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The Cabotage Principle on Law Enforcement for Licensing Ship Operations in Indonesian Waters

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ABSTRACT

This study aims to examine and comprehend the cabotage principle on law enforcement for licensing ship operations in Indonesian Waters. This study is a descriptive analysis of normative legal research. Secondary data, comprising primary, secondary, and tertiary legal materials, is utilized. Techniques for collecting data involve library research, whereas techniques for analyzing data involve legal interpretation. The study results show that Indonesia has regulated the cabotage principle in several regulations. However, supervision in applying this principle has not been optimal due to the increase in transactions between countries due to globalization and overlapping shipping permit issues marked by overlapping authority between the 13 (thirteen) mandated ministries/state institutions by 17 (seventeen) laws as law enforcement officers in marine and coastal areas. The overlap in authority referred to is characterized by the same authority to carry out supervision, pursuit, and investigation in Indonesia's maritime and jurisdictional areas.

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1. Introduction

Indonesia is geographically an archipelago with two-thirds more ocean than land. Indonesia ranks second only to Canada as the country with the longest coastline in the world. Therefore, Indonesia is called a maritime country that borders 10 (ten) countries, namely India (Continental Shelf), Thailand (Continental Shelf), Singapore (part of the Territorial Sea), Malaysia (part of the Territorial Sea, Continental Shelf).[1] Indonesia's vast maritime territory has great potential because it is supported by geographical factors that are located between two continents, namely Asia and Australia. As well as, two oceans namely the pacific ocean and

[1] Tri W Nurani and others, 'Model Designs of Indonesian Tuna Fishery Management in the Indian Ocean (FMA 573) Using Soft System Methodology Approach', *The Egyptian Journal of Aquatic Research*, 44.2 (2018), 139–44 https://doi.org/https://doi.org/10.1016/j.ejar.2018.06.005

the Indian ocean.[2] For this reason, domestic sea transportation has a strategic and significant role in national development, starting from the economic, social, cultural, political, defense and national security fields.[3]

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The government formed a regulation in the form of Presidential Instruction Number 5 of 2005 concerning the Empowerment of the National Shipping Industry which took effect on March 28, 2005 because Indonesia's maritime potential is very large. The content of this regulation applies the cabotage principle consequently and formulates policies and takes the necessary steps in accordance with their respective duties, functions and authorities to empower the national shipping industry.[5] This rule is strengthened by the establishment of Law Number 17 of 2008 concerning Shipping, which discusses specifically the cabotage principle, namely Article 8 paragraph (1) and (2) and Article 56 which contains the development and procurement of the national water transportation fleet carried out in order to empower national water transportation and strengthen the national shipping industry which is carried out in an integrated manner with the support

[2] Seyed Mojib Zahraee and others, 'Palm Oil Biomass Global Supply Chain: Environmental Emissions vs. Technology Development of Maritime Transportation', *Procedia CIRP*, 105 (2022), 817–22 https://doi.org/https://doi.org/10.1016/j.procir.2022.02.135

[3] Seungman Ha and others, 'A Framework for Determining the Life Cycle GHG Emissions of Fossil Marine Fuels in Countries Reliant on Imported Energy through Maritime Transportation: A Case Study of South Korea', *Science of The Total Environment*, 897 (2023), 165366 https://doi.org/https://doi.org/10.1016/j.scitotenv.2023.165366

[4] Khomsin and others, 'A Determination Analysis of Regional Maritime Boundary Based on Regulation of Home Ministry Affair Number 76 in 2012 (Case Study: Dispute of Galang Island Border between Surabaya and Gresik)', *Procedia Earth and Planetary Science*, 14 (2015), 83–93 https://doi.org/https://doi.org/10.1016/j.proeps.2015.07.088

[5] Manabu D Yamanaka, 'Physical Climatology of Indonesian Maritime Continent: An Outline to Comprehend Observational Studies', *Atmospheric Research*, 178–179 (2016), 231–59 https://doi.org/https://doi.org/10.1016/j.atmosres.2016.03.017

of all related sectors, and 57 (1) Empowerment of the national water transportation industry.[6]

The development of time, there is a desire from the Government of Indonesia to revise the Shipping Law Number 17 of 2008, by deleting Article 8 paragraph (1) which contains domestic sea transportation activities can only be carried out by national sea companies using Indonesian-flagged ships and manned by Indonesian crew members and paragraph (2) states that foreign vessels are prohibited from transporting passengers and/or goods between islands or between ports in Indonesian waters. There are 2 (two) reasons why the Government wants to revise Article 8, namely from an economic and regulatory point of view, that the implementation of the cabotage principle has not provided significant results to improve the Indonesian economy, because the transport vessels in Indonesia are considered unable to accommodate the loading and unloading of goods and the results are still below the expected standard, so that its implementation will hinder economic progress.[7]

However, the revision of Law 17 of 2008 has not been carried out to date, but the Government formed Ministry of Transportation Regulation Number 46 of 2019 which allows foreign vessels to operate in Indonesian waters in the oil, gas and cruise ship sectors, on the grounds that the Indonesian domestic ship industry is not yet capable of owning liquified natural gas vessels and this activity does not include the transportation of goods (this is questionable because is gas in liquid form not part of the type of goods) and Number 4 of 2022 which regulates that foreign cruise ships are allowed to carry passengers, on the grounds that there are no Indonesian national vessels that are suitable for carrying passengers for tourism purposes.[8] The two Ministry of Transportation regulations above contradict the contents of Article 8 paragraphs (1) and (2), although in the end the Government strengthened the Ministerial Regulation by issuing Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation which was finally enacted into Law Number 6 of 2023. However, this does not cover the trail of wrong rules that have been implemented by the Government.[9]

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[6] Eddy Pratomo and Jonathan Kwik, 'Good Agreements Make Good Neighbours: Settlements on Maritime Boundary Disputes in South East Asia', *Marine Policy*, 117 (2020), 103943 https://doi.org/https://doi.org/10.1016/j.marpol.2020.103943

[7] Adiyasa Nurfalah, Suhono Harso Supangkat, and Eueung Mulyana, 'Effective & near Real-Time Track-to-Track Association for Large Sensor Data in Maritime Tactical Data System', *ICT Express*, 2023 https://doi.org/https://doi.org/10.1016/j.icte.2023.07.010

[8] Aulia Ulfah Farahdiba and others, 'The Present and Proposed Sustainable Food Waste Treatment Technology in Indonesia: A Review', *Environmental Technology & Innovation*, 2023, 103256 https://doi.org/https://doi.org/10.1016/j.eti.2023.103256

[9] Nining Sari Ningsih, Ainun Azhari, and Titan Muslim Al-Khan, 'Wave Climate Characteristics and Effects of Tropical Cyclones on High Wave Occurrences in Indonesian Waters: Strengthening Sea Transportation Safety Management', *Ocean & Coastal Management*, 243 (2023), 106738 https://doi.org/https://doi.org/10.1016/j.ocecoaman.2023.106738

