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INDONESIAN SOVEREIGNTY AGAINST THREAT FOREIGN SHIPS IN MAINTAIN FOOD SECURITY: LEGAL PERSPECTIVE

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Abstract
Sovereignty represents the highest authority held by a state, encompassing its ability to engage in foreign relations and other functions that demonstrate its autonomy. In Indonesia, the maritime domain is vital to the national economy. Consequently, threats posed by foreign vessels—such as violations of innocent and archipelagic passage rights and incidents of illegal fishing, notably in the Malacca Strait in September 2021—raise sovereignty concerns. This study aims to analyze how such threats impact Indonesia's sovereignty in the context of maintaining food security. Utilizing normative legal research, this study draws upon statutory sources and academically credible literature. The findings indicate that, despite the presence of regulatory frameworks such as Law No. 32/2014 on Maritime Affairs, Law No. 31/2004 on Fisheries, and Law No. 17/2008 on Shipping, the enactment of Law No. 11/2020 on Job Creation has inadvertently facilitated greater access for foreign vessels to operate in Indonesian waters.

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I. INTRODUCTION

A nation is an independent entity. This statement suggests that the nation is in a position of absolute power. Many misconceptions have arisen as a result of this notion of state sovereignty as the ultimate authority. The state's apparent abuse of its supreme authority is a violation of international law, especially when it comes to international relations. Furthermore, a nation holding the greatest power cannot be bound by international law if it does not acknowledge the existence of a power greater than itself. Stated differently, a nation's sovereignty refers to its absolute authority to engage in any activity that serves its interests and does not violate international law (Kusumaatmadja & Etty, 2003).

Traditional state sovereignty has eroded or is no longer appropriate with the times (Schrijver, 1997). This is because state sovereignty has undergone significant changes in the international legal framework which substantially limits the scope of matters within the country's domestic jurisdiction. This condition of sovereignty was also emphasized by Adolf (2015), who argued that the excessive use of sovereignty was no longer appropriate or today's sovereignty is increasingly limited. Understanding of sovereignty should not be excessive because state sovereignty has a close

relationship with international economic law. In general, the contents of international economic agreements lead to a bilateral, regional, and global commercial system. The agreement's provisions generally include state attempts to promote a barrier-free and mutually beneficial economic system. Such an arrangement violated the state's territorial borders. Countries decided to loosen national borders in order to promote the entry and exit of products and services in the interest of commerce and economic prosperity.

The limited scope of sovereignty in international law has a rationale. According to scholar Jean Bodin, the idea of sovereignty in contemporary western legal and political philosophy moved from worries about the state's internal constitutional framework to elements of internal state sovereignty. Because of this, a large number of legal professionals agree that sovereignty is not an absolute value and that it can cede to other values, such as the right to intervene when human rights are violated, regardless of the issue of legal principles relating to sovereignty (Shan et al, 2008).

The rule of international law provides a variety of benefits, including reducing transaction costs for entering into agreements with other entities, facilitating participation in international organizations, expanding diplomatic immunity, and establishing special legal protections. Because the sovereignty of international law is an accepted text and widely recognized, this makes it easy to organize support from both internal and external sources. International legal sovereignty and international recognition can signal to the constitution that a regime and its rulers are more likely to be maintained, especially in countries with weak domestic sovereignty (Krasner, 1999).

Ultimately, it is possible to identify the notion of state sovereignty in the contemporary international society. Rather than being a "insular" or constrained and restricted idea, sovereignty is relational and open. Rebuilding state sovereignty within the existing international system's framework of interdependence between nations requires a visionary discourse. It is necessary to understand state sovereignty as the province of national authority. In this situation, the state must answer to the world community for its mandate and act as an agent and manifestation of people's sovereignty, upholding, respecting, and ensuring the rights of its citizens (Riyanto, 2012).

Sovereignty, said simply, is the highest authority that is exclusive to the state. In contrast to other subjects of international law, the state is thus also referred to as a subject of international law par excellence. The ability of a state to establish state institutions and enact laws (national law) that govern its territory is referred to as sovereignty. The state's ability to manage international relations and take other acts as a means of exhibiting its sovereignty is also reflected in its sovereignty.

The biggest archipelagic nation in the world, Indonesia is made up of around 18,306 large and small islands with a sea area of 5.8 million km2 and a coastline of about 95,181 km2 including the Indonesian Exclusive Economic Zone (Salmon, 2013). It also has a strategic location which is located between two oceans with two continents, thus making the Indonesian sea area a sea lane that has a very important role for national and international shipping traffic lanes (Kadar, 2015).

