

## Conference Paper

# Implementation of State Jurisdiction and Handling of Taxation of Vessels in Indonesian Sea Waters

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### Abstract

The problem of ship hijacking is a persistent risk near Indonesia. Even though the pirates ships are banned, there is no law in Indonesia under which they may be prosecuted in international waters, however they can be prosecuted when sailing in Indonesian waters. The implementation of the principle of universal jurisdiction regarding the eradication of marine piracy crimes in Indonesia is contained in Article 4 of the Criminal Code. In the case of the Sinar Kudus ship, Indonesia did not use its jurisdiction as the safety of the crew was prioritized. Preventive measures taken by the government in protecting Indonesian-flagged ships in territorial waters include coordinatination with other countries to provide maritime protection and security in their respective territories, working with the agencies involved in maintaining maritime security, and providing all documents and ship components in accordance with the SOLAS Convention. In addition, in preventing armed robbery in the territorial waters of Indonesia, the Philippines and Malaysia have conducted coordinated patrols in their respective territories or jurisdictions.

**Keywords:** Jurisdiction; Ship; Indonesian Sea.

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## 1. Introduction

The establishment of a state requires requirements that must be met in order to be considered a state, as stipulated in Article 1 of the Montevideo convention 1933, which reads: The State as a person of International law should possess The following qualification: (a) Permanent Population; (b) a defined territory; (c) government and (d) capacity to enter into relations with The other States.

One of the conditions that must be owned by a country is territory, which can consist of land, oceans, and air above it. Certain areas that must be owned by a country in international law do not determine the conditions for the size of an area to be considered a constitutive element of a country. (Mauna, Boer. (2015). Hukum Internasional Pengertian Peranan dan Fungsi dalam Era DinamikaGlobal. Bandung: Alumni. p.21). Sea area is the whole series of salty water that inundates the earth,

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this definition is only physical, while the legal definition is the whole sea water which is connected freely throughout the earth's surface. (Boer Mauna, *Ibid*, p. 305).

The archipelago is a maritime country that has many islands within the territory of Indonesia and is surrounded by vast expanses of ocean (Koers, Albert W. (1991). *Konvensi Perserikatan Bangsa-Bangsa tentang Hukum Laut*. Yogyakarta: Gajah Mada University. p.33). The large number of oceans surrounding the Indonesian archipelago has resulted in open access to transportation in and out of the sea in trade, industry, and many other activities. Between the territory or territory of Indonesia there is an international sea area where all ships from around the world are free to enter and exit. The problem of ship hijacking is indeed a risk that occurs while sailing on the high seas (Wallace, Rebecca M.M. (1993). *Hukum Internasional*. Semarang: IKIP Semarang Press.p.12). When foreign ships sailing in Indonesian seas, there may be no rules or laws in Indonesia that may try these foreign ships, but there are still Indonesian seas that do not allow foreign ships to sail freely in Indonesia, therefore the rules that can try these foreign ships are the law as long as he is not sailing in international seas (Kusumaatmadja, Mochtar. (1978). *Hukum Laut Internasional*. Bandung: Binacipta.p.9).

Under the attention of international law, the term piracy with the development of robbery is carried out by robbery of a safety threatening nature such as robbery using a weapon. Meanwhile, piracy is a crime committed by acts of violence or by detaining hostages who violate the law or acts against the law for the benefit of individuals or groups. (Starke, J. G. (2009). *Pengantar hukum Internasional*. Jakarta: Sinar Grafika.p. 2). Criminal acts committed by perpetrators of piracy in maritime territories that have jurisdiction/legal authority against a state known as a criminal act of sea robbery or carrying sharp weapons or theft (Alexander, Yonah Alexander & Tyler B. Richardson. (2009). *Terror on the high Seas from Piracy to Strategic challenge California Santa: Barbar 2*. p.20). This clearly affects the legal justice procedures, or the justice enforcement processes associated with criminal authorities (Sefriani. (2010). *Hukum Internasional*. Jakarta: Rajawali Press p.11).