The belief that maritime transportation is a vital component of the Indonesian economy provides further evidence for the significance of maritime transportation in the country's economic development. The disruption of maritime transportation consequently disrupts the national economy. The explanations above demonstrate that maritime transportation is vital to the economic machinery of Indonesia. The maritime sector has the potential to foster community welfare through the development of at least eleven industries by 2021: seafood processing, aquaculture, marine tourism, sea transportation, marine infrastructure, mineral resource energy, coastal forests, and non-conventional resources. This possibility is present in the vast majority of the territorial waters of the archipelago.[10]

These eleven industries can produce US$1.338 trillion annually, equivalent to 1.3 percent of the current national GDP or 190 billion US dollars (or seven times the 2021 APBN, or Rp. 2,400 trillion). Additionally, they can employ 45 million individuals or 40% of the total workforce. Indonesia, in particular. This demonstrates that significant economic progress for the populace has resulted from developments in maritime transportation. Indonesia requires legal politics about transportation regulations in order to develop a sophisticated maritime transportation system. Discord and incoherence among law enforcement agencies in littoral and maritime regions have substantially impeded the advancement of maritime transportation enterprises, particularly in logistics distribution.[11]

The numerous overlapping interests of institutions concerning the implementation of shipping permit laws in coastal and maritime regions have caused national objectives regarding the economic development of these regions to be disregarded. In the interim, the jurisdiction over the enforcement of shipping permit regulations in coastal and maritime regions has been essentially divided into two parts: administrative order enforcement and criminal oversight of maritime areas within Indonesian territory and investigation of instances involving the collaboration of Indonesian nationals, businesses, or legal entities with foreign maritime transportation organizations, foreign legal entities, or foreign nationals.[12]

In order to be eligible for a sea transportation business permit as stipulated in paragraph (1) of Article 28, the business entity must possess a minimum of one GT 175 Indonesian-flagged vessel. Specific details regarding the dimensions of such a

[10] Kornwika POONNAWATT, 'Multilateral Cooperation against Maritime Piracy in the Straits of Malacca: From the RMSI to ReCAAP', *Marine Policy*, 152 (2023), 105628 https://doi.org/https://doi.org/10.1016/j.marpol.2023.105628

[11] Natali Pearson, 'Resisting Internationalism?: The Evolution of Indonesia's Shipwreck Legislation', *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia*, 178.4 (2022), 379–409 https://doi.org/https://doi.org/10.1163/22134379-bja10044

[12] Frida Sidik and others, 'Blue Carbon: A New Paradigm of Mangrove Conservation and Management in Indonesia', *Marine Policy*, 147 (2023), 105388 https://doi.org/https://doi.org/10.1016/j.marpol.2022.105388

vessel can be found in Articles 207 to 210 of Law Number 17 of 2018 concerning Shipping. In the interim, the responsibility for safeguarding marine and littoral regions falls within the jurisdiction of the Marine Guard, an organization established under the aegis of the President.[13] Regarding Marine Coast Guards, Law No. 17 of 2018 contains regulations in Articles 276 to 281. Consequentially, it is evident that the Harbor Master possesses administrative licensing authority. This issue arises when the Harbor Master exploits his jurisdiction unjustly and there is a duplication of power concerning the management of ship transportation permits.[14] The overlapping authority on the management of ship transport permits constitutes a fundamental violation of Articles 2 and 3 of Law No. 17 of 2018. Furthermore, this conduct has contravened the provisions outlined in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This provision stipulates that "all individuals are entitled to equal treatment under the law, recognition, guarantees, and protection." Furthermore, this statement directly opposes the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, which mandates the enhancement of national resilience and the realization of an archipelago perspective.[15]

Previous research on Cabotage Principles has been carried out, but it has yet to be carried out regarding the focus of this research. For example, Xi Huang et al., "A review on risk assessment methods for maritime transport." Ocean Engineering categorizes the trends of maritime transport risk assessment methods according to different progressive levels of the system composition. Through the review, we found that maritime transport risk assessment methods are evolving toward a systematic and comprehensive direction, and the integration with artificial intelligence methods may be the next bellwether. Second, Shiqi Fan and Zaili Yang's research, "Accident data-driven human fatigue analysis in maritime transport using machine learning," Reliability Engineering & System Safety, states the importance of RIFs and their interdependencies for human fatigue in maritime accidents. It uses available knowledge and machine learning to open a new direction for fatigue management, which will benefit the maritime fatigue investigation and provide insights into other high-risk sectors suffering from human fatigue. Third, Goran Dominioni's "Towards an Equitable Transition in the Decarbonization of International Maritime Transport: Exemptions or Carbon Revenues?" Marine Policy states that adequate use of carbon revenues is likely to

[13] Muhammad Arif Budiyanto, Ardhanu Adha, and Putu Hangga Nan Prayoga, 'Distribution of Energy Efficiency Design Index for Tankers in Indonesia', *Energy Reports*, 8 (2022), 170–76 https://doi.org/https://doi.org/10.1016/j.egyr.2022.10.089

[14] Yew Seng Tai and others, 'The Impact of Ming and Qing Dynasty Maritime Bans on Trade Ceramics Recovered from Coastal Settlements in Northern Sumatra, Indonesia', *Archaeological Research in Asia*, 21 (2020), 100174 https://doi.org/https://doi.org/10.1016/j.ara.2019.100174

[15] Eka Djunarsjah and others, 'Prospects and Constraints of Lowest Astronomical Tide (LAT) as Determination of Sea Boundaries in Indonesia', *The Egyptian Journal of Aquatic Research*, 2023 https://doi.org/https://doi.org/10.1016/j.ejar.2023.08.002

deliver more significant climate benefits than exemptions within maritime transport and beyond. The analysis also reveals that exemptions have some potential merit in addressing equity considerations but also have various drawbacks. This research suggests that carbon revenue use should be the primary approach to addressing equity considerations in decarbonizing international maritime transport. This research aims to investigate and comprehend the cabotage principle utilized by law enforcement to authorize ship operations in Indonesian waters.

2. Research Method

This research uses normative juridical research. This research uses secondary data, by conducting library research. The material is in the form of Primary, Secondary, and Tertiary Legal Materials. The data collection techniques used by means of document studies sourced from legislation, Primary Legal materials used include the 1945 Constitution, Civil Code, Law Number 17 of 2008 concerning Shipping, Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Establishment of Legislation, Presidential Instruction Number 5 of 2005 concerning Empowerment of the National Shipping Industry, Ministry of Transportation Regulation Number 46 of 2019 Amendments to Regulation of the Minister of Transportation Number 48 of 2011 concerning Procedures and Requirements for Granting Permits for the Use of Foreign Vessels for Other Activities that Do Not Include Activities to Transport Passengers and/or Goods in Domestic Sea Transportation Activities.[16] This Minister of Transportation Regulation continues to be updated until Number 46 of 2019 concerning Amendments to the Minister of Transportation Regulation Number 92 of 2018, Regulation of the Minister of Transportation Number 4 of 2022 is an amendment to Number 171 of 2015 concerning Procedures for the Service of Foreign Tourist Ships (yachts) in Indonesian Waters as amended by Regulation of the Minister of Transportation Number PM 123 of 2016 concerning Amendments to Regulation of the Minister of Transportation Number PM 171 of 2015 concerning Procedures for the Service of Foreign Tourist Ships (Yachts) in Indonesian Waters and Regulation of the Minister of Transportation Number PM 121 of 2015 concerning Providing Facilities for Tourists Using Foreign Cruiseships, Regulation of the Minister of Transportation Number 44 of 2022 concerning Services for Foreign Tourist Ships (Yachts) and Foreign Cruiseships in Indonesian Waters.[17] The data analysis

