

IS IT ILLEGAL FOR FOREIGN VESSELS TO TRANSIT THROUGH INDONESIAN WATERS WITHOUT UTILIZING THE ARCHIPELAGIC SEA LANES?

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ABSTRACT

This paper addresses the question of whether foreign vessels can infringe upon their transit through Indonesian waters without using the Indonesian Archipelagic Sea Lanes. To answer this question, the paper discusses the concept of transit rights, including innocent passage rights, transit passage rights, and archipelagic sea lanes passage rights, as well as the prohibitions and obligations of foreign vessels in exercising archipelagic sea lanes passage rights as stipulated by international and national legal provisions. This research is conducted in a normative manner, utilizing a literature review as the data collection method, and consequently employing secondary data. The analysis technique applied is content analysis. This paper concludes that despite the establishment of the Indonesian archipelagic sea lanes, it does not imply that foreign vessels must necessarily traverse these sea lanes when transiting through Indonesian waters. Foreign vessels engaged in transit have the right to peacefully navigate through Indonesian waters, provided they respect and comply with the domestic regulations of the archipelagic state and international law.

Keywords: archipelagic sea lanes; foreign vessels; Indonesian waters; transit.

INTRODUCTION

The concept of archipelagic states is codified in several principles referred to as the archipelagic state principles, which are regulated in Chapter IV of the United Nations Convention on the Law of the Sea 1982 (UNCLOS), consisting of nine articles, namely Articles 46-54.¹ The archipelagic state principles are generally accepted as a cohesive set of principles. On one hand, other states acknowledge the full sovereignty of archipelagic states over their archipelagic waters. On the other hand, archipelagic states respect the rights held by other states in their archipelagic waters.² This includes, among other things, the right of peaceful passage for ships of all states through archipelagic waters and the right of passage for all ships and aircraft through archipelagic sea lanes within those lanes and air routes.

In implementing the provisions of UNCLOS, particularly those pertaining to the rights and obligations of Indonesia as an archipelagic state, the Indonesian government enacted Law No. 6 of 1996 regarding the Indonesian Waters.³ This law has mandated several provisions to be further regulated through government regulations. These include the rights and obligations of foreign vessels when conducting peaceful passage through Indonesian waters,⁴ the list of geographical coordinates of Indonesia's archipelagic baselines,⁵ traffic separation schemes in territorial seas and archipelagic

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¹ *United Nations Convention on the Law of the Sea 1982, Articles 46 – 54.*

² Arif Havast Oegroseno, Archipelagic States: From Concept to Law, dalam *The Imli Manual on International Maritime Law: Volume I The Law of the sea*, ed. David Joseph Attard, Malgosia Fitzmaurice, Norman A Martinez Gutierrez, 2014, p.132.

³ Law Number 6 of 1996 regarding the Indonesian Waters.

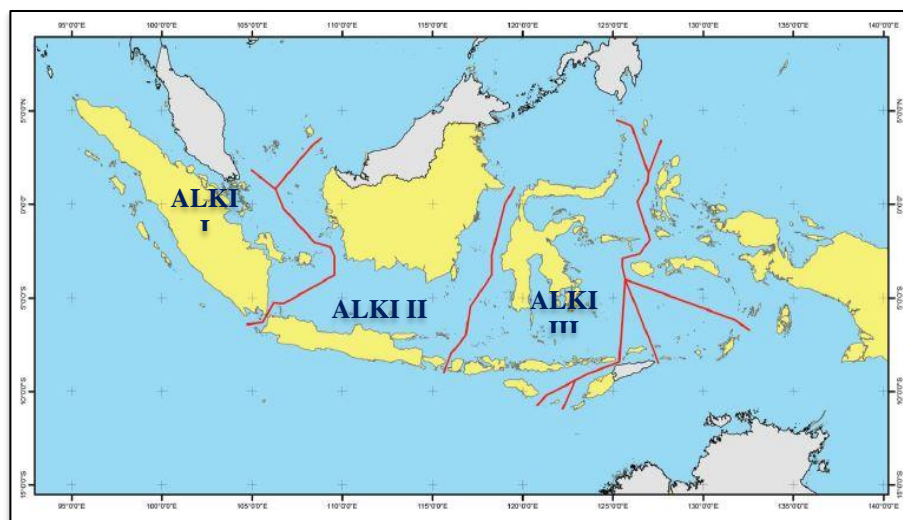
⁴ Government Regulation Number 36 of 2002 regarding the Rights and Obligations of Foreign Vessels in Conducting Innocent Passage through Indonesian Waters.

