



Halal Certification and the National Treatment Principle: Challenges in Harmonizing Indonesian Regulations with the WTO

Salsabila Nur Fatikha¹

¹Faculty of Law, Universitas Sebelas Maret

Corresponding author's email: xasalsa@uns.ac.id

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Abstract

This paper examines Indonesia's mandatory halal certification policy under Law No. 33 of 2014 concerning Halal Product Assurance (UU JPH) and its implications within the framework of international trade law. The law requires all products, both domestic and imported, to obtain halal certification before entering the Indonesian market, aiming to safeguard the religious rights of Muslim consumers. However, as a domestic regulatory measure, this obligation may create unintended trade barriers, particularly for foreign producers, by imposing additional procedural and compliance burdens. This raises concerns about Indonesia's compliance with the World Trade Organization (WTO) principles, especially the national treatment obligation under the General Agreement on Tariffs and Trade (GATT) and the Technical Barriers to Trade (TBT) Agreement. The study highlights the legal and policy tension between protecting public morals and ensuring non-discrimination in global trade. It concludes by stressing the need for Indonesia to reconcile its domestic religious and consumer protection objectives with its international commitments, to avoid potential violations of WTO obligations and to promote a fair and equitable trade environment.

I. Introduction

The global halal industry continues to experience rapid growth, accompanied by increasing demand for halal products across various sectors (Bux et al., 2022). According to the 2023/2024 *State of the Global Islamic Economy Report* (SGIE), consumer spending in the global Islamic economy sector grew by 9.5% year-on-year, reaching US\$2.29 trillion (DinarStandard, 2023). This situation reflects a shift in consumer interest toward halal products, driven by trust in the assurance of quality, cleanliness, and safety provided through halal certification (Khan et al., 2020).

With growing awareness of halal product quality, the demand for halal-certified products is also expected to continue rising. This trend may drive the expansion of the global halal market beyond mere religious compliance, as halal has transformed into a trade concept that represents a systematic and responsible business environment (Susilowati et al., 2018: 103). This development undoubtedly creates a promising market sector in international trade and presents significant export-import opportunities for halal products in the global market (Bux et al., 2022: 8).

Despite the significant growth of the global halal market, challenges such as the lack of harmonization in halal certification remain a frequent obstacle in international trade. One of the main challenges in globally harmonizing halal certification stems from the heterogeneity of halal standards worldwide, with no uniformity in certification standards across different countries (Islam et al., 2023: 110). At the international level, guidelines on the use of the term *halal* were issued by the Codex Alimentarius Commission in 1997 through the *General Guidelines* CAC/GL 24-1997, as a fundamental effort to address the divergent regulatory approaches to halal across nations (Johan & Schebesta, 2022). However, these guidelines only provide a basic reference, are neither standardized nor universally adopted, and are not legally binding.

In addition to the *General Guidelines* CAC/GL 24-1997, efforts to harmonize halal standards have also been undertaken by international organizations such as the Standards and Metrology Institute for Islamic Countries (SMIIC), which operates under the Organisation of Islamic Cooperation (OIC), through the issuance of OIC/SMIIC 1:2019. Moreover, regional or intergovernmental organizations like the Association of Southeast Asian Nations (ASEAN) have also established regional guidelines on halal food, as set out

in the *ASEAN General Guidelines on the Preparation and Handling of Halal Food* (1999) (Johan et al., 2023).

At the national level, several countries have their own halal standards, which are also recognized as domestic technical regulations. In Indonesia, halal certification is regulated under Law Number 33 of 2014 on Halal Product Assurance (Halal Law). Article 4 of the Halal Law stipulates that all products circulating and traded within Indonesia, whether locally produced or imported, must be halal-certified. The mandatory enforcement of this regulation aims to ensure and protect Muslims in practicing their faith, particularly in consuming halal food. However, as part of domestic trade policy, the halal certification requirement has the potential to become a trade barrier for foreign businesses seeking to market their products in Indonesia.

