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IMPACT OF THE ENFORCEMENT OF ASEAN ECONOMIC COMMUNITY ON POLICY AND STRATEGY OF SEA TRANSPORTATION DEVELOPMENT IN INDONESIA

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Abstract

This study aimed to determine the impact of the ASEAN Economic Community (AEC) on the national shipping industry highly imbalanced with relevant business policies. The AEC agreement is also expected to positively affect the shipping industry while controlling domestic and competing in international activities. In this study, a normative method was used, with the collection of data carried out through literature studies. The Maritime Vision of Indonesia, which is the Policy Direction and Strategy for The Development of Marine Transportation, was also implemented to motivate the country toward becoming the World Maritime Axis. This emphasized becoming a developed, sovereign, independent, and strong maritime country, which was able to positively contribute to regional and global security and peace, according to national interests. Furthermore, the Marine Policy of Indonesia was prepared regarding the Development Vision of the country, as stated in Law Number 17 of 2007 concerning the National Long-Term Development Plan 2005-2025 and Law Number 32 of 2014 emphasizing Marine Affairs. The results showed that the implementation of ASSM (ASEAN Shipping Single Market) impacted the national shipping industry, due to increasingly open competition. Based on the AEC era, Indonesia should be internally and externally ready, for the effective and efficient prioritization of shipping transportation activities. The country should also be ready to compete nationally and internationally, specifically in sea transportation, as one of the important components of the national shipping sector.

Keywords: ASEAN, impact, policy, strategy, sea transportation.

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I. INTRODUCTION

The attempt to re-advance the sailing industry and manage potential marine resources is conducted by proclaiming the Indonesian Sea as the Global Maritime Fulcrum (GMF) during the era of President Joko Widodo. This proclamation is the agenda of national development, which was declared by the President at the 9th East Asia Summit in Nay Pyi Taw, Myanmar on 12 November 2014. From this oration, the global geo-economic and geopolitical gravitation center was affirmatively shifting from West to East Asia, with about 40 percent

of the worldwide trade occurring in the region. This emphasized the advancement of Asian countries, with Indonesia changing its strategies as Geo-strategy, Geo-political, and Geo-economical. In state life, Geo-strategy emphasizes the methods and rules for realizing ideals and goals through the development process. From this context, the directions on the patterns of development strategies and measurable decisions are prioritized for a better future. Geo-strategy is also appropriately formulated in the form of national resilience in Indonesia. Moreover, Geo-politics is defined as a political system or regulations in the form of national policies and strategies driven by the geographical location of a country. In this context, Indonesia has its geopolitics as an archipelagic and a plural nation, namely the insight of the archipelago, with the concept emphasizing the perspectives of territoriality and national life. For Geo-economics, the position of the country as an archipelago should also emphasize the enhancement of maritime connectivity to expedite economic growth.

Based on these descriptions, President Joko Widodo explained the Five Pillars that became the foundation for portraying Indonesia as the GMF, including (1) Rebuilding maritime culture, (2) Guarding off and managing marine resources by focusing on developing aquatic food sovereignty. This was carried out through the development of the fishery industry, by positioning fishermen as the main pillar, (3) Developing maritime infrastructure and connectivity by constructing Sea Toll, deep seaports, logistics, shipping industry, and aquatic tourism, (4) Developing maritime diplomacy by jointly eliminating the source of conflict on the sea, and (5) Enhancing the power of maritime security. These five pillars have become the contribution of Indonesia to global cooperation. According to expert analysis, approximately 90 percent of global trade was conducted through maritime routes, with 40 percent traversing the waters of the country. This underscores the consistent strategic significance of Indonesia on the world trade map.¹

¹ The Speech of the Indonesian President, Joko Widodo, in the 25th ASEAN meeting in Nay Pyi Taw, Myanmar, on 12 November 2014: Indonesia as the GMF, available at <https://indonesia.go.id/narasi/indonesia-dalam-angka/ekonomi/indonesia-poros-maritim-dunia>, uploaded on 25 February 2019, accessed on 29 July 2021.

The following-up of the Indonesian Marine as the GMF is also proclaimed by the establishment of the National Aquatic Policy. This policy becomes an important element as a step for realizing the GMF ambition of the country. In this case, President Joko Widodo officially acknowledged the National Ocean Regulation through Presidential Decree No. 16 of 2017 on The Indonesian Maritime Policy. This policy is the general guideline for the regulation of marine and is implemented through Aquatic Ministry/Institutional program and activity, which is organized for accelerating GMF implementation. Based on Article 1, point 2 of Presidential Decree No. 16 of 2017, the GMF was an Indonesian vision to become a sovereign, advanced, independent, and powerful maritime country capable of providing positive contributions to regional and global security and peace regarding the national interest. Furthermore, the five pillars are considered the foundation for realizing the Indonesian maritime region as the GMF.² This indicates that the country has redeveloped its maritime culture, which can yield the attitude and behavior to guard off the unity of aquatic regional geopolitical concepts. Indonesia should also be aware of its existence as a nation whose identity, prosperity, and future are determined by the ability to manage and implement the wealth contained in its waters for national welfare. In addition, the development of the marine is prioritized in the infrastructure enhancement and maritime connectivity, through the Sea Toll construction, deep seaports, logistics, shipping industry, and aquatic tourism.