In addition to geographic benefits, the sea area has a potential for natural resources that include both biological and non-biological resources that are crucial to the community's survival. The seafloor and subsoil, the water column, and the sea level—including coastal regions and tiny islands—all have the capacity to yield this resource. It makes perfect sense to base national economic development on the marine economy (Explanation of the Law of the Republic of Indonesia Number 32 of 2014 concerning Maritime Affairs).

The economic potential of the seabed can increase the acquisition of oil energy resources such as offshore oil drilling carried out by the Pertamina company one of Indonesia's state companies (Muliawati, 2022). The global economy may weather medium-term price shocks and crises by optimizing natural resources, such as islands and oceans (Rochwulaningsih et al, 2019). Furthermore, the economic potential at sea level may resemble that of shipping and maritime transportation, as shipping, particularly in inland seas, is among the most traditional means of market access for people and/or commodities that is both cost-effective and environmentally responsible (Amanda et al, 2020).

The Coordinating Minister for Maritime Affairs, Luhut Binsar Panjaitan, said that understanding the threats that Indonesia faces, including foreign challenges, is a challenge for the country's maritime development in the round table discussion activity titled "Round table discussion a long-term study with the theme of developing national defense forces in the context of the world's maritime axis for the national interest (LEMHANAS RI, 2019). Examples include the closing of the Sunda and Malacca Straits, the Lusitania Expresso in 1992, the enforcement of the law prohibiting the use of the right of innocent passage by ferries flying the Portuguese flag, the use of the Indonesian archipelagic sea lanes by the United States fighter fleet, which resulted in the Bawean Incident, and the ramifications of opening those sea lanes to international shipping in violation of Article 27 of the San Remo Manual, which states that in a state of war, these sea lanes must be converted into neutralized areas (Kusumaatmadja, 1978).

Due to several foreign ships being discovered to be in violation of both the right of innocent passage and the right of archipelagic passage, there is an additional urgency for challenges from outside the Indonesian archipelagic sea lanes (Hattu, 2021). In September 2021, there were several foreign ships from Malaysia that had committed illegal fishing in the Malacca Strait, Indonesian waters (Suwarsono, 2021). Given the issues, the sovereignty of the Indonesian state against the threat of foreign ships is questioned.

II. RESEARCH METHOD

This study employed normative legal research methodology. Numerous methodologies can be applied jointly, singly, or independently in normative legal research, depending on the topics or challenges being addressed. These methods include the statutory approach, which looks at legal goods, and the political approach, which looks at how political elites formulate policy and how the public is involved in the creation and application of different laws. a historical method, that is, investigating or analyzing the evolution of legal goods via the lens of historical facts or periodization sequences.

III. RESULT AND DISSCUSSION

3.1. The Urgency of the Existence of Foreign Ships against Indonesian Maritime Security Threats

Indonesia has 17,504 islands with a long coastline of 108,000 km2 and is surrounded by an area of water that reaches 6,400,000 km2 and a land area of 1,900,000 km2. Means that Indonesia is an archipelagic country in which 2/3 of the entire territory of the Unitary State of the Republic of Indonesia consists of waters and based on its geographical location, Indonesian waters are one of the tropical waters areas that have high natural carrying capacity with mega biodiversity capabilities, so this condition will certainly attract the desire countries or other interested parties to try to manage it legally or illegally, which in its use can harm and endanger the maritime environment (Utomo, 2020).

Fishery is a sector that has the potential to generate foreign exchange in this country. Likewise with the Indonesian Sea, it contains enormous and varied economic potential and development capital. If it is optimal in the utilization of marine resources, then this potential will be able to make a major contribution to the welfare of the people in this country. Even though the GDP of fisheries is still small, its contribution to national GDP continues to increase from 2.8% in 2008 to 3.2% in 2013. In addition, during 2010-2012, the growth was always above 6% (Zulkarmain et al, 2013). Besides being rich in various types of fish, the seabed of the region holds thousands of minerals. With a strategic position, Indonesia's sea area is part of the world's sea transportation routes and also has great potential for the development of marine tourism.

The territory of Indonesia is a crossroads for ships from the western world wishing to go east and ships from the eastern world wishing to go west. In addition, the Policy to form Indonesian Archipelagic Sea Lanes (ALKI) makes Indonesia an 'open' country. Until now, various foreign shipping lines and flights are freely passing through Indonesian territory. Security threats to the three ALKI routes are a challenge for the Indonesian government in pursuing the ideals of the maritime axis (Rustam, 2016).