⁵ Government Regulation Number 38 of 2002 regarding the List of Geographic Coordinates of Baselines of Indonesian Archipelago.

waters, archipelagic sea lanes, as well as the rights and obligations of foreign ships and aircraft exercising their right of passage through archipelagic sea lanes.

The provisions governing the rights and obligations of foreign ships and aircraft in exercising the right of passage through archipelagic sea lanes are specified in Government Regulation No. 37 of 2002. This Government Regulation establishes three Archipelagic Sea Lanes (*Alur Laut Kepulauan Indonesia*/ALKI) that can be used for the right of passage through archipelagic sea lanes. Archipelagic Sea Lane I (ALKI I), this sea lane is used for exercising the right of passage from the South China Sea to the Indian Ocean, or vice versa, traversing the Natuna Sea, Karimata Strait, Java Sea, and Sunda Strait. Archipelagic Sea Lane II (ALKI II), this sea lane is used for exercising the right of passage from the Sulawesi Sea to the Indian Ocean, or vice versa, crossing the Makassar Strait, Flores Sea, and Lombok Strait. Archipelagic Sea Lane III (ALKI III), is further divided into sub-lanes labeled as Archipelagic Sea Lane A through Archipelagic Sea Lane E. Archipelagic Sea Lane A is utilized for exercising the right of passage from the Pacific Ocean to the Indian Ocean, or vice versa.⁶

Figure. 1 Illustrative Map of Indonesia's Archipelagic Sea Lanes (ALKI)



Source: Dinas Pemetaan Pusat Hidro-Oseanografi TNI Angkatan Laut. *Map of Indonesia's Archipelagic Sea Lanes*. 2019.

Once the archipelagic sea lanes are designated by the Indonesian government, the subsequent discussion revolves around whether foreign vessels are obligated to use these archipelagic sea lanes when transiting through Indonesian waters. To address these questions, this paper will delve into the various types of passage rights in Indonesian waters, as well as the prohibitions and obligations of foreign vessels in exercising their right of passage through archipelagic sea lanes.

⁶ Article 11 of Government Regulation Number 37 of 2002 regarding the Rights and Obligations of Foreign Vessels and Aircraft in Conducting Archipelagic Sea-Lanes Passage through Designated Archipelagic Sea-Lanes.

METHODS

The research method applied in this paper is normative research. This method views law as what is explicitly written in legal regulations, or law is conceptualized as norms or rules that serve as guidelines for human behavior and are considered appropriate.⁷ In connection with the topic of this paper, the author will base the analysis on international and national legal provisions governing archipelagic sea lanes. The data collection tool used in this research is document analysis, and the data used are secondary data. The analysis technique applied is content analysis. Several legal sources used in this paper include:

1. Primary legal materials, which consist of positive law such as UNCLOS, Law No. 17 of 1985,⁸ Law No. 6 of 1996, Government Regulation No. 36 of 2002, Government Regulation No. 37 of 2002, Minister of Transportation Decree No. KM 129 of 2020, and Minister of Transportation Decree No. KM 130 of 2020.
2. Secondary legal materials, encompassing books, academic journals, articles, and news in newspapers, magazines, and the internet.
3. Tertiary legal materials, including legal dictionaries and encyclopedias, serve as supporting references and provide supplementary data derived from secondary sources.

DISCUSSION

Right of Passage

UNCLOS provides a definition of passage as the act of traversing the sea without entering the territorial sea or anchoring in a roadstead or offshore port facilities; or proceeding to or from the territorial sea or anchoring in a roadstead or such port facilities.⁹ Furthermore, UNCLOS acknowledges three types of passage rights for foreign vessels through waters under the jurisdiction of a coastal state, namely the right of innocent passage, the right of transit passage, and the right of archipelagic sea-lanes passage. The regulation of passage rights by foreign vessels through national waters will have various implications for the user state, the coastal state, the states bordering straits, the archipelagic state itself, and other states that will directly or indirectly experience its consequences.¹⁰ The different types of passage rights will be elaborated as follows:

Innocent Passage Right

Innocent passage right refers to the transit of foreign vessels through territorial waters, provided that such passage does not prejudice the peace, order, or security of the coastal state. This passage must be carried out in accordance with the provisions of UNCLOS and other relevant international legal regulations.¹¹ The passage of a foreign vessel is considered to be prejudicial to the peace, order, or security of the coastal state if the vessel, while in territorial waters, engages in

⁷ Amirrudin dan H Zainal Asikin, *Pengantar Metode Penelitian Hukum*, PT Raja Grafindo Persada, Jakarta: 2004, p.118.