In 2014, Brazil filed a complaint against Indonesia with the World Trade Organization (WTO) Dispute Settlement Body (DSB) regarding the import of chicken meat, which faced obstacles due to halal certification policies. Brazil argued that this policy served as a means to prevent the importation of chicken meat and related products into Indonesia by imposing discriminatory halal slaughtering and labeling requirements (Hamzah et al., 2019). Brazil viewed the policy as discriminatory against Brazilian chicken products, claiming that Indonesia applied stricter regulations compared to those imposed on similar domestic products (Mufida, 2022). In addition, on October 14, 2019, the European Union submitted a notification to Indonesia concerning its national halal certification policy, stating that the mandatory halal certification and labeling requirements for various products appeared disproportionate and could create trade barriers (European Commission, 2020).

The controversy surrounding the mandatory halal certification for imported products in Indonesia which may create trade barriers and potentially violate the principle of non-discrimination, particularly the principle of national treatment highlights the need to review the consistency of Indonesia's halal certification requirements for imports with the national treatment principle. This situation underscores the challenges in implementing regulations that are more effective and efficient. As a member of the WTO, having ratified the *Agreement Establishing the World Trade Organization* through Law Number 7 of 1994, Indonesia is obligated to comply with the rules and principles established within the WTO framework and to uphold fairness and equality in the international trading environment.

II. Research Methodology

This study is a normative legal research, which involves analyzing the relationship between principles, rules, and concepts governing a particular field in order to resolve legal ambiguities and gaps (Negara, 2023). This writing involves the process of analyzing, interpreting, and evaluating existing legal norms through a review of literature or secondary data related to the issue being examined (Marzuki, 2019). The aim is to produce legal arguments and concepts as solutions to the problems at hand. This normative legal research adopts a prescriptive approach, which seeks to formulate problems based on the facts observed in practice (Marzuki, 2019).

This legal research employs a statutory regulatory approach, which emphasizes law as an autonomous set of principles understood through the interpretation of legislation (Negara, 2023). The technique used to collect legal materials in order to identify relevant sources for this legal writing is library research, which involves gathering and studying documents and literature related to the legal issues examined in this study. The collected legal materials are then analyzed using the syllogistic method, applying a deductive reasoning approach.

III. Results and Discussion

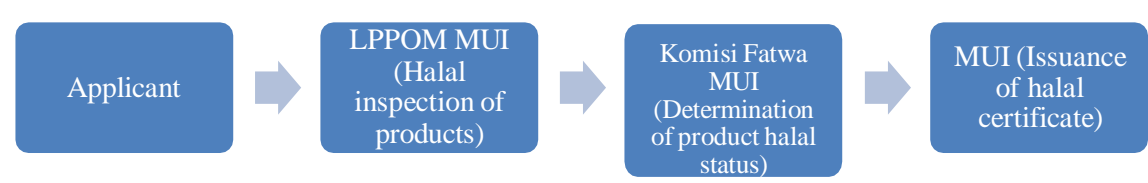
A. Halal Certification Regulation in Indonesia

According to the 2024 report by the World Population Review, Indonesia recorded a Muslim population of 236 million people, accounting for approximately 84.35% of the country's total population. This makes Indonesia the country with the second-largest Muslim-majority population in the world. In order to provide assurance for Muslims in practicing their faith and religious teachings, Indonesia enforces mandatory halal certification for products circulating within the country (Amijaya et al., 2024). This regulation plays a vital role in ensuring protection and certainty regarding the halal status of products consumed and used by the public.

To ensure clarity regarding the halal status of packaged and marketed food products in Indonesia, the Minister of Religious Affairs issued a decree that sets out the guidelines and procedures for the inspection and determination of halal products, through Ministerial Decree (KMA) Number 518 of 2001 on Halal Guidelines (Sup et al., 2020). This decree

outlines the halal certification process, including all procedures and actions involved in halal inspection. It also stipulates a two-year validity period for halal certification, which may be extended if necessary. Furthermore, Ministerial Decree (KMA) Number 519 of 2001 was issued to designate the Indonesian Council of Ulama (MUI) as the authorized institution responsible for the inspection, processing, and issuance of halal certification. In addition, the MUI collaborates with the Food and Drug Monitoring Agency (BPOM) to ensure the inclusion of the halal logo on product packaging.

