ensuring that the standards or the regulations drafted, harmonized and determined shall be relevant to the regulators, the government, and the national laws of the country. In addition, the BSN which acts as the Notification Body and Enquiry Point may minimize the dispute potential due to the Indonesian policies that create barriers in the international trade by notifying and coordinating with the WTO in regular and detailed manner, particularly in terms of the

verification of appropriate level of protection and necessity test to the problematic policies.

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