The Indonesian state is known by another name Nusantara, which means it has so many islands, the advantages of this Indonesian state are highly respected by the United Nations (UN) Convention in the discussion of Legal Jurisdiction being at sea in 1982 (UNCLOS) (Departemen Luar Negeri Direktorat Perjanjian Internasional. (1982). *United Nation Convention on The Law of the Sea*. p.87). The Indonesian state ratified the convention into Act No. 17 of 1985 concerning Ratification of the UN Convention on the Law of the Sea (Law on Ratification of the UN Convention on the Law of the Sea). Meanwhile, Presidential Regulation Number 16 of 2017 concerning Indonesian

Maritime Policy (Presidential Decree on Indonesian Maritime Policy) is further stipulated in Indonesian maritime policies. The development of the marine and fisheries sector is still far from being planned, although the coastal areas and small islands as well as the seas of the Indonesian archipelago have capacities in the form of livelihood resources and living services which are quite wide/large, and their implementation has not been carried out optimally/better. Indonesia has long been championed as an archipelago in international forums. The struggle began with the Djuanda Declaration 1957, followed by Fisheries Law/Prp No. 4 in 1960 (Santoso Dewi & Fadhillah Nafisah. (2017). "Indonesia's Global Maritime Axis Doctrine: Security Concerns and Recommendations," *Jurnal Hubungan Internasional* 10, no. 2 p. 91).

The homeland state or the so-called Indonesian nation proposes the definition of an archipelago in order for it to be recognized by the 1982 UN Convention on the Law of the Sea (UNCLOS) which is included in Part IV on Archipelagic State at the UN Regulation Conference III. The principle that unites the territory of Indonesia, so that nothing is free throughout the Indonesian archipelago. Nusantara is a nation that has many islands, and can draw a baseline from the outskirts of the outer islands. This has been confirmed in Act No. 6 of 1996 concerning Indonesian Waters (Indonesian Waters Law) as Law or PRP Number 4 of 1960 as a manifestation of the adoption of UNCLOS 1982 which applies in law our positivist law. Constitutionally and constitutionally,

Regulation of the President of the Republic of Indonesia. Number 16 of 2017 concerning Indonesian Maritime Policy issued in 2017. UNCLOS 1982 provides a rational voice to Indonesian citizens, namely the mandate to be carried out by representatives of maritime rights and management based on regulatory references in international law (Thontowi, Jawahir & Pranoto Iskandar. (2006). *Hukum Internasional Kontemporer*. Bandung: PT. Refika Aditama. p.5). UNCLOS 1982 recently deployed its wings to operate as an archipelago for 36 years, of course reviewing the steps of its implementation to correct which ones have been implemented and have not been implemented adhering to the contexts that meet the criteria set out in UNCLOS 1982 (Yudha Bhakti. (2012). *Penemuan hukum Nasional dan Internasional Bandung: Fikahita Aneska*. p.33).

The concept of universal jurisdiction applies to prosecuting piracy crimes on the scale of international crimes (Mario Silva, "Somalia: State Failure, Piracy, and the Challenge to International Law," *The Virginia Journal of International Law Association* 50, no. 3 (2012): 553). Based on that principle, every country has jurisdiction to prosecute foreign lawbreakers who have committed it anywhere, regardless of the nationality of the suspect or victim. (Shaw, Malcolm N.(2008). *International Law*. New York: Cambridge University Press. 28). On this basis, a state's claims against offenders are on behalf of

the international community as a whole. The enactment of the powers contained in Article 100 of UNCLOS also calls on countries to fully cooperate in the fight against piracy of ships located in the waters of the high seas which are also in the outermost positions of the authority of the coastal states. However, there are requirements when a country wants to enforce the concept of universal jurisdiction, including: 1) the country of origin has its own arrangements to prosecute the perpetrators of piracy, 2) the crime is a world class crime. Naturally, if a country does not have the authority to prosecute foreign crimes, that country cannot be given the right to judge by the jurisdiction of international law, in the form of authority to try international criminals. This only extends the existing culture of impunity for pirate offenders, while piracy has far-reaching effects on the stability of the international community (Mauna, (2005). Boer Hukum Internasional. Bandung: PT. Alumni. p.21).

