

ABSTRAK

Ratifikasi Indonesia atas *Agreement Establishing* WTO yang ditandai dengan keluarnya Undang-Undang No.7 Tahun 1994, membawa Indonesia ikut menjalankan ketentuan perjanjian perdagangan jasa, yaitu *General Agreement on Trade in Service* (GATS). Ada 12 sektor yang masuk kedalam mekanisme perdagangan GATS, salah satunya adalah jasa pendidikan, terutama pendidikan tinggi. Muncul permasalahan perdagangan jasa pendidikan tinggi dalam GATS, terutama mengenai latarbelakang dikeluarkannya aturan-aturan yang mengizinkan perguruan tinggi asing masuk sebelum dibuatnya *Schedule of Commitments*, serta muatan prinsip *market access* dan *national treatment* terkait penerapannya dalam aturan hukum Indonesia mengenai syarat pengoperasian perguruan tinggi asing. Dalam menjawab permasalahan tersebut, digunakan pendekatan yuridis normatif. Data diperoleh dari data sekunder, dianalisis dengan metode interpretasi, dan disajikan secara deskriptif analisis. Pendidikan merupakan salah satu upaya dalam mencerdaskan kehidupan bangsa sebagaimana diamanatkan oleh Undang-Undang Dasar 1945, maka dari itu penyelenggaraan pendidikan di Indonesia berupa layanan publik yang memiliki misi sosial negara terhadap warga negara. Sayangnya, GATS memperlakukan pendidikan sebagai suatu komoditas yang dapat diperdagangkan, salah satunya pendidikan tinggi. Indonesia kemudian menyiapkan peraturan penyelenggaraan pendidikan tinggi asing agar tidak hilang esensi dunia pendidikan tinggi dan tergantikan oleh orientasi dunia bisnis. Indonesia sendiri belum mengajukan *Schedule of Commitments*, namun aturan nasional tentang pengoperasian perguruan tinggi asing tersebut sudah mengarah ke mekanisme prinsip GATS. Sehingga syarat pengoperasian perguruan tinggi asing di dalam Undang-Undang Pendidikan Tinggi dan Undang-Undang Sistem Pendidikan Nasional dapat dianggap sebagai *barrier* bagi penyedia layanan perguruan tinggi asing. Butuh pengelompokan peraturan pendidikan publik dan peraturan pendidikan privat agar terjadi harmonisasi dengan prinsip GATS.

Kata kunci : Perdagangan Jasa, perguruan tinggi asing, GATS, Indonesia

ABSTRACT

Indonesia's ratification of the WTO Establishing Agreement which was marked by the issuance of Law No.7 of 1994, led Indonesia to take part in implementing the provisions of the trade in services agreement, namely the General Agreement on Trade in Service (GATS). There are 12 sectors that are included in the GATS trading mechanism, one of which is education services, especially higher education. Problems arise in the trade in higher education services in GATS, especially regarding the background of issuing rules that allow foreign universities to enter before the Schedule of Commitments are made, as well as the contents of the principles of market access and national treatment related to its application in Indonesian legal regulations regarding the requirements for operating foreign universities. In answering these problems, a normative juridical approach is used. Data obtained from secondary data, analyzed by interpretation method, and presented in descriptive analysis. Education is one of the efforts in educating the nation's life as mandated by the 1945 Constitution, hence the implementation of education in Indonesia in the form of public services that have a state social mission towards citizens. Unfortunately, GATS treats education as a tradable commodity, one of which is higher education. Indonesia then prepared regulations for the implementation of foreign higher education so as not to lose the essence of the world of higher education and be replaced by the orientation of the business world. Indonesia itself has not submitted a Schedule of Commitments, but the national rules regarding the operation of foreign universities have led to the GATS principle mechanism. So that the operating conditions of foreign universities in the Higher Education Law and the National Education System Act can be considered as a barrier for foreign tertiary service providers. Need to group public education regulations and private education regulations so that harmonization occurs with the GATS principle.

Keywords: Service Trade, foreign universities, GATS, Indonesia