From these descriptions, maritime diplomacy is considered one of the strategies in the Aquatic Fulcrum. This is due to the invitation of all Indonesian partners by the Government, for domestic and foreign cooperation in the maritime field. In this context, the cooperation emphasizes the elimination of sea conflict sources, such as illegal fishing, territorial offenses, regional disputes, piracy, and marine contamination. As a developing country lacking the technological know-how to explore and exploit the wealth under the sea, Indonesia needs to establish close cooperation with developed countries possessing advanced technology,

² Dhiana Puspitawati, "Urgent Need for National Maritime Security Arrangement in Indonesia:

Towards Global Maritime Fulcrum," *Indonesian Journal of International Law* 14, no. 3 (2017): 321-347, doi: 10.17304/ijil.vol14.3.697

including ASEAN Economic Community (AEC). Moreover, the proclamation of the Five GMF Pillars provides support for the national ships to control domestic shipping. This leads to the enactment of regulations by the government, through the Presidential Decree No. 5 of 2005 on the National Shipping Industry Empowerment and Article 8 of Law o. 17 of 2008 on Shipping. These regulations stated that domestic sea transportation activities were carried out by national sea-transport companies using Indonesian-flagged ships with regional crews. Foreign vessels were also prohibited from carrying passengers and/or goods between the islands or ports in national waters. These regulations subsequently proved that domestic shipping for the transportation of goods and passengers from and inter-seaports in Indonesia was only carried out and controlled by the national ships and regional aides. From this context, domestic shipping transportation by national ships became an enabling factor for the position of the country as the GMF. Therefore, this study aims to determine the impact of the ASEAN Economic Community (AEC) on the national shipping industry highly imbalanced with relevant business policies.

Based on this background, the study problems are formulated into various questions, namely (1) How is the policy and strategy in developing sea transportation applied in Indonesia?, (2) What level of cooperation is exhibited by ASEAN in the field of marine transportation?, and (3) What is the analytical output emphasizing the impact of ASEAN Economic Community (AEC) implementation on the policy and strategy of developing sea transportation in Indonesia? A juridical normative method is also implemented, with the secondary data consisting of primary legal materials, namely constructional provisions. Besides this, secondary legal materials are subsequently applied, including writing components such as books, journals, and articles emphasizing comments and analysis of the analytical problems. For the tertiary materials, relevant dictionaries and legal terms are appropriately applied. The entire data were also obtained by conducting a library study method, accompanied by processing through the analysis of information and documents, using a deductive logic-based qualitative approach.

II. THE POLICY AND STRATEGY OF DEVELOPING SEA TRANSPORTATION IN INDONESIA

The policy concerning Indonesian Marine was established through Law No. 32 of 2014 on Marine Affairs, with its operationalization outlined in Presidential Decree No. 16 of 2017. This indicated that the management of marine resources aimed to realize the aspiration of the country to become the Global Maritime Fulcrum (GMF) and maximize benefits for public welfare. The policy objectives and targets were also streamlined into five priority clusters, namely (1) Maritime Boundary, Space, and Diplomacy, (2) Maritime Industry and Sea Connectivity, (3) Natural Resource Industry, Marine Services, and Sea Environment Management, (4) Maritime Defense and Security, and (5) Maritime Culture. Moreover, the vision for Indonesian marine development was to establish Indonesia as an advanced, sovereign, and influential maritime nation positively contributing to regional and global security and peace, aligned with national interests. This policy emphasized the Vision of Indonesian Development as delineated in Law No. 17 of 2007 on the National Long-Term Development Plan for 2005-2025, and Law No. 32 of 2014 on Marine Affairs.

From these descriptions, the realization of the vision was organized as the mission of the Indonesian Marine Policy, which emphasized the following, (1) optimal and sustainable marine resources management, (2) human resources development, (3) reliable marine science and technology, (4) establishment of strong marine defense and security, (5) realization of enforcing sovereignty, law, and safety on the sea, (6) actualization of good marine management, (7) realization of the equal welfare of coastal people and those on small islands, (8) actualization of the increase in the competitive growth of marine economy and industry, (9) development of solid marine infrastructure, (10) settlement of regulations on sea layout, (11) realization of maritime environmental protection, (12) implementation of maritime diplomacy, and (13) establishment of the insight of identity and maritime culture.³ The Ministry of Transportation, Directorate General of Sea

³ National Document of Indonesian Marine Policy, Appendix 1: Presidential Decree No 16/2017 on Indonesian Marine Policy, Chapter IV (The Purpose and Principle of Indonesian Marine Policy), 2017, 17.

Transportation, also formulated and structured the policy and strategy for sea transportation development. This involved establishing legal and strategic frameworks for Indonesian sea transportation, considering both socio-economic and geospatial aspects. From a juridical perspective, Indonesia was an independent and sovereign nation with control over its land, air, and maritime territories. Furthermore, strategic conditions emphasized the geographical location of the country between the Asian and Australian Continents, as well as the Indian and Pacific Oceans. In this context, the Indonesian territory, which was in a cross-position, was a strategic position significantly prioritizing climate and economy. This condition led to the influence of the country by various world cultures and civilizations.

The socioeconomic aspect of Indonesian marine also aimed to emphasize Economic development. This showed that the potency of the marine economy depended on the national and jurisdiction waters managed for people welfare. The aspect also included all Indonesian citizens, accompanied by the growth of population, gross regional domestic product, and economy. Based on the geospatial sector, the following constituents were found, (1) juridical area, (2) maritime juridical area, (3) archipelago waters, (4) territorial waters, (5) exclusive economic zone, (6) land area, (7) the number of provinces, (8) the number of islands, (9) the length of coastline, and (10) the strategic position between Indonesia and the sea lane of the archipelago. Moreover, the achievement of the vision and mission of Indonesian sea transportation was implemented by performing the activities emphasizing the following targets,⁴

1. Accelerating multi-model transportation development, as well as supporting national logistic system and industrial areas,
2. Attempting the balance between national, as well as local and area-oriented transportation,
3. Developing integrated transportation system and network to support

