



## Implementation of Tourism Activities on Most-Favoured-Nation Treatment (MFN) and National Treatment Principle (NT)

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**ABSTRACT** - This study aims to find out the principles of Most Favored Nation (MFN) and National Treatment (NT) in the Provisions of Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism. This type of research is normative legal research with a statutory approach. The research materials used are primary and secondary by connecting problems from various sources, literature studies into data collection techniques and data processing systematically and logically and analyzed with perspective analysis methods. Data was collected by means of observation and recording techniques. The data analysis method used is the perspective analysis method. In the provisions of the Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism, the principles of Most Favored Nation (MFN) and National Treatment (NT) are contained in 10 articles including Article 17 letter (b), Article 22, Article 23 letter (b), Article 28 letter (c), Article 33 paragraph (2) letter (e), Article 50 paragraph (5) letter (c), Article 56 paragraph (1), Article 57 adheres to the principle of MFN (Most-Favoured-Nation Treatment) and Article 26 letter (g), Article 29 letter (f) adheres to the principle of NT (National Treatment). The principle of MFN (Most-Favoured-Nation Treatment) requires that members of the World Trade Organization (WTO) must provide equal treatment of benefits to all members of the World Trade Organization (WTO) and the principle of NT (National Treatment) does not want any discrimination between domestic products and similar products abroad.

**Keywords:** Implementation, Free Trade, Tourism

### I. INTRODUCTION

To enter the worldwide market, Indonesia needs access to industrial development, Indonesian Industry now demands a wider level in the international market. This industrial development means that Indonesia will have to lower tariffs for imported goods in the long run. The obstacles that will be faced are not only about tariffs but there will be barriers to import violations and import quotas and imports must be partially eliminated and reduced. Thus, the industry competition must be fair and impartial.

Currently, the Indonesian government must be very careful in dealing with trade globalization in the agreement to apply the principles of Most Favored Nation (MFN) and National Treatment (NT). To be able to compete with other countries, Indonesia must be smart to take advantage of all the advantages it has to improve its bargaining position

related to free competition. Indonesia as a member of world trade through the ratification of Law Number 7 of 1994 concerning Ratification of the Agreement on Establishing the World Trade Organization (WTO) has brought both external and internal consequences. External consequences, Indonesia must comply with all the results of the agreement in the WTO forum. The internal consequences of Indonesia must harmonize national laws and regulations with the provisions of the WTO agreement, meaning that in carrying out harmonization, Indonesia must still think about the national interest but not violate the WTO provisions.

In principle, the World Trade Organization (WTO) is a means to encourage the occurrence of an orderly and fair free trade in the world of international trade. In carrying out its duties to encourage the creation of a fair and peaceful free trade, the WTO applies several principles that are the pillars of the WTO, some of which are; Most Favored Nations (MFN) and National Treatment (NT) principles. The principle of the Most Favored Nation (MFN) is contained in Article I of the GATT. The principle MFN states that a trade policy should be implemented on a non-discriminatory basis. According to this principle, all member countries are bound to provide other countries with equal treatment in the implementation and implementation of import and export policies and regarding other costs (Olivier Long in (Adolf, 2006)). The principle of National Treatment is contained in Article III of the GATT. According to this principle, products from a country that are imported into a country must be treated the same as domestic products (Olivier Long in (Adolf, 2006)).

In international trade activities, it turns out that implementing the principles of Most Favored Nation (MFN) and National Treatment (NT) is not easy and there must be supervision in its implementation to eliminate discrimination in international trade and trade problems. Therefore, the author is interested in discussing the principles of Most Favored Nation (MFN) and National Treatment (NT) in the Provisions of Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism. This study aims to analyze the principles of MFN (Most-Favoured-Nation Treatment) and NT (National Treatment) principles in the regulation of the Indonesian legal system and how these principles are contained in the Provisions of Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism.

## **II. METHOD**

This research is a type of normative legal research. Normative legal research is research conducted by examining library materials (secondary data) covering legal principles, legal systematics, comparative law and legal history (Soekanto & Mahmudji, 2013). The approach used in this research is the statutory approach. This approach to legislation or jurisprudence is related to the legal issues under study. Research materials that will explain matters relating to research from various books, journals, papers, newspapers and articles related to the problems discussed in the research (Ibrahim, 2006). Data was collected by means of observation and recording techniques. The data obtained from the results of this research and data collection are arranged systematically and logically in order to get a broad and clear picture of the principles of Most Favored Nation (MFN) and National Treatment (NT) in the Provisions of Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism. The data analysis method used is the perspective analysis method, from all the data that has been collected then the author gives an argument about what is right or wrong according to the law on facts or legal events from the results of the research (Irwansyah, 2021).