Table 1. Flowchart of the Halal Certification Process Before the Enactment of the Halal Product Assurance Law

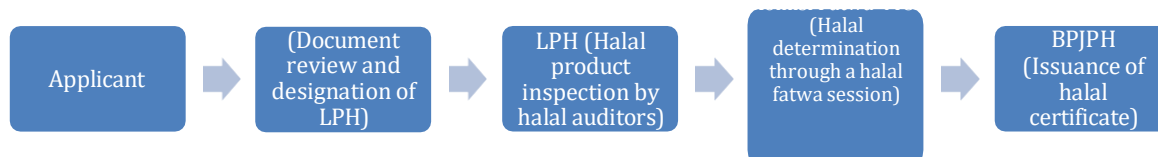


Source: (Ruhaeni & Aqimuddin, 2023)

The enactment of the Halal Product Assurance Law (UU JPH) brought significant changes to the halal certification regime in Indonesia. Legally, the UU JPH serves as the legal framework for regulating the assurance, certification, and labeling of halal products, which were previously governed by various scattered regulations (Kusnadi, 2019). The UU JPH specifically and comprehensively regulates the halal product assurance system, certification mechanisms, institutional authorities (BPJPH, LPH, MUI), and the governance of halal fatwas. Additionally, it establishes a new, state-structured and institutionalized system (Safa’at, 2022). The establishment of the Halal Product Assurance Organizing Agency (BPJPH) under the Ministry of Religious Affairs shifted the authority from the Indonesian Council of Ulama (MUI), which had previously been the sole institution authorized to administer halal certification in Indonesia (Dewi et al., 2024). Article 6 of the UU JPH grants BPJPH authority to formulate policies, issue and revoke halal certificates, oversee halal product assurance, accredit halal auditors, and register halal certificates for imported products. Moreover, the enactment of the UU JPH transformed halal certification from a previously voluntary system into a mandatory one (Hambali, 2020). This is affirmed in Article 4 of the UU JPH, which states: “...products that enter, circulate, and are traded in the territory of Indonesia must be halal-certified.”

Article 7 of the Halal Product Assurance Law (UU JPH) further emphasizes that BPJPH does not carry out its authority independently, but rather collaborates with the Halal Inspection Agency (LPH), the Indonesian Council of Ulama (MUI), and other relevant ministries and/or institutions (Alissa et al., 2023). BPJPH works with LPH in conducting inspections and testing of halal products, while coordination with MUI takes place during the determination of a product's halal status, which is carried out through a halal fatwa session by the Halal Fatwa Committee (Cholil, 2024). BPJPH first reviews the completeness of the halal certificate application documents submitted by the applicant or business actor. If the application is deemed complete, BPJPH assigns an LPH to carry out the inspection and/or testing of the product's halal status, conducted by Halal Auditors directly at the business location during production activities. Upon completion, the LPH submits the inspection and/or testing results to MUI for a halal determination, which is finalized through a halal fatwa session held by MUI. If the session concludes that the product complies with halal requirements, BPJPH then issues a halal certificate as formal recognition and legalization of the product's halal status.

Table 2. Flowchart of the Halal Certification Process After the Enactment of the Halal Product Assurance Law



Source: Halal Product Assurance Organizing Agency (BPJPH)

After obtaining a halal certificate, the next step is the labeling process. According to Article 38 of the Halal Product Assurance Law (UU JPH), business actors are required to include a halal label on the product packaging, a specific part of the product, or both. The halal logo must be clearly visible, legible, and resistant to being erased, removed, or damaged. This labeling requirement is mandatory, and failure to comply may result in the revocation of the halal certificate.

Meanwhile, halal products that have obtained certification from foreign halal certification bodies and have a mutual recognition agreement (MRA) with BPJPH are not required to undergo recertification before being marketed in Indonesia, as stipulated in Article 47(2) of the Halal Product Assurance Law (UU JPH) in conjunction with Article

147(1) of Government Regulation Number 42 of 2024 on the Administration of Halal Product Assurance. Instead, before a product is distributed in the Indonesian market, business actors only need to register the halal certificate issued by the foreign body with BPJPH (Hidayatun et al., 2024). However, this provision does not apply to halal certificates from foreign certification bodies that have not established an MRA with BPJPH.