Indonesia's marine territory has a significant impact on land security; if maritime security is improved, all illicit activities will be monitored at sea to prevent them from reaching the mainland. Its state also leaves it open to attacks from those looking to profit from Indonesia's abundant marine

resources. In Indonesia, illicit fishing by foreign ships is considered a maritime crime. Furthermore, the abundance of undocumented immigrants from South and Middle Eastern nations that enter Indonesian waters in search of political asylum for Australia has also caused disruptions to maritime security. Along with the influx of illegal immigration, additional problems including infectious diseases, the smuggling of commodities, people, and drugs, including those connected to terrorist organizations, also follow. The problem of piracy and pirates is another security concern that jeopardizes Indonesia's marine security (Prahenti, 2013).

It is anticipated that as economic activity in Indonesian waterways increases, so too will the threat of maritime crime in the country. Furthermore, with Asia's population growing, the World Trade Center will in the future be primarily focused on the Asian region. These threats not only have an effect on Indonesia's economic progress but also on the country's reputation abroad. With the echo of the World Maritime Axis vision, Indonesia must start to improve in order to establish safe waters for everyone. Of course, maritime security is a priority if this goal is to come to pass (Anugerah, 2017).

As a result, one of the main priorities of any Indonesian administration is maritime security policy. Making Indonesia the global maritime axis is one of the administration Jokowi's objectives. The goal of Indonesia's attempts to build its marine economy is to bring wealth to the Indonesian people, in line with its declaration as a World marine Axis. Indonesia has lost a great deal of economic possibilities thus far. More precisely, the government is attempting to improve affordability and connection across Indonesian islands through the Maritime Axis concept. Equal distribution of economic development and the establishment of maritime security in Indonesia are the ultimate goals of this link (Syahrin, 2018).

Since maritime security is only a minor portion of national security, how maritime security is implemented in national policy depends on how national security is conducted in that nation. Between conventional and non-traditional security frameworks is where the idea of marine security is located. While non-traditional frameworks tend to broaden the security range of the reference object so that the security issues studied are more than just threats to state sovereignty and identity, such as ethnicity, race, and intergroupism, maritime security violations are regarded as threats to state sovereignty and identity under the traditional security framework. (SARA), resources, environment, migration, and economy (Nugraha & Sudirman, 2016).

In order to guarantee the fulfillment of Indonesia's national interests, maritime security requires that there be no challenges to the country's territorial sovereignty and that national and international law be upheld. Threats to the environment and marine resources, threats to law enforcement, threats to navigational hazards, and threats of violence are some examples of these dangers. Due to the intricate and ever-changing nature of maritime threats, all stakeholders, including law enforcement agencies, must play a part in maritime security. The reduction or elimination of

sectoral ego is necessary to achieve marine security as it will impede collaborative efforts. Five fundamental components make up maritime security: Indonesia's proactive role in preserving regional security; national interest (sovereignty & legal aspects) in the sea; safe and peaceful use of the sea; law enforcement that is not restricted by physical territorial boundaries; and the requirement for cooperation from national components.

3.2. Sovereignty in the Indonesian Economic Legal System

Since references to sovereignty convey concepts that take into consideration what needs to be taken into account, true sovereignty always seizes its sovereignty. This is because sovereignty might have implications that include principles like self-determination, non-intervention, and so on. Three categories—territorial, internal, and external—comprise the various factors that must be taken into account while determining sovereignty. The following three aspects are mentioned (Kelsen, 2006):

1. The freedom to choose one's relationships with different nations or groups of people without interference or oversight from other nations is the exterior component of sovereignty. The term "state independence" refers to this external aspect of sovereignty, which is the attribute of a state having the same standing in relation to other states;
2. Internal aspects of sovereignty, which are the exclusive rights or authority of the state to determine the structures and operations of its institutions as well as the right to enact desired regulations and take actions to comply with them;
3. The territorial aspect of sovereignty, which is the total and exclusive power of the state over people and things within its territory.

Sovereignty is a political concept, however, unlike the concepts of democracy or monarchy; sovereignty is not about where power resides. Sovereignty is not the same as parliament or bureaucracy, because sovereignty does not describe the institutions that exercise power. Sovereignty also cannot be equated with legal order or justice because sovereignty does not describe the purpose of the exercise of power. Sovereignty is one thing and covers many things (Sheehan, 2006).

