

# The Urgency of the Opening of East-West Archipelagic Sea-Lanes in Indonesia

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**Abstract—Indonesia as an archipelagic state has the obligation to regulate archipelagic sea-lanes (ASL) in accordance with Article 53 UNCLOS 1982 and the rights to determine the rights and obligations of ships passing through the ASLs in Indonesia that has been set. The opening of North-South ASL in Indonesia has not met the needs of the international community as the East-West ASL in Indonesia has not yet been opened. This paper raises the issue upon the urgency of the opening of the East-West ASL in Indonesia. Through normative juridical review, the results of this study indicate that Indonesia is still not necessary to open the East-West ASL in Indonesia as proposed by some countries through IMO because there might be some potential threats that may occur due to the location of East-West ASL in Indonesia is located in the inland waters of Indonesia.**

**Keywords—***Indonesian ASL, East-West ASL in Indonesia, archipelagic state*

## I. INTRODUCTION

Indonesia is an archipelagic state with an area of 2/3 waters compared to the land area, comprising of 17,508 islands. The total area of Indonesia reaches 7.9 million km<sup>2</sup> of which 1.8 million km<sup>2</sup> of land area hence the territorial sea territory of Indonesia reaches 3.2 million km<sup>2</sup> and the marine waters of the Exclusive Economic Zone (ZEE) reaches 2.9 million km<sup>2</sup> [1]. This condition gives the privilege to Indonesia to control the marine territory within the territorial waters of the archipelago which includes the island of a sea lane adjacent to it as called the territorial sea. This sovereignty covers the airspace above to the sea floor and the ground below. The authority over the territorial sea shall be conducted subject to the provisions of international law. As a coastal state which is subject to the 1982 United Nations on the Law of the Sea (UNCLOS) rules the rights to utilize its rights upon the territory as archipelagic state, but an archipelagic state like Indonesia has an obligation to establish archipelagic sea-lanes as governed in Article 53 UNLOS 1982 which states “an archipelagic State may determine the sea lanes and aviation routes on it, which are suitable for the continuous and direct crossing of foreign ships and aircraft through or over the archipelagic waters and adjacent territorial sea.” [2]. Indonesia has further

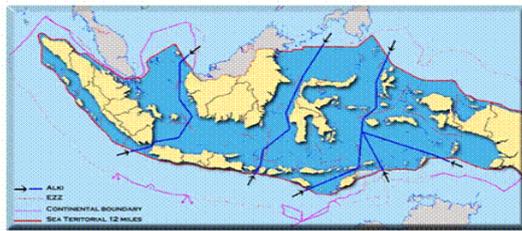
regulated the rights of archipelagic sea-lanes routes into its national regulations and has been set forth in Law Number 6 of 1996 on Indonesian Waters, which stipulates that Indonesia determines the sea channels including the aviation routes suitable for cross-run implementation sea archipelago by determining its axes listed on the announced ocean maps

The declaration of the archipelagic sea-lane in Indonesia has been designed by the Indonesian Navy in cooperation with the Indonesian Government to establish the North-South archipelagic sea-lanes which has also been proposed at the International Maritime Organization (IMO) session and it was agreed on 19 May 1998 that the Indonesian archipelagic sea-lanes are to connect two free waters, the Indian Ocean and the Pacific Ocean including [3]:

- a) Indonesian ASL I: Sunda Strait – Karimata Strait – Natuna Sea – South China Sea.
- b) Indonesian ASL II: Lombok Strait – Makassar Strait – Sulawesi Sea.
- c) Indonesian ASL III-A : Sawu Sea – Ombai Strait – Banda Sea (western part of Buru Island) – Ceram Sea (eastern part of Mongole Island) – Moluccas Sea – Pacific Ocean.
- d) Indonesian ASL III-B : Timor Sea – Leti Sea – Banda Sea (western part of Buru Island) – Ceram Sea (eastern part of Mongole Island) – Moluccas Sea – Pacific Ocean.
- e) Indonesian ASL III-C : Arafuru Sea – Banda Sea (western part of Buru Island) – Ceram Sea (eastern part of Mongole Island) – Moluccas Sea – Pacific Ocean.

