

DESIGNATING THE ARCHIPELAGIC SEA LANE (ASL): THE “EPILOGUE” OF THE LEGAL DEVELOPMENT OF INDONESIA’S MARITIME REGIME*

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Abstract

Throughout the past decades, the legal framework governing Indonesia’s maritime regime has experienced various changes. This is apparent during the enactment of the 1957 Djuanda Declaration and the 1982 UN Convention on the Law of the Sea (UNCLOS) when the novel concept of archipelagic State was introduced. This paper reviewed the historical development of this concept up until the recent issue of designating archipelagic sea lanes (ASL) in Indonesia. Dubbing this issue as the epilogue of Indonesia’s journey towards archipelagic statehood, this paper focuses on (1) the importance of designating ASL for archipelagic States, (2) the kind of considerations that pose challenge to its designation and (3) how these challenges have particularly affected Indonesia’s reluctance to open ASL routes which are internationally sanctioned, particularly with regards to the East-West route. This paper found that such hardship stems from the lack of clarity in relevant UNCLOS clauses on archipelagic States as well as from the inherent rivalry between flag and coastal States. Security concerns have also been crucial in explaining Indonesia’s reluctance to fully abide by international demand. The paper ended with some possible pathways and policy recommendations that Indonesia may take with regards to its ASL regime.

Intisari

Dalam beberapa dekade terakhir, kerangka hukum yang mengatur rezim maritime Indonesia telah mengalami beberapa perubahan. Hal ini jelas saat Deklarasi Djuanda 1957 dan Konvensi Hukum Laut PBB 1982 (UNCLOS) diadakan di mana konsep baru negara kepulauan diperkenalkan. Tulisan ini meninjau perkembangan historis konsep ini sampai dengan isu terbaru mengenai pengadaan jalur laut kepulauan (ASL) di Indonesia. Menamakan isu ini sebagai epilog perjalanan Indonesia ke arah kenegaraan kepulauan, tulisan ini berfokus pada (1) pentingnya pengadaan ASL bagi negara kepulauan, (2) bentuk pertimbangan yang menjadi tantangan terhadap pengadaannya dan (3) bagaimana tantangan ini mempengaruhi keengganan Indonesia untuk membuka rute ASL yang dikenai sanksi internasional, terutama pada rute Timur-Barat. Tulisan ini menemukan bahwa kesulitan tersebut berakar dari ketidakjelasan klausa UNCLOS akan negara kepulauan serta persaingan yang melekat antara negara bendera dan pesisir. Kekhawatiran mengenai keamanan juga menjadi krusial dalam menjelaskan keengganan Indonesia untuk sepenuhnya memenuhi tuntutan internasional. Tulisan ini diakhiri dengan beberapa kemungkinan jalan dan rekomendasi kebijakan yang dapat diambil Indonesia bagi rezim ASL-nya.

Keywords: Archipelagic, Sea, Lanes, Maritime, Indonesia, UNCLOS, Djuanda, Declaration, Route, Coastal, States, Flag, Designation

Kata Kunci: Kepulauan, Laut, Jalur, Maritim, Indonesia, UNCLOS, Djuanda, Deklarasi, Rute, Pesisir, Negara, Bendera, Pengadaan

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Introduction

From 2014 onwards, there exists an observable trend of increasing prioritization and revitalization of the maritime sector in Indonesia. This is particularly apparent when the current President, Joko “Jokowi” Widodo, declared a novel maritime doctrine during his attendance in the 8th East Asia Summit in Myanmar. There, President Jokowi floored his aspiration to transform Indonesia into a “global maritime axis” (Sambhi, 2015). Among the visions of this doctrine is boosting port constructions, the inauguration of a “sea highway” linking the main isles, and the strengthening of Indonesian naval force to, ultimately, lay the foundation for Indonesia’s ascent as a regional sea power (Agastia & Perwita, 2015).

While indeed daring and ambitious, this vision is by no means unachievable. Indonesia’s strategic latitude as a crossroad of two continents (i.e. Asia and Australia) and two oceans (i.e. Pacific and Indian) and the presence of major international crossings in its domain, such as Malacca Strait through which 15 million barrels of oil tankers pass daily (Hirst, 2014), could provide Indonesia the strong leverage it needs in securing global attention to its ambition.