Following the enactment of Law Number 6 of 2023 concerning the Ratification of the Job Creation Government Regulation in Lieu of Law (Perpu) into Law, the halal certification regulations underwent several adjustments. There were revisions and amendments to several articles in the Job Creation Law aimed at accelerating the implementation of halal product assurance. One of the most significant changes to the Halal Product Assurance Law (UU JPH) and its certification requirements is the simplification of business licensing for micro and small enterprises. In general, the streamlining of business licensing for MSMEs is achieved through easier access to halal certification, which is focused on three main aspects (Bagaskara, 2021).

First, Article 48 point 1 of the Job Creation Law provides a simplified mechanism for obtaining halal certification based on a self-declaration by micro and small enterprises (Halal Self Declaration). Although this self-declared halal statement must still comply with the standards and procedures set by BPJPH, the mechanism does not require eligible MSMEs to undergo the regular certification procedures applicable to non-MSME business actors under the provisions of the Halal Product Assurance Law (UU JPH) (Musataklima, 2021). Second, there is a financial facilitation mechanism for MSMEs in obtaining halal certificates. Prior to the amendment, Article 44(2) of the UU JPH stated that the cost of halal certification for micro and small enterprises could be covered by third parties providing facilitation. Following the amendment through Article 48 point 20 of the Job Creation Law, the provision in paragraph (2) was revised to: "...in the case where a halal certification application as referred to in paragraph (1) is submitted by a micro or small enterprise, no fees shall be charged." Third, there is enhanced support in the form of guidance and registration for halal certification provided to MSMEs by the central and regional governments, as outlined in Article 91(1) of the Job Creation Law.

Halal certification regulations have a direct impact on the trade of goods and services, including exports and imports. In this context, the implementation of domestic trade policies must take into account the rules and principles of international trade as agreed

upon within the framework of the WTO. Effective, efficient, and non-discriminatory procedures are crucial factors in ensuring the continuity of cross-border trade.

B. Potential Inconsistencies between Indonesia's Halal Certification Regulation and the WTO National Treatment Principle

As a multilateral trade organization, the World Trade Organization (WTO) is committed to creating a more open and equitable international trade regime through ongoing efforts to reduce trade barriers and expand market access for its member countries. This commitment is embodied in several key agreements established through mutual consensus and legally binding on all member states, including the *General Agreement on Tariffs and Trade* (GATT), the *General Agreement on Trade in Services* (GATS), the *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS), the *Sanitary and Phytosanitary* (SPS) Agreement, and the *Technical Barriers to Trade* (TBT) Agreement. Compliance with the provisions of these agreements is grounded in the principle of *pacta sunt servanda*, a principle of international law that obligates states to honor and implement agreements they have voluntarily entered into.

One of the fundamental principles within the WTO legal framework is the principle of non-discrimination, which aims to eliminate discriminatory treatment in international trade activities as part of the broader effort to promote trade liberalization (Ruhaeni & Aqimuddin, 2023). This principle is implemented through two key clauses: the Most-Favoured-Nation (MFN) clause and the National Treatment (NT) clause. Under the MFN principle, as stipulated in Article I:1 of the GATT, member states are required to treat like goods, services, or service providers from all WTO members equally, without discrimination based on their country of origin (Matsushita et al., 2015). This ensures equal competitive opportunities for imported products from all member countries. Meanwhile, the National Treatment clause, as outlined in Article III of the GATT, prohibits discriminatory treatment between imported and domestic like products. Accordingly, member states are obligated to provide equal treatment to both foreign and domestic goods, services, and service providers within their domestic markets (Matsushita et al., 2015).

The National Treatment principle requires WTO member countries to provide equal treatment to like products, whether domestically produced or imported, once those products have entered the domestic market. The main objective of the National Treatment principle is to prevent discrimination against foreign products and to ensure a fair trading environment

within the internal market (Mufida, 2022). Its implementation includes the elimination of discriminatory elements in domestic regulations and policies that affect goods and services circulating in the market (Amijaya et al., 2024).

As a sovereign state, Indonesia has full authority to formulate and enforce domestic trade policies, including those aimed at protecting the rights of its Muslim-majority population to access halal-certified food and products (Permata Sari & Ibrahim, 2023). However, following the ratification of the *Agreement Establishing the World Trade Organization* through Law Number 7 of 1994, Indonesia is also legally bound by international trade rules within the WTO framework. In this context, Indonesia must balance its domestic interests with its agreed international obligations and ensure that national policies do not conflict with its international commitments (Ruhaeni & Aqimuddin, 2023). This provision is particularly relevant to the implementation of Law Number 33 of 2014 on Halal Product Assurance (UU JPH), which came into force on October 7, 2014, and mandates that all products and services traded in Indonesia must be halal-certified. The application of halal certification requirements to imported goods under this law has the potential to pose barriers or challenges in Indonesia's international trade relations.