The provisions contained in international law have been proportional in giving each country the authority to defend its right in this case to be able to prosecute perpetrators of ship hijacking through the presence of the concept of universal jurisdiction. Where if the state does not heed this authority properly, the country's policy is the same as allowing piracy to endanger the peace of the people of each country. The focus of this research will be to find out the implementation of the enforcement of policies on general principles of sovereignty issued by international jurisdictions as well as the preventive efforts taken by the government to secure or prevent ship hijacking in Indonesia's maritime territory (Parthiana, I Wayan. (1990). Pengantar Hukum Internasional. Bandung: Mandar Maju. p.7).

## 2. Research Methods

The research method is in the form of doctrinal research. Assisted with conceptual, analytical, statutory, historical, and comparative approaches to help solve problem formulations. The form of the research specification to be studied is in the form of an analytical perspective framework quoted from several previous researchers. The research data consisted of primary and secondary legal material sources and then continued to analyze several Indonesian positivist rules, international conventions, literature, data, and several related articles and tertiary legal materials to explain and assist in analyzing primary and secondary legal materials.

## 3. Results and Discussion

### 3.1. Implementation of the Principle of Universal Jurisdiction Concerning Eradicating Crime of Marine Piracy in Indonesia

The main grounds for a state to claim jurisdiction are based on grounds of territory and nationality. There are several principles of jurisdiction in international law, including the principle of territorial jurisdiction, the principle of subjective territoriality, the principle of objective territoriality, the principle of active nationality, the principle of passive nationality, the principle of universalism and the principle of protection. Before discussing the jurisdiction of the state of Indonesia, we will first discuss the relationship between state sovereignty and state jurisdiction. State sovereignty is the highest power of a country, which means that above the sovereignty there is no higher power. The sovereignty possessed by a country indicates that the country is an independent country or is not subject to the powers of another country.

Basically, the sovereignty possessed by the state contains two aspects, namely internal aspects and external aspects. The internal aspect, namely in the form of the highest power of a country to regulate everything within its territorial boundaries and the external aspect is the highest power of a country to establish relations with members of the international community as well as regulate everything that is or occurs outside its territory, as long as it has something to do with the interests of that country. Based on this sovereignty, the state's jurisdiction (power or authority) was born to regulate its interests both from internal and external aspects. The Indonesian state is a sovereign state, thus Indonesia has jurisdiction over both internal and external problems in the Indonesian state itself.

Jurisdiction comes from the Latin "jurisdiction", which is "juris" means "belonging to the law" or "belonging to the law" and "dictio" means "speech" or "designation", (Ibid. p. 292) so jurisdiction can be defined as power determined by law or legal authority which can be defined as the right and power to do something based on law. In the sense of rights, power and authority must be based on law, not coercion or force.

Imre Anthony Csabafi in his book "The Concept of State Jurisdiction in International Space Law" states the notion of state jurisdiction (Ibid. p. 295):

"State jurisdiction in international public law means the right of a state to regulate or influence with legislative, executive or judicial actions or actions on individual rights, property or assets, behaviors or events that are not merely -Eye is a domestic problem".

From the above definition, it can be concluded that state jurisdiction is the authority of a state to be able to make, implement, enforce or enforce the national law of its country outside the borders of the country's territorial power. According to O'Brien, there are

three kinds of jurisdiction that are owned by sovereign states (Sefrian. (2010). *Hukum Internasional*. Jakarta: Rajawali Pers.p.233)namely, first, the State's authority to make legal provisions on people, objects, events or actions in its territorial territory (Legislative jurisdiction or prescriptive jurisdiction). Second, the power of the state to enforce the provisions of its national law (executive jurisdiction or enforcement jurisdiction) and third, the authority of state courts to hear and issue legal decisions (jurisdiction). Thus, the state can make legal provisions or norms in its territorial territory, to be obeyed and implemented by residents in its territory. A country can also impose or apply its national laws outside its territorial territory, this usually applies to an international crime where the crime has been recognized as an international crime and every country is obliged to eradicate the crime. Finally, the state has the authority to judge and give legal decisions, this is to ensure the security and order of a country from illegal acts committed by foreign citizens.