[16] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum*, 30.1 (2022), 131–46 https://doi.org/https://doi.org/10.22219/ljih.v30i1.20764

[17] Lego Karjoko and others, 'Indonesia's Sustainable Development Goals Resolving Waste Problem: Informal to Formal Policy', *International Journal of Sustainable Development and Planning*, 17.2 (2022), 649–58 https://doi.org/https://doi.org/10.18280/ijsdp.170230

method is carried out through a qualitative approach to primary and secondary data.[18]

3. Results and Discussion

The Cabotage Principle on Regulations Enforcement for Licensing Ship

The cabotage principle is a principle contained in the law of sea transportation, meaning that the organization of shipping in the country is the right of the coastal state. Thus, the State has the right to prohibit foreign ships from sailing along its territorial waters.[19] The application of this principle in Indonesian shipping is based on the idea that domestic sea transportation has a strategic and significant role in national development, and provides the widest possible business opportunities for national sea transportation companies in obtaining cargo share. In addition to the world of shipping, this privilege is also regulated in the world of aviation and land transportation law. The international world recognizes that domestic flights within a country are only carried out by aircraft registered in the country concerned and have the nationality of the country.[20]

M. Kusumaatmadja stated that the cabotage principle is a principle that enforces that every activity of transporting goods and people is carried out by the flagged ship of the country, not by foreign ships. For example, from Tanjung Priok port to Surabaya must be an Indonesian ship (domestic), while ships in Indonesia to Singapore are not domestic. The Indonesian government realizes that sea transportation has a very important role compared to other modes of transportation, namely being able to transport passengers and/or goods in large quantities and relatively cheaper transport prices than by air.[21] It can also cover considerable distances both between islands and/or between countries. The ship does not only function as regular transportation but also as a facility/means of supporting a job in the waters (the nature of its specificity). So, with the above in mind, the Government of Indonesia began to look for solutions to empower the national shipping industry to become a host in its own country, that for all types

[18] Mohammad Jamin and Abdul Kadir Jaelani, 'Legal Protection of Indigenous Community in Protected Forest Areas Based Forest City', *Bestuur*, 10.2 (2022), 198–212 https://doi.org/https://dx.doi.org/10.20961/bestuur.v10i2.66090

[19] Abdul Kadir Jaelani, 'Indonesia ' S Omnibus Law On Job Creation : Legal Strengthening Digitalization of Micro , Small and Medium Enterprises', *Revista Relações Internacionais Do Mundo Atual Unicuritiba*, 3.41 (2023), 209–27 https://doi.org/http://dx.doi.org/10.21902/Revrima.v3i41.5833

[20] Budiman and Abdul Kadir, 'The Policy of Sustainable Waste Management Towards Sustainable Development Goals', *Journal of Human Rights, Culture and Legal System*, 3.1 (2023), 70–94 https://doi.org/https://doi.org/10.53955/jhcls.v3i1.73

[21] Xi Huang and others, 'A Review on Risk Assessment Methods for Maritime Transport', *Ocean Engineering*, 279 (2023), 114577 https://doi.org/https://doi.org/10.1016/j.oceaneng.2023.114577

and forms of ships operating in Indonesian waters are national vessels, namely implementing the principle of cabotage.[22]

After Indonesia implemented the cabotage principle, foreign vessels could still sail in Indonesian waters in accordance with the 1982 UNCLOS (United Nations Convention on the Law of the Sea), which became a reference for all countries that ratified it, and Indonesia included it in Law Number 17 of 1985 concerning the Ratification of the United Nations Convention on the Law of the Sea. Furthermore, the Indonesian government issued Government Regulation No. 37 of 2002 concerning the Rights and Obligations of Foreign Vessels and Aircraft in Exercising the Right to Cross the Archipelagic Sea Route.[23] In detail also in Article 19 paragraph (2) lists 12 activities that if one of them is carried out, then a foreign ship must be considered endangering the peace, order or Security of the coastal State. Regulations regarding the right to cross the Indonesian Archipelago Sea Route, for foreign vessels are regulated in Government Regulation (PP) No. 37 of 2002 concerning the Rights and Obligations of Foreign Vessels and Aircraft in Carrying out the Right to Cross the Archipelago Sea Route.[24]

Government Regulation No. 37/2002 above is an implementing regulation of Law No. 6/1996 on Indonesian Waters, which adopts the Right of Passage of the Archipelagic Sea Route contained in UNCLOS 1982. Government Regulation No. 37 of 2002 contains quite a number of provisions on the Cross-Archipelago Sea Route. The editor summarizes it into 17 obligations for foreign ships when passing through the ALKI, including being able to pass quickly in a normal way, not being able to sail near the coast of another country, and maintaining ethics towards other countries' sea areas such as not being allowed to threaten, carry out violence and war exercises, anchor and anchor, and so on with the motive of disturbing the security and comfort of other countries' territories.[25]

After discussing UNCLOS 1982, the State of Indonesia feels very necessary to implement cabotage to regulate domestic transportation activities carried out by national sea transportation companies using Indonesian-flagged vessels and operated by crews of Indonesian nationals. The application of this principle aims to protect the sovereignty of the state and support the realization of the archipelago insight and provide the widest possible business opportunities for national sea transportation companies The application of the Cabotage Principle in the shipping

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[22] Dirham Dirhamsyah, Saiful Umam, and Zainal Arifin, 'Maritime Law Enforcement: Indonesia's Experience against Illegal Fishing', *Ocean & Coastal Management*, 229 (2022), 106304 https://doi.org/https://doi.org/10.1016/j.ocecoaman.2022.106304

[23] Pearson.