Sovereignty has negative and positive meanings. The positive meaning in question is that sovereignty gives to its titular, that is, the state, authority over its citizens, and sovereignty gives the state the authority to exploit natural resources in its territory for the welfare of its citizens, which is permanent sovereignty over its natural resources, while the negative meaning in question is that the state is not subject to the provisions of international law, which have a higher status, and the state is not subject to any power from wherever it comes without the consent of the state.

Article 33 of the 1945 Constitution of the Republic of Indonesia governs the authority of the Indonesian state over the domestic economy. The economy was set up prior to the amendments as a joint venture founded on the principle of kinship; the state controlled the production branches that were vital to the state and governed the lives of a large number of people; the land, the water, and the

natural resources within it were under state control and utilized for the maximum benefit of the populace.

This is inextricably linked to the intellectual heritage of the economists who established the country and drafted the economic provisions featured in the Republic of Indonesian Constitution. The central idea of Mohamad Hatta's books Planned Economy (1971) and Guided Economy (1959) is that the state should manage the market through planning and policy. Philosophically speaking, this idea's structure is similar to that of European welfare state theorists, where Hatta studied economics (Rachbini et al, 2017).

All political, social, and cultural activities should be based on the concept found in Alenia IV of the Preamble to the 1945 Constitution of the Republic of Indonesia, with the 1945 Constitution serving as its constitutional foundation. The Republic of Indonesia's 1945 Constitution, which includes the concept of a welfare state that has expanded and developed as a result of socialism, can also be referred to as an economic constitution in addition to being a public one. Article 33 of the Republic of Indonesia's 1945 Constitution describes the structure of a welfare state.

In addition to being an economic system, the national economy as defined by Article 33 of the 1945 Constitution of the Republic of Indonesia also has the capacity to actualize social welfare. This is the Indonesian economic system. General welfare or the welfare of all Indonesians are other terms for social welfare. The Republic of Indonesia's 1945 Constitution characterizes the Indonesian state as a welfare state in Article 33.

This aligns with the national principles of Indonesia as stated in the Republic of Indonesia's 1945 Constitution, both prior to and following the amendment. As a developing nation, Indonesia aims to create a just and prosperous society. To this end, national development is necessary, as stated in Alenia IV of the Preamble to the Constitution of the Republic of Indonesia, which protects the entire Indonesian nation and all of Indonesia's bloodshed in order to advance general welfare, educate the nation's population, and implement world order based on independence, eternal peace, and social justice. The welfare state theory was chosen as the main theory in this framework of thought.

Article 33 of the 1945 Constitution of the Republic of Indonesia describes the structure of the Indonesian national economy as a joint venture based on the principle of kinship. It also states that the land, water, and natural resources within the country are controlled by the state and used for the maximum prosperity of the populace, as well as the production branches that are significant to the state and control the lives of many people. The principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and maintaining a balance between progress and economic unity form the basis of economic democracy, which organizes the nation's economy. Additional regulations governing the application of this article are found in the relevant laws.

3.3. The Influence of International Trade on the Direction of the Indonesian Economic System

International trade has a significant influence on the direction of the Indonesian economic system. This is because international trade allows Indonesia to access global markets, sell its products worldwide, and obtain the resources and raw materials needed in the production process. One of the positive effects of international trade is an increase in the Indonesian economy. By increasing the volume of trade from exports and imports, Indonesia can boost different economic sectors such as agriculture, fishing, mining, manufacturing and services, thereby creating jobs and driving economic growth.

Article 33 of the 1945 Constitution regulates five articles that together comprise the National Economy and the state's endeavors to make all Indonesians prosperous following the most recent modification. These five articles form the foundation of the Indonesian economy and are interconnected. The economy is organized as a joint venture based on the principle of kinship, and the state controls the production branches that are significant to the state and have an impact on the general well-being of the populace. The state controls the land, water, and natural resources found therein, to be used for the maximum benefit of the populace. The principles of togetherness, fair efficiency, environmental insight, and independence form the basis of economic democracy, which organizes the national economy. Additionally, national economic unity is maintained by maintaining a balance of progress, and further regulations pertaining to implementation are regulated by law.