Though glorious in name, translating President Jokowi’s maritime axis jargon into action is no easy task. It would prove challenging for Jokowi to maintain so grand a vision when, for instance, the Indonesian navy, who is arguably the most important institution in enforcing Jokowi’s ambition and whose absence may render the entire project meaningless, is still low in funding (Qin, 2015). Adding another tally to the list of challenges is Indonesia’s unique geographical landscape, that is, the absence of unity of its terrestrial territory due to the division of its landmass into five major islands. Indeed, this very feature has, historically speaking, often put Indonesia at many odds.

A. Indonesia’s maritime regime: then and now

Up until late 1950s, Indonesia’s maritime territory was governed under the legal system of its former Dutch colonizer as outlined under the 1939 Ordinance on Territorial Waters and Maritime Zones. The Ordinance maintained that Indonesia’s territorial sea would only extend 3 nautical miles from the coastal line of each island, and what goes beyond the line would be considered as the high seas (Djalal, Indonesia’s Archipelagic Sea Lanes, 2009). As a consequence, within the huge water bodies between Indonesian main islands, foreign commercial and military vessels could freely exercise the freedom of navigation.

Furthermore, since national regulation was not imposable in this water, this entailed a strong possibility of clash between domestic and foreign interests. Chance of other dangers such as ship collision and espionage by foreign entities was just as high. Similarly, ships travelling from Borneo to Java, for instance, would be treated with the same legal status of international voyage as if they travelled from, say, Australia to Malaysia. In short, Indonesia could not protect its own ship although it sails within the country’s own perimeter.

The 1939 Ordinance provided so much privilege to vessels belonging to *flag States*¹ at the expense of Indonesia’s interest as the *coastal States*.² It created “holes” (i.e. high seas) in Indonesia’s own

¹ Flag State is a term for the country to which a ship belongs and whose extra-territorial jurisdiction is exercised aboard the ship. According to UNCLOS Article 94, “every state shall effectively exercise its jurisdiction and control in administrative, technical, and social matters over ships flying its flag” (Williams, 2014). In the context of this paper, flag State refers to the countries of every foreign vessel passing through the Indonesian sea.

² Coastal State refers to the country through whose territory vessels of flag States sail. According to UNCLOS Article 2(1), “the sovereignty of coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.” Coastal State refers to Indonesia, in our discussion.

internal water domain which, according to Butcher (2009), “not only made it extremely difficult for the navy and other agencies to enforce Indonesian law but also deeply offended Indonesians’ sense of nationhood.” Cognizant that the 1939 Ordinance would further jeopardize Indonesia’s national integrity, the then-government began to formulate a new legal framework that treated the internal seas between the main islands as “one total unit” – one that would be *territorially inseparable* and over which Indonesia’s *jurisdiction* would be exercised.

This idea eventually came to fruition under the 1957 Djuanda Declaration. The Declaration stipulated that the baseline of Indonesian territory would be drawn *from the outermost islands of the archipelago*, instead of from each individual island, and that the waters lying in-between would be subject to Indonesia’s sovereignty. Though this declaration had been transformed effectively inside the national legal system.³ Indonesia’s sudden alteration was ferociously challenged by many Western flag States (Ku, 1991). If such challenge persisted and if Indonesia could not win foreign recognition to its new claim, the Declaration would be legally meaningless in the international realm.

Hence, from 1960 onwards, Indonesian diplomats and legal scholars had been vehement to propagate this “new archipelagic norm”. Indonesia’s unprecedented archipelagic concept, albeit being profoundly radical, was eventually able to acquire enough acknowledgements to become a novel customary practice. This unlikely success can be attributed to (1) the continuous promotion by Indonesian diplomats in various maritime conferences which, in times of post-1960s rapid decolonization era, found positive resonance from newly independent Asia-Africa nations and (2) the shift from (often failed) multilateral recognition into bilateral ones with neighboring Southeast

Asian countries such as Singapore and Malaysia which contributed to the growing regional confidence necessary for future codification.

With the Philippines joining Indonesia’s archipelagic agenda (Santos, 2008), the provision of special status for archipelagic States seemed eminent. The process for codification, however, was long and tiresome. The Conference on the Law of the Sea by the United Nations was picked as the platform to floor both countries’ proposals, but even after attending two conferences (UNCLOS I and II), the clash of interest between flag States and to-be archipelagic States was irreconcilable. The archipelagic concept also lacked political weight, since only two countries i.e. Indonesia and the Philippines advocated its adoption.