[24] Yen-Chiang Chang, 'The Use of Force during Law Enforcement in Disputed Maritime Areas', *Marine Policy*, 124 (2021), 104382 https://doi.org/https://doi.org/10.1016/j.marpol.2020.104382

[25] Michael Heazle and John G Butcher, 'Fisheries Depletion and the State in Indonesia: Towards a Regional Regulatory Regime', *Marine Policy*, 31.3 (2007), 276–86 https://doi.org/https://doi.org/10.1016/j.marpol.2006.08.006

industry in Indonesia is a new hope for the national sea transportation industry. Based on these matters, in 2005, the Government issued Presidential Instruction Number 5 of 2005 concerning the Empowerment of the Indonesian Shipping Industry, then strengthened by Article 8 paragraph (1) and (2) of the Shipping Law Number 17 of 2008.[26]

Improvements in the performance of Indonesia's national ship industry progress after the implementation of the cabotage principle, namely in 2013, the value of ship production in the country was only around Rp. 10 trillion per year, while the number of workers absorbed by 250 shipyard industries was only around 26,000 people. In fact, until the end of 2013, there were 13,224 units of commercial vessels operating in Indonesian waters with an estimated investment value of Rp 227.5 trillion. The lack of the role of the national shipyard industry is also confirmed by the Indonesian Shipbuilding and Offshore Facilities Industry Association which records less than 10 percent of the population of domestically produced ships, meaning that most commercial ships are still imported or produced by shipyards abroad at the end of 2014 reached 14,156 units. This means an increase of more than double the number of national vessels when the cabotage principle came into force in 2005, which amounted to 5,750 vessels.[27]

In contrast, the number of foreign fleets continues to shrink. The number of foreign charter vessels decreased from 691 vessels in 2010 to 295 units at the end of 2014. The number of vessels owned by foreign agencies shrank from 4,922 units in 2010 to 4,320 units in 2014. In 2005 the number of national vessels rose from 6,041 units to 24,046 units in 2016, consisting of shipping and special sea transportation fleets. In 2019 there were 32,587 units and currently the number of national vessels in 2022 for cargo ships is 44,571 units and passenger ships are 4,906 units.[28]

The application of the cabotage principle has been since ancient times, including by the Portuguese and Dutch countries when colonizing other countries. In the 15th century, when Portugal brought goods from colonized countries to its country, it had to use Portuguese-flagged ships as well as its crew. The Netherlands in 1936 when colonizing Indonesia, transporting crops in the form of spices and others, had to use Dutch-flagged ships, as well as their crew. The purpose of the two countries applying the cabotage principle is to notify the world,

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[26] Matthew Libassi, 'Gold Conflict and Contested Conduct: Large- and Small-Scale Mining Subjectivities in Indonesia', *Geoforum*, 2022, 103648 https://doi.org/https://doi.org/10.1016/j.geoforum.2022.10.005

[27] Lusita Meilana and others, 'How Indonesian Marine Protected Areas (MPAs) Are Doing: A Management Performance-Based Evaluation', *Biological Conservation*, 282 (2023), 110033 https://doi.org/https://doi.org/10.1016/j.biocon.2023.110033

[28] María Teresa Camarena-Gómez, Anu Lähteenmäki-Uutela, and Kristian Spilling, 'Macroalgae Production in Northern Europe: Business and Government Perspectives on How to Regulate a Novel Blue Bioeconomy', *Aquaculture*, 560 (2022), 738434 https://doi.org/https://doi.org/10.1016/j.aquaculture.2022.738434

that the ship and crew who operate belongs to that country. In addition, the flag of the country flying on the ship shows that the country has power and there is state sovereignty over the ship.[29]

Various enactments of the Cabotage Principle in certain countries, including coastal countries enact this principle as a law called maritime cabotage is used as a basis for rules in carrying out cargo transportation between two domestic ports. The Philippines requires national flag vessels to be subject to two laws, the Tariff Act and the Domestic Shipping Development Act. The Philippines adopted the cabotage principle from the United States and has been in effect since 1957. The cabotage principle was enacted in the Philippines to cut the high cost of shipping goods using foreign vessels. Domestic vessels are empowered by encouraging restrictions on the operation of foreign vessels on domestic routes.[30]

The cabotage principle is applied to boost the economy of the Philippines. The implementation of the cabotage principle in Indonesian waters aims to protect the domestic shipping industry from competition with foreign vessels, through optimizing the operation of domestic vessels and limiting foreign vessels will encourage the national economy and the nation's economic welfare. In addition, the purpose of enforcing the cabotage principle is to protect the integrity of the nation. Through the application of the Cabotage principle, it is expected that the operation of domestic vessels will be optimized, as it will have a major effect on the Indonesian economy.[31] Hong Kong benefits from the impact of the application of the cabotage principle in mainland China, namely before this principle is relaxed its application, Hong Kong benefits from the regulation because foreign ships that are not allowed to enter the country of China, can enter the port of Hong Kong to then contact the port of China for the pickup of goods. However, in 2013, China's cabotage policy was relaxed in Shanghai and allowed foreign-flagged Chinese vessels to operate from Shanghai to other Chinese coastal ports. The relaxation of the cabotage principle in China makes Hong Kong potentially suffer losses.[32]

Nigeria also applies the cabotage principle known as the "Nigerian Cabotage Law" or "Nigerian Cabotage Lei." This principle requires vessels operating in Nigerian waters to be owned, operated and crewed by Nigerian citizens or companies majority owned by Nigerian citizens. The aim is to encourage the

[29] Nurani and others.

[30] Hoong Sang Wong and Chen Chen Yong, 'Fisheries Regulation: A Review of the Literature on Input Controls, the Ecosystem, and Enforcement in the Straits of Malacca of Malaysia', *Fisheries Research*, 230 (2020), 105682 https://doi.org/https://doi.org/10.1016/j.fishres.2020.105682

[31] Nicolas Longépé and others, 'Completing Fishing Monitoring with Spaceborne Vessel Detection System (VDS) and Automatic Identification System (AIS) to Assess Illegal Fishing in Indonesia', *Marine Pollution Bulletin*, 131 (2018), 33–39 https://doi.org/https://doi.org/10.1016/j.marpolbul.2017.10.016

[32] Kuntala Lahiri-Dutt, Balada Amor, and Rachel Bernice Perks, 'Gendered and Embodied Legacies: Mercury's Afterlife in West Lombok, Indonesia', *Extractive Industries and Society*, 8.3 (2021), 100960 https://doi.org/10.1016/j.exis.2021.100960

growth of the national shipping industry, create jobs, and reduce dependence on foreign vessels. Weaknesses The cabotage system in Nigeria, which is governed by the Nigerian Cabotage Law, has several weaknesses and challenges. Nigeria faces the problem of lack of sufficient domestic vessel capacity to service all cabotage routes.[33] Many domestic vessels do not have sufficient capacity or quality, and this can result in dependence on foreign vessels. Nigeria faces the problem of lack of sufficient domestic vessel capacity to service all cabotage routes. Many domestic vessels do not have sufficient capacity or quality, and this may result in dependence on foreign vessels. There is a record of foreign vessel irregularities in the implementation of the cabotage principle in Nigeria.[34] Some foreign vessels may violate regulations by claiming ownership by Nigerian entities or in other misleading ways. Despite the regulation of the cabotage principle, Nigeria still imports many foreign vessels to meet its transportation needs. This creates a dependency on foreign vessels in servicing certain routes.[35]

The Philippines, a country in the Asean region and close to Indonesia, has a cabotage principle known as the "Philippine Cabotage Policy" or "Polisiya Cabotage ng Pilipinas." The Philippine cabotage policy provides protection to Filipino vessels to operate inter-island shipping services in Philippine waters. This is to support the domestic shipping industry and protect employment in the sector. However, the cabotage principle in the Philippines has a number of weaknesses and challenges that have been faced for several years. Lack of Domestic Vessel Capacity One of the main obstacles to the implementation of the cabotage principle in the Philippines is the lack of sufficient domestic vessel capacity. Many local vessel fleets are unable to meet the high demand for inter-island shipping services in the country. This may lead to dependence on foreign vessels in servicing certain routes. Domestic vessels often have higher operating costs compared to foreign vessels. This can result in higher transportation costs, which in turn can affect the price of goods and services, as well as the competitiveness of the Philippine economy. Despite cabotage regulations, there are still foreign vessels that violate these regulations, and law enforcement may not always be effective in addressing such violations.[36]