To address the Ratification of the Agreement on Establishing the World Trade Organization, Law No. 7 of 1994 was released. The state implements national development, particularly in the economic sphere, by building, broadening, and safeguarding markets for all goods and services, including trade-related aspects of investment and intellectual property rights, and by boosting competitiveness, particularly in international trade. Whether international, regional, or bilateral, the exclusive rights that the participants to the free trade agreement have acquired are made up of two kinds of rights and two sides of a coin. The two categories of rights are the right to exploit resources, the right to enter foreign markets for trade, and the right to defend the country against the harmful excesses of global trade (Widayanto, 2013).

Economic experts such as Smith in Aprita and Adhitya state that international trade can be carried out through international division of labor or international division of labor with the aim that a country can produce goods at a lower cost than other countries so that the country's trade can gain an absolute advantage. In addition, international specialization and production efficiency must be carried out through the import of goods by a country if domestic production is inefficient or less profitable, in order to gain an absolute advantage.

International trade can also be referred to as a free state ideology which can be defined as an ideology that seeks to eliminate various trade barriers, both tariff barriers, and non-tariff barriers (Wijatno & Gunadi, 2014), protectionism can be expressed as an ideology that prioritizes isolation

policies or government policies of a country in order to help the interests of a group of business actors promote national identity and develop domestic industries that are detrimental to free trade.

One of the main ideas of World Trade Organization (WTO) law and policy is non-discrimination. WTO law is based on two primary non-discrimination principles: the duty to treat nations equally and the duty to treat the Most-Favorable-Nation (MFN) countries. To put it simply, discrimination against other countries is prohibited by the national treatment obligation, whereas discrimination between countries is prohibited by the MFN treatment obligation.

Article I, which deals with the requirement to treat MFN, and Article III, which deals with the obligation to treat domestically, are the primary sections of the General Agreement on Tariffs and Trade (GATT 1994) that govern non-discrimination in trade in products. While Article II of the General Agreement on Trade in Services (GATS), which addresses the requirement to treat MFN, and Article XVII of the GATS, which addresses the obligation to treat domestically, are the primary non-discrimination clauses. This implies that the State of Indonesia's national policy must promote international trade as a result of its membership in the WTO.

International trade which is part of globalization can have an influence on the development of Indonesian economic law, one of which is globalization and economic liberalization are accepted outright without being critical and without considering the positive and negative consequences for the Indonesian State so that economic globalization is not something that cannot be controlled. , amended or even terminated (Prabowo, 2015), so that the influence of globalization can cause state sovereignty to be neglected, and state power to weaken along with the state's surrender to international institutions such as the WTO with its free market (Waluyo et al, 2019).

The Government may now develop strategies to prepare for future international agreements thanks to the enactment of Law No. 25 of 2007 concerning Investment. This law is also being released in order to promote further international cooperation and expand the market potential for Indonesian goods and services both regionally and globally. Apart from the implications that international organizations have on its rules, the law has ensured legal certainty for both foreign and domestic investments.

Indonesia as a sovereign nation with an economic democracy system founded on Pancasila and Article 33 of the 1945 Constitution, needs to be able to adapt to the current globalization and liberalization era in order to participate in international trade and investment. However, the desire to attract foreign investment, particularly in the area of mining resource management, continues to undermine the nation's economic sovereignty in the mineral and coal mining resource sectors.

The Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia Number 5 of 2021 concerning Standards for Business Activities and Products in the Implementation of Licensing Risk-Based Business in the Energy and Mineral Resources sector demonstrates the

limited capital owned by a country receiving capital, as evidenced by the existence of foreign investment that is still required in the mineral and coal mining sector.

The conditions for the existence of foreign investment which is very important for the economy of the State of Indonesia, especially in the mineral and coal mining sector also occur in the State of Ghana. This is as disclosed by Tienhaara, who explained that international agreements, national laws, and state contracts regarding mineral investment cases and environmental regulations in his country have offered protection to investments (Tienhaara, 2006). Externally, this challenge is faced with a situation of increasingly sharp economic competition between countries due to the increasingly rapid and expanding process of globalization. The base of economic power still relies heavily on cheap labor wages and exports of raw materials from the exploitation of non-renewable natural resources.

Regarding the course of Indonesia's economic policy, Law Number 17 of 2007 concerning the 2005–2025 Long-Term Development Plan clarifies that legal development is achieved by updating legal materials while accounting for the diversity of the dominant legal order and the impact of globalization. This is done in an effort to improve legal certainty and protection, law enforcement and human rights, legal awareness, and legal services with the fundamentals of justice and truth, order and prosperity within the framework of managing a more orderly, orderly, seamless, and globally competitive nation.

