

## **Indonesian Case: Insurance Service Sector**

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## **NEGOTIATION ON RULES AS A SIGNIFICANT PART OF HAVING COMMITMENT WITH WTO MEMBER COUNTRIES INDONESIAN CASE: INSURANCE SERVICE SECTOR**

The growth and development of the world economy is numerous. Each developed country focus on the increasing participant of developing countries in trade and services of the global market.

In response to a request of developed countries and as a part of responsibility of member country in regional, bilateral and multilateral consensus in International Trade and Services, it is important to set up an economy strategy to have a fair competition with other countries.

Indonesia became a member of WTO (World Trade Organization) since January 1, 1995 and it is categorized as a developing country. Developing country status in the WTO bring certain right e.g. provisions in some WTO agreements which provide developing countries with longer transaction periods before they are required to fully implement the agreement, and developing countries can receive technical assistance.

To negotiate an issue in term of negotiation sectoral sector, the regulation and requirement of the services sector which has to be complied by foreign supplier in doing operation has to be set up. The objective of it to avoid the requirements will be used as barriers which are not necessary in the trading process. Actually, negotiation should be related to qualify the requirements and procedures, technical standards, and licensing requirements which are required by a service provider.

Following those criteria, sectoral stepping forward to:

- Provide complete information of the regulations and recognize each other prudential measures that can impact how measures shall be applied.
- Consider the priorities and concern (identify the offers and request).
- Discuss the material with other sector to have clear picture of regulations which are related.
- Table initial offer under current round negotiation

Indonesia case in insurance sector which is one of financial service sector has committed in negotiation. Insurance itself is essentially a form of risk management used to hedge against the risk of financial loss.

The insurance business has existed in Indonesian economy for a long time and played an important role in the course of the national history, standing side by side with the others sectors. So far, the existence of the insurance business has only been based on the Civil Code which regulates the insurance as an agreement. As a matter of facts, the insurance business is a business that promises a protection to the insured and, at the same time, it also deals with the public funds. Owing to those two rules, in an increasing economic development, the presence of a strong and reliable insurance

industry is perceived as being urgent. In connection with those matters, the insurance business constitutes a field of business which requires a sustainable guidance and supervision from the government in order to secure the public interest.

Therefore, it is necessary for the government to have a regulation in the form of law, so that it will have a stronger jurisdiction, constituting a basis, either for the business activities of the insurance companies, or for the government in conducting the supervision.

Basically Indonesian insurance law follow the business specialization principle in the types of insurance business. This due to the fact that the insurance business is a business requiring specific expertise and skill in its conducts. The Indonesian insurance law also underline the freedom of the insureds in closing the insurance companies. In order to protect the rights of the insured, the law provides the provision to be the guideline for the insurance's conduct of business in order to prevent any business activities which might cause conflict of interest as well as to make the services rendered be based on an objective consideration which will not harm any party concerned.

Schedule of commitments Indonesia in insurance sector for market access is unbound. It is also unbound for national treatment. Licensing procedures in Indonesia is regulated in: (1) Government law No. 2/1992, Government Regulation No. 73/1992, Government Regulation No.69/1999 and Ministry of Finance Decrees.

Licensing procedures are understood to be the administrative procedure relating to submission and processing of an application for a license, covering licenses, authorizations, permits, for which certain requirements have to be full filled in order to obtain permission to supply a service.

To obtain an insurance license in Indonesia, there are requirements that must be full filled, such as: (a) the article of association (b) organizational structure, (c) capital requirement, (d) ownership, (e) expertise in the field of insurance, (f) feasibility of business plan, (g) other things needed to support the growth of insurance industry managed in sound of business.

Those requirement has a detail explanations in Government Regulations and Ministry of Finance Decrees. In connection with market access, the requirements of having an insurance license could be explained as follows:

#### 1. Legal Aspect

- Insurance business may only be carried out by legal activities in the form of state own company, cooperative, limited liability, mutual company
- Insurance license is given by Ministry of Finance

#### 2. Ownership

Insurance company may only be founded by:

- a. An Indonesian citizen and / or Indonesian legal entity which fully owned by Indonesian citizen and / or Indonesian legal entity

- b. An Insurance company which jointly owned by those as stated in letter a and an insurance company which has been incorporated under the jurisdiction of a foreign law
  - c. An Insurance company having the same type of business activity with the business activity of the insurance company which establishes or owns it
  - d. A loss insurance company or a reinsurance company who found(s) or owner(s) is a loss insurance company and or reinsurance company
3. Paid up capital
- a. Minimum paid up capital for a new insurance or reinsurance company shall be as follow:
    - Rp 100.000.000.000 (one hundred billion rupiah) for insurance company
    - Rp 200.000.000.000 (two hundred billion rupiah) for reinsurance company
  - b. At the time of establishment , direct investment of foreign party in insurance company shall not exceed 80% (eighty per cent)
  - c. Any change in ownership of the insurance company shall be reported to the Ministry of Finance.

As the principle of GATS and the advantages to join or be a member in international negotiation forum during liberalization era, we believe that country policies such as prudential measurement have to be considered to get economic advantages through a fair competition in the global market. In according to this, Government of Indonesia made binding commitments in the GATS framework which the commitments are intended to have legally secure and predictable conditions of access to market, benefits for traders-investors and ultimately all of us as a consumers.

Under the national treatment, Government of Indonesia give the equal treatment not only to the local insurance companies but also to the joint venture insurance companies.

We hope that through the negotiation the idea of liberalization will support the economic growth and standard of living of developing countries, and also create peace among nations.



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