

A LEGAL FRAMEWORK FOR WTO COMPLIANCE OF DOMESTIC HALAL MEASURES: CASE STUDY ASEAN AND INDONESIA



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Background

In Islam, all things are allowed (halal) to be consumed except those specifically mentioned as prohibited (haram) are used (refer to the Qur'an, Hadith, Ijma 'and Qiyas).

Halal should be clean, pure and made in accordance with the provisions of Islamic law, including forbidden are pork and its derivatives, blood and its derivatives, animals slaughtered without mentioning the name of Allah, carcasses, wild animals, and khamr. Halal in unity "HALALAN THOYYIBAN" (Hygiene, Healthy & Wholesome)

يَأْتِيهَا النَّاسُ كُلُّهُمْ مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ
"O mankind, eat from whatever is on earth [that is] lawful and good and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy." (QS. Al-Baqarah : 168)

With 1,6 billion Muslim consumers, Halal market was value US\$ 1.37 trillion in 2014, representing 18.2% of the total F&B market worldwide and worth over USD 46 billion per annum in ASEAN.

Problem

More Halal regulations by Government, Multiple Halal certification system
 No International Halal standard, Costly and impractical procedurs



RECONCILE

Goals of World Trade Law

Legitimate Objectives on Social and Economic (Religious policy objective)

Non Discrimination Principle

Halal Measures:

Article XX GATT:
 (a) Public Moral
 (d) Secure compliance with law and regulation

Standard
 (Voluntary/Mandatory)

Certification regulation
 (Private/Public)

Article 2 TBT Agreement:
 "Technical Regulations by Central Government Bodies"

Labelling and Food claims

SPS Agreement
 "specific risks, human health (food safety) and animal/plant health"

Inspection procedures

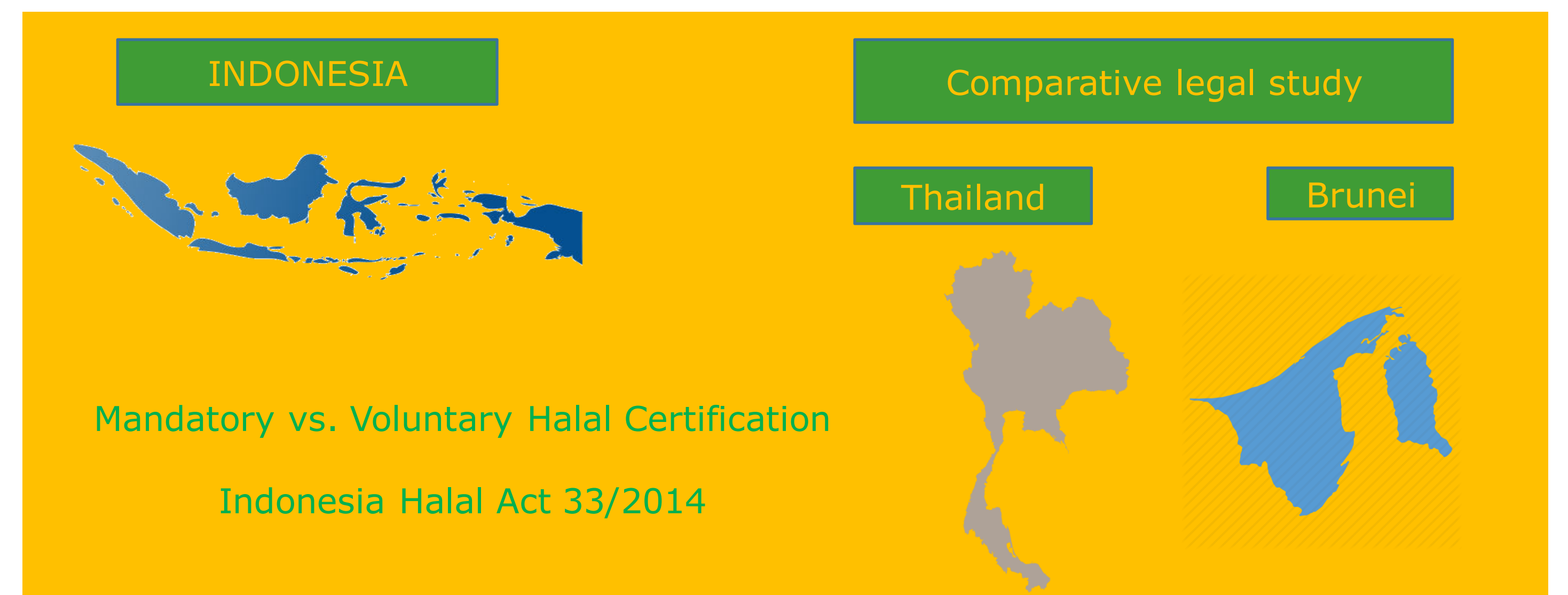
Objective

1. Provides a better legal empirical understanding of the extent and kinds of trade concerns that are raised through different types of Halal measures.
2. Clarifies the WTO legal framework disciplining Halal measures and to establish the legal criteria which determine WTO compliance in order to formulate a framework for Halal measure which comply with WTO Law.
3. Provides insights into differences of Halal regulation at domestic level, illustrating divergences between regime mandatory and voluntary Halal certification and labelling with respect to WTO compliance.
4. Test whether the (regional) harmonization of Halal measures offers a solution to the trade concerns raised.

How can domestic Halal measures at regional and country level ensure compliance with WTO Law?

Level	Questions
Global	1. What are the trade law concerns relating to different types of domestic Halal measures at WTO level 2. What are the legal criteria that determine whether Halal measures are WTO compliant
Country (Indonesia)	3. How and Why do different frameworks (voluntary/mandatory) of regulating Halal certification and labelling affect WTO compliance
Regional (ASEAN)	4. How does regional regulation and harmonization of Halal measures address trade concerns and ensure WTO compliance

Case Study Indonesia



Case Study ASEAN



Method

The research applies several methods and uses the law as primary data source.

1. 'classical' doctrinal analysis: employed both textual and contextual interpretations to analyse the legal sources.
2. an empirical legal approach: used to complement legal methodology of WTO law with empirical tools and techniques, specific methodology of analysis of legal documents by qualitative software supported analysis.
3. comparative law method: applied to convey interpretative depth to the doctrinal analysis.

Methods of analysis			
Global		Country	Regional
Doctrinal Legal Analysis	Doctrinal Legal Analysis	Doctrinal Legal Analysis	Doctrinal Legal Analysis
Qualitative Software Supported Analysis	Case law approach	Comparative law study	Qualitative content analysis

(expected) Result

1. Identifying novel legal ways for balancing the legitimacy of regulating halal with trade concerns.
2. Formulating recommendations as to how and at which level to design a legal framework that allows for such a balancing.
3. Mapping mandatory and voluntary Halal certification and labelling.
4. Proposing the potential of regional Halal standard harmonisation mechanism for an alternative way in absence of International Halal standard.

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