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[33] Ryan Martinson, 'Catching Sovereignty Fish: Chinese Fishers in the Southern Spratlys', *Marine Policy*, 125 (2021), 104372 https://doi.org/https://doi.org/10.1016/j.marpol.2020.104372

[34] Maribeth Erb, 'Mining and the Conflict over Values in Nusa Tenggara Timur Province, Eastern Indonesia', *The Extractive Industries and Society*, 3.2 (2016), 370–82 https://doi.org/https://doi.org/10.1016/j.exis.2016.03.003

[35] D Dirhamsyah, 'Indonesian Legislative Framework for Coastal Resources Management: A Critical Review and Recommendation', *Ocean & Coastal Management*, 49.1 (2006), 68–92 https://doi.org/https://doi.org/10.1016/j.ocecoaman.2005.09.001

[36] Azmath Jaleel and Hance D Smith, 'The Plight of the Fishers and the Management of IUU Fishing', *Marine Policy*, 150 (2023), 105557 https://doi.org/https://doi.org/10.1016/j.marpol.2023.105557

The Role of Cabotage as a Guardian of Indonesian Sovereignty

The firmness of the cabotage principle in Indonesia should be maintained and strengthened to differentiate it from countries such as the Philippines, China and Nigeria. This is not only an important step to protect the national shipping industry, but also to ensure that this policy promotes Indonesia's maritime economic sovereignty. To achieve this goal, the government needs to implement consistent and strict law enforcement. This involves careful monitoring and inspection of vessels operating in Indonesian waters.[37]

The implementation of the Cabotage principle is supported by Presidential Instruction of the Republic of Indonesia Number 5 of 2005 concerning the Empowerment of the National Shipping Industry, which is accommodated by Shipping Law No. 17 of 2008. The rules in Law No. 17 of 2008 concerning Shipping are firmer when compared to the previous Law, namely Law No. 21 of 1992 concerning Shipping which only regulates the use of Indonesian-flagged vessels to operate in national waters.[38]

This new provision closes the possibility for foreign vessels to carry out domestic sea transportation activities, thus foreign vessels are prohibited from transporting passengers and/or goods between islands or between ports in Indonesian waters. Restrictions on the operation of foreign vessels in Indonesian waters are intended to provide ample opportunities for Indonesian entrepreneurs to use national vessels in carrying out shipping activities in Indonesian territory. The purpose of applying the cabotage principle is to prevent and reduce dependence on foreign ships; facilitate the flow of goods or services and people throughout the archipelago at large with maximum service but at a reasonable price, including to remote areas, as well as efforts to provide employment opportunities for citizens and as a reliable and supporting system of National Defense and Security. Therefore, every policy issued both at the central and regional levels relating to sea transportation must prioritize the cabotage principle policy, especially those related to improving the investment climate or ease of doing business.[39]

At present, the implementation of the Cabotage principle in Indonesia has not been able to fully have a significant impact on the development of sea transportation in Indonesia and the Government should support national shipping which is considered unable to support the national economy in accordance with the mandate of Articles 56 and 57 of the Shipping Law Article 56 which contains

[37] Chung-Ling Chen, 'Realization of High Seas Enforcement by Non-Flag States in WCPFC: A Signal for Enhanced Cooperative Enforcement in Fisheries Management', *Marine Policy*, 50 (2014), 162–70 https://doi.org/https://doi.org/10.1016/j.marpol.2014.06.001

[38] Ningsih, Azhari, and Al-Khan.

[39] Abdullah Rasyid, Masteria Y Putra, and Yasman, 'Antibacterial and Antioxidant Activity of Sea Cucumber Extracts Collected from Lampung Waters, Indonesia', *Kuwait Journal of Science*, 50.4 (2023), 615–21 https://doi.org/https://doi.org/10.1016/j.kjs.2023.03.012

Development and procurement of the national water transportation fleet is carried out in order to empower national water transportation and strengthen the national shipping industry which is carried out in an integrated manner with the support of all related sectors.[40]

Article 58 Further provisions concerning the empowerment of the water transportation industry and the strengthening of the national shipping industry shall be regulated by Government Regulation and which strengthen the domestic shipping industry. However, the Government actually issued Minister of Transportation Regulation Number 46 of 2019 as a substitute for Number 92 of 2018 which allows foreign vessels in the oil and gas sector and Number 4 of 2022 in the cruise ship sector to operate in Indonesian waters, even though it actually violates the agreement mandated in Article 8 paragraph (1) and (2) of the Shipping Law, namely refusing foreign ships to do business in Indonesia. The Government's argument is that this is unavoidable because it is related to the needs of the Indonesian economy, where foreign vessels can carry out activities in Indonesian waters, and sea transportation activities which include oil and gas surveying, drilling, offshore construction, supporting offshore operations, dredging, salvage and underwater work, floating power plant vessels, and dock construction vessels are not among the prohibited activities.[41]

In addition, due to the demand for foreign vessels, as long as Indonesian-flagged vessels are not available or not sufficiently available and the foreign vessel has an approval for the use of foreign vessels stipulated by the Minister of Transportation, who acts as a regulator overseeing the implementation of the cabotage principle so that the shipping industry continues to develop into a strong and independent industry and has competitiveness, both at home and abroad. The establishment of Minister of Transportation Regulations Number 46 of 2019 and Number 4 of 2022 is contrary to the mandate of the Law above, namely Number 17 of 2008 concerning Shipping. Ministry of Transportation Regulation Number 46 of 2019 is an amendment to Minister of Transportation Regulation Number 48 of 2011 concerning Procedures and Requirements for Granting Permits for the Use of Foreign Vessels for Other Activities that Do Not Include Activities to Transport Passengers and / or Goods in Domestic Sea Transportation Activities. This Minister of Transportation Regulation continues to be updated until Number 46 of

[40] Muhammad Radhi and others, 'The Comparative Study on the Osteocranium of Red Snappers Lutjanus Malabaricus (Schneider, 1801) and Lutjanus Timorensis (Quoy & Gaimard, 1824) Harvested from Pulo Aceh Waters, Indonesia', *Zoologischer Anzeiger*, 307 (2023), 28–35 https://doi.org/https://doi.org/10.1016/j.jcz.2023.09.002

[41] Zanne Sandriati Putri and others, 'Neonicotinoid Contamination in Tropical Estuarine Waters of Indonesia', *Heliyon*, 8.8 (2022), e10330 https://doi.org/https://doi.org/10.1016/j.heliyon.2022.e10330

2019 concerning Amendments to the Minister of Transportation Regulation Number 92 of 2018.[42]