As far as criminal cases are concerned, there are several principles of jurisdiction known in international law that can be used by a state to claim itself to have judicial jurisdiction. (Ibid, p. 238):

1. The Principle of Territorial Jurisdiction, according to this principle every state has jurisdiction over crimes committed within its territory or territory. This principle is one form of state sovereignty, with this principle a state has the authority to punish its citizens and also foreign citizens who commit crimes or violations within its territory, this principle is the main reason that is used as the basis for the state to judge a case (Thontowi, Jawahir & Pranoto Iskandar. (2006). *Hukum Internasional Kontemporer*. Bandung: Refika Aditama. p. 159). This territorial principle has been modified into two models, namely the subjective territorial principle in which a country has legal authority against a person who commits a crime that begins in its territory, even though the crime ends not in the country or the losses incurred as a result of the crime are not in their country or its territory, and the objective territorial principle, based on this principle a country has jurisdiction over a person who commits a crime, where the harm incurred as a result of the crime is in its territory, even though the crime was committed in another country.
2. Principle of Active Nationality, based on this principle, the state has jurisdiction over its citizens who commit crimes abroad, because the perpetrators of these crimes have a national relationship with the country concerned.
3. Principle of Passive Nationality, based on this principle the state has jurisdiction over its citizens who are victims of crimes committed by foreigners abroad.

4. Universal Principles, based on this principle, every country has jurisdiction to prosecute perpetrators of international crimes committed anywhere without regard to the nationality of the perpetrator or victim. The rationale for the emergence of this principle is the assumption that the crimes committed are crimes for all mankind, and it is a common will to eradicate these crimes, so that cooperation is needed for all countries. So that the demands made by a country against the perpetrators are on behalf of the entire international community.
5. Principle of Protection, based on this principle, the state has jurisdiction over foreigners who commit very serious crimes that threaten the vital interests of the state, security, integrity and sovereignty, as well as the vital interests of the state economy. Some examples of crimes that fall under the jurisdiction of protection include spying, plots to overthrow the government, forging currency, immigration and economic violations.

An act or action can be said to be an international crime if the said act has met the requirements as a violation of the interests of the international community or “*delicto jus gentium*”, and fulfills the requirement that the crime concerned requires international treatment. Against the perpetrators of international crimes, every country has the right and obligation to arrest, detain and prosecute, and try the perpetrators of these crimes wherever the crimes were committed. Universal jurisdiction in international law aims to eliminate the phenomenon of impunity for perpetrators of certain crimes (Sunarso, Siswanto. (2009). *Ekstradisi dan Bantuan Timbal Balik Dalam Masalah Pidana*, Jakarta: Rineka Cipta.p.54). Since the 18th century the international community has recognized and acknowledged the crime of piracy as an international crime or piracy *de jure gentium*, this crime of piracy is a pure crime designated as an international crime. International law considers piracy a crime against humanity (*homo homini lupus*) (Op.cit). International crimes are acts that constitute crimes according to the provisions of international law. In his book entitled “Introduction to International Criminal Law II” Romli Atmasasmita stated that (Op.cit): “International crimes are crimes that fall under the jurisdiction of the ICC, such as genocide, crimes against humanity, war crimes and aggression (article 5 of the ICC Statute), and several other crimes such as piracy at sea and on aircraft, counterfeiting currency, narcotics and terrorism”. International Criminal Law has several principles in determining jurisdiction to try an international crime, namely the *au dedere au punere* principle and the *au dedere au judicare* principle. The principle *au dedere au punere* means that perpetrators of international crimes can be punished by the country where the crime occurred (*locus delicti*), that is, within the territorial boundaries of the country or extradited to the requesting country which has

jurisdiction to try the perpetrator. The *au dedere au judicare* principle states that every country is obliged to cooperate with other countries in arresting, detaining, prosecuting and prosecuting perpetrators of international crimes. Among the characteristics of universal jurisdiction are (Op.cit):

1. Every country has the right to exercise universal jurisdiction. The phrase “every country” refers only to a state that feels responsible for actively participating in saving the international community from the dangers posed by serious crimes, so that they feel obliged to punish the perpetrators. This sense of responsibility must be proven by the absence of the intention to protect the perpetrator by providing safe haven within the territory of his country.
2. Any country wishing to exercise universal jurisdiction need not. consider who and what nationality the perpetrator is also the victim and where the serious crime was committed. In other words, it can be said that there is no need for a linking point between the state that will exercise its jurisdiction and the perpetrator, victim and the place where the crime was committed. The only consideration required is whether the perpetrator is in its territory or not, because it is impossible for a state to exercise universal jurisdiction if the perpetrator is not in its territory. It would be a violation of international law if the state forced the arrest of someone who was on the territory of another country.
3. Every country can only exercise universal jurisdiction over the perpetrators of serious crimes or what is commonly known as international crime.