⁸ Law Number 17 of 1985 regarding the Ratification of the United Nations Convention on the Law of the Sea (UNCLOS).

⁹ Article 18 of the United Nations Convention on the Law of the Sea.

¹⁰ Eddy R. Agus, Upaya Diplomati Indonesia Dalam Penetapan Alur-Alur Laut Kepulauan Indonesia. *Jurnal Hukum Internasional*, Vol., 6 No. 3, April 2009, p.356.

¹¹ Article 18 of the United Nations Convention on the Law of the Sea.

activities such as posing a threat or using force against the sovereignty, territorial integrity, or political independence of the coastal state, or any other actions that constitute violations of international law principles as outlined in the UN Charter. These actions include military exercises or practices with any type of weapons, collecting information that may be detrimental to the defense or security of the coastal state, engaging in propaganda activities aimed at influencing the defense or security of the coastal state, fishing activities, launching, landing, or receiving any military equipment and supplies, as well as other activities deemed to pose a threat or involve the use of force against the sovereignty as stipulated in Article 19 of UNCLOS.

For innocent passage in archipelagic waters, UNCLOS provides specific regulations in Article 52, subject to the provisions of Article 53 and without prejudice to the provisions of Article 50. According to Article 52, paragraph (1) of UNCLOS, ships of all states enjoy the right of innocent passage through archipelagic waters in accordance with the provisions of Part II, Section 3. Furthermore, similar to the provisions in Article 25 of UNCLOS, Article 52, paragraph (2) of UNCLOS stipulates that the archipelagic state may, without making any formal or actual discrimination among foreign ships, temporarily suspend the innocent passage of foreign ships in certain areas of its archipelagic waters if such suspension is essential to protect its security. Such suspension shall only become effective after proper notification.¹²

In 1992, Indonesia imposed a suspension or prohibition on the innocent passage for the ferry *Lusitania Expresso*, which was of Portuguese nationality, sailing from Lisbon to Dili. The Indonesian government declared that the voyage of the ship, carrying passengers from Australia, was not peaceful, and they would not tolerate any open violations of national or international law by a group of individuals expressing their intention to enter Indonesia without complying with existing laws and with the purpose of provocation. If a foreign warship, sailing in territorial waters under the right of innocent passage, is found to be in violation of the coastal state's regulations regarding innocent passage and disregards the coastal state's requests, the coastal state may request the immediate departure of the warship from its territorial waters.¹³

Transit Passage Right

Transit passage rights for foreign vessels can be exercised in straits used for international navigation.¹⁴ The issue of transit passage rights became particularly relevant after the expansion of coastal state jurisdiction over the sea, with the extension of territorial waters from 3 nautical miles to 12 nautical miles. As a result, previously considered strategic straits that were part of the high seas now became part of the territorial waters of a coastal state. This new regime was presented by the British delegation in 1974 as a middle ground or compromise between the innocent passage regime

¹² Article 52 of the United Nations Convention on the Law of the Sea.

¹³ Kresno Buntoro, *Lintas Navigasi di Nusantara Indonesia*, Raja Grafindo Persada, Jakarta: 2014, p. 126.

¹⁴ Suharyono Kartawijaya, *Pemanfaatan Hak Lintas Kapal Asing di Perairan Indonesia dan Penegakan Hukumnya*. *Naskah Publikasi Jurnal*, Fakultas Hukum Universitas Brawijaya Malang: 2015, p.13.

and the freedom of navigation proposal put forward by a group known as the “straits states” on one side and the United States and the Soviet Union on the other.¹⁵

UNCLOS serves as the legal foundation for the regulation of the seas and their use, including issues related to straits used for international navigation. Articles 34 to 45 of UNCLOS contain provisions regarding straits used for international navigation and the rights and obligations of states bordering these straits. Transit passage is defined as the exercise of the freedom of navigation and overflight solely for the purpose of continuous, expeditious transit through straits used for international navigation, located between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. The key factor determining whether it can be classified as transit passage is the position of the strait that connects one part of the high seas or an exclusive economic zone with another part of the high seas or another exclusive economic zone. The relationship between the legal regime of archipelagic states and the regime of straits used for international navigation is specified in Article 54 of UNCLOS.¹⁶