The Ministry of Transportation Regulation that allows foreign ships to carry passengers in Indonesian waters as stipulated in the Minister of Transportation Regulation Number 4 Year 2022 is an amendment to Number 171 Year 2015 concerning Procedures for the Service of Foreign Tourist Ships (yachts) in Indonesian Waters as amended by Minister of Transportation Regulation Number PM 123 Year 2016 concerning Amendments to Minister of Transportation Regulation Number PM 171 Year 2015 concerning Procedures for the Service of Foreign Tourist Ships (Yachts) in Indonesian Waters.[43] Regulation of the Minister of Transportation Number PM 121 of 2015 concerning Providing Facilities for Tourists Using Foreign Cruiseships, is no longer in accordance with the legal needs of the community, so it needs to be replaced by Regulation of the Minister of Transportation Number 44 of 2022 concerning Services for Foreign Tourist Ships (Yachts) and Foreign Cruiseships in Indonesian Waters, which aims to increase tourism.[44]

This violates Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Establishment of Legislation, namely laws and regulations that have a lower degree in the hierarchy of laws and regulations may not conflict with higher ones, or violate the principle of *lex superior derogate legi inferiori*. Supposedly, if the Government feels that Law 17 of 2008 concerning Shipping is no longer appropriate, then it can be revised or replaced with a new law, not by forming regulations of the Ministry of Transportation whose contents are contradictory, because this is not in accordance as specified in Law No. 13 of 2022 concerning Amendments to Law No. 12 of 2011 governing the Formation of Legislation. The government must be careful and cautious if it wants to revise the Shipping Law because it involves the interests of the state, the economy, national shipping and the defense and security of the Indonesian state, and can be done if the law cannot meet the rapidly changing economic and social developments of society.[45]

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[42] A M Rizal and N S Ningsih, 'Description and Variation of Ocean Wave Energy in Indonesian Seas and Adjacent Waters', *Ocean Engineering*, 251 (2022), 111086 https://doi.org/https://doi.org/10.1016/j.oceaneng.2022.111086

[43] Sri Riska Rahayu and others, 'Morphometric and Genetic Variations of Four Dominant Species of Snappers (Lutjanidae) Harvested from the Northern Coast of Aceh Waters, Indonesia', *Zoologischer Anzeiger*, 303 (2023), 26–32 https://doi.org/https://doi.org/10.1016/j.jcz.2023.01.008

[44] Najamuddin and others, 'Distribution of Heavy Metals Hg, Pb, and Cr in the Coastal Waters of Small Islands of Ternate, Indonesia', *Acta Ecologica Sinica*, 2023 https://doi.org/https://doi.org/10.1016/j.chnaes.2023.09.002

[45] Gerry Giliant Salamena and others, 'A Risk Assessment of Marine Plastics in Coastal Waters of a Small Island: Lessons from Ambon Island, Eastern Indonesia', *Regional Studies in Marine Science*, 65 (2023), 103086 https://doi.org/https://doi.org/10.1016/j.rsma.2023.103086

In addition, it allows the formation of laws through the PERPU route with consideration of the community's need for legal certainty. It also authorizes sea transportation institutions to conduct a review of Law No. 17/2008 which is no longer in accordance with the development of society. Although the Government finally issued Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation which was finally enacted into Law Number 6 of 2023 to strengthen the contents of the Ministerial Regulation and ostensibly replace Law 17 of 2008 concerning Shipping, it still does not erase the Government's footprints that are not firm and inconsistent in establishing the application of the Cabotage principle in Indonesian waters, which the Government should have a firm and consistent attitude like other countries in establishing the application of the Cabotage principle in its waters.[46]

The problem of pseudo-legislation as a form of regulation other than statutory regulations found in daily government practice, which is usually implemented as a derivative of a law made by a government agency or a ministry. If a regulation only applies inwardly, it is not binding in the sense intended by the term publicly binding regulation. The regulation in particular does not bind organs other than the one that issued it, nor does it confer rights on persons or legal entities. The requirement that a binding regulation must be directed outward, can be interpreted variously but must not conflict with the rules above it, or the so-called *lex superior derogate legi inferiori* principle means that laws and regulations that have a lower degree in the hierarchy of laws and regulations must not conflict with higher ones.[47]

A ministerial regulation should be made to deliver a policy product and its content does not change, does not add to, does not annul the regulations it delivers, so that the regulations delivered remain intact and are not ambiguous (double) as a result of the ministerial regulations issued. If there is a Ministry Regulation that is likely to add to it, it has the potential to annul the various policy products on which it is based. As it should be, the content of a Ministry Regulation should not deviate from the material regulated in the legislation on which it is based. The philosophical basis for immediately deleting and canceling various deviant Ministry Regulations, is the speed and accuracy as well as the ability of the Leaders of the issuing Institutions. Regulation of the Ministry in developing considerations of worldview, awareness, and legal ideals which include the

[46] Adi Purwandana and others, 'Observed Internal Solitary Waves in the Northern Bali Waters, Indonesia', *Regional Studies in Marine Science*, 57 (2023), 102764 https://doi.org/https://doi.org/10.1016/j.rsma.2022.102764

[47] Ichsan Setiawan and others, 'Suspended Sediment Transport Generated by Non-Hydrostatic Hydrodynamics in Northern Waters of Aceh, Indonesia', *Heliyon*, 9.6 (2023), e17367 https://doi.org/https://doi.org/10.1016/j.heliyon.2023.e17367

atmosphere of mysticism and philosophy of the Indonesian nation derived from Pancasila and the Preamble of the 1945 Constitution of the Republic of Indonesia.[48]

According to the author, the Government's revision of Law No. 17/2008 and the establishment of regulations under it are not in accordance with the purpose of the cabotage principle, which is to empower national shipping to improve the national economy. The government's goal for the above is to provide opportunities for foreign shipping to serve passengers and goods between islands and between domestic ports, even though until now, domestic shipping is still able to meet its shipping needs and does not require foreign assistance. The Cabotage Principle supports national shipping, and it is recorded that currently the members of the Indonesia National Shipowner Association (INSA) are more than 25 thousand fleet units and are expected to continue to grow as demand increases.[49]

The discourse to revise the shipping law will threaten the domestic shipping industry, currently the fleet of red and white flagged ships is quite a lot and is able to serve domestic cargo and INSA does not need outside investors to add to the fleet. If the government considers the domestic shipping industry inadequate, it should be able to increase infrastructure development to reduce Indonesia's logistics costs, which are still known to be high. The problem from year to year is that Indonesia's logistics costs are still quite high and need to improve infrastructure as the main solution. Quality infrastructure development will indirectly boost economic growth and lower logistics costs. So, the government should focus on infrastructure and how to increase infrastructure rather than taking care of unimportant matters such as the revision of the shipping law.[50]

In addition, investment in modern and efficient domestic vessels should be supported, along with improvements to adequate port infrastructure. The basic principle of cabotage, ownership of vessels by Indonesian citizens or companies majority owned by Indonesian citizens, must be strictly maintained. Transparency and anti-corruption efforts in the licensing and permitting process is another important step. With innovation in the shipping industry and close cooperation between the government and the private sector, Indonesia can maintain the strictness of the cabotage principle, make it unique compared to other countries,