Several trading partners have expressed concerns that the provisions in the law have the potential to increase production and distribution costs, which could ultimately hinder the flow of imports into Indonesia (Mulyana et al., 2024). More specifically, the European Union has noted that the halal certification requirement could raise costs for EU exporters by up to 30%, thereby reducing economic efficiency in exporting certain products to Indonesia (Amijaya et al., 2024). This cost increase is influenced by several factors, including alleged lack of transparency in Indonesia's halal policy, inconsistencies in trade regulations—both directly and indirectly related to halal standards and certification processes—as well as issues in its implementation mechanisms (Bachtiar, 2022).

The United States, through the *2025 Foreign Trade Barriers Report* published by the United States Trade Representative (USTR), also expressed objections to Indonesia's approach in implementing its halal certification policy. According to the USTR, the policy is considered non-transparent, burdensome, and detrimental to the interests of foreign businesses. Although the policy is intended to provide certainty for domestic Muslim consumers, its implementation is viewed as contrary to the principles of openness in global trade (United States Trade Representative, 2025). One of the USTR's main concerns is

Indonesia's tendency to enact implementing regulations without officially notifying the WTO and without providing open consultation opportunities with foreign business actors (United States Trade Representative, 2025).

Although a country holds sovereignty in formulating domestic policies, including technical regulations, such policies must still comply with the principles of non-discrimination under the WTO framework—particularly the principles of Most-Favoured Nation (MFN) and National Treatment as stipulated in Article III of the GATT and Articles 2.1 and 2.2 of the TBT Agreement. If the implementation of a regulation is discriminatory either in law (*de jure*) or in practice (*de facto*), then such a policy may be considered a violation of WTO provisions (Herdegen, 2024).

C. Challenges in the Implementation of the National Treatment Principle in Indonesia's Halal Certification Regulation

The balance between a state's right to protect social, religious, and moral values through technical regulations—such as halal certification—and the obligation to maintain fair and non-discriminatory trade remains a central challenge in the implementation of national technical regulations. In the context of Indonesia, this is reflected in the mandatory halal certification policy, which creates tensions between national interests and the principle of non-discrimination (Sagita & Sasmini, 2024). *De jure*, Indonesia's halal policy is universal in its application to both domestic and imported products, as stipulated in the Halal Product Assurance Law (Ruhaeni & Aqimuddin, 2023). However, *de facto* implementation still imposes additional burdens on imported products, such as high application fees for halal certification and time-consuming, costly registration procedures for foreign halal certificates (Johan & Schebesta, 2022; Pietersz et al., 2025). This policy risks creating unequal market access and may potentially contradict the WTO's spirit of trade liberalization (Ahamat & Rahman, 2018).

Halal certification requires rigorous oversight and comprehensive law enforcement to ensure producers' compliance with halal standards (Al-Teinaz & Al-Mazeedi, 2020). One of the main challenges lies in the obligation to meet the stringent requirements set by certification bodies, which include audits of raw materials, production processes, equipment, and packaging. The certification process also obliges businesses to submit detailed documents, such as a list of ingredients and a Halal Production Process (PPH), followed by an overseas factory audit conducted by a Halal Inspection Agency (LPH), and

a halal ruling (fatwa) by the Indonesian Ulama Council (MUI) before the Halal Product Assurance Agency (BPJPH) issues the halal certificate. This process is not only complex and time-consuming but also demands producers' full commitment to analyzing and adjusting every aspect of their production systems.

The complexity of the procedure results in increased production costs, including expenses for halal audits, facility adjustments, and administrative processing. These burdens are typically passed on to consumers through higher product prices (Karimullah & Rozi, 2023), ultimately affecting purchasing power and creating an imbalance in competition with domestic products. This cost burden is particularly challenging for micro and small enterprises (MSEs), which often face limited resources, thus reducing their competitiveness and potentially leading to indirect discrimination.