Archipelagic Sea-Lanes Passage Right

The right of archipelagic sea-lanes passage is a “gift” from the archipelagic state. Therefore, the modality of implementing this right must be based on the exclusive competence of the archipelagic state, ensuring that the minimum requirements for compliance with the passage rules are maintained. Archipelagic sea-lanes passage can be considered a right of navigation and overflight, signifying that the freedom for ships and aircraft is somewhat more restricted compared to the general freedom of navigation enjoyed by ships and aircraft.¹⁷ Consequently, the right of navigation is based on something more restricted, as stipulated in the laws and regulations of the archipelagic state, rather than the freedom of transit passage. Archipelagic sea-lanes passage is the right of the archipelagic state to determine the routes in question.¹⁸

The Indonesian government, in consideration of the international community's interests through the competent international organization in the field of international navigation, namely the International Maritime Organization (IMO)¹⁹, took significant steps. On May 19, 1998, during the 69th session of the Maritime Safety Committee (MSC-69-IMO), the committee accepted Indonesia's proposal (submission) regarding the designation of the three main archipelagic sea-lanes and their branches that can be utilized for the implementation of archipelagic sea-lanes passage through Indonesian waters.²⁰

¹⁵Kresno Buntoro, *Lintas Navigasi di Nusantara Indonesia*, Raja Grafindo Persada, Jakarta: 2014, p. 126.

¹⁶Irawati, *Pengaturan Tentang Hak Lintas Kapal Asing di Perairan Negara Kepulauan Menurut Konvensi Hukum Laut 1982 dan Implementasinya di Indonesia*, Unisba, p.6.

¹⁷Hasim Djalal, *Commentary, Panel II: Navigation* dalam Alfred H. Soons (ed), *Implementation of The Law of The Sea Convention Through International Institution*, 1990, p.267.

¹⁸Arie Afriansyah, *Kewenangan Negara Pantai Dalam Mengelola Wilayah Laut*, *Jurnal Hukum dan Pembangunan* Tahun ke-45 No 4 October-December 2015. p.620

¹⁹International Maritime Organization, <<https://www.imo.org/en/About/Pages/FAQs.aspx>>, [accessed on 18/12/2020].

²⁰Maritime Safety Committee, *Report of the Maritime Safety Committee on Its Sixty-Ninth Session. MSC 69/22. 69th session. 29 May 1998*, <https://www.crs.hr/msc_reports>, [accessed on 12/12/2020].

The designation of these three Archipelagic Sea-Lanes (ALKI) and their branches does not imply that they are solely meant for the implementation of archipelagic sea-lanes passage by foreign vessels intending to sail from one part of the high seas or an exclusive economic zone across Indonesian waters to another part of the high seas or another exclusive economic zone. Foreign vessels aiming to sail from one part of the high seas or an exclusive economic zone to an Indonesian port or to another part of the high seas or an exclusive economic zone may carry out their voyages based on the right of innocent passage in Indonesian waters, whether within or outside the archipelagic sea-lanes.²¹

Table. 1 Comparison of Passage Right

NO	COMPARISON	PASSAGE RIGHT	TRANSIT PASSAGE RIGHT/ARCHIPELAGIC SEA-LANES PASSAGE RIGHT
1	2	3	4
1.	Implementation	Can be implemented both through territorial waters, straits used for international navigation, and archipelagic waters.	Transit passage can only be conducted through straits used for international navigation. Archipelagic sea-lanes passage can only be enjoyed through archipelagic waters.
2.	Users	Applies only to foreign vessels	Applies to both foreign vessels and aircraft.
3.	Submarines and other submersible vehicles	Must navigate on the surface and display its flag.	Navigates in normal mode and allows submarines to remain submerged beneath the water.
4.	Suspension	Can be suspended	Cannot be sus
5.	Enforcement Jurisdiction	The state can take measures in the event of violations related to national criminal jurisdiction, national civil jurisdiction, acts causing pollution, and violations of other provisions in UNCLOS.	The state does not have enforcement jurisdiction in case of violations, except as specified in Article 233 regarding significant pollution.

Source: Compiled from various sources.

²¹General Explanation of Government Regulation Number 37 of 2002 regarding the Rights and Obligations of Foreign Vessels and Aircraft in Conducting Archipelagic Sea-Lanes Passage through Designated Archipelagic Sea-Lanes.