[48] Wulan Koagouw and others, 'High Concentrations of Paracetamol in Effluent Dominated Waters of Jakarta Bay, Indonesia', *Marine Pollution Bulletin*, 169 (2021), 112558 https://doi.org/https://doi.org/10.1016/j.marpolbul.2021.112558

[49] Eriko Hoshino and others, 'Development of Pilot Empirical Harvest Strategies for Tropical Tuna in Indonesian Archipelagic Waters: Case Studies of Skipjack and Yellowfin Tuna', *Fisheries Research*, 227 (2020), 105539 https://doi.org/https://doi.org/10.1016/j.fishres.2020.105539

[50] Tirtadanu and others, 'Stock Assessment and Management Implications of Three Lobster Species in Gunungkidul Waters, Indonesia', *Ocean & Coastal Management*, 211 (2021), 105780 https://doi.org/https://doi.org/10.1016/j.ocecoaman.2021.105780

and provide strong support for the growth of the national shipping industry and protect the sovereignty of the country's maritime economy.[51]

The condition of shipping in Indonesia at that time was very concerning where Indonesia had a very large water area but was unable to exercise control over its own territory. After the implementation of the Cabotage principle as outlined in the Job Creation Law which basically states that domestic sea transportation activities are carried out by national sea transportation companies using Indonesian-flagged ships and manned by Indonesian crew members so that foreign ships are prohibited from transporting passengers and / or goods between islands and between ports in Indonesian waters.[52]

The condition of shipping in Indonesia at that time was very concerning where Indonesia had a very large water area but was unable to exercise control over its own territory. After the implementation of the Cabotage principle as outlined in the Job Creation Law which basically states that domestic sea transportation activities are carried out by national sea transportation companies using Indonesian-flagged ships and manned by Indonesian crew members so that foreign ships are prohibited from transporting passengers and/or goods between islands and between ports in Indonesian waters.[53] Through this principle, the government began to make arrangements that required domestic shipping companies to have Indonesian-flagged ships or in other words have their own ships and can use the services of domestic crew members.[54]

Based on the results of the study, it was found that the implementation of the cabotage principle had a major influence on the national shipping industry. From the data sources studied, it proves that during the implementation of the cabotage principle, the national shipping industry is growing. The number of national shipping companies and national vessels is increasing, so that all loading and unloading activities at national ports can be controlled by national shipping

[51] Norbert Clauer, 'An Elemental and 87Sr/86Sr Isotopic Restitution of Contaminated Pore Waters from Sandy Sediments of the Peciko Gas Field (Mahakam Delta, Indonesia)', *Journal of Petroleum Science and Engineering*, 208 (2022), 108891 https://doi.org/https://doi.org/10.1016/j.petrol.2021.108891

[52] Amron Amron and others, 'Underwater Noise of Traditional Fishing Boats in Cilacap Waters, Indonesia', *Heliyon*, 7.11 (2021), e08364 https://doi.org/https://doi.org/10.1016/j.heliyon.2021.e08364

[53] Firman M Nur and others, 'Elucidating Species Diversity of Genus Betta from Aceh Waters Indonesia Using Morphometric and Genetic Data', *Zoologischer Anzeiger*, 296 (2022), 129–40 https://doi.org/https://doi.org/10.1016/j.jcz.2021.12.004

[54] Zhen Lin, 'The Protection of Sunken WWII Warships Located in Indonesian or Malaysian Territorial Waters', *Marine Policy*, 113 (2020), 103804 https://doi.org/https://doi.org/10.1016/j.marpol.2019.103804

companies. In addition, the number of unemployment is reduced because national vessels must be manned by Indonesian crew members.[55]

National shipping must be held by the nation and its own ships as the implementation of the cabotage principle as a whole, which when viewed from the defense and security of the country, The national transport fleet can be part of the defense and resilience of the Unitary State of the Republic of Indonesia to be mobilized as a supporter of national defense at sea, especially when the country is in danger. This is stipulated in Law No. 3 of 2002 concerning State Defense and Law No. 27 of 1997 concerning Mobilization and Demobilization. The two laws above are in accordance with the basis and main interests of the application of the Cabotage Principle, namely guaranteeing and protecting the national marine development infrastructure, especially when the country is in an emergency, compared to if the infrastructure is owned by a foreign country that can be withdrawn at any time, building a strong and adequate commercial fleet, filling domestic sea transportation needs, supporting other marine economic activities and supporting national security, defense and economic interests, and the commercial shipping fleet becomes part of the national defense system that is ready to be mobilized when the country needs it. ranging from economic, social, cultural, political, defense to security, and is intended to protect the sovereignty of the state in order to support the realization of the Archipelago Concept.[56]

The purpose of applying the cabotage principle to the Indonesian sea transportation industry is to prevent or reduce the community's dependence on foreign shipping vessels, facilitate the flow of goods or services and people throughout the archipelago at large with maximum service, but still at a reasonable price, including to remote areas, as an effort to provide employment opportunities for citizens and as a mainstay and support for the national defense and security system. In addition to Indonesia, many countries apply the Cabotage principle, including Japan, the United States, the Philippines, Nigeria and many more. The things that encourage countries in the world to apply the Cabotage principle vary, ranging from the protection of domestic industries to the protection of a country's coastline from military or terrorist threats. In addition, the cabotage policy that limits the freedom of movement of foreign vessels in a country's domestic sea transportation is not new, for example Japan is a good example of a country with a policy used for the purpose of industrial protection,

[55] Djoko Suwarno and others, 'The Effects of Dams in Rivers on N and P Export to the Coastal Waters in Indonesia in the Future', *Sustainability of Water Quality and Ecology*, 3–4 (2014), 55–66 https://doi.org/https://doi.org/10.1016/j.swaqe.2014.11.005

[56] Heny Suseno, Ikhsan Budi Wahono, and Muslim, 'Radiocesium Monitoring in Indonesian Waters of the Indian Ocean after the Fukushima Nuclear Accident', *Marine Pollution Bulletin*, 97.1 (2015), 539–43 https://doi.org/https://doi.org/10.1016/j.marpolbul.2015.05.015

while for the United States this policy is used for sovereignty and security reasons.[57]

The obedience and awareness of shipping entrepreneurs in Indonesia and all people who participate in the shipping business in Indonesia of the Cabotage principle is a form of Ideological defense, for the resilience of the Indonesian territory in accordance with laws and government policies by the Indonesian shipping company. besides defense and security in the political field, that the increasing presence of national ships as a result of the enactment of the cabotage principle is very important as a part that shows the whole world about the existence of the Indonesian state.[58] As a defense in the social and cultural fields is the harmony and mutual cooperation attitude of all Indonesian people in a pluralistic society as a manifestation, it is very clear that the socio-cultural resilience of the Indonesian people is an awareness of the importance of national unity and integrity embedded in the community. As a defense in the economic field, indirectly the application of the Cabotage principle can increase national income through the income of Fishermen, Sailors and Shipping Companies in Indonesia because it empowers all existing instruments, namely in terms of labor, ships, and shipping companies, so as to prosper all the people of Indonesia and can make it a leading country in ASEAN.[59]