Following the decision of the IMO, the Government of Indonesia issued Government Regulation Number 36 of 2002 on the rights and obligations of foreign ships for innocent passage and Government Regulation Number 37 of 2002 the Rights and Obligations of Ships and Foreign Aircraft in Implementing the Sea Terrain Landscape Traffic Rights to ensure the security and defense of the territory of Indonesia in accordance with national jurisdiction. Foreign ships engaged in international shipping in the exercise of the rights of innocent passage through Indonesian ASL either commercial vessels or warships may pass without having to seek permission first to the Indonesian government. In addition, foreign submarines can also pass without having to appear on the surface of the sea, but only devoted to the

three sea channels that have been predetermined and agreed stipulated by the law; otherwise, the ships have been fouled. Here is an overview of the North-South ASL routes in Indonesia [4]:



Gambar 2 Peta Alur Laut Kepulauan Indonesia (ALKI)  
Berdasarkan PP No. 37 Tahun 2002.

Unlike the transit passage, which is part of the implementation of freedom of navigation and over-flight cross-archipelagic is defined as the exercise of the right of navigation and over-flight in the normal mode. The level of supervision on North-South Indonesian ASL is the main priority of the Indonesian Government because in its missions for the opening of Indonesian ASLs I, II, and III makes Indonesia an “open state” in the sea region agreed in Indonesian ASL. On the other, this also poses challenges in the field of security and natural resources that might result in violations in the region.

The current opening of the North-South ASL in Indonesia has been perceived as insufficient by the international community because the East-West ASL in Indonesia (Indonesian ASL IV) has not been opened by Indonesia; the international community has urged through IMO to open the East-West Indonesian ASL lines to facilitate and shorten the path the traffic of goods and services of countries using the Indonesian ASL routes. East-West Indonesian ASL is part of Indonesian ASL which is owned and managed by Indonesia, countries such as America, China and Australia which mostly use the Indonesian ASL path urged that the Indonesian Government immediately open this the Indonesian ASL IV. This paper discusses to what extent the urgency of the opening of East-West Indonesian ASL for Indonesia.

## II. RESEARCH METHOD

The research method used normative juridical legal research [5]. The method of collecting legal material used was literature study. Legal materials were derived from primary and secondary law sources in the form of primary legal materials referred to the provisions of international law, namely in the form of international conventions related to the issues under study; secondary legal materials were obtained from literature, lecture materials, other literature books or works of international jurists who may provide explanations related to the provisions of international law, particularly those related to the opening of the East-West Indonesia ASL.

In this normative legal research, the legal material that has been obtained was analyzed qualitatively by giving interpretation of the legal material obtained from various sources, and the analyses of the legal materials were assisted by using prescriptive method.

## III. RESULT AND DISCUSSION

### A. Archipelagic Sea-Lanes in Indonesia (Indonesian ASL)

On December 13, 1957, Indonesian Government issued an official declaration which became known as the *Djuanda Declaration* which was initiated by Prime Minister Djanda Kartawidjaya. This declaration states that the Indonesian marine territory is around, between and connecting the islands within the Indonesian archipelago. The declaration directly affect the international world about the concept of the ancient sea, then this concept is known with the concept of archipelago (Indonesian term as *Nusantara*).

Indonesia ratified UNCLOS 1982 with Law Number 17/1985, as an Indonesian archipelago having sovereignty in inland waters, territorial waters and archipelagic waters. Sovereign right is the power of a state over a particular territory which in its implementation must be subject to international law. This sovereign right is usually used for the exploitation and exploration of the existing natural resources in its territory, this right can be exercised on the continental shelf and the exclusive economic zone [6].

Indonesian ASL is an obligation that is owned by Indonesia as a consequence of the concept of an archipelago country in accordance with Article 53 UNCLOS namely: “An archipelagic State may designate sea lanes and air routes thereabove, suitable for the continuous and expeditious passage of foreign ships and aircraft through or over its archipelagic waters and the adjacent territorial sea.[2]”

The Indonesian Government through the Indonesian Army has mapped and conceptualized the path used as Indonesian ASL. The National Meeting organized by the Ministry of Foreign Affairs on January 1995 decided that Indonesia was ready to propose 3 Indonesian ASL assignments to the International Maritime Organization (IMO) in London as a competent international organization. In 1996 Indonesia has proposed to IMO on the establishment of the 3 Indonesian ASLs and the branches, namely Indonesian ASL I (in the north branched towards Singapore and into the South China Sea), Indonesian ASL II via Lombok Strait to Sulawesi Sea), Indonesian ASL III in the southern part with three four branches Indonesian ASLs III-A, III-B, III-C, III-D (south), the northern branch that goes to the Sulawesi Sea is Indonesian ASL III-E and Pacific Ocean.