Nevertheless, in UNCLOS III of 1973-1982, a significant positive change was observed. As the Bahamas, Papua New Guinea and Fiji joined the advocating camps and as to-be archipelagic States agreed to lower their demand and compromise with flag States’ interests, the archipelagic State was finally codified in the Convention. For many Indonesians, UNCLOS III and its archipelagic State provision was romanticized as a great victory of what the Djuanda Declaration has pioneered in 1957 – a triumph of their 25 years of national struggle.

B. Indonesia as an ‘archipelagic State’ in UNCLOS

The 1982 United Nations Convention on the Law of the Sea embodies an overarching set of 25 maritime topics which were contentiously debated prior to its stipulation; this sheer comprehensiveness makes it natural that some scholars dubbed the Convention as “the constitution of the Oceans” (Spalding, Meliane, Milam, Fitzgerald & Hale, 2013). Of significance importance is the formalization of key maritime concepts such as (1) the sea boundaries of coastal State,⁴ with

³ In 1960, the content of Djuanda Declaration was provisioned into “Government Regulation No. 4 on Indonesian Water”, coded as UU No. 4/PRP/1960 (Ku, 1991).

⁴ Article 3 of UNCLOS mandates that “every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12

territorial sea, continental shelf and exclusive economic zone (EEZ) as examples, as well as (2) the right of flag States, with innocent passage and immunity of warships in the high seas to name a few.⁵ These newly codified concepts are exercisable to all UNCLOS States Parties, including Indonesia.



Map 1: Indonesian territorial waters under 1939 Dutch Ordinance [Source: <http://www.uruqulnadhif.com/2015/06/uu-kelautan-uu-pengelolaan-wilayah.html>];



Map 2: Indonesian archipelagic waters, territorial sea and EEZ under 1982 UNCLOS [Source: <http://madeandi.com/2014/12/11/batas-maritim-untuk-orang-awam/>]

nautical miles, measured from baselines determined in accordance with this Convention.” States exercise full sovereignty and competence in their territorial sea and air zone above it (Bardin, 2002); Article 76 defines *continental shelf* as “seabed and subsoil of the submarine areas... [with] a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured”; whereas *exclusive economic zone* is an area which maximum measurement is “200 nautical miles from the baselines from which the breadth of the the territorial sea...”, based on Article 55, in which a state is exclusively entitled for economic (e.g. fishing) and research enjoyment (Robertson, 1983).
⁵ Governed by Article 19, *right of innocent passage* “permits a ship of a foreign nation to enter the coastal waters of another state if the navigation is peaceful and not offensive” (Agyebeng, 2006). *Immunity of warships on high seas* in Article 95.

Part IV of UNCLOS governs the juridical issue of archipelagic States: who are they and what are they entitled to? Archipelagic States can simply be understood as countries whose territory takes the shape of an archipelago, that is, a constellation of many big and/or small islands. Article 47 provides a very detailed measurement formula to limit the scope of the archipelagic States. It says, for instance, that the enclosed water to land territorial ratio must be between 1:1 to 9:1. Hence, although the territory of Greece and the United Kingdom are formed by a collection of islands, they are not considered as archipelagic States due to their insufficient proportion of water to land.

The archipelagic provision of UNCLOS reflects much of the Indonesian stance in the 1957 Djuanda Declaration, only with some caveats. UNCLOS acknowledges Indonesia’s insistence that the colossal body of sea between its five main islands and within the outermost islands is its *internal waters* – much like rivers and lakes. The Convention also, albeit in indirect manner, confirms “*Wawasan Nusantara*” which is a national belief that its land and water is territorially united and inseparable. Not only would the interest of foreign ships be superseded by Indonesia’s security concern in the large water bodies muddling its islands, Indonesia would also greatly enlarge its national reach for economic extraction and development.

According to Djalal (2011), Indonesia’s EEZ and continental shelf have been extended for another 3 million square kilometers. The achievement of UNCLOS is often praised as a national triumph by Indonesians. The reason behind such glorification is very natural indeed: The Convention has provided the nation with so many political and economic merits, particularly due to the Convention’s archipelagic State provision. Nonetheless, as the following section will reveal, the victory is not without compromise.

C. ASL: a pre-requisite and obligation

Anxieties were high among flag States when the archipelagic State provision was to be included in the 1982 Convention. With regards to the creation of Indonesian commercial ships going to and coming from Australia often find their shortest and cost-effective route by cutting through Indonesia's internal waters. Likewise, the United States objected to the archipelagic concept as it deemed this provision as an impediment to the global reach of its naval armada (Meyer, 1999). If left unaddressed, this division between Indonesia as an archipelagic State and the big powers as flag States could render the Convention unsuccessful. Reconciling both conflicting interests is important to make sure that the Convention can be immediately signed. For this purpose, Article 53 on the *archipelagic sea lanes passage* play a critical role.