It is increasingly understood that the application of the Cabotage principle for Indonesian shipping is based on the idea that domestic sea transportation has a strategic and significant role in national development, ranging from economic, social, cultural, political, defense to security, which is intended to protect the sovereignty of the country and support the realization of the Archipelago Concept, and provide opportunities to do business and business for Indonesian shipping companies to maximize and develop themselves in obtaining cargo share. The Cabotage principle has realized this, in addition to protecting the sovereignty of the country and providing the widest possible field for national sea transportation companies to obtain cargo share and all are stipulated in law number 17 of 2008 concerning shipping. The cabotage principle, which means state sovereignty, has proven successful in maintaining state sovereignty in the aspects of security and defense.[60]

The national shipping fleet is part of the country's defense, which can be mobilized if the country is in danger. This is as mandated by Law No. 32 of 2002

[57] Dirhamsyah, Umam, and Arifin.
[58] Tai and others.
[59] Yusuf Sofiyandi, Yusuf Reza Kurniawan, and Muhammad Halley Yudhistira, 'The Impact of Maritime Logistics Subsidy on Food Prices: Evidence from Indonesia', *Economic Analysis and Policy*, 79 (2023), 1026–45 https://doi.org/https://doi.org/10.1016/j.eap.2023.06.035
[60] Putri Amelia, Artya Lathifah, and I Nyoman Astawa Yasa, 'Analysis of the Impact of Maritime Sector Development in Supporting Indonesian Navy Ship Operations', *Procedia Computer Science*, 197 (2022), 317–25 https://doi.org/https://doi.org/10.1016/j.procs.2021.12.146

concerning State Defense. The cabotage principle policy contained in Presidential Instruction No. 5 of 2005 and Law No. 17 of 2008 on Shipping has also been proven to play a role in encouraging national economic growth. The positive impact of the implementation of the Cabotage principle is to strengthen the sovereignty of the State, because with the elimination of foreign ships sailing in Indonesian sea waters, the sovereignty of the State will be increasingly maintained.[61] This is due to the strengthening of the Government's position in controlling foreign vessels entering Indonesian sea waters. The absorption of domestic crew will automatically apply, because there are rules that require Indonesian-flagged ships to be manned by Indonesian crew members and the more fleets of ships owned, the more Indonesian labor is absorbed in the Indonesian shipping sector. Another impact is the creation of national security, namely Indonesian-flagged ships operating, can participate in maintaining the security of its waters from foreign ships that violate the boundaries of Indonesian sea waters.[62]

Law Number 6 of 2023 on Stipulating Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law, the cabotage principle is maintained. This means that our government and parliament are very aware of the importance of the cabotage principle in maintaining the sovereignty of our seas, besides this principle guarantees protection for national shipping. However, national shipping companies must be ready to compete with international shipping companies. Competition is the essence of business, including the sea and water transportation business. This is shown in Article 14A of the Job Creation Law, which allows foreign vessels to operate when there are no Indonesian-flagged vessels serving the activity. In addition, foreign vessels are prohibited from transporting goods and passengers between islands.[63] Foreign vessels that often operate in Indonesia are vessels that do not carry passengers and goods. Activities carried out by foreign ships are more offshore activities such as drilling and rig ships because of the high investment so many are cooperated with foreigners. Allowing foreign vessels to operate in special activities such as drilling is limited to a certain

[61] Chairullah Amin and others, 'Impact of Maritime Logistics on Archipelagic Economic Development in Eastern Indonesia', *The Asian Journal of Shipping and Logistics*, 37.2 (2021), 157–64 https://doi.org/https://doi.org/10.1016/j.ajsl.2021.01.004

[62] Rumaji and Ana Adiliya, 'Port Maritime Connectivity in South-East Indonesia: A New Strategic Positioning for Transhipment Port of Tenau Kupang', *The Asian Journal of Shipping and Logistics*, 35.4 (2019), 172–80 https://doi.org/https://doi.org/10.1016/j.ajsl.2019.12.004

[63] Yety Rochwulaningsih and others, 'Marine Policy Basis of Indonesia as a Maritime State: The Importance of Integrated Economy', *Marine Policy*, 108 (2019), 103602 https://doi.org/https://doi.org/10.1016/j.marpol.2019.103602

deadline and in the future all domestic shipping activities are served by Indonesian vessels.[64]

Through this principle, the government through the Job Creation Law has begun to make arrangements that require domestic shipping companies to have Indonesian-flagged ships or in other words have their own ships and can use the services of domestic crew members. The application of the Cabotage principle should not be considered as an obstacle to the entry of foreign investment because the existence of this principle closes the possibility of foreign parties who want to participate in national shipping. The application of the Cabotage principle on the one hand provides benefits and protects the interests of Indonesian national shipping but on the other hand can also inhibit and close the entry of foreign investment in Indonesia. For a country where most of its territory consists of sea like Indonesia, the existence of sea transportation facilities is very important, not only for economic activities, but also to maintain the integrity of the country's territorial sovereignty.[65]

4. Conclusion

The authority over shipping permits overlaps among thirteen ministries and state institutions, which are obligated to enforce seventeen laws as law enforcement officers in littoral and maritime regions. The authority to conduct surveillance, pursuit, and investigation in Indonesia's maritime and jurisdictional domains is shared by both entities, which constitutes the overlap in authority in question. The Indonesian Navy is predominantly affected by this circumstance following Law No. 3 of 2002 concerning National Defense, Article 14 paragraph 1 of Law No. 5 of 1983 regarding EEZ, and Article 9 of Law No. 34 of 2004 regarding TNI. Furthermore, this pertains to the jurisdiction of KPLP, which is governed by Article 276-278 of Law No. 17 of 2008 on Shipping. As a result of the following deficiencies, law enforcement officers have been unable to recognize the value of justice in sea and coastal regions: first, the adequacy of legal standards and regulations governing the authority of law enforcement officers to enforce the law in such areas. Secondly, there is an urgent need for enhanced human resources, particularly investigators, and high-quality infrastructure. Third, the sectoral ego prevalent in each agency frequently renders investigations and enforcement efforts in maritime domains and jurisdictions futile. Fourth, given that the majority of the budget is allocated to the Ministries of Defense, Police, and Finance, there is a need for a more equitable distribution of law enforcement budget funds among relevant

[64] Mohammad Bagus Adityawan and others, 'Development of a Tsunami Early Warning System on the Coast of Palu Based on Maritime Wireless Communication', *Progress in Disaster Science*, 19 (2023), 100290 https://doi.org/https://doi.org/10.1016/j.pdisas.2023.100290

[65] Ria Tri Vinata, Masitha Tismananda Kumala, and Cita Yustisia Serfiyani, 'Climate Change and Reconstruction of Indonesia's Geographic Basepoints: Reconfiguration of Baselines and Indonesian Archipelagic Sea Lanes', *Marine Policy*, 148 (2023), 105443 https://doi.org/https://doi.org/10.1016/j.marpol.2022.105443

ministries and state institutions. Following the proportion of Indonesian waters that necessitate monitoring, such circumstances give rise to a need for more infrastructure provisions.

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