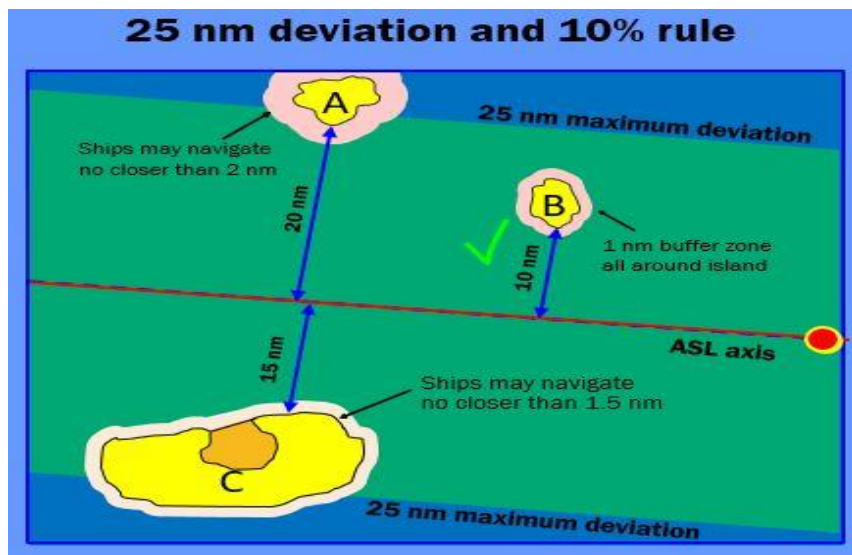
Prohibitions and Obligations of Foreign Vessels During Archipelagic Sea-Lanes Passage

In carrying out the right of archipelagic sea-lanes passage, foreign vessels must respect and adhere to the laws and regulations of the archipelagic state, including international law. The obligations of foreign ships when conducting archipelagic sea-lanes passage are stipulated in Article 53(11) and Article 54 of UNCLOS. Additionally, there are provisions specifying prohibitions for foreign vessels during the exercise of archipelagic sea-lanes passage, as outlined in Article 53(5) and Article 40 of UNCLOS.

No Deviation from Archipelagic Sea-Lanes

Foreign vessels transiting through archipelagic sea-lanes are not permitted to deviate more than 25 nautical miles on either side of the centerline, with the condition that they must not sail or fly close to the coast within 10% of the distance between the nearest points on the islands bordering the sea-lanes.²² It is important to understand that the world has accepted Indonesia's proposal to have archipelagic waters between the Indonesian islands. However, in compensation, Indonesia must still allow foreign ships to pass through. The difference is that Indonesia can now determine the specific routes foreign ships are allowed to take. This is referred to as the Archipelagic Sea-Lanes (ALKI). Indonesia determines the axis of the archipelagic sea-lanes, which then becomes a corridor with a 25 nautical mile limit on both sides.²³

Figure. 2 Illustrative Map of the 25 Nautical Mile Centerline of the Archipelagic Sea-Lanes and the 10% Rule



Source: Andi Arsana, Definition of Inland Waters in the Bays of Java, ALKI Routes, Kalimantan, Papua. FGD on the Preparation of National Policy Recommendations for the Determination of Inland Waters, Bali, 2018.

²² Article 53, paragraph 5 of the United Nations Convention on the Law of the Sea.

²³ Andi Arsana, Pendefinisian Perairan Pedalaman Pada Teluk di Jawa, Jalur ALKI, Kalimantan, Papua. *FGD Penyusunan Rekomendasi Kebijakan Nasional Penetapan Perairan Pedalaman*, Bali: 2018, p.8.

It's essential to note that the Archipelagic Sea-Lanes are not an obligation but a necessity for Indonesia. With the Archipelagic Sea-Lanes, it becomes clearer what needs to be monitored. Without the Archipelagic Sea-Lanes, neighboring countries (foreign vessels) might actually benefit, as UNCLOS states that if there are no designated archipelagic sea-lanes, other nations are free to use routes considered customary for international navigation.²⁴

Prohibition on Conducting Marine Scientific Research and Hydrographic Surveys

While conducting transit passage, foreign ships, including scientific marine research vessels and hydrographic survey ships, are not allowed to conduct any research or surveys without prior permission from the coastal state.²⁵ Marine scientific research and/or hydrographic surveys conducted without permission can pose a serious threat to a country's security, depending on the type of data and information gathered during the research activities.²⁶ Therefore, written permission from the coastal state must be obtained before carrying out marine research. Unauthorized research activities in the waters of another country may result in criminal penalties under Article 27 of UNCLOS in conjunction with Article 92, 93, and 96 of Law Number 11 of 2019 on the National System for Science and Technology.