Furthermore, because trade and investment policies have associated objectives to industrial policies, they must be integrated to promote global competitiveness. The goals of trade policy are to develop the image of domestic products of international quality, bolster an effective domestic trade system, fortify the country's position in various regional and international trade forums, and support an efficient distribution network that facilitates both the integration of the domestic market with the global market. Furthermore, investments are meant to boost the business environment by facilitating relevant rules and creating a range of incentive packages that are carefully thought out and oriented toward making industrial products more competitive.

The Government of Indonesia's long-term development plan has taken into account the significance of world power in order to make trade and investment policies more favorable to foreigners. This is evident in the Government of Indonesia's policy, which aims to boost investment and facilitate corporate operations in the country by implementing Law No. 11 of 2020 concerning Job Creation. The enactment of this law represents a breakthrough for the Indonesian government in streamlining the legal framework to boost commercial activity, investment, and employment—even if it was implemented during the Covid-19 pandemic.

3.4. Indonesia's Economic Policy after the Issuance of Law Number 11 of 2020 Concerning Job Indonesian Fisheries, Maritime & Shipping Sector

The purpose of Law No. 11 of 2020 concerning Job Creation is to make it easier to create jobs by supporting, defending, and empowering micro, small, and medium-sized businesses and cooperatives. It also aims to improve the investment ecosystem and make it easier to conduct business in the face of competition and the demands of globalization. Making changes to various regulatory aspects related to enhancing the investment ecosystem and facilitating and expediting national strategic projects that are focused on national interests based on national science and technology and guided by the Pancasila ideology are among the goals of Law No. 11 of 2020 concerning Job Creation.

The Omnibus Law method, put forth by President of the Republic of Indonesia Joko Widodo to make a law that revokes and/or changes multiple provisions of the law at once in an effort to simplify laws and regulations, is inextricably linked to the existence of Law No. 11 of 2020 concerning Job Creation (Ihsanudin, 2020).

Conventional common law nations frequently employ the omnibus legislation approach. The United States of America is one common law nation that employs the omnibus law approach (IOJI Team, 2020). The Latin word "omnis" means "every" or "all," or more accurately, "all, every, the whole, of every kind," and this is where the name "omnibus" originates. The phrase "omnibus bill" has the following definitions according to the most recent edition of Black's Law Dictionary, 10th Edition: (1) A single bill covering multiple distinct topics, usually drafted to compel the executive to veto the major provisions or accept all the unrelated minor provisions; and (2) A bill that addresses all proposals pertaining to a specific subject, like a "omnibus judgeship bill" that addresses all proposals for new judgeships or a "omnibus crime bill" that addresses various topics like new crimes and grants to states for crime control.

The idea of the omnibus bill, which unifies Indonesian laws and regulations, protects regional leaders who wish to innovate and spur investment and economic growth. Law Number 15 of 2019 concerning the Formation of Legislation governs the application of the omnibus law concept in Indonesia as well as the country's hierarchical system of laws and regulations. This law is not a Basic Law but rather an Act that is equivalent to other laws in which all or some of the provisions are changed or removed by creating new norms (Fitriyantica, 2019). Although the Law of the Republic of Indonesia Number 12 of 2011 About the Formation of Legislation does not restrict the grounds for making an omnibus law, this is because omnibus laws are narrated as laws in the Indonesian context.

Legal simplification through Law no. 11 of 2020 concerning Job Creation, carried out in several sectors, namely: Agriculture, Education, Health, Medicine & Food, Maritime Affairs & Fisheries, Energy & Mineral Resources, Transportation, PUPR, Postal Trade, Telecommunications & Broadcasting, Tourism, Defense & Security, Forestry, Nuclear Energy, Religious Industry with a total of 46 laws.

Law Number 32 of 2014 concerning Maritime Affairs (Law No. 32 of 2014 concerning Maritime Affairs) was created to regulate maritime affairs with the purpose of confirming Indonesia's status as an archipelagic nation with an archipelago and maritime characteristics; utilizing marine resources and/or activities in the sea area in accordance with provisions, laws, regulations, and international law of the sea for the sake of achieving the prosperity of the nation and the State; realizing a safe and sustainable sea as a space for the Indonesian people's struggle; using marine resources sustainably to maximize prosperity for the current generation without jeopardizing the interests of future generations; and developing professional human resources in the marine sector, as an archipelagic nation, ethical, committed, and capable of putting the interests of the country first when supporting optimal and integrated maritime development, ensuring legal certainty and benefits for all citizens, and expanding the State of the Republic of Indonesia's role in the international maritime arena in compliance with international maritime law for the benefit of both the state and the country.