Two important concepts must first be distinguished. First is the *right of archipelagic sea lanes passage* or ASLP. In principle, ASLP provides the freedom for flag States to continue the previous usage of normal international routes across archipelagic States as long as the journey is "solely for the purpose of continuous, expeditious and unobstructed transit". The second concept is *archipelagic sea lanes* or ASL, a "sea road" on the archipelagic water over which the right of ASLP is exercised. Article 52(1) states that "archipelagic State may designate sea lanes and air routes [ASL] ... for the continuous and expeditious passage of foreign ships and aircraft" *only within which*, Article 53(2) adds, "all ships and aircrafts enjoy the right of archipelagic sea lanes passage [ASLP]."

Up to this point, we may discern the difference between ASLP and ASL, that is, while the former refers to a *right* (immaterial), the latter refers to an actual geographical feature (material). Moreover, and most importantly, while ASLP is established by *default*, designating ASL is optional; ASLP is *pre-given*, while ASL is artificial. This means that with or without the designation of ASL by coastal States, flag States can by default resume journey

using the pre-1982 Convention normal routes. Since the term "normal routes" may entail multi-interpretation, the possibility of flag States crossing anywhere inside the archipelagic sea is ever-present. For this reason, Djalal (2009), who fully participated in UNCLOS III, suggested that until proper ASL is designated, Indonesia would not have full control over its internal waters and, accordingly, the whole concept of "archipelagic State" would seem rather useless.

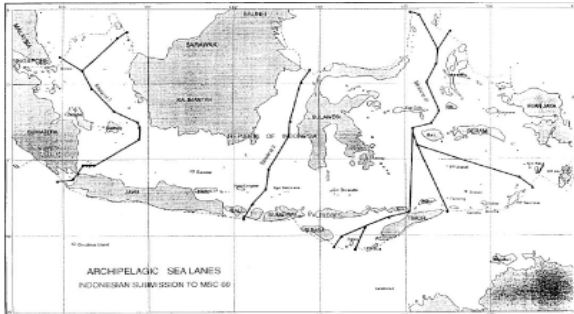
The quest at hand becomes even harder when we take into account the fact that the concepts of ASL and ASLP themselves are new and artificial, meaning that previous States practice on this matter is scarcely evident – if there is even any. Whereas it is arguably easier to enact *declaratory* provisions, which merely serve as a formalization of existing customary laws, ushering in *constitutive* provisions, which embody an entirely novel regulation like ASL and ASLP, would certainly face greater challenge.

This is because flag and coastal States can easily fall into problematic multi-interpretation, provided with no tangible model, both parties in theory may have a greater leeway to tailor the just-born law to fit their interests as no starting-point legal reference is present. Consider the phrase "normal passage route"⁶ in Article 53(4) and "competent international organization"⁷ in Article 53(9). Whose version of "normal passage route"? who decides which institution is going to be the "competent international organization"?

⁶ Article 53(4) of UNCLOS stated that ASL "shall traverse the archipelagic waters and the adjacent territorial sea and shall include all normal passage routes for international navigation or overflight through or over archipelagic waters and, within such routes, so far as ships are concerned, all normal navigational channels, provided that duplication of routes of similar convenience between the same entry and exit points shall not be necessary."

⁷ Article 53(9) stipulated, "in designating or substituting sea lanes or prescribing or substituting traffic separation schemes, an archipelagic State shall refer proposals to the competent international organization with a view to their State, after which the archipelagic State may designate, prescribe or substitute them."

These phrases cannot be more ambiguous; and indeed, whenever ambiguity is present in a legal document, conflict between its parties is virtually sealed.



Map 3: The three ASL routes of Indonesia

[source: https://puc.overheid.nl/nsi/doc/PUC_1562_14/1/]

D. Challenges to current ASL

After conducting surveys, national coordination and communication with concerned States, Indonesia immediately submitted its proposal for the new ASL routes to the International Maritime Organization (IMO) in 1998. Duly notified, IMO issued Resolution 72(69) accepting Indonesia's proposal,⁸ which effectively entered into force four years later under Government Regulation No. 37/2002. The 2002 Regulation enacted *three new ASL routes*, all of which stretch from *North to South*.