⁴ Ministry of Transportation, Directorate General of Sea Transportation, Directorate of Harbor, “Kebijakan dan Strategi Pengembangan Transportasi Laut di Indonesia [The Policy and Strategies on Sea Transport Development in Indonesia],” accessed on 10 August 2021, https://supplychainindonesia.com/wpcontent/files/Kebijakan_dan_Strategi_Pengembangan_Transportasi_Laut_di_Indonesia.pdf.

investment in economic corridors, special industrial areas, commercial complexes, and other development centers in the non-corridor zone,

4. Increasing safety and security in implementing transportation,
5. Developing environmentally friendly transportation facilities and infrastructures;

The policy on sea transportation also aimed to increase competitive national logistics. This was in line with the data from the Directorate General of Sea Transportation Office, where the 2018 Indonesian position in the logistic was ranked 36th (thirty-sixth) of the 137 (one hundred thirty-seven) countries.⁵ A total of 12 pillars were also observed in the competitive global logistic and were used as the indicators of achievement. These pillars included Institution, Infrastructure, Macroeconomic Environment, Health, Basic and Higher Education, Market Efficiency of Goods and Manpower, Financial Location, Technological Preparedness, Trading Scale, Business Satisfaction, and Innovation.⁶

Table 1. Indonesian Logistic Performance Index⁷

| Year | Ranking (of the 160 countries) | Ranking according to Indicators | | |
|------|--------------------------------------|---------------------------------|---------------------------|---|
| | | Infrastructure | International Shipping | Quality of Logistics & Competency |
| 2014 | 53 | 56 | 74 | 41 |
| 2016 | 63 | 73 | 71 | 55 |
| 2018 | 46 | 54 | 42 | 44 |

Based on Table 1, the calculation of the Logistic Performance Index was established according to 6 (six) components, namely (1) efficiency from customs and border management clearance, (2) quality of transportation trade & infrastructure, (3) facility in determining the competitive cost of sea transportation, (4) competency in service quality in logistic, (5) capacity to trace and monitor goods consignment, and

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

(6) the shipping frequency that satisfied customers. This indicated that Indonesia was ranked 46th of the 160 countries in 2018.⁸ The legal basis and strategic framework for organizing Indonesian sea transportation policy also encompassed the entire regulatory framework governing the maritime transport system. These included key legal provisions such as (1) Government Regulations No. 20 of 2010 on Transportation in Waters, (2) Government Regulations No. 22 of 2011 concerning the Amendment of Government Regulation No. 20 of 2010, (3) Government Regulations No. 61 of 2009 concerning Harbors, (4) Government Regulations No. 64 of 2015 regarding the Amendment of Government Regulation No. 61 of 2009, (5) Government Regulation No. 5 of 2010 on Shipping Safety and Security, and (6) Government Regulation No. 21 of 2010 on Maritime Environmental Protection.

The policy of Indonesian marine was subsequently organized based on 6 (six) basic principles, namely Archipelago, Sustainable Development, Blue Economy, Integrated and Transparent Management, Participation, and Equality.⁹ Furthermore, the Ministry of Transportation, specifically the Directorate General of Sea Transportation, played an important role in the success of the *Nawacita* (The Nine Agendas) program development, which contained the vision and mission proclaimed by President Joko Widodo. This aquatic transportation program accelerated the implementation of the Sea Toll event and portrayed Indonesia as the GMF. From this context, the Sea Toll event construction aimed to definitely and orderly provide a transportation network by establishing aquatic transport service with a subsidy pattern, accompanied by the increase in harbor facilities. The event was also capable of accelerating connectivity and reducing logistic costs for the acquisition of more economic advantage. Furthermore, the support for the Sea Toll program was realized by the government through the construction of aquatic transportation infrastructure, such as marine commutation, harbors, as well as shipping safety and security. The cargo capable of being carried by using Sea Toll ships should also adhere to Presidential Decree No. 71 of 2015 on Determination and Storage of Basic Needs and Important Goods. These cargos were expected to contain agricultural commodities,

⁸ *Ibid*

⁹ *Ibid*

industrial goods, fishery products, and other important components, such as fertilizers, seedlings, and cement. The Sea Toll subsequently enabled the periodical establishment of sea transportation, with the cost becoming more effective and efficient. However, Indonesian human resources capable of constructing a national shipping industry and crafting ships with innovative designs were essential alongside modern technology to navigate the Sea Toll. These resources were likely unable to match the technological advancements of foreign vessels.

Based on data from Bappenas (National Development Planning Agency), the sea toll was supported by 24 ports, emphasizing 5 main and 19 feeder hubs. Several ports were also developed into large-scale international hubs to support the program, namely Belawan, Tanjung Priok, Makassar, Sorong, Bitung, and Kuala Tanjung Seaports.¹⁰ Moreover, the sea toll was a concept used to improve the logistics transportation process in Indonesia, causing the easier distribution of goods, specifically foodstuffs. This was influential on the price of staples increasingly and evenly distributed throughout the country. The criteria for ships used to cross sea tolls also indicated the possession of a very large capacity and volume for transportation vessels. From this context, sea toll ships should be able to cross very long coastal distances for the maximization of the transported product quantities.