On May 19, 1998 IMO has officially received the three Indonesian ASLs proposed by Indonesia. In the implementation of the ASLs, Indonesian Government has conducted a series of activities, such as setting the bases of the Indonesian archipelago and the coordinates of the three ASLs in Indonesia. As part of the international enforcement of the ASLs in Indonesia, the Indonesian Government is required to use it in its national regulations, then submitted to IMO to be announced. Due to the conflicts in East Timor which resulted in the separation of East Timor from the Republic of Indonesia through referendum resulted in

the changes in the territory, and the measurement of ASLs in Indonesian territory changed especially Indonesian ASL III namely:

- a. Indonesian ASL III-A: Pacific Ocean via Moluccas Sea, Ceram Sea, Banda Sea, Ombai Strait, and Sawu Sea.
- b. Indonesian ASL III-B: Pacific Ocean via Moluccas Sea, Ceram Sea, Banda Sea, and Leti Strait to India Ocean
- c. Indonesian ASL III-C: Pacific Ocean via Moluccas Sea, Ceram Sea,
- d. Banda Sea to Arafuru Sea
- e. Indonesian ASL III-D: Pacific Ocean via Moluccas Sea, Ceram Sea, Banda Sea, Ombai Strait, and Sawu Sea to India Ocean
- f. ALKI III-E: Pacific Ocean via Moluccas Sea, Ceram Sea, Banda Sea, Ombai Strait, and Sawu Sea to India Ocean

For Indonesia in exploring its rights as an archipelagic state is likely a special condition as Indonesia may run full sovereignty especially in its marine area. In addition, Indonesia has an obligation to provide archipelagic sea-lanes to facilitate the ships from foreign countries to pass and accelerate the process of transporting goods and services. There have been some concerns to Indonesia since the opening of the Indonesian ASLs routes such as the potential threats that may occur in the area of ASLs that have been opened by the government. There are some potential threats that may occur in the territory of Indonesian ASLs are: [7]: The potential threat in Indonesian ASL I is related to the conflicts of territorial claims over the Spratly and Paracel islands in the South China Sea, the use of the Indonesian ASL I as military maneuvers by the involved states. In addition, the impact of increasing shipping traffic in the Malacca Strait, such as the use of the Indonesian ASL I area by pirates to avoid the Indonesian security forces and joint security forces (Indonesia, Malaysia and Singapore) or smuggling, such as smuggling of illegal goods and human trafficking. The threat of a volcanic earthquake or volcanic eruption (Anak Krakatau) and the Malaysian expansion political impact such as the possibility of new territorial claims.

The potential threats to Indonesian ASL II are mainly originated from the conflicts of Ambalat Block, such as the use of the Indonesian ASL II region for maneuvering forces by Malaysia as the impact of the releasing Sipadan and Ligitan islands, illegal fishing and the existence of natural resources. In addition, induced from the world tourism center in Bali, there might be bigger possibility of illegal smuggling of goods, human trafficking and terrorism.

The potential threats to Indonesian ASL III area come from the internal conflicts of neighboring countries such as The Philippines in the north part and East Timor in the south part of the paths, making the territory of Indonesian ASL III-A as a refuge or other activities that may endanger the security. The release of Timor Leste as a sovereign state (Timor Leste) is

linked to the oil and gas block on the southern island of Timor, such as territorial violations, smuggling and territorial claims. Other internal conflicts may also become the threats in the territory of Indonesian ASL III-A such as the separatism of the Republic of the South Moluccas (RMS) in Maluku in Sulawesi and the Free Papua Movement (GPM) in Papua, the impact of Australian foreign policy, such as the widening of Australia's influence on the surrounding area in the north part (including Indonesia, Timor Leste and Papua New Guinea), and also the separatist movements. The last potential impact in this territory is the abundant natural resources that have not been managed properly may lead to illegal fishing and claim over the natural resources.

#### *B. Potential Threats in Indonesian East-West ASL Territory*

The establishment of the Indonesian ASL is a way to facilitate the parties concerned in the implementation of their rights and obligations to pass through the Indonesian territory. For Indonesia as an archipelagic country that has territorial sovereignty should facilitate the rights through the government policies due to several water gaps in Indonesian islands, yet only these three lines are officially opened for other parties so it can be a top priority. On the contrary, for a country whose ships to pass along the path shall follow all the prescribed procedures. The increasing intensity of the transportations in the area means to increase the problems on the sea as well. Until now, there has not been any right solutions to deal with several issues of marine security; such issues should be brought and discussed in various forums in order to find a way out of this problem [4].