Within these three routes, foreign vessels have an *insuspendable*⁹ right of passage, not only for commercial vessels but also warships. This designation, however, was protested by some flag States, with the US, the UK and Australia as

their forefront; these countries claimed that that the 2002 Regulation was inadequate (Djalal, 2009). The contentious issue of "normal routes" reemerged when the three flag States argued that the route connecting Arafuru Sea in the East to Sunda Strait in the West constitutes a normal international shipway that should also become an ASL. Since Indonesia refused to incorporate the "normal" East-West route, IMO deemed the current three ASL routes as "partial designation" (Forward, 2009), not as a permanently binding one.

Indonesia has abundant reasons not to codify the East-West route just yet; and among them, national security is of paramount cruciality. Unlike the right of innocent passage which may be revoked when grave security concerns arise, the right of ASLP cannot be suspended in any circumstance (Sea Power Centre, 2005). UNCLOS stipulated in its Article 25(3) on innocent passage:

"The coastal State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security, including weapons exercises. Such suspension shall take effect only after having been duly published."

Actions that the Convention acknowledges as prejudicial to security – and thus may justify the suspension of innocent passage – are also outlined in detail. These include the loading and/or unloading of commodities, act of propaganda, intelligent activities and many more. Contrastingly, the founding legal regime of ASL, which is the 1998 "General Provision for the Adoption, Designation and Substitution of Archipelagic Sea Lanes" or GPASL by IMO, has made it clear that the right of ASLP cannot be suspended by whatsoever reason. Given this, if Indonesia is too hasty in designating ASL routes without long-term preparation, there is a possibility for negligence; and shall this negligence occur,

⁸ This acceptance, however, is neither absolute nor permanent. IMO declared Indonesia's three North-South ASLs as "partial designation" since it deems the current designation to be incomplete. A complete designation, according to IMO, should also comprise an East-West route (Puspitawati, 2011).

⁹ The phrase "insuspendable" should not be mistakenly interpreted as "completely unrestricted". Article 54 of UNCLOS, in fact, restricts the applicability of undertaking 'ASLP only after the conditions under Articles 39, 40, 42 and 44 are met. The aforementioned articles stipulate, *inter alia*, the prohibition of unconsented survey activities and the abstention of any maneuver threatening national sovereignty.

the “unsuspendedness” of ASL would mean that the country could be subject to perpetual security threats.

The Indonesian Armed Force, whose many naval bases are located in the coastal areas adjacent to the route, is particularly sensitive to the issue. It deems Java Sea, through which the East-West passed, as “the strategic heart of Indonesia” (Sebastian, Supriyanto & Arsana, 2015) and therefore granting foreign vessels unrestricted passage through this area is too high of a demand. Moreover, the metropolis of Java’s northern coast such as the capital city of Jakarta and major port cities including Surabaya and Semarang, within which tens of millions reside, can be very prone to marine environmental accidents like oil spill from foreign tankers or radioactive contamination from nuclear-powered vessels; not to mention how international sea traffic may also disturb the lucrative fishing activities in the area (Supriyanto, 2016).

What further impedes Indonesia’s willingness to immediately set the East-West ASL is the divergence between the flag States on the specific coordinate of the “normal route” map of the UK and the US: the British East-West route is closer to the Java Island than the American one (Buntoro, 2011). If Indonesia listens to the demand of one state, other states would forcedly push theirs — eventually causing a “spaghetti bowl phenomenon” (Sebastian et al., 2015). Apparently, though, not opening the East-West route did not necessarily makes Indonesia very safe as well. In 2003, a U.S. aircraft carrier and F-18 squadron, deeming the East-West route as international waters, entered Java Sea (Caminoz & Cogliati-Bantz, 2014). Offended, Indonesia sent its two F-16s to intercept the American jets near the Bawean Island, eventually causing a brief friction between the two governments. Had Indonesia formally delineate the East-West route, scholars argue, such incident can be preventable.

So, what is ahead for Indonesia? Two pathways are plausible. The first is for Indonesia to maintain the status quo by not

abiding the request of IMO and major flag states to open the East-West ASL route. To begin with, Indonesia may choose to weaken the international acknowledgement of IMO as the “competent international organization”, per Article 53 (4) of UNCLOS, who is given the power to assess coastal States’ proposal of ASL. Indonesia’s reluctance to fully submit to IMO is justifiable by the fact that the organization is often steered by the interest of big flag States inside it; according to Mark and Halladay (2013), IMO regulations such as the 1998 GPASL was “actually negotiated and settled outside the IMO, between a select few members”. It must be reminded that UNCLOS does not explicitly choose IMO to manage the ASL regime per se, so any country including Indonesia is theoretically able to propose the replacement of IMO by other organizations (preferably fairer and less biased), though only if a sufficient number of support is successfully rallied.