The implementation of sea transportation through sea tolls subsequently yielded several benefits, which were summarized into five key points. Firstly, constructing the sea toll road embodied the maritime identity of Indonesia and strengthened regional development, aligning with the first and third *Nawacita* objectives. Secondly, sea tolls affirmed the presence of the state across regions by facilitating ship transportation, specifically to remote areas accessible only by sea. Thirdly, the sea toll road supported improved welfare for Indonesians, equalizing prices of essential goods nationwide, through the even distribution of goods. Fourthly, boosting the independence and income of Indonesian fishermen benefiting from the enhanced fish storage facilities and increased sales potential. Fifthly, the sea toll program

¹⁰ Muh Kadarisman, Yuliantini Yuliantini, Suharto Abdul Majid, "Formulasi Kebijakan Sistem Transportasi Laut [Policy for The Transportation System at Sea]," *Jurnal Manajemen Transportasi dan Logistik* 3, no. 2 (2016): 164.

contributed to port infrastructure growth and addressed unemployment concerns in the country. Since about 7 million of 270 million people were unemployed, this program helped to decrease unemployment by improving regional infrastructure, enabling Indonesia to become more appealing to both local and foreign tourists.

The implementation of Sea Toll transportation also required the formulation of the government policy with related stakeholders to become the regulation enforcing the traffic and order of shipping transportation. This was because the sea, as the entrance gate, became the nation backbone of various segments, such as logistic users, the manufacturing industry, passengers, exporters, and importers. The policy and strategy of sea transportation development were also organized based on Indonesian strategic position in the world trade route, since 90 percent and 40 percent of the international trade and shipping activities were conducted through transport lanes and national waters, respectively. In this case, domestic sea transportation service presently emphasized the areas having high economic activities, such as in the western region of the country. This observation remained consistent, despite the archipelagic nature of the Indonesian eastern area, where sea transportation served as the primary facilitator of movement activities. From this context, the development of economic growth in the eastern region was imperative through the support of sea transportation services. These services functioned as the foundational conduit for logistic distribution, connecting the western and eastern parts of Indonesia. This connection subsequently reduced logistic costs and expedited the achievement of economic parity.

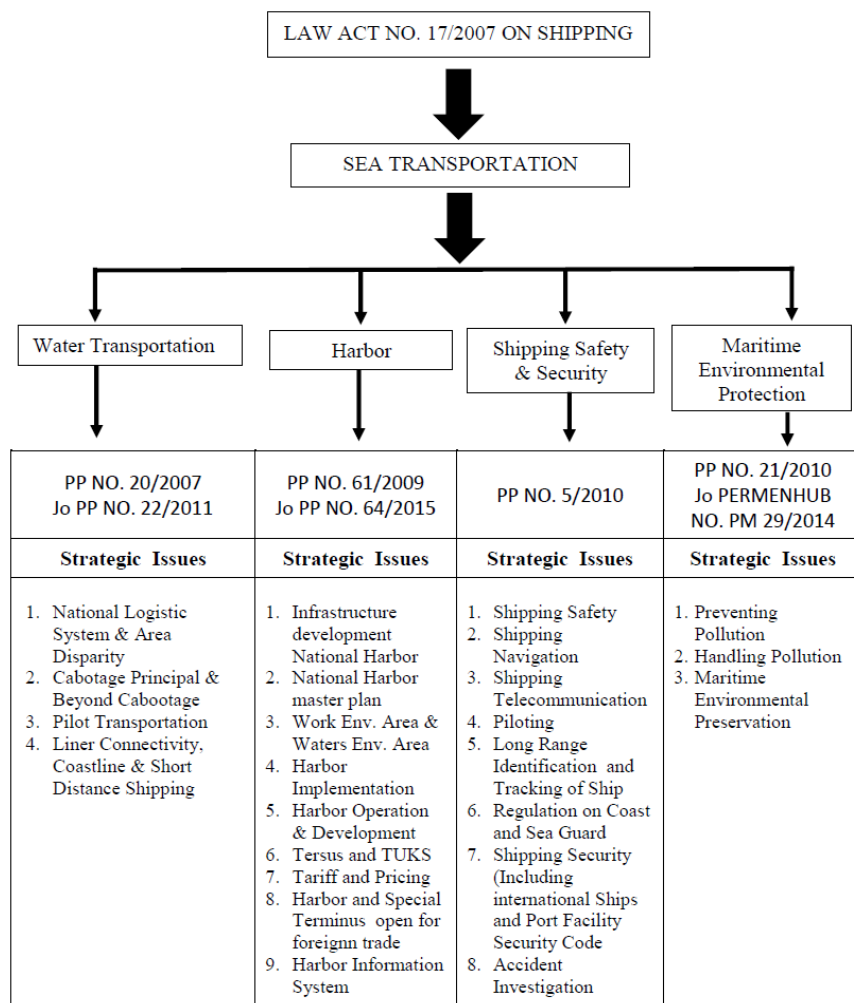


Figure 1. Legal Ground and Strategic Issue of the Direction and Policy on Sea Transportation¹¹

¹¹ Ministry of Transportation of The Republic of Indonesia, Directorate General of Marine Transportation Regulation No. KP. 936/DJPL /2020 on Strategic Plans Directorate General of Marine Transportation 2020-2024. *Peraturan Direktur Jenderal Perhubungan Laut Nomor KP. 936/DJPL /2020 Tentang Rencana Strategis Direktorat Jenderal Perhubungan Laut Tahun 2020-2024.*

To become the world maritime axis, the stages of Indonesian aquatic development were arranged for 44 (Forty-Four) years, with a 4-year observation for each period. These stages included the following,¹²

Phase 1 (Period 2020 – 2024): Advancing the development of the Indonesian archipelago in establishing an independent, strong, and developed nation emphasizing national interests. This progress enabled the country to emerge as a global maritime civilization hub.

Phase 2 (Period 2025 – 2029): Developing Indonesia as a strong maritime country through the development of advanced and balanced connectivity infrastructure. This infrastructure was integrated with increasing industrial competitiveness for natural resource-based and technology-based sectors.

Phase 3 (Period 2030 – 2034): Enhancing Indonesia as an advanced maritime country, through the establishment of organizations supported by advanced technology and artificial intelligence, as well as human resources with the character of a nautical nation.