The following principles are also used to marine administration: transparency, decentralization, accountability, justice, partnership, equity, sustainability, consistency, integration, and legal clarity. Sea area, marine development, marine management, marine space management, protection of the marine environment, defense, security, law enforcement, maritime safety, governance, institutions, and community involvement are all included in the scope of regulation in marine administration.

In fact, problems were found related to regulatory disharmony of Law No. 32 of 2014 concerning Maritime based on analysis and evaluation using guidelines for evaluating statutory regulations, namely, there are differences in arrangements where the Job Creation Law states that marine spatial planning is an integral part of the national spatial layout. In addition, the Job Creation Law also regulates new provisions that allow the Central Government to issue Business Permits for utilization at sea which is part of a strategic national policy.

More specifically in the marine sector, seven Articles have been amended, namely Article 1, Article 32, Article 42, Article 43, Article 47, Article 48, and Article 49. Besides, there has been the addition of three Articles, namely Article 47 A, Article 49 A, and Article 49 B, and several changes which are divided into clusters such as permits, spatial planning, and zoning, sanctions provisions, reduction of the authority/role of the Regional Government, withdrawal of authority from the minister to the central government, community involvement, foreign investment or foreign-owned businesses, provisions for small fishermen, and other obligations.

Law Number 31 of 2004 about Fisheries has also undergone changes. Policy changes have resulted in the requirement for fishing vessels flying foreign flags to have a Fishing Permit (SIPI), particularly with relation to the ease of licensing for foreign vessels as stated in Article 27 Paragraph (2) of Law No. 31 of 2004 regulating Fisheries. This paragraph has been amended to conform to

Central Government business permits and Article 28 Paragraph 2 of Law No. 31 of 2004 concerning Fisheries, which deals with the transfer of fishing vessels. Furthermore, in order to fulfill the requirements of the Central Government's Business Permit, fishing vessels flying foreign flags that transport fish within the Indonesian fishery management area are required to obtain a Fish Transport Vessel Permit (SIKPI). It is argued that non-specific permission changes, whether either verbally or in writing, are made for the Indonesian Central Government's convenience and are harmful to Indonesian national vessels while being extremely advantageous for foreign parties.

Law Number 17 of 2008 about Shipping establishes the economic sovereignty of Indonesia in the shipping industry. The formation of Law No. 17 of 2008 governing shipping is an attempt to accomplish national objectives grounded in Pancasila and the 1945 Constitution through legal politics. A national transportation infrastructure is required to assist economic growth, regional development, and the establishment of national sovereignty in order to realize the archipelago's insight and to improve national resilience. Furthermore, shipping is a component of the national transportation system that needs to have its potential and role developed in order to realize an efficient and effective transportation system and to aid in the creation of a national distribution pattern. Shipping includes transportation in waters, ports, shipping safety, security, and protection of the maritime environment. both energetic and steady.

Following the publication of Law No. 11 of 2020 concerning Job Creation (State Gazette of 2020 Number 245, supplementary State Gazette Number 6573), Law No. 17 of 2008 concerning Shipping—which is now regarded as good in fact—underwent modifications. Article 8 of Law No. 17 of 2008 Concerning Shipping shows this modification. Actually, the cabotage principle is enacted under the legal framework of article 8 of Law of the Republic of Indonesia Number 17 of 2008 concerning Shipping.

The premise that domestic sea transportation plays a strategic and important role in national development and offers the most business opportunities for domestic sea transportation companies in obtaining a share of cargo is the foundation for the application of the cabotage principle to Indonesian shipping (Sumenda, 2017). The cabotage principle's application in this situation is highly advantageous for domestic transit. Every commercial ship flying the Indonesian flag is required for transportation within Indonesian seas. This will inevitably boost labor force absorption and preserve foreign exchange for the nation. This is because the number of foreign ships used to transport cargo domestically has decreased, and national shipping and the shipping industry now play a larger role in the transportation of cargo both import and export (Febiyansah, 2010).