The characteristics mentioned above can be concluded that universal jurisdiction does not require a national relationship between the perpetrator, the victim and the crime. The exercise of universal jurisdiction only on international crimes. The granting of status as an international crime depends on two factors, namely (Agustina, Shinta. (2006). *Pengantar Hukum Pidana Internasional (Dalam Teori dan Praktek)*. Padang: UNAND Press. p.60): Such action is already a serious crime of international concern, so that every country has the authority to try the crime, regardless of the place where the crime occurred and the criminal act is the full authority of the International Criminal Court. A country can exercise universal jurisdiction if the perpetrator is not in the territory of another country. Article 404 of the Restatement (Third) of the foreign Relations Law of United States states that universal jurisdiction is enforced against piracy, slave trade, attack or hijacking of aircraft, genocide, war crimes, and terrorism (Op.cit.).

In March 2016 the Indonesian flag ship was hacked by Philippine pirates who were known to be the Abu Sayyaf group. The Brahma Tugboat and the Anand tug boat



were hijacked in the Tawi-tawi waters of the South Philippines, where the applicable jurisdiction is the jurisdiction of the Philippines, because the place where the crime was committed is in the territory of the Philippines, the motive of the perpetrator is ransom money, this reminds us of the MV piracy incident. Sinar Kudus which occurred off the coast of Somalia in 2011, in that case the motive of the perpetrator was also an economic problem, but this incident occurred in the open seas, not the territorial seas.

MV ship. Sinar Kudus owned by PT. The Indonesian Ocean was torn apart by Somali pirates in the international waters of the Arabian Sea, about 60 miles from the border of Somali waters. This ship is a merchant ship bound for Rotterdam, the Netherlands, without being accompanied by an Indonesian warship (TNI AL). Somali waters are a world trade route that is often passed by foreign ships, in these waters there is often piracy that has been going on for a long time, and this piracy should be prevented or even eradicated with the cooperation of every country. Likewise in the case of the Thundra Brahma ship which was robbed in the Tawi-tawi waters where these waters were also prone to robbery. What happens in the waters of Tawi-tawi is different from what happens in the waters off the coast of Somalia,

Basically, in international law, what happened in the waters of Tawi-tawi and off the coast of Somalia is of different jurisdiction, so that the terms Piracy and Sea/armed Robbery are known. The definition of Piracy in Article 101 UNCLOS 1982 is:

a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or aircraft and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any state;

b) any act of voluntary participation in the operation of a ship or of an aircraft with the knowledge of facts making it a private ship or aircraft; and

c) any act inciting or of intentionally facilitating an act described in sub paragraph (a) or (b).

The definition above gives the understanding that being categorized as “piracy” or piracy is any act of violence or detention, or every act of destruction committed for personal gain, by the crew of a ship or a passenger of a private ship or aircraft, and the incident occurs on the high seas, or outside the jurisdiction of a country, and about piracy (Piracy) itself is regulated in Articles 100 to 107 of the Convention. So, if the action occurs in inland waters, archipelagic waters, and the territorial sea of a country, the action is not classified as “piracy” but rather a sea/armed robbery (Ariadno, Melda Kamil. (2007). *International Law*. Jakarta: Diadit Media. p.171).

Article 101 emphasizes that it is said to be piracy or piracy if the act occurs on the high seas or outside the jurisdiction of any country. Enforcement of regulations on the high seas is left to the flag state of a ship, except for crimes that are classified as common crimes such as piracy and slave trade, each country has jurisdiction to try these crimes (universal jurisdiction). Article 105 states that on the high seas every country can confiscate and arrest pirates, then the state court which has carried out the confiscation and arrest can determine the punishment that will be imposed. As is known in Article 107, confiscation due to piracy can only be carried out by warships or other vessels which are clearly marked and can be recognized as government service ships (public) and are authorized to carry out the confiscation. Thus the eradication of piracy can be carried out by prosecuting the perpetrator based on the national law of the warship or public ship that caught the pirates.