Phase 4 (Period 2035 – 2039): Developing Indonesia as an independent maritime country, through the development of industrial competitiveness based on advanced technology. This increased the added value of natural resources and the environment, through advanced human resources and strong character, as well as the establishment of maritime sovereignty.

Phase 5 (Period 2040 – 2044): Encouraging Indonesia to become the center of world maritime civilization. This was characterized by elevated national competitiveness, bolstered by advanced and balanced interregional infrastructure, highly competitive industries, valuable natural resource products, proficient human resources, and robust maritime diplomacy.

The basis of Indonesian maritime policy also emphasized Law No. 17 of 2007 on the National Long-Term Development Plan, Law No. 32

¹² Coordinating Ministry for Maritime and Investments Affairs of The Republic of Indonesia, *Konsep Rencana Pembangunan Kemaritiman 2020-2024 [Maritime Development Strategic Plan 2020-2024]*, Jakarta 4 Februari 2019, available at <https://wri-indonesia.org/sites/default/files/TRA%20BahanRenaksiKKI%20WRI07Mei2019.pdf>.

of 2014 on Marine Affairs, and the *Nawacita* Program. Furthermore, the national strategic plan for maritime development was stated in the Strategic Plan Document determined every 5 years by the Directorate General of Sea Transportation. The 2020-2024 Plan also encompassed Government policies and strategic programs for marine transportation. This Strategic Plan focused on various aspects, including Human Resources (HR) and infrastructure development, simplification of regulations, and economic transformation. Over the next 5 years, sea transportation was expected to enhance reliability, competitiveness, and value in supporting an independent, developed, just, and prosperous Indonesia. These programs in the Strategic Plan subsequently formed the framework of the National Medium-Term Development Plan (RPJMN) 2020 – 2024. The developmental priorities of the developmental sector also encompassed the following, (1) strengthening the Accessibility of Disadvantaged and Border Areas, Transportation Safety, (2) reinforcing Major Logistics Lines, (3) supporting Infrastructure for Industry and Tourism Leading Sectors, and (4) advancing Urban Transportation.

Based on the 2020 – 2024 Indonesian Maritime sector development stages, the future of marine transportation strived to augment national trade transactions, exports, and imports. This trade in goods and services, constituting the sea transportation market share, was facilitated through mutually beneficial political trading. It also involved establishing a network of inter and intermodal transportation services via infrastructure construction and facilities, supported by e-commerce for streamlined trade processes. This transition reduced paper-based documents, ensuring convenience, efficiency, and legal certainty in trade implementation. The key policy priorities of the Indonesian maritime sector also addressed the internal interests of Indonesian waters. These priorities aligned with basic principles and policy pillars, synergizing to establish a marine policy regarding national interests and positioning the country as a hub of global maritime civilization.

A. ASEAN COOPERATION IN THE FIELD OF MARINE TRANSPORTATION

In the ASEAN cooperation within the field of marine transportation, outlined in the ASSM (ASEAN Single Shipping Market), Indonesia

proposed to establish an integrated single window with an open platform-based system documentation mechanism. This emphasized the issues related to the service standards that should be developed by ASEAN. The country also proposed that the ASSM Coordination Board considered the issue of harmonization and standardization of shipping reporting data formats. In line with the ASSM discussion, the application of Electronic Data Interchange (EDI) in ASEAN ports was subsequently evaluated. By prioritizing this EDI, business actors easily exchanged shipping documents, with the reporting data format for ship berthing requirements being standardized for all ports in ASEAN member countries.

On 14 March 2016, President Joko Widodo signed Presidential Regulation No. 23 of 2016 on the Ratification of the Agreement of Maritime Transport between Governments of the Member Countries of ASEAN and the Administration of the Peoples Republic of China.¹³ This cooperation was carried out because the member countries and RRT leaders believed that cooperation in maritime transportation provided benefits for the development of trade and economic relations between ASEAN nations and China. The scope of cooperation included the following,¹⁴

1. The agreement applied to international sea transportation of goods and passengers sailing between the ports of the ASEAN Member States and China.
2. This agreement did not apply to domestic sea transportation between ports within the territorial waters of the ASEAN Member States or hubs in China.
3. It did not also affect the application of bilateral agreements signed between ASEAN Member States and China, for matters beyond the agreement scope.
4. The Agreement was not effective on the right of third-party vessels

¹³ Indonesia, *Peraturan Presiden Nomor 23 Tahun 2016 tentang Pengesahan Persetujuan Transportasi Laut Antara Pemerintah Negara-Negara Anggota Asosiasi Bangsa-Bangsa Asia Tenggara Dan Pemerintah Republik Rakyat Tiongkok*. (Presidential Regulation No. 23 of 2016 on the Ratification of the Agreement of Maritime Transport between Governments of the Member Countries of ASEAN and the Administration of the Peoples Republic of China).

¹⁴ *Ibid*.

to participate in the transportation of goods and passengers between the ports of the Parties or either the Party and a third stakeholder.

In the cooperation agreement, each party ensured equal guarantees for ships, crew, passengers, and cargo, as observed for those provided by third-party countries. This equal provision included the following, (1) access to international sea traffic ports, both during port stays and while sailing to and from hubs, (2) implementation of port facilities for passenger and cargo transport, and (3) access to other available port services and amenities, with the imposition of duties and port service fees.

Based on the various mechanisms within the ASEAN regional realm, Indonesia diligently safeguarded its national interests concerning maritime matters. These maritime concerns emphasized mutual importance, remaining consistently pertinent within ASEAN collaboration. In the community of ASEAN nations, maritime cooperation was also regulated by the Security Political Communication Pillar, with two principal aspects defining marine collaboration. These aspects included, (1) the establishment of the ASEAN Maritime Forum, and (2) the joint efforts against Illegal, Unreported, and Unregulated (IUU) Fishing.