## **III. RESULT AND DISCUSSION**

### **3.1. Principles of MFN (Most-Favoured-Nation Treatment) and Principles of NT (National Treatment) in the Regulation of the Indonesian Legal System**

Starting from four main pillars, namely the rule against the use of quantities restrictions, the rule reduction tariffs and other barriers for trade, the rule of National Treatment (NT) and the principle of Most Favored Nation (MFN) which was initiated in the GATT 1994 and later appeared in the world trade agreement, namely the World Trade Organization (WTO) 1995, it was stated that with the 4 main pillars the international

organization mentioned above had supported liberalization and free trade which in the end all member countries would benefit, including the islands. small in developing countries, namely the SIDS (Small Island Developing States) (Mooneeram & Varsha, 2013).

Implications arising at once the consequence of the principle of MFN (Most-Favored-Nation Treatment) and Principle National Treatment (NT) of the World Trade Organization (WTO) for international trade, especially in Indonesia (Huala & Suryawinata, 2018).

The implications positives generated once the consequences of their The MFN (Most-Favoured- Nation Treatment) and NT (principles National Treatment) from The World Trade Organization (WTO) for international trade, especially in Indonesia, include:

1. Equality and Equality of Freedom, this construction can provide justice and benefits because Indonesian exporters can freely market their products abroad without burdensome factors such as excessive taxes or protective technical requirements.
2. Deregulation and Debureaucratization of Trade Transactions, the opening of a country's trade transaction system through deregulation and debureaucratization which has always been a barrier for a party to market transnational products.
3. The Opening of World Trade Blocks. Previously, world trade tended to be closed and confronted with each other, now it has been opened and cooperated more broadly in conducting international trade transactions.
4. Increasing Choices or Alternatives for the Community as Consumers, opening access to trade causes all kinds of products and trade products from both local and foreign to be present in the market. Thus, the community will have a product that is truly quality in accordance with its purchasing power.

There are negative implications that arise as well as the consequences of the MFN (Most-Favoured- Nation Treatment) and NT (Principles National Treatment) from The World Trade Organization (WTO) for international trade, especially in Indonesia, including:

1. The power of the state is not evenly distributed, causing a large gap between the strong and weak countries. So that international trade transactions will be more influenced by desires and interests.
2. The harmful expansion of the agreement, the expansion of the mandate in the agreement causes developing countries including Indonesia to comply with the substance of the agreement which in turn leads to equal treatment regardless of the weakness or strength of the country in the world economic structure.
3. The tendency of dependence in trade transactions, a strong country will increasingly show its existence by suppressing any policies of developing countries that are considered detrimental and hinder the interests of the developing countries.

### **3.2. Principles of Most Favored Nation (MFN) and National Treatment (NT) in the Provisions of Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism**

The principles of MFN (Most-Favoured-Nation Treatment) and NT (National Treatment), in the TourismLaw are contained in 10 articles including:

1. Article 17 letter (b) of the Tourism Law stipulates that  
“The Government and Regional Governments are obliged to develop and protect micro, small, medium and cooperative businesses in the tourism business sector by facilitating partnerships of micro, small, medium and cooperative businesses with small scale businesses.

“The MFN (Most-Favoured-Nation Treatment) Principle is found, meaning that it is not allowed to discriminate between partners or trade cooperation from any countries. This means that the Government and Regional Governments have the same obligation to be able to continuously develop and protect the existence of micro, small, medium and

cooperative businesses, especially in the tourism business sector.

2. Article 22 of the Tourism Law

Stipulates that “Every tourism entrepreneur has the right to get equal opportunities in doing business in the Tourism Sector”. It was found that the MFN (Most-Favoured-Nation Treatment) Principle means that it is not allowed to discriminate between trading partners from any countries. Which means that tourism entrepreneurs have the same rights to get the same opportunities in carrying out business activities in the tourism sector by always referring to the provisions of the laws and regulations governing tourism

3. Article 23 letter (b) of the Tourism Law

Stipulates that “The Government and Regional Governments are obliged to create a conducive climate for the development of tourism businesses which includes opening up equal opportunities in doing business, facilitating, and providing legal certainty”. It was found that the MFN (Most-Favoured- Nation Treatment) Principle means that the government and local governments have the same obligation to always be able to create a conducive situation for the development of tourism businesses which includes the opening of equal opportunities in opening a business in the tourism sector, facilitating various activities. tourism, and provide legal certainty for both foreign and domestic tourists

4. Article 26 letter (g) of the Tourism Law

Stipulates that “Every tourism entrepreneur is obliged to prioritize the use of local community products, domestic products, and provide opportunities for local workers.” use domestic products and local workers in carrying out tourism in order to provide protection for domestic production.