The difference between public and private vessels is based on the form of use and not on the quality of the owner of the ship. Public ships are ships that are used for government services and not for private purposes, while private ships are ships used for commercial purposes, the categories of public ships include warships, public non-military ships, ships of international organizations. Warships are part of public ships, where warships have the authority to combat piracy, warships can also detain and capture pirate ships, then the flag state of these warships has the right to prosecute and punish captured pirates. (Op.cit).

Universal jurisdiction according to Amnesty International is a jurisdiction where any national court can investigate, prosecute a person accused of committing an international crime regardless of the nationality of the perpetrator, victim or other relations with the country where the court is located. (Op.cit).

UNCLOS has given jurisdiction to each country to prosecute pirates who occur outside the territory of any country (the high seas), but most countries have avoided the authority to prosecute this on the grounds that there is no adequate law or there are no regulations regarding the criminalization of acts committed by the pirates (Yordan Gunawan, "Penegakan Hukum Terhadap Pembajakan di Laut Melalui Yurisdiksi Mahkamah Pidana Internasional", *Media Hukum*, Vol. 19 No. 1, (June 2012): 74) There are also several other factors such as high costs, remote locations that require bringing evidence to the court, difficulties in presenting witnesses, and difficulties in language.

According to the theory of international legal relations and national law, there are two streams regarding the application of international law, namely monism and dualism. Monism views that national law and international law are two parts of a larger unit, namely the laws that govern human life. As a result of this view, there is a hierarchical

relationship between international law and national law, so that this flow is divided into a monism school primat international law and a school of monism primat national law. (Op.cit). Dualism views that international law and national law are two different laws and stand alone from one another (Op.cit.). As a result, to apply international law to national law, a transformation into national law is required.

Based on the theory of international legal relations and national law previously described, there are differences in state attitudes in enacting international law. This is the basis of the legal vacuum, where in the dualism stream it is necessary to transform international law into national law, whereas not all countries transform UNCLOS 1982 law into their national law. Deservedly states. This makes the provisions of this national law regarding piracy, because piracy has been recognized as the enemy of all mankind. This is so that there is no longer a culture of impunity in cases of marine piracy.

Indonesia as a sovereign country has the right to use its jurisdiction because piracy is a crime that has been recognized by the international community as an international issue, so that universal principles apply to these crimes, Article 4 of the Criminal Code states that criminal provisions in Indonesian legislation apply to anyone outside Indonesia committed crimes including sea piracy as stipulated in articles 438,444 to 446 KUHP (Criminal Code) and Indonesia has the right to prosecute the perpetrators of this crime, so that Indonesia not only protects their own interests, but also the interests of the entire country, especially MV ship.Sinar Kudus is an Indonesian flagged ship where there is a passive nationality principle that Indonesia can also apply in this case.

Regulating piracy into national law is not sufficient to eliminate this culture of impunity. In fact, even though there are national arrangements in each country, this comes back with the political will of each country itself. At present most of the actions of the state are to leave the perpetrators alone as long as the pirates do not interfere with their interests. Indonesia chooses not to prosecute the perpetrators of Somali piracy because it considers the safety of the next merchant ship, where Indonesia has not been able to conduct patrols or assistance to merchant ships crossing piracy-prone waters.

### **3.2. Government Preventive Measures in Protecting Indonesian-Flagged Ships in Foreign Territory Waters that are Prone to Armed Robbery**

Two Indonesian-flagged ships carrying coal were hijacked by the Abu Sayyaf group in the Tawi-tawi waters of the Philippines on March 26, 2017. Ten Indonesian citizens were also held hostage due to the hijacking of the tug Brahma 12 and the Barge 12 ship

carrying 7,000 tons of coal. When hijacked, the two ships were on their way from Sungai Puting, South Kalimantan, to Batangas, Southern Philippines. Piracy that occurs in Tawitawi waters is known as sea/armed robbery, for this crime which has jurisdiction to judge is the country where the crime was committed, namely the Philippines, so that Indonesia cannot interfere in the process of arresting or prosecuting the perpetrators of the piracy. all Indonesia can do is carry out diplomacy with the Philippine government to ensure its citizens are in good condition. Before the piracy case in the Sulu Sea, the Malacca Strait was a waters prone to piracy, so to overcome this the government collaborated with Malaysia and Singapore. The coastal states had actually been working together since the early 1970s through various consultations between the three countries, such as the agreement between the three coastal states to regulate the two straits (Malacca and Singapore) as one strait in 1971, and the formation of an important cooperation platform was also created in 1975 namely the Tripartite Technical Experts Group (TTEG).