Table 2. Ship Fleet Development in Southeast Asian Countries¹⁵

| COUNTRY | GROSS TONNAGE | | | | | | |
|-------------|---------------|-----------|-----------|-----------|-----------|---------|---------|
| | YEAR | | | | | | |
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Indonesia | 66.941 | 121.813 | 71.858 | 65.820 | 163.188 | 110.028 | 36.388 |
| Malaysia | 57.513 | 61.115 | 30.957 | 35.635 | 23.141 | 22.645 | 21.697 |
| Myanmar | 0 | 0 | 0 | 0 | 0 | 121 | 0 |
| Philippines | 1.864.658 | 1.772.379 | 1.204.019 | 1.980.322 | 1.987.637 | 802.366 | 608.211 |
| Singapore | 79.834 | 47.004 | 59.205 | 28.735 | 72.184 | 84.858 | 9.667 |

¹⁵ United Nations Conference on Trade and Development, *Review on Maritime Transport 2020*, United Nations, 2020, accessed 21 February 2021, https://unctad.org/system/files/official-document/rmt2020_en.pdf.

| COUNTRY | GROSS TONNAGE | | | | | | |
|----------|---------------|---------|---------|---------|---------|---------|---------|
| | YEAR | | | | | | |
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Thailand | 1.236 | 1.503 | 229 | 742 | 3.698 | 795 | 542 |
| Vietnam | 335.862 | 574.181 | 435.512 | 344.818 | 480.930 | 555.081 | 544.699 |

The cooperation between Indonesia and ASEAN countries was structured to be integrated with various agreements regionally carried out. In the maritime sector and shipping transportation between these parties, the objectives of cooperation were divided into some points. Firstly, the development of political stability and security in sea area having the following, (1) boundaries affirmation, (2) enforcement of national and international laws to prevent conflicts at sea, and (3) the existence of Indonesia as an Archipelagic State with the advantages of its aquatic habitat. Secondly, the establishment of common prosperity in the oceans, where the implementation and management of marine resources emphasized the welfare of the people. This indicated that Indonesia should be able to maximize its marine resources for the greatest prosperity of the people, with cooperation not considered a barrier to the welfare of the citizens. Maritime cooperation should also focus on the continuous maintenance of the state marine resources. Thirdly, the existence of Indonesian sovereignty over maritime territory and the dissemination of its history and excellence within the maritime field.

From these descriptions, the Indonesian sea transportation services were trailing several ASEAN nations, highlighting the need for enhancements across various sectors, including the readiness of shipping law, human resources, sea transportation facilities, infrastructure, as well as fiscal and banking domains. In these sectors, progress was imperative for the competitive position of the country within the ASEAN region. Indonesia also encountered challenges in capital, technology, and logistical aspects. For the capital aspect, constraints were observed from the substantial funding necessary for national shipping companies, to establish new fleets. This was because the majority of the ship construction materials were imported and subjected

to taxes. The purchase of used ships also presented financial burdens due to initial repairs and maintenance. Moreover, technologically-advanced vessels and skilled crews were pivotal for efficient shipping operations during the Industry 4.0 era, with Indonesia expected to rival foreign counterparts through advanced ships and robust security systems. This was because the country considerably lagged behind the Philippines and Vietnam in shipbuilding. In line with this, Indonesian 2020 ship construction totaled a mere 36,388 Gross Tonnage (GT), compared to those of the Philippines and Vietnam at 608,211 and 544,699 GT, respectively.¹⁶

Challenges in the field of Indonesian delivery, namely the high cost of shipping transportation and the lengthy duration of waiting time for ships to dock, caused the inability of competition between national and foreign vessels. In addressing these challenges, the country developed a specific port development strategy, to increase support for the construction of warehouses at ports serving the storage needs, as well as the loading and unloading of goods through service improvements. This enabled the effective operation of unloading time accuracy and the use of digitalization, leading to an impact on the efficiency of transportation duration and costs. Short waiting times also impacted the mitigation of transportation costs, providing competitive opportunities for national and foreign ships. Furthermore, government participation and support were required in empowering the national shipping industry. According to Law No. 17 of 2008 concerning Shipping, provisions on monopoly in port operations were abolished, with separation observed between the functions of regulators and operators. The proportional participation of local governments and private sectors was also provided in the operation of ports and shipping.

Based on these narrations, the implementation of policies issued to support the effective operation of the national shipping industry was governed by the government. This emphasized the need for the administration to supervise, as well as prevent misappropriation and irregularities at the implementation stage. The AEC (ASEAN Economic Community) agreement was also a hope for the realization of economic integration between countries in the ASEAN region. This allowed the

¹⁶ See in Table 2.

association to become a single market regarding the production derived from the flow of services, capital, goods, and skilled labor. However, the ASEAN countries were responsible for the establishment of investment policy instruments, which limited the FDI (foreign direct investment) in the form of TRIMS (Trade related performance requirements) agreements. These instruments included the following, (1) Restrictions on inflows and establishment of foreign investment companies, (2) Restrictions on the level of foreign ownership, (3) Different treatment of foreign investors, (4) Restrictions on the operations of foreign companies, (5) Competition policies and regulations, and (5) Protection of intellectual property rights.¹⁷

According to these limitations, an opportunity was provided for Indonesia to continuously develop the potential of the national shipping industry. This condition transformed challenges into opportunities for the national shipping industry to master domestic and international shipping, toward the realization of Indonesian aspirations as a world maritime axis. In the maritime and sea transportation sector, the multilateral cooperation of ASEAN countries was consistently operational with the principle of mutual respect, for the sovereign rights of their respective nations. This concept was highly considered by applying the Cabotage Principle to domestic shipping in each ASEAN member state. It also specifically pertained to domestic shipping between ports within a country, ensuring that transportation of goods and passengers was exclusively conducted by the national-flagged vessels owned by local companies. In this case, the crew, including the skipper, should be citizens of the respective country. For instance, in Malaysia, the Cabotage policy established in 1980 aimed to safeguard and foster the trade and logistics capacity of the nation. This policy was universally applied regardless of the port position under state government or maritime department jurisdiction. It also mandated that Malaysian-owned shipping companies exclusively handled domestic trade between the ports of the nation.

