

ABSTRACT

GATS (*GENERAL AGREEMENT ON TRADE IN SERVICES*) IMPLICATION ON LEGAL PROFESSION IN INDONESIA

Trade in services, the effects of services in economic development and the worldwide presence of multi national corporations bring about great impact on legal profession. Competent and reputable lawyers are needed by the multi national corporations to secure their business. Law No. 18 of 2003 restricts foreign lawyers to run office in Indonesia. The law specifies that foreign lawyers who practice law in Indonesia should work as lawyers to Indonesian law firms. The fact raises legal issues.

The legal issues presented in this research would be: (1) what substance may be laid down in the model of schedule of specific commitment for legal service sub sector?; (2) what are the criteria to qualify and standardize foreign lawyers and give the license?; and (3) what is the implication of GATS Agreement on legal education in Indonesia?

Restriction specified in Law No. 18 of 2003 is overstated. This is because relying upon schedule of specific commitment, Government and Bar Association may either set up regulation to allow foreign lawyers and foreign law forms to run offices in Indonesia based on national treatment principle and market access or based exemption clause to give local lawyers time (maximum ten years) to increase their capability. John Rawls' theory distributive justice may be adopted to apply the clause.

Article VI: 4 of GATS Agreement specifies that qualification, standardization, and license may not be barriers to trade in services. Qualification, standardization, and license cover discipline, moral, education, and skill training. Legal education gap may be bridged by mutual recognition agreement. Issuing limited license, Indonesia may permit foreign lawyers to practice law of their countries of origin, international law, and law of the third countries. They, however, are permitted to neither represent client in court nor practice Indonesian law.

Lack of knowledge of the essence of legal study as the study of know-how instead of know-about is the main obstacle for law schools in Indonesia to produce competent and competitive lawyers. In addition, curriculum, infrastructure, and teaching method do not support law schools in Indonesia as professional schools. Cooperation with foreign law schools is badly needed and the state has steering capacity to do it.

Key words: GATS, legal Profession, legal Education