America and Australia convey through IMO for Indonesia to open the East-West ASL in Indonesia which is located through the Java Sea and ended in the sea area of Banda. It is not easy for Indonesia because of the location East-West ASL is located in the territorial waters of Indonesia. For Australia, this path is crucial for its military trade and defense paths with the Asia Pacific region. This path is also much needed by the United States for ships, especially submarines that often use this path to move from Southeast Asia to Australia. The demands for the opening of East-West ASL is actually to facilitate the traffic of military vessels and freight vessels that conduct export-import activities.

Indonesia whose territory will be opened for international community through the new opening of ASL routes requires careful study and consideration so that Indonesia is able to balance the national interest and security and international obligations. Parties in the security services argue that the appointment of East-West Archipelagic Sea Lanes (ASLs) will put Indonesia in a vulnerable position, with foreign ships enjoying the freedom of transit within archipelagic waters in Indonesia due to several factors, one of which is the strategic aspect of how the impacts and losses if East-West flow is incorporated into the ASL routes.

According to the Evaluating Team of Indonesian Army on the Determination Flow of the Indonesian Archipelagic Route, Indonesian Navy Headquarters, in 1986 stated some effects in terms of security if the East-West Archipelagic Sea-Lanes (ASL) as follows:

- As it is known that Java is a concentration of some of Indonesia's population; in other words, it is the heart of Indonesia. This can be proved by all activities of life are more centered on the island compared to the other areas in Indonesia.
- Most of the country's assets and strategic objects are located on Java Island, including: Cilegon Steel Factory, Suralaya Power Plant (Merak), Jakarta as capital city, Muara Karang Power Plant, Surabaya Navy Base, and Kangean Natural Gas Pipe Surabaya.
- The existence of underwater cable strains between Jakarta-Singapore and Jakarta-Australia passing through the Java Sea and Sunda Strait and underwater cables from Surabaya to the eastern Indonesia.
- The Java Sea can become potentially an arena of contention between two countries passing through the East-West ASL, even though the position of Indonesia is the coastal state.
- The territory can be utilized by certain ships for infiltration and smuggling at sea as well as immigration violations [7].
- If the East-West ASL in Indonesia has been established, all ships including warships in a formation may pass over this territory without having to notify or request permission from the Indonesian Government. It means that the submarines are able to continue to dive while passing in the East-West ASL without having to come to the surface of the sea. This can be difficult for the Indonesian Government if this condition is used by warships from countries that are not in a good relation with Indonesia because it is geographically located in the heart of Indonesia.
- East-West ASL in Indonesia will be through hydrographically shallow Java Sea in which there are many economic activities along the coast of Java and Kalimantan Island. In addition, in case of an accident on passing ships, especially nuclear-powered vessels, may destroy the marine and environment in Indonesia. If this happens, it is very difficult to hold rehabilitation, while compensation will be very difficult.
- Indonesia is currently still lacking in technology in defense and state security. [8]
- Around 75% natural resource potentials in the Indonesian marine territory is also a consideration for the Indonesian government in the opening of the East-West ASL, as Indonesia has not been yet able to maximize its utilization of the resources.
- Economic growth in the marine sector is not also evenly distributed between modern and traditional fishermen

With the opening of the ASLs means Indonesia is required to become an "open state", the all-open geographical position with entrances and exits that spread in various positions which might allow any perpetrators of violations in Indonesian waters territory to escape through free waters [9]. Accepting status as an archipelagic country with the number of sea lanes within its territory means that the Indonesian Government shall be ready to assume the responsibilities of providing security of the sea and air from all forms of disturbance and threats. Sovereignty in an archipelagic country entity not only covers land and sea but also air space within its territory. UNCLOS has arranged that airspace belongs to the state under it and can be managed and utilized for the benefit of the country. Indonesia's airspace is considered very strategic, thousands of international airlines passing through the sky of Indonesia every day. This shows the airspace of Indonesia as one of the most densely populated pathways in the world.

Regarding the described consideration of the Indonesian Government to date have not opened the East-West ASL in Indonesia where there are diverse range of marine resources within this territory. There are many potential marine economic resources from the Sunda Strait in Indonesian ASL IV between Indonesian ASL I and Indonesian ASL II [7]; The Indonesian Government who has not been yet able to manage and utilize the resources optimally will become target or any threats and brings more negative impacts for Indonesia if the East-West ASL is opened. In addition, the neighboring countries that cross routes in Indonesian ASLs I and II will really want to occupy and exploit the available resources for the improvement of their economy.

#### IV. CONCLUSION

Corroborated the description in previous section, it can be concluded that Indonesia has not yet needed to open the East-West ASL as demanded by some countries through IMO because Indonesia found several potential threats especially in the field of defense and security and natural resources located in the area of East-West ASL and these lanes are located within Indonesian water territory.

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