¹⁷ Ichsanuddin Noorsy, Shanti Darmastuti, Dani Setiawan, *Ketimpangan Masyarakat Ekonomi ASEAN: Apa Mendominasi Siapa? [Inequality of The ASEAN Economic Community: Who is dominating?]*, Volume 2 (Jakarta: Penerbit Universitas Indonesia, 2016), 345.

In Indonesia, the Cabotage principle for domestic shipping was initially applied in 2005, through Presidential Instruction No. 5 of 2005 on The Empowerment of the National Shipping Industry. This indicated that the cargo of shipping between national ports should be transported by Indonesian-flagged ships and operated by local transport companies within the shortest period. The application of the Cabotage Principle was also regulated in the regulation of each country and was initially applied absolutely to uphold the sovereignty of the state. In this context, foreign ships were not allowed to carry out domestic voyages. However, adjustment was observed for the development of the Cabotage Principle application.¹⁸ This adjustment was because several shipping activities were unable to be carried out and served by nationally flagged ships, due to limited ability to provide sea freight services. Domestic shipping companies were also unable to provide specific types of ships to support offshore exploration and exploitation activities. This was accompanied by the large investment costs of procurement and construction of new ships, with no long-term contracts observed between the owner of the goods and the ship. In addition, the adjustment was due to the prevalence of low human resource quality and quantity.

Based on these explanations, the availability of nationally flagged vessels capable of serving both domestic and international shipping, specifically offshore operations, remained limited in terms of quantity and quality. This indicated that national shipping companies encountered difficulties in providing vessels for offshore exploration and exploitation, due to the substantial expenses involved. Inadequate facilities and infrastructure within domestic fleets also prevented the organization of transport requiring specialized equipment and technology. These circumstances prompted specific nations to relax the maritime Cabotage Principle, to enhance the connectivity of goods transportation through marine routes within a country. The achievement of this objective also hinged on multiple policy reform parameters related to infrastructure and the development of inland regions. Moreover, the application of the Cabotage Principle to shipping transportation aimed to protect and

¹⁸ Mahmud Siregar and M. Iqbal Asnawi, "Cabotage Principle Pada Regulasi Jasa Angkutan di Dalam Perairan Indonesia dari Perspektif Sistem Perdagangan Multilateral WTO/GATS [Cabotage Principle on Water Transportation from Multilateral Perspective]," *USU Law Review* 12, no. 2 (2012): 196.

empower the national industry, toward organizing the commutation of goods and passengers from and between ports within the country. In this case, each member state was obligated to apply the principle in its national shipping regardless of the maritime cooperation among ASEAN member states.

B. IMPACT OF THE ENFORCEMENT OF AEC ON THE POLICY AND STRATEGY OF SEA TRANSPORTATION DEVELOPMENT IN INDONESIA

In the era of the free market for the ASEAN region, specifically since the enforcement of AEC (ASEAN Economic Community) in 2015, the weakened state of the national shipping condition was observed. This showed that the enforcement of AEC caused Indonesia to reenter the concept of economic globalization and free trade liberalism, specifically in Southeast Asia. From this context, AEC was one of the regional economic integration forms that had been planned for achievement in 2015, with its establishment initiated jointly by ASEAN countries, namely Indonesia, Malaysia, the Philippines, Thailand, Brunei Darussalam, Cambodia, Vietnam, Laos, and Myanmar. This establishment was conducted to portray ASEAN as a solid economic area highly considered by the international economy. The objective of AEC also planned to exhibit ASEAN as a single market and basis of production, the flow of goods, services, investment, skilled labor force, and free capital movement. Moreover, AEC emphasized a great opportunity for Indonesia, regarding the reduction of trade impediment, as well as the elevation of export and Gross Domestic Product (GDP).

From these descriptions, Indonesia encountered another challenge, namely commodity homogeneity in various items, such as rubber, wood, textiles, and electronic appliances. Attention was also provided to transportation services, specifically sea transportation, a pivotal sector linking exporters and importers, as well as domestically and internationally facilitating goods distribution. Furthermore, sea transportation efficiently conveyed goods between domestic and foreign seaports, surpassing air transport in cost-effectiveness. In this case, the shipping costs of Indonesia notably remained elevated. Sea transportation was also crucial for bolstering inter-regional economic

activities in coastal areas, specifically the consideration of Indonesia adjacency to ASEAN nations. This condition became imperative due to the AEC facilitating the movement of goods and services, emphasizing the development of economic transactions within ASEAN. The AEC agreement also streamlined trade, reduced costs, and eliminated market barriers for member countries.