Scientific marine research activities include research aimed at obtaining information or data related to the structure or chemical, biological, and physical composition of the surface, water column, or seabed and the soil beneath it. On the other hand, hydrographic surveys involve obtaining information or data about the physical structure and characteristics of the water for navigation purposes.

Compliance with Archipelagic Sea-Lanes and Traffic Separation Schemes

In addition to establishing archipelagic sea-lanes, the Indonesian government has also designated traffic separation schemes to ensure safe passage for ships through narrow channels in Archipelagic Sea-Lanes I (Sunda Strait) and Archipelagic Sea-Lanes II (Lombok Strait). Both traffic separation schemes have been approved by IMO Circular Number COLREG.2/Circ.74 dated June 14, 2019, regarding the New Traffic Separation Scheme²⁷, and Circular Number SN.1/Circ.337 Routing Measures Other Than Traffic Separation Schemes IMO.²⁸

²⁴I Made Andi Arsana. *Batas Maritim Antarnegara, Sebuah Tinjauan Teknis dan Yuridis*, Gajah Mada University Press, Yogyakarta: 2007.

²⁵Article 40 of the United Nations Convention on the Law of the Sea.

²⁶Topan Yuniarto. *Kedaulatan Maritim Indonesia: Sejarah dan Potretnya*. Tanggal 11 April 2021. Kedaulatan Maritim Indonesia: Sejarah dan Potretnya, <https://www.kompas.id/baca/paparan-topik/2021/04/11/kedaulatan-maritim-indonesia-sejarah-dan-potretnya>. [accessed on 17/10/2023].

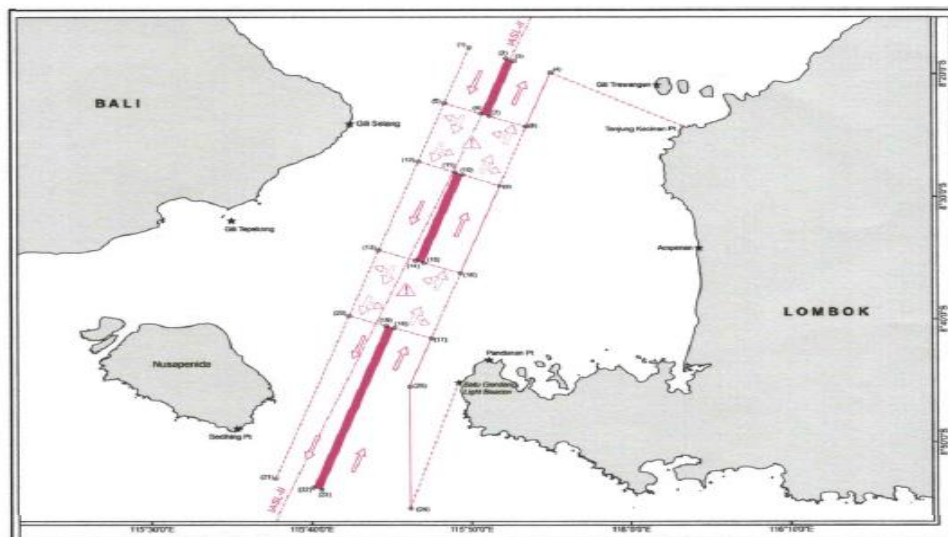
²⁷International Maritime Organization. New Traffic Separation Schemes. COLREG.2/Circ.74. Tanggal 14 Juni 2019, <[http://shippingregs.org/Portals/2/SecuredDoc/Circulars/COLREG.2-Circ.74%20%20New%20Traffic%20Separation%20Schemes%20\(Secretariat\).pdf?ver=2019-08-29-104812-023](http://shippingregs.org/Portals/2/SecuredDoc/Circulars/COLREG.2-Circ.74%20%20New%20Traffic%20Separation%20Schemes%20(Secretariat).pdf?ver=2019-08-29-104812-023)>, [accessed on 15/12/2020].