Furthermore, the application of the Cabotage Principle will improve state sovereignty as foreign ships will no longer be allowed to navigate through Indonesian sea waters, hence promoting state sovereignty. This is because the government's authority over foreign ships entering Indonesian marine waters has grown stronger. Regulations requiring Indonesian-flagged ships to be manned by

Indonesian national crew will automatically apply, meaning that local ship crew will be absorbed. The number of Indonesian workers employed in the country's shipping industry increases with the size of the country's fleet. Additionally, the operation of ships flying the Indonesian flag helps to protect Indonesia's waters from foreign vessels that infringe upon its territorial seas (Aprillianto et al, 2014).

Only a few nations worldwide have supported free, liberalized cabotage services, whereas the majority of nations have adopted the cabotage concept to limit the number of foreign ships engaging in trade (Casaca & Lyridis, 2018). Examples are Canada which has promoted equality by protecting Canadian shipowners from others who benefit from lower crew wages and/or lower safety standards (Canadian Transportation Agency 2016), and South Africa for developing short sea shipping in the Southern African Development Region (SADC). Ship registration and terminal handling fees can be done by adopting a cabotage system in regional maritime (Konstantinus, 2021).

Indonesia changed its legal framework by introducing Article 8A between Article 8 and Article 9 following the issuing of Law No. 11 of 2020 concerning Job Creation, which was related to Article 8 of Law No. 17 of 2008 concerning Shipping. It states that, as long as there are no Indonesian-flagged vessels available yet, foreign ships may engage in other operations in the area of Indonesian waters that do not involve the movement of people or cargo. A government regulation then contains the requirements that need to be governed in this regard.

In this regard, foreign ships encountered alignments or increasingly favorable conditions for foreign ships, while the national ship protection policy regulated in Article 8 of Law No. 17 of 2008 concerning Shipping saw a decrease or degradation. This is due to the fact that prior to the revisions made to Article 8 of Law No. 17 of 2008 Governing Shipping, foreign ships were not permitted to transport passengers or cargo in Indonesian waters during domestic sea transportation.

According to data from the Department General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia, the development of the Indonesian national fleet, which is owned by a national sea transportation corporation, increased by more than 3000 units between 2017 and 2019. There were 6,041 ships in the fleet overall as of May 2005. Subsequently, national maritime transportation corporations acquired 23,088 more ships for their fleets. There were 29,129 Indonesian national fleets controlled by national sea transportation enterprises in 2019 compared to 25,432 in 2017 (Dephub.go.id, 2019). The Indonesian government's policy after the publication of Law of the Republic of Indonesia No. 11 of 2020 concerning Job Creation should be able to provide more advantages to national ships compared to foreign ships.

The prohibition on foreign ships operating in Indonesia to transport people or goods between islands or ports means that the cabotage principle does not apply absolutely (semi-protectionistically) (Rifai et al, 2017), despite the fact that it has not been fully harmonized with other laws and regulations such as those pertaining to oil and gas and foreign transportation, which still uses foreign ships more frequently than Indonesian ships. However, foreign ships are permitted to engage in other

activities that do not involve transporting people or goods as long as they meet certain requirements and have government approval (Annalisa et al, 2021).

A number of Indonesian government regulations have made it easier for foreign ships to enter Indonesian national sea waters. These include Regulation of the Minister of Transportation of the Republic of Indonesia No. PM 46 of 2019 concerning Procedures and Requirements for Granting Approval for the Use of Foreign Ships for Other Activities not Including Activities of Transporting Passengers and/or Goods in Domestic Sea Transportation Activities and Minister of Transportation Regulation No. 4 of 2022 concerning Services Foreign Tour Ships and Foreign Cruise Ships in Indonesian Waters.

IV. CONCLUSION

Indonesia has regulated the basis of the economy through the 1945 Constitution since its independence. Article 33 of the 1945 Constitution as the basis of the economy already contains sovereignty as a tool to realize the goals of the State and the influence of international trade on the Indonesian nation's economic policies. This article is considered increasingly support foreign parties. This can be seen in the sovereignty of the Indonesian state in regulating economic resources in the fisheries, maritime, and shipping sectors, such as Law No. 32 of 2014 concerning Marine Affairs, Law No. 31 of 2004 concerning Fisheries, Law No. 17 of 2008 concerning Shipping, which in several articles after the issuance of Law No. 11 of 2020 concerning Job Creation is increasingly providing licensing facilities for foreign vessels to carry out their economic activities in Indonesian marine waters.

The sovereignty of Indonesia implemented in law should make it more difficult for the presence of foreign ships carrying out activities in Indonesian national sea waters so that the presence of foreign ships is no longer a threat to the State of Indonesia or detrimental to the economy of Indonesian domestic ships.

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