The implication of free trade was subsequently agreed by the ASEAN members in the AEC mutually, to eliminate every trading barrier. In this case, the need for increasing competitive Indonesian economy caused the consequence for the supply, shipping network performance, and seaport infrastructure that should be more competitive. This emphasized support for the developing national economic movement and prospects, to secure a prominent position in the expanding global goods transportation sector. The realization of AEC, facilitated by the Master Plan of ASEAN Connectivity (MPAC) introduced in 2012, also underscored these goals. From this context, several MPAC initiatives prioritized sea transportation, including the implementation of the ASEAN Shipping Single Market (ASSM) across 47 prioritized seaports within ASEAN (14 being Indonesian), accompanied by the advancement of *roll-on/roll-off* (Ro-Ro) ferry services. These two Ro-Ro routes were responsible for linking the following Indonesian regions, Dumai – Melaka and Bitung – Davao. ASSM also impacted the national shipping industry because the competition was becoming transparent. Besides this, various agendas of infrastructure development, specifically in 14 Indonesian seaports, should also be sped up. To handle shipping problems in addressing the challenge and impact of AEC liberalization, the Government applied the following shipping policies,

1. Offshore activities should use foreign ships during the unavailability of national vessels,
2. An opportunity needs to be provided for foreign shipping companies to invest in Indonesia in the form of a Joint Venture,
3. Exporters and importers should implement foreign ships when shipping was unable to be conducted,
4. Activity in ship agencies needs to be implemented as the service to represent foreign sea transportation companies operating in Indonesia.

Based on these explanations, foreign ships were capable of carrying out various activities in the absence of Indonesian-flagged vessels, excluding the conveyance of passengers and/or goods in the sea transportation events within national waters. These activities included surveys on oil and natural gas, drilling, offshore construction and operational support, dredging, salvage, and underwater work. The aforementioned provisions were also specified in Article 206, letter (a) of Government Regulations No. 22 of 2011 on the Amendment of Government Regulations No. 20 of 2010 on Transportation in Waters. According to the Presidential Decree No. 44 of 2016 on the List of Closed and Open Business with the Requirements in Capital Investment, international shipping companies invested through Joint Venture¹⁹ between Indonesian (national ownership of 51 percent) and foreign organizations. This condition subsequently exhibited the limitation of foreign capital ownership at 49 percent.

In Article 28 of Law No. 25 of 2007 on Capital Investment and Article 2 of Presidential Regulation No. 90 of 2007 on The Investment Coordinating Board principally implemented the coordination of policy and service in capital investment, regarding appropriate legal provisions. By this authority, Investment Coordinating Board subsequently issued the Regulation No. 13 of 2009 on Guideline and Procedure of Controlling Capital Investment. This policy was enacted to implement monitoring, fostering, and supervision of the capital investment application according to adequate related rights, obligations, and responsibilities. In addressing the AEC era, Indonesia should be internally and externally ready to effectively and efficiently perform shipping transportation. The country should also be prepared to compete nationally and internationally, specifically in sea transportation, one of the important components of the shipping sector. Moreover, the protection of the maritime region and the efforts continuously carried out by the government in empowering the national shipping industry was only achieved by increasing the integrated sea transportation system.

¹⁹ Joint venture is one of the activities in capital investment done by domestic and foreign investors through joint venture to do business in the Indonesian territory.

III.CONCLUSION

In conclusion, the Policy Direction and Strategy for The Development of Marine Transportation in Indonesia was stated in Law Number 17 of 2007 on The National Long-Term Development Plan (2005 – 2025). As the largest part of Indonesian territory, the sea area possessed significant strategic importance across various dimensions of life. These aspects included political, economic, socio-cultural, defense, and security, forming the fundamental cornerstone of national development. Furthermore, the Ministry of Transportation, specifically the Directorate General of Sea Transportation, formulated comprehensive policies and strategies for marine transportation development. These formulations prioritized meticulous assessment of both juridical facts and strategic conditions of Indonesian marine transportation. This evaluation encompassed two key dimensions: socio-economic and geospatial aspects. The administration of marine resources also adhered to a robust legal framework, ensuring legal clarity and communal advantages for all residents. This commitment aligned with the identity of the archipelagic nation, a vision promoted by President Joko Widodo to establish the Indonesian Sea as a Global Maritime Fulcrum (GMF).

Based on the ASEAN Economic Community, differences were observed in the developments within each ASEAN country in the shipping sector. This indicated that the cooperation of Indonesia and other ASEAN nations was strategically organized, integrating with existing regional agreements. The objective of maritime and shipping cooperation between these parties also fostered political stability and security within the aquatic domain. This included defining sea boundaries, upholding national and international laws to avert sea conflicts, and accentuating the status of Indonesia as an archipelagic nation. From this context, the maritime advantages of the country were capitalized on, to promote shared prosperity in oceans while ensuring the populace welfare through the judicious implementation and management of marine resources. The maritime cooperation also focused on the continuous preservation of the national marine resources. Therefore, the multilateral cooperation among ASEAN countries in the maritime and sea transportation sector harmoniously adhered to the principle of mutual respect for their sovereign rights.

From these results, the ASEAN Economic Community (AEC) influenced sea transportation in ASEAN member states, including Indonesia. This community aimed to eliminate trade barriers, reflecting the implications of agreed-upon free trade. The realization of the AEC was also supported by the concept of the ASEAN Connectivity compiled in the MPAC (Masterplan of ASEAN Connectivity) in 2012. In this context, the agendas of the MPAC concerning shipping transportation encompassed the adoption of the ASSM (ASEAN Shipping Single Market) across 47 priority ports in ASEAN, which included 14 Indonesian hubs. Moreover, the establishment of a roll-on/roll-off ferry network was pursued, with the ASSM agreement urging the domestic shipping sector to enhance its competitiveness against foreign vessels. Based on these results, the ongoing enhancement of Indonesia shipping networks and port infrastructure remained crucial to facilitate the national economy mobility, securing a competitive edge in the expanding global freight transportation sector.

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