²⁸International Maritime Organization. Routing Measures Other Than Traffic Separation Schemes. SN.1/Circ.337. Dated 14 June 2019. <<http://shippingregs.org/Portals/2/SecuredDoc/Circulars/SN.1-Circ.337%20-%20Routeing20Measures%20>>

The establishment of traffic separation schemes in the Sunda Strait and Lombok Strait was based on specific considerations. The Sunda Strait serves as an international maritime route falling under Archipelagic Sea-Lanes I, characterized by a high density of ship traffic. Approximately 145 vessels navigate through the Sunda Strait daily, amounting to roughly 53,068 ship movements per year. The strait features a narrow passage with a width of only approximately 30 kilometers. Similarly, the Lombok Strait represents an international maritime route within Archipelagic Sea-Lanes II and also experiences substantial ship traffic. On any given day, a minimum of 100 vessels from various countries traverse the waters of the Lombok Strait. It includes a particularly narrow passage situated at the southern entrance, with a width of only 18 kilometers. These conditions significantly increase the risk of ship collisions.²⁹

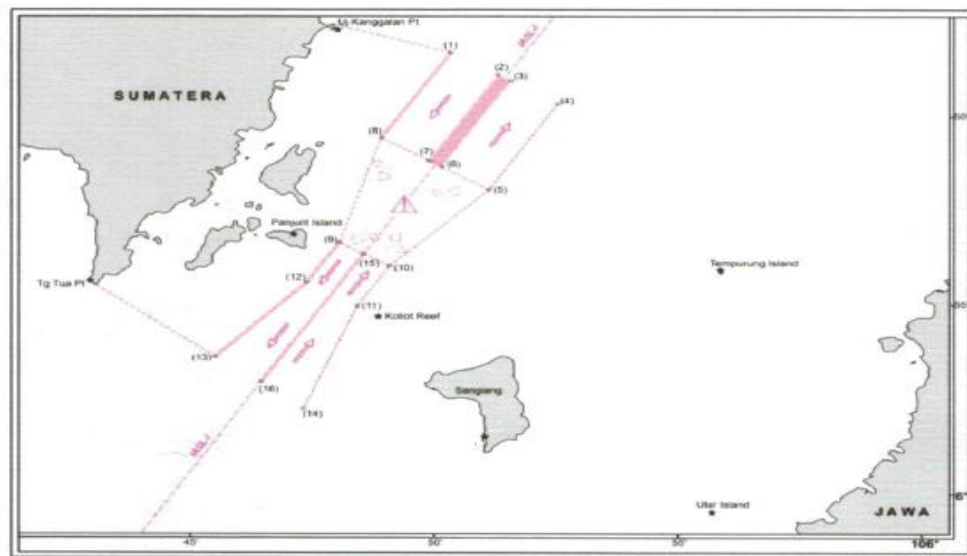
The implementation of traffic separation schemes in the Sunda and Lombok Straits was designed to standardize the direction of vessel traffic within these channels. The primary goal is to reduce the risk of ship collisions. All vessels, whether Indonesian-flagged or foreign-flagged, that navigate through the areas covered by these traffic separation schemes in the Sunda and Lombok Straits are obligated to adhere to the established regulations. Violating vessels may face sanctions imposed by the Director General of Sea Transportation, in accordance with national and international legal provisions.

Figure. 3 Map of the Traffic Separation Scheme in the Lombok Strait



20Other%20Than%20Traffic%20Separation%20Schemes %20(Secretariat).pdf?ver=2019-08-2 9-104827-517, [accessed on 15/12/ 2020].

²⁹ Direktorat Jenderal Perhubungan Laut, "Kementerian Perhubungan. Penetapan Traffic Separation Scheme (TSS) di Selat Lombok dan Selat Sunda", <https://hubla.dephub.go.id/storage/portal/documents/post/7653/traffic_separation_scheme_tss.pdf>, [Accessed on 15/12/ 2020].

Figure. 4 Map of the Traffic Separation Scheme in the Sunda Strait

Source: Indonesia. Determination of the Route System in the Sunda Strait. Minister of Transportation Decree Number KM 130 Year 2020, Consideration Number Seven.

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While exercising the right of transit passage, ships shall:³⁰

- 1) proceed without delay through or over the strait;
- 2) refrain from any threat or use of force against the sovereignty, territorial integrity or political independence of States bordering the strait, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
- 3) refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by force majeure or by distress;
- 4) comply with other relevant provisions in Chapter 3 of UNCLOS;
- 5) comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea;
- 6) comply with generally accepted international regulations, procedures and practices for the prevention, reduction and control of pollution from ships.