In this antagonistic scenario, weakening IMO’s legitimacy must also be followed by a long-term plan to transform the “national security first” policy within ASL designation into a new customary international law. This is to say that individual states should have greater weight in determining ASL and that “competent international organization” should only be given an advisory role, not a “law-making” one. Maintaining the status quo and opting to (radically) introduce a new customary practice, amidst the protest from important flag states, is indeed challenging.

Yet, interestingly, although the U.S. and Australia has been very vocal in rhetoric to protest the current ASL designation, their tangible action to pressure Indonesia is relatively small. There even exist some hints that the two countries somewhat consider Indonesia’s position: instead of bashing Indonesia for the 2003 Bawean Incident, the then-U.S. Ambassador promised that such provocative interception won’t reoccur (Smith, 2003); when Australian Navy vessels entered Indonesian territorial waters in 2014, it apologized with embarrassment (Bateman, 2015). Hypothetically, if Indonesia could

consistently maintain the status quo, just like what it did with the Djuanda Declaration for 25 years until the archipelagic state provision was codified under UNCLOS, the nation might as well patiently wait until its current practice, with regards to ASL, transforms into an accepted customary law.

While the above hypothesis may please the Indonesian Armed Force and nationalist-populist politicians, many legal academicians have suggested the opposite: that it is advisable to revise the status quo by opening the East-West lane. Sebastian et al. (2015) even went further by arguing that Indonesia may actually benefitted more by entertaining the flag states' demand. They suggested that by opening the East-West ASL route, Indonesia may enjoy: (1) greater accuracy in supervising foreign vessels movement, because without ASL these vessels may use various possible routes to pursue "normal navigation", (2) better diplomatic leverage and reputation among flag States and (3) the invigoration of public attention on the issue of navigational safety, which may motivate maritime experts to develop more innovative solutions for future problems.

Nonetheless, even if opening East-West is proven to be beneficial, it should be reminded that Indonesia's maritime security and logistic capability is still very limited to make sure that that such benefits last long (Dirhamsyah, 2005; Rustam, 2016). As national security and territorial integrity are more important than any other considerations, too hastily opening the East-West lane may arguably put so fundamental an interest at risk for so peripheral a gain.

E. Closing remarks

The legal regime on the sea and maritime sector of Indonesia has gone through many important developments. Primary to this development is the archipelagic concept of land-and-water territorial unity as introduced in the 1957 Djuanda Declaration and codified in 1982 UNCLOS. This development has not reached the finishing line since the designation of an internationally sanctioned ASL regime, which includes the

East-West lane, has not been achieved. If this debate on Indonesian ASL is contextualized in a historical continuum, the opening of the East-West lane may indeed be arguably viewed as the epilogue in the country's "building an archipelagic state" chronicle. This is because designating an internationally sanctioned ASL is (among) the last archipelagic issues which remain unresolved, that is, where foreign discord is still majorly present. By successfully addressing this issue, one may argue, Indonesia would then be "just a distance away" towards achieving the ideal vision of an archipelagic statehood which governs in full harmony with the interest of foreign states.

While the tone of the paper might prompt a perception among its readers that the non-existence of the East-West lane constitutes a legal violation, this absence in itself is actually not problematic; this paper has previously indicated that designating ASL is optional, not obligatory. What thus becomes controversial is that Indonesia has prevented foreign vessels from exercising ASLP in the "normal navigational routes" (i.e. the East-West lane, as demonstrated in the Bawean Incident), which, in the absence of an ASL regime fully consented by "competent international organization" (i.e. IMO), is actually permissible. By behaving so, Indonesia has allegedly committed a legal inconsistency.

Why does Indonesia still maintain its non-opening policy of the East-West lane, despite this allegation? This paper attributed such stance primarily to national security concerns. Indeed, it is the inherent nature of a state to champion the protection of its sovereignty over the demands of foreign states. Nonetheless, having analyzed both the consequence of maintaining the status quo and the prospect of revising it, it is the opinion of this paper that opening the East-West lane would be legally advisable. Tomorrow might indeed be too early for Indonesia to undertake such action; however, this should not discourage the country from considering this option as a favorable agenda worth progressing for.

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