Under the UNCLOS 1982 sea law, the three coastal states played an active role in negotiating forms of security cooperation, apart from creating a TTEG, the emergence of coordination initiatives regarding navigation and environmental safety in the Malacca Strait in the form of meetings that created new agreements and committees such as the Co-operative Mechanism that was born from an important meeting on the security of the Malacca Strait held in 2005 in Singapore which was attended by the three foreign ministers of the coastal state. The diversity of forms of agreement and committee cooperation affects the smoothness of the security process and its implementation to create a strait that is free of lawbreakers and other criminals.

The Tripartite Technical Experts Group (TTEG) was originally formed through a formal Joint Statement between the three coastal states in 1977 through the signing of a navigation safety agreement. TTEG consists of maritime administration experts from the three coastal countries of Indonesia, Malaysia and Singapore, who meet annually to discuss and collaborate on issues with the aim of advancing navigation security and protection of the maritime environment, as well as other traffic issues that occur in the Strait. malacca. Co-operative Mechanism is a cooperative mechanism created for coastal states and strait users in order to strengthen crime security, navigation, and environmental protection in the Malacca Strait. This cooperative mechanism is the only way for coastal states responsible for strait security to cooperate with shareholders and other shipping industry entrepreneurs. This framework becomes a way for business people involved in the Malacca Strait to help safeguard the strait, because their "interests" in the strait are also quite large, concerns about increasing criminality in the strait are the main concern of this cooperation mechanism. Although the responsibility

for strait security is borne by the three coastal states, this mechanism paves the way for users or non-users even though the assistance they provide is limited to funding, technology provision, and others, the security operational process is still an active role for Indonesia, Malaysia and Singapore.

In response to the growth of criminal acts in the Malacca Strait, Indonesia, Malaysia and Singapore directed collaborative efforts to eradicate crime issues with the MALSINDO operation. A joint three-nation operation involving the coordination of maritime patrols for each of the coastal states. The beginning of the collaboration of 17 naval vessels from three countries changed the criminal movement of the strait and at the same time drastically increased security. In this coordinated patrol activity, each coastal state Navy includes about 5-7 warships, in addition to that a 24-hour hot line communication is alerted to exchange information and reports, especially to accelerate the action of repression from patrol elements in the event of a disturbance. or the threat in the waters of the Malacca Strait.

Reflecting on the cargo ship Maersk Alabama, a US-flagged ship crashed by Somali pirates in the Gulf of Aden. The ship was carrying groceries ordered by the United Nations Food Aid Organization. Richard Phillips is the captain of the Maersk Alabama cargo who was taken hostage by Somali pirates on April 8, 2009. In accordance with ship safety procedures if hijacked, the crew immediately goes to a "safe room", which only the captain and crew know about. The crew also turned off the engine, so that the cargo ship could not run. Phillips even had time to confuse communication signals and radar. As a result, the ship could not be tracked by other pirates waiting on the "aircraft carrier" or on the coast, so the crew of the Maersk Alabama ship survived the pirates, except for the captain who did not have time to enter the safe room.

Paban V Srenal Marine Colonel Taufiq Arif (Interview with Paban V Srenal Colonel Laut Mr. Taufiq Arif, on 18 15 October in Cibubur) Indonesia prefers to recommend merchant ships to complete communication requirements or documents that have become international standards, because basically complying with these international SOPs is enough to secure ships from piracy. The steps taken by the government after the tugboat Brahma 12 and the barge Anand 12 were to strengthen regional cooperation between the three countries, namely Indonesia, Malaysia and the Philippines in securing border waters and surrounding areas. In overcoming the problem of robbery and hostage-taking in Philippine waters, especially the robbery and hostage-taking of Indonesian-flagged ships and crew, cooperation is needed between Indonesia and the Philippines involving the militaries of the two countries. Some of the collaborations that are directly or indirectly related to combating piracy between Indonesia and the