Another challenge involves the logistics, packaging, and global distribution of halal products (Hasan, 2021). To maintain product integrity, businesses must ensure a tightly controlled supply chain from production to distribution. Comprehensive audits at each stage, including the segregation of production equipment and inspection procedures, can strain resources and disrupt operational efficiency. Producers unfamiliar with halal standards often struggle to meet these requirements, thus a proportional approach is necessary to avoid creating excessive technical barriers.

At the TBT Committee Meeting in November 2019, the European Union expressed concerns regarding the complexity of audits related to the storage, transportation, and handling of halal products by both domestic and foreign producers. The EU emphasized the importance of referring to the Codex Alimentarius Guidelines, which permit the processing of halal and non-halal products at the same facility, provided that measures are taken to prevent contamination and equipment is properly cleansed in accordance with Islamic law (Codex Alimentarius Commission, 1997). As an internationally recognized standard under Annex 3 of the TBT Agreement, any deviation from the Codex must be supported by scientific evidence or a demonstrable risk, in order to avoid being classified as an unjustified barrier to trade (Fontanelli, 2011).

The case of *Indonesia – Measures Concerning the Importation of Chicken Meat and Chicken Products (DS484)* between Indonesia and Brazil in 2014 serves as an important precedent. Brazil challenged Indonesia's policy, which was deemed to restrict chicken imports through halal slaughter and labeling requirements as stipulated in the Halal

Product Assurance Law (UU JPH). While Brazil did not dispute the legality of halal certification itself, it claimed that the halal labeling regulations for imported products were more stringent than those applied to domestic products. However, due to insufficient evidence, this claim was rejected by the WTO Panel (Pietersz et al., 2025).

The ruling in *DS484* affirms that domestic policies aimed at protecting public morals may still be subject to international dispute if they result in *de facto* discriminatory treatment against imported products. Although Indonesia formally succeeded in defending its position, the case illustrates that the implementation of halal certification must be carefully evaluated to ensure its consistency with the non-discrimination principles under the WTO framework.

To ensure that halal certification policies are not discriminatory, it is essential to understand and apply the principle of the *least trade-restrictive measure*. This principle underscores that domestic policies adopted by WTO members must not be more restrictive than necessary to achieve legitimate objectives, such as the protection of consumers' moral values (Ahamat & Rahman, 2018). Therefore, if halal certification requirements are implemented excessively, particularly in relation to imported products, such policies may constitute an unnecessary obstacle to international trade.

In addition, transparency in the formulation and implementation of technical regulations is a key element in reducing unnecessary trade barriers and enhancing trust and certainty among WTO members (Callista & Putranto, 2022). The disclosure of technical policies to other members can minimize the potential for future disputes. According to WTO reports, countries with higher levels of transparency tend to face fewer trade disputes (Amijaya et al., 2024), indicating that transparency helps reduce uncertainty and promotes more efficient dispute resolution.

In the context of Indonesia, several issues in the implementation of halal product assurance may create unnecessary obstacles to international trade and hinder compliance with WTO principles (Pietersz et al., 2025). Challenges in the enforcement of halal regulations may result in less favorable treatment for foreign businesses or other WTO members, potentially constituting technical barriers to trade (Johan, 2018). Therefore, the implementation of halal regulations must be proportionate so as not to create differential treatment between domestic and imported products. A lack of transparency and uncertainty in certification procedures may impose additional burdens on imported products, leading

to less favourable treatment in violation of the National Treatment principle.

IV. Conclusion

The complex and inefficient processes of halal certification and labeling may pose significant administrative and organizational challenges for businesses, both domestic and foreign. Procedural complexity, lengthy processing times, and high compliance costs often become barriers, particularly for foreign enterprises that must also navigate additional procedures and face limitations in the recognition of foreign halal certification bodies. Although Indonesia's halal policy is normatively applied equally to all products, in practice, differential treatment may arise, imposing greater burdens on imported goods. Within the framework of the GATT and the TBT Agreement, this raises concerns regarding Indonesia's compliance with the National Treatment principle, which requires that imported products not be treated less favourably than like domestic products. Therefore, to prevent the emergence of unnecessary technical barriers to trade, the implementation of halal policy must be designed to be proportionate, transparent, and accessible to all business actors regardless of the origin of the product.

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