5. Article 28 letter (c) of the Tourism Law

Stipulates that “The Government is authorized to carry out international cooperation in the tourism sector in accordance with the provisions of the legislation.” always hold or organize international cooperation, especially in the field of tourism for the development of tourism businesses in Indonesia, especially in conditions of restoration of new habits (new normal) after the outbreak of Coronavirus Disease 2019 (COVID-19).

6. Article 29 letter (f) of the Tourism Law

Stipulates that “The Provincial Government has the authority to facilitate the promotion of tourism destinations and tourism products in its territory”. It was found that the principle of the National Treatment (NT) means that the provincial government is required to always facilitate all matters relating to efforts to promote tourism destinations and also the promotion of tourism products and tourist objects in the tourist area in carrying out tourism in order to provide protection. and dissemination for domestic tourist destinations

7. Article 33 paragraph (2), letter (e) of the Tourism Law

Stipulates that “In order to improve the implementation of tourism, the Government shall carry out cross-sectoral strategic coordination (which includes tourism promotion and foreign cooperation), at the level of tourism policies, programs and activities”. the principle of the MFN (Most-Favoured-Nation Treatment) means that the government has the same authority to be able to always carry out cross-sectoral strategic coordination at the policy, program level, and especially in tourism activities for the development of tourism businesses in Indonesia, especially in conditions of restoring new habits. (new normal) after the outbreak of Coronavirus Disease 2019 (COVID-19), which had caused tourism activities in Indonesia to be halted

8. Article 50 paragraph (5), letter (c) of the Tourism Law

Stipulates that “the Indonesian Tourism Industry Association shall carry out activities, among others: improving relations and cooperation between Indonesian tourism entrepreneurs and foreign tourism entrepreneurs for the benefit of tourism development”. It was found that the MFN (Most-Favoured-Nation Treatment) Principle means that considering that currently Indonesia is in a state of recovering new habits (new normal) after the outbreak of Coronavirus Disease 2019 (COVID-19), the activities of merging the Tourism Industry by making efforts in the form of improving relations and cooperation carried out between Indonesian tourism entrepreneurs and foreign tourism entrepreneurs for the benefit of sustainable tourism development by prioritizing the aspect of equality for the development of tourism businesses in Indonesia.

9. Article 56 paragraph (1) of the Tourism Law

Stipulates that “Tourism entrepreneurs may employ foreign national experts in accordance with the provisions of the legislation”. It was found that the principle of the MFN (Most-Favoured-Nation Treatment) means that tourism entrepreneurs make equal opportunities for workers who are Indonesian Citizens (WNI) or can also employ workers who are Foreign Citizens (WNA) in order to increase activities and Tourism Industry

10. Article 57 of the Tourism Law

Stipulates that “Tourism funding is a shared responsibility between the Government, Regional Governments, entrepreneurs, and the community”. It was found that the MFN (Most-Favoured-Nation Treatment) Principle means that there are equal obligations and responsibilities for the Government, Regional Government, Entrepreneurs and the Community in managing the funding of tourism activities so that later every aspect of tourism implementation can run smoothly

11. Article 57 of the Tourism Law

Stipulates that “Tourism funding is a shared responsibility between the Government, Regional Governments, entrepreneurs, and the community”. It was found that the MFN (Most-Favoured-Nation Treatment) Principle means that there are equal obligations and responsibilities for the Government, Regional Government, Entrepreneurs and the Community in managing the funding of tourism activities so that later every aspect of tourism implementation can run smoothly.

#### **IV. CONCLUSION**

Applying the principle of MFN (Most-Favoured-Nation Treatment) requires that members of the World Trade Organization (WTO) must provide equal treatment of benefits to all members of the World Trade Organization (WTO) and the principle of NT (National Treatment) does not want any discrimination between domestic products and similar products abroad. In the provisions of the Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism, the principles of Most Favored Nation (MFN) and National Treatment (NT) are contained in 10 articles including Article 17 letter (b), Article 22, Article 23 letter (b), Article 28 letter (c), Article 33 paragraph (2) letter (e), Article 50 paragraph (5) letter (c), Article 56 paragraph (1), Article 57 adheres to the principle of MFN (Most-Favoured-Nation Treatment) and Article 26 letter (g), Article 29 letter (f) adheres to the principle of NT (National Treatment).

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