In addition to implementing the provisions of Article 39 mentioned above in Government Regulation Number 37 of 2002, the Indonesian government has also issued regulations related to transit passage through straits/archipelagic sea-lanes, as follows:

- 1) In the field of maritime safety and traffic regulation at sea, foreign vessels, while exercising the right of archipelagic sea-lanes passage, are obliged to adhere to internationally accepted

³⁰ Article 39 of the United Nation Convention on the Law of the Sea.

regulations, procedures, and practices concerning maritime safety. This includes regulations on the prevention of ship collisions at sea. They are also required to comply with the regulations of the Traffic Separation Scheme (TSS). Foreign vessels must refrain from causing disruption or damage to navigation facilities, undersea cables, and pipelines, particularly those housing installations used for the exploration or exploitation of living and non-living natural resources. Furthermore, these vessels must not sail too close to restricted zones, which are typically designated with a 500-meter radius around such installations.

- 2) In the realm of pollution prevention, reduction, and control, foreign vessels exercising their Archipelagic Sea-Lanes Passage rights are prohibited from discharging oil, oily residues, and other noxious substances into the marine environment. They are also prohibited from engaging in activities that contravene international regulations and standards aimed at preventing, reducing, and controlling marine pollution originating from vessels. Additionally, dumping within Indonesian waters is strictly forbidden. Nuclear-powered foreign vessels or those carrying nuclear materials, hazardous, or toxic goods due to their nature, are required to possess the relevant documentation and adhere to specific preventive measures stipulated by international agreements. These international agreements include the Convention on the Physical Protection of Nuclear Materials, Irradiated Nuclear Fuel (INF) Codes, International Maritime Dangerous Goods (IMDG) Codes, and Hazardous Materials and Noxious Substance (HNS) Codes.
- 3) In the domain of fisheries, foreign vessels, including fishing vessels, are prohibited from engaging in fishing activities while exercising their Archipelagic Sea-Lanes Passage rights. They must also stow their fishing gear in holds.
- 4) In the areas of customs, fiscal, and immigration matters, foreign vessels while exercising their Archipelagic Sea-Lanes Passage rights are not allowed to embark or disembark individuals, goods, or currency in a manner contrary to customs, immigration, fiscal, and health regulations, unless under force majeure or in the event of a calamity.

CLOSING

UNCLOS recognizes three types of passage rights for foreign vessels through waters under the jurisdiction of a state, which are innocent passage, transit passage, and archipelagic sea-lanes passage. When exercising the archipelagic sea-lanes passage right, foreign vessels must respect and comply with the domestic laws and regulations of the archipelagic state, including international law. Currently, the Indonesian government has established traffic separation schemes to ensure the safe passage of vessels through narrow straits within Archipelagic Sea-Lanes I (Sunda Strait) and Archipelagic Sea-Lanes II (Lombok Strait) through Minister of Transportation Decree Number KM 129 and KM 130 of 2020. Furthermore, UNCLOS Article 54 specifies that the provisions of Articles 39, 40, 42, and 44 apply *mutatis mutandis* to archipelagic sea-lanes passage. In addition to obligations, UNCLOS also prescribes prohibitions for foreign vessels when exercising archipelagic sea-lanes passage, as detailed in Article 53(5) and Article 40 of UNCLOS. Article 53(5) sets forth a prohibition against deviating more than 25 nautical miles on either side of the centerline, with the stipulation

that foreign vessels should not sail or fly close to the coast, within less than 10% of the distance between the nearest points of the islands adjacent to the sea-lane. Article 40 of UNCLOS deals with the prohibition against foreign vessels conducting marine scientific research and hydrographic surveys while exercising archipelagic sea-lanes passage.

In fulfilling their obligations and adhering to the prohibitions when conducting archipelagic sea-lanes passage through the three archipelagic sea-lanes with their branches, it should be noted that these sea-lanes are not exclusively intended for the exercise of archipelagic sea-lanes passage rights by foreign vessels that intend to sail from one part of the high seas or exclusive economic zone, crossing Indonesian waters to another part of the high seas or exclusive economic zone. Foreign vessels intending to sail from one part of the high seas or exclusive economic zone to an Indonesian port or another part of the high seas or exclusive economic zone may carry out their passage rights under innocent passage in Indonesian waters, whether within or outside the archipelagic sea-lanes. Furthermore, every foreign vessel conducting innocent passage must adhere to reasonable navigational boundaries, including appropriate speed and direction, consistent with normal navigation, while en route to their intended destination. Therefore, foreign vessels passing through Indonesian waters without utilizing the archipelagic sea-lanes cannot be accused of any wrongdoing.

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