Philippines are the Philippines-Indonesia Coordinated Patrol (Patkor Philindo) carried out by the Indonesian National Armed Forces (TNI AL) and the Republic Philippine Navy/RPN in the sea border waters of the two countries which aims to secure the maritime borders of each country. This Patkor is implemented temporarily and only 1 (once) a year with a duration of 20 days and does not yet have Standard Operating Procedures (SOP) as a guideline for elements in the field in implementing the Patkor. One of the bases for this Patkor collaboration is Law of the Republic of Indonesia Number 20 of 2007 dated April 10 concerning the ratification of the agreement between the Government of the Republic of Indonesia and the Government of the Republic of the Philippines regarding cooperation activities in the defense and security sector. With the coordination patrol between the Philippines, Indonesia and Malaysia, each country patrols its respective regions or jurisdictions, so to support this program it is necessary to add additional defense equipment in the form of additional warships involved in protecting the waters of the Indonesia-Philippines border, then for the sake of achieving this. efficiency is necessary to add or build base facilities and infrastructure as a support for marine power, especially supporting 4R (Refueling, Repair, Recreation and Rest) battleships. The construction of base facilities and infrastructure is part of the framework of upholding the country's sovereignty at sea by means of state defense and deterrence, preparing forces for war preparations, warding off any military threats by sea, and maintaining regional security stability. The Coordinated Patrol Cooperation between Indonesia and the Philippines (Philindo) which is carried out annually by the Indonesian Navy and the Republic of the Philippines Navy (RPN) is able to maintain good relations between the two countries. The waters of the Indonesia-Philippines-Malaysia border, especially around the waters of the Sulu Archipelago, are still vulnerable to piracy threats by the Abu Sayaf group because there are still limitations, namely; 1) The allocation of forces involved in securing the Indonesia – Philippines border is not based on the number of personnel, but based on the allocation of warships (KRI) which are faced with the length of the waters of the Indonesia – Philippines border. 2) The operational area that is currently carried out in Patkor Philindo is around 120 Nm (only 1/5 of the 600 Nm long border waters of the two countries) yet to cover all the waters of the Indonesia – Philippines border. 3) Standard Operating Procedure – SOP is needed by implementing elements in the field, because it serves as a guide in implementing Patkor in the waters of the Indonesia – Philippines border. In the end an agreement was reached to start a maritime patrol cooperation between the three countries. The agreement began with the inauguration of the use of MCC (Maritime Command Control) and the launching of the TMP Indomalphi in Tarakan on June 19, 2017. This form of cooperation will later

be integrated with patrols and ground exercises using mechanisms that have been coordinated and prepared in advance. This activity becomes a comprehensive role model to provide security guarantees for traffic users such as fishermen, transportation and exploration of marine wealth in the Sulu Sea area. (M. Atik Fajarudin. "Indonesia, the Philippines, and Malaysia Agree to Form Maritime Patrol", <https://nasional.sindonews.com/read/1247767/14/indonesia-philippines-and-malaysia-agreedto-form-patro>). Article 111 UNCLOS 1982 regulates the Right to Instant Chase (Hot Pursuit), which is a principle designed to ensure that ships that have violated the rules of the coastal state cannot escape punishment by fleeing to the high seas. This means that under certain conditions defined the coastal state can extend its jurisdiction to the high seas to pursue and detain a ship suspected of breaking its law. The regulation regarding the right to hot pursuit was designed by the League of Nations at that time to enforce the law for crimes against maritime piracy. The existence of coordinated patrols and the right of instant chase from UNCLOS will narrow the space for these perpetrators of piracy and armed robbery.

#### 4. Conclusion

Preventive measures taken by the government in protecting Indonesian-flagged ships in territorial waters that are prone to armed robbery are to coordinate with other countries to provide maritime protection and security in their respective territories, synergize the agencies involved in maintaining maritime security, complete all documents and ship components in accordance with the SOLAS Convention. In addition, in preventing armed robbery in the territorial waters of Indonesia, the Philippines and Malaysia have conducted coordinated patrols in their respective